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

FORM 8-K

CURRENT REPORT

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

Date of Report (Date of earliest event reported): **April 28, 2020 (April 23, 2020)**

DRAFTKINGS INC.

(Exact name of registrant as specified in its charter)

Nevada	**001-38908**	**83-4052441**
(State or other jurisdiction of incorporation)	(Commission File Number)	(IRS Employer Identification No.)

222 Berkeley Street, 5th Floor
Boston, MA 02116
(Address of principal executive offices, including zip code)

Registrant's telephone number, including area code: **(617) 986-6744**

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

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

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

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

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

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

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Class A common stock, par value $0.0001 per share	DKNG	The Nasdaq Stock Market LLC
Warrants to purchase one share of Class A common stock, each at an exercise price of $11.50 per share	DKNGW	The Nasdaq Stock Market LLC

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

Emerging growth company ☒

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

Introductory Note

On April 23, 2020 (the "Closing Date"), Diamond Eagle Acquisition Corp., our predecessor company ("DEAC"), consummated the previously announced business combination (the "Business Combination") pursuant to the terms of: (i) the business combination agreement (as amended by Amendment No. 1 thereto, dated April 7, 2020, the "Business Combination Agreement") with DraftKings Inc., a Delaware corporation ("Old DK"), SBTech (Global) Limited, a company limited by shares, incorporated in Gibraltar and continued as a company under the Isle of Man Companies Act 2006, with registration number 014119V ("SBTech"), the shareholders of SBTech (the "SBT Sellers"), Shalom Meckenzie, in his capacity as the SBT Sellers' Representative, DEAC NV Merger Corp., a Nevada corporation and a wholly-owned subsidiary of DEAC ("DEAC NV") and DEAC Merger Sub Inc., a Delaware corporation and a wholly-owned subsidiary of DEAC ("Merger Sub") and (ii) the agreement and plan of merger, dated as of March 12, 2020, by and among DEAC and DEAC NV.

Immediately upon the completion of the Business Combination and the other transactions contemplated by the Business Combination Agreement (the "Transactions", and such completion, the "Closing"), Old DK became a direct wholly-owned subsidiary of DEAC NV. In connection with the Transactions, DEAC NV changed its name to DraftKings Inc. ("New DraftKings" or "DraftKings").

Unless the context otherwise requires, "we," "us," "our," and the "Company" refer to DraftKings Inc., a Nevada corporation, and its consolidated subsidiaries. All references herein to the "Board" refer to the board of directors of DraftKings.

Item 1.01. Entry into a Material Definitive Agreement.

Assignment and Assumption Agreement

In connection with the Closing, the Company entered into an assignment and assumption agreement (the "Warrant Assignment Agreement") with DEAC, Continental Stock Transfer & Trust Company ("Continental"), Computershare Trust Company, N.A. and Computershare Inc. (together, "Computershare"), pursuant to which (i) DEAC assigned to the Company all of its rights, interest and obligations under the warrant agreement governing DEAC's warrants and (ii) Continental assigned all of its rights, interest and obligations under the warrant agreement to Computershare. Upon the Closing, all of the outstanding warrants to purchase Class A common stock of DEAC became exercisable for an equal number of shares of Class A common stock of the Company, par value $0.0001 per share ("DraftKings Class A common stock"), on the existing terms and conditions of such warrants.

The foregoing description of the Warrant Assignment Agreement does not purport to be complete and is qualified in its entirety by the full text of the Warrant Assignment Agreement, a copy of which is attached hereto as Exhibit 4.4 and is incorporated herein by reference.

Earnout Escrow Agreement

On the Closing Date, in connection with consummation of the Business Combination, DraftKings, Shalom Meckenzie, in his capacity as SBT Sellers' Representative, Eagle Equity Partners LLC, Jeff Sagansky, Eli Baker, Harry Sloan, I.B.I. Trust Management, the trustee, and Computershare Trust Company, N.A., as escrow agent, entered into an escrow agreement (the "Earnout Escrow Agreement") pursuant to which (i) 5,388,000 shares of DraftKings Class A common stock were delivered and deposited into a custodian account and (ii) 612,000 shares of DraftKings Class A common stock were delivered to the trustee, in each case, to be released pro-rata to the recipients thereof only upon the occurrence of certain triggering events that relate to the achievement of certain stock price thresholds of DraftKings Class A common stock at any time during a four-year period commencing on the Closing Date.

The foregoing description of the Earnout Escrow Agreement does not purport to be complete and is qualified in its entirety by the terms and conditions of the Earnout Escrow Agreement, which is attached hereto as Exhibit 10.8 and is incorporated herein by reference.

Share Exchange Agreement

On the Closing Date, in connection with consummation of the Business Combination, Old DK, DEAC NV and Jason Robins entered into a Share Exchange Agreement (the "Exchange Agreement"), pursuant to which, (i) Old DK issued 1,659,078 shares of its Class A common stock and 393,013,951 shares of its Class B common stock in exchange for 1,659,078 shares of common stock of Old DK (the "Share Exchange") held by Jason Robins; (ii) DEAC NV and Old DK agreed to treat each of the Share Exchange and the Merger Share Exchange (as defined in the Exchange Agreement) as a "tax-free reorganization"; and (iii) DEAC NV and Old DK agreed to jointly and severally indemnify Jason Robins from and against any federal, state and local taxes resulting from the Share Exchange itself with respect to, or as a result of, the receipt of such shares of Old DK Class B common stock or any income recognized by Jason Robins with respect to such shares of Old DK Class B common stock received by him in connection with the Share Exchange or the shares of Class B common stock, par value $0.0001 per share, of DraftKings ("DraftKings Class B common stock") received by him in exchange for such shares of Old DK Class B common stock (including interest and penalties, and costs and expenses incurred in connection with any audit, examination, inquiry or other action or proceeding with respect to the foregoing (including the documented fees and disbursements of the CEO's counsel related thereto)) upon the Closing.

The foregoing description of the Exchange Agreement does not purport to be complete and is qualified in its entirety by the terms and conditions of the Exchange Agreement, which is attached hereto as Exhibit 10.10 and is incorporated herein by reference.

Stockholders Agreement

On the Closing Date, in connection with consummation of the Business Combination, DraftKings entered into a Stockholders Agreement (the "Stockholders Agreement") with certain initial shareholders of DEAC (the "DEAC Founder Group"), certain stockholders of Old DK (the "DK Stockholder Group") and the SBT Sellers (the "SBT Stockholder Group" and, together with the DEAC Founder Group and the DK Stockholder Group, the "Stockholder Parties"), pursuant to which, among other things, (i) the DK Stockholder Group, the SBT Stockholder Group and the DEAC Founder Group will have the right to nominate ten, two and one director(s), respectively, to the initial board of directors of DraftKings, subject to certain independence requirements, (ii) the shares of DraftKings common stock held by the Stockholder Parties will be subject to certain transfer restrictions, and (iii) DraftKings will provide certain registration rights for the shares of DraftKings common stock held by the members of the Stockholder Parties. In addition, so long as Shalom Meckenzie (together with his immediate family members, his and their wholly-owned affiliates and any trust whose sole beneficiaries are Mr. Meckenzie and his immediate family members) continues to hold at least nine percent of the issued and outstanding shares of DraftKings Class A common stock at the time of a subsequent annual meeting, Mr. Meckenzie will have the right to nominate one director to serve on the Board, subject to the Board's approval not to be unreasonably withheld, conditioned or delayed. Additionally, as of immediately following the Company's 2021 annual meeting of stockholders (the "2021 Annual Meeting"), the total number of directors constituting the full board will be reduced to eleven. The nominating and corporate governance committee of the board of directors will recommend to the Company's board of directors eleven candidates for election to the Company's board of directors at the 2021 Annual Meeting, of which no more than eight will be any of the ten directors initially nominated to serve on the board of directors by the DK Stockholder Group.

The foregoing description of the Stockholders Agreement does not purport to be complete and is qualified in its entirety by the terms and conditions of the Stockholders Agreement, which is attached hereto as Exhibit 10.9 and is incorporated herein by reference.

Indemnification Agreement

On the Closing Date, DraftKings entered into indemnification agreements with each of its directors and executive officers. Each indemnification agreement provides for indemnification and advancements by DraftKings of certain expenses and costs relating to claims, suits or proceedings arising from his or her service to DraftKings or, at our request, service to other entities, as officers or directors to the maximum extent permitted by applicable law.

The foregoing description of the indemnification agreements does not purport to be complete and is qualified in its entirety by the terms and conditions of the indemnification agreements, a form of which is attached hereto as Exhibit 10.7 and is incorporated herein by reference.

DraftKings Inc. 2020 Incentive Award Plan

At the special meeting of the DEAC stockholders held on April 23, 2020 (the "Special Meeting"), the DEAC stockholders considered and approved the DraftKings Inc. 2020 Incentive Award Plan (the "Incentive Plan"). The Incentive Plan was previously approved, subject to stockholder approval, by the board of DEAC on March 18, 2020 and by the board of Old DK on April 22, 2020. On the Closing Date, our Board ratified the approval of the Incentive Plan. The Incentive Plan became effective immediately upon the Closing of the Business Combination.

The Incentive Plan permits the Company to deliver up to 52,870,000 shares of DraftKings Class A common stock pursuant to awards issued under the Incentive Plan. The number of shares of DraftKings Class A common stock reserved for issuance under the Incentive Plan will automatically increase on the first trading day of each calendar year, beginning in 2021, by 5% of the total number of outstanding shares of DraftKings Class A common stock on December 31 of the preceding calendar year (subject to a maximum annual increase of 33,000,000 shares of DraftKings Class A common stock), or a lesser number of shares as may be determined by the board of directors. The Incentive Plan also permits the Company to deliver up to 52,870,000 shares of DraftKings Class B common stock pursuant to awards issued under the Incentive Plan. The number of shares of DraftKings Class B common stock reserved for issuance under the Incentive Plan will automatically increase on the first trading day of each year, beginning in 2021, by 5% of the total number of outstanding shares of DraftKings Class B common stock on December 31 of the preceding calendar year (subject to a maximum annual increase of 33,000,000 shares of DraftKings Class B common stock), or a lesser number of shares as may be determined by the board of directors.

A more complete summary of the terms of the Incentive Plan is set forth in the definitive Proxy Statement/Prospectus (the "Proxy") included in the Company's Registration Statement on Form S-4 (File No. 333-235805), filed with the Securities and Exchange Commission (the "SEC") on April 15, 2020, in the section titled "*The Incentive Award Plan Proposal*". That summary and the foregoing description of the Incentive Plan are qualified in their entirety by reference to the text of the Incentive Plan, which is filed as Exhibit 10.1 hereto and incorporated herein by reference.

DraftKings Inc. Employee Stock Purchase Plan

At the Special Meeting, the DEAC stockholders considered and approved the DraftKings Inc. Employee Stock Purchase Plan (the "ESPP"). The ESPP was previously approved, subject to stockholder approval, by the board of DEAC on March 18, 2020 and by the board of Old DK on March 11, 2020. On the Closing Date our Board ratified the approval of the ESPP. The ESPP became effective immediately upon the Closing of the Business Combination.

The ESPP permits the Company to deliver up to 5,840,000 shares of DraftKings Class A common stock pursuant to offerings under the ESPP. The number of shares of DraftKings Class A common stock reserved for issuance under the ESPP will automatically increase on the first trading day of each calendar year, beginning in 2022, by 1% of the total number of outstanding shares of DraftKings Class A common stock on December 31 of the preceding calendar year (subject to a maximum annual increase of 6,600,000 shares of DraftKings Class A common stock), or a lesser number of shares as may be determined by the board of directors.

A more complete summary of the terms of the ESPP is set forth in the Proxy in the section titled "*The ESPP Proposal*". That summary and the foregoing description of the ESPP are qualified in their entirety by reference to the text of the ESPP, which is filed as Exhibit 10.5 hereto and incorporated herein by reference.

Employment Agreements

In connection with the Business Combination, DraftKings entered into an employment agreement with Jason Robins, Matthew Kalish and Paul Liberman. The employment agreement with Mr. Robins provides a base salary of $650,000, subject to annual review and increase from time to time, and an annual target bonus opportunity of 150% of base salary. The employment agreements with Mr. Kalish and Mr. Liberman provide for a base salary of $425,000, subject to annual review and increase from time to time, and an annual target bonus of 125%. The executives will be eligible to participate in benefits programs offered to employees and executives generally subject to satisfying eligibility requirements.

Each of Messrs. Robins, Kalish and Liberman is entitled to an annual equity incentive award, which will be granted within the first three months of each fiscal year (or the first seven months for fiscal year 2020), with a minimum annual target value of $6,500,000 for Mr. Robins and $3,500,000 for Messrs. Kalish and Liberman. Half of the equity incentive award granted each year will consist of time-based restricted stock units, with vesting not less favorable than quarterly vesting over four years, and half will consist of performance-based restricted stock units, with a minimum vesting period of two years and a maximum opportunity equal to at least 300% of target.

Upon a termination of employment without "cause" or for "good reason" (as those terms are defined in the employment agreements) within 18 months after, or three months before, a "change in control" (as defined in the employment agreements), each executive will receive cash severance equal to two times the sum of his salary and target bonus, payable 60 days after termination, and continued benefits for 24 months. Additionally, equity awards will vest, with performance-based awards vesting at the target level. Upon a termination of employment without cause or for good reason that is not within 18 months after, and not three months before, a change in control, each executive will receive cash severance equal to two times his salary, payable 60 days after termination, a pro rata bonus for the year of termination based on actual performance and continued benefits for 24 months. Additionally, equity awards will vest pro rata, based on actual performance for performance-based awards. Upon termination due to death or disability, equity awards will vest, based on actual performance for performance-based awards, and options will be exercisable for 12 months. Severance and termination benefits payable pursuant to the employment agreements generally are subject to the executive's execution of a release of claims and compliance with post-closing covenants including non-competition and non-solicitation covenants that continue for 12 months following a termination of employment other than, in the case of the noncompetition covenant, a termination without cause or layoff as set forth in the Massachusetts Noncompetition Agreement Act.

The foregoing description of the employment agreements with each of Messrs. Robins, Kalish and Liberman does not purport to be complete and is qualified in its entirety by the terms and conditions of the employment agreements, which are attached hereto as Exhibit 10.4, Exhibit 10.2 and Exhibit 10.3, respectively, and incorporated herein by reference.

Seventh Amendment and Joinder to Credit Agreement

In connection with the Business Combination, on the Closing Date, DraftKings entered into the Seventh Amendment and Joinder to Amended and Restated Loan and Security Agreement (the "Credit Agreement Joinder") with Old DK, Crown Gaming Inc., Crown DFS Inc. and Pacific Western Bank to, among other things, add DraftKings as a borrower under the existing amended loan and security agreement with Pacific Western Bank.

The foregoing description of the Credit Agreement Joinder does not purport to be complete and is qualified in its entirety by the terms and conditions of the Credit Agreement Joinder, which is attached hereto as Exhibit 10.20 and is incorporated herein by reference.

Item 2.01. Completion of Acquisition or Disposition of Assets.

On April 23, 2020, DEAC held a Special Meeting at which the DEAC stockholders considered and adopted, among other matters, the Business Combination Agreement. On April 23, 2020, the parties to the Business Combination Agreement consummated the Transactions. The aggregate value of the consideration paid to Old DK stockholders and SBT shareholders in the Business Combination was approximately $2.7 billion, of which (A) approximately $2.05 billion was paid to (i) the stockholders of Old DK (the "DK Sellers") in the form of DraftKings Class A common stock, valued at approximately $10.12 per share (the redemption price for DEAC's public shares in the Business Combination) and (ii) the holders of vested options and warrants exercisable for Old DK equity in the form of newly issued options and warrants of DraftKings exercisable for DraftKings Class A common stock, and (B) approximately €590 million was be paid to the SBT Sellers and holders of vested options exercisable for equity of SBTech, in the form of (i) €180 million in cash, subject to adjustments for working capital and net debt of SBTech and certain other items and (ii) approximately €410 million in shares of DraftKings Class A common stock, valued at the redemption price for DEAC's public shares in the Business Combination, and in the form of newly issued options of DraftKings exercisable for DraftKings Class A common stock. Outstanding unvested options exercisable for Old DK or SBTech equity were converted into unvested options exercisable for shares of DraftKings Class A common stock. In addition, in connection with the Business Combination, Mr. Robins received an additional number of shares of DraftKings Class B common stock such that as of immediately following the completion of the Business Combination, Mr. Robins held approximately ninety percent (90%) of the voting power of the capital stock of DraftKings on a fully-diluted basis.

Prior to the Special Meeting, holders of 8,928 shares of DEAC's Class A common stock sold in its initial public offering ("Public Shares") exercised their right to redeem those shares for cash at a price of approximately $10.12 per share, for an aggregate of $90,391.89. Immediately after giving effect to the Business Combination (including as a result of the redemptions described above), there were 312,451,027 issued and outstanding shares of DraftKings Class A common stock. Upon the Closing, DEAC's Class A common stock and warrants ceased trading, and DraftKings Class A common stock and warrants began trading on The Nasdaq Stock Market LLC ("Nasdaq"). DEAC's public units automatically separated into their component securities upon consummation of the Business Combination and, as a result, no longer trade as a separate security and were delisted from Nasdaq. As of the Closing Date, our directors and executive officers and affiliated entities beneficially owned approximately 32.9% of the outstanding shares of DraftKings Class A common stock, and the former securityholders of DEAC beneficially owned approximately 14.0% of the outstanding shares of DraftKings Class A common stock.

Forward-Looking Statements

This Current Report on Form 8-K, or some of the information incorporated herein by reference, contains statements that are forward-looking and as such are not historical facts. This includes, without limitation, statements regarding the financial position, business strategy and the plans and objectives of management for future operations. These statements constitute projections, forecasts and forward-looking statements, and are not guarantees of performance. Such statements can be identified by the fact that they do not relate strictly to historical or current facts. When used in this Current Report on Form 8-K, words such as "anticipate," "believe," "continue," "could," "estimate," "expect," "intend," "may," "might," "plan," "possible," "potential," "predict," "project," "should," "strive," "would" and similar expressions may identify forward-looking statements, but the absence of these words does not mean that a statement is not forward-looking. When the Company discusses its strategies or plans, it is making projections, forecasts or forward-looking statements. Such statements are based on the beliefs of, as well as assumptions made by and information currently available to, DraftKings' management. Forward-looking statements in this Current Report on Form 8-K and in any document incorporated by reference in this Report may include, for example, statements about:

- our ability to maintain the listing of our common stock on Nasdaq following the Business Combination;

- our ability to raise financing in the future;
- our success in retaining or recruiting, or changes required in, our officers, key employees or directors;
- our ability to effectively compete in the global entertainment and gaming industries;
- our ability to successfully acquire and integrate new operations;
- our ability to obtain and maintain licenses with gaming authorities;
- our inability to recognize deferred tax assets and tax loss carryforwards;
- market conditions and global and economic factors beyond our control, including the potential adverse effects of the ongoing global coronavirus (COVID-19) pandemic on capital markets, general economic conditions, unemployment and our liquidity, operations and personnel;
- intense competition and competitive pressures from other companies worldwide in the industries in which we operate;
- litigation and the ability to adequately protect New DraftKings' intellectual property rights; and
- other factors detailed under the section titled "*Risk Factors*" beginning on page 47 of the Proxy and incorporated herein by reference.

The forward-looking statements contained in this Current Report on Form 8-K and in any document incorporated by reference are based on current expectations and beliefs concerning future developments and their potential effects on the Company. There can be no assurance that future developments affecting the Company will be those that the Company has anticipated. These forward-looking statements involve a number of risks, uncertainties (some of which are beyond the Company's control) or other assumptions that may cause actual results or performance to be materially different from those expressed or implied by these forward-looking statements. These risks and uncertainties include, but are not limited to, those factors described in the Proxy in the section titled "*Risk Factors*" beginning on page 47, which is incorporated herein by reference. Should one or more of these risks or uncertainties materialize, or should any of our assumptions prove incorrect, actual results may vary in material respects from those projected in these forward-looking statements. The Company undertakes no obligation to update or revise any forward-looking statements, whether as a result of new information, future events or otherwise, except as may be required under applicable securities laws.

Business

The business of DEAC prior to the Business Combination is described in the Proxy in the section titled "*Other Information Related to DEAC*" and that information is incorporated herein by reference. The business of Old DK and SBTech prior to the Business Combination is described in the Proxy in the section titled "*Business of DraftKings and SBTech*" and that information is incorporated herein by reference.

Risk Factors

The risk factors related to the Company's business and operations and the Business Combination are set forth in the Proxy in the section titled "*Risk Factors*" and that information is incorporated herein by reference.

Financial Information

Reference is made to the disclosure set forth in Item 9.01 of this Current Report on Form 8-K concerning the financial information of DEAC, Old DK and SBTech. Reference is further made to the disclosure contained in the Proxy in the sections titled "*Selected Historical Consolidated Financial Information of DEAC*," "*Selected Historical Consolidated Financial Information of DraftKings*", "*Selected Historical Consolidated Financial Information of SBT*", "*DEAC's Management's Discussion and Analysis of Financial Condition and Results of Operations*", "*DraftKings' Management's Discussion and Analysis of Financial Condition and Results of Operations*" and "*SBT's Management's Discussion and Analysis of Financial Condition and Results of Operations*", which are incorporated herein by reference.

Management's Discussion and Analysis of Financial Condition and Results of Operations

Reference is made to the disclosure contained in the Proxy in the sections titled "*DEAC's Management's Discussion and Analysis of Financial Condition and Results of Operations*", "*DraftKings' Management's Discussion and Analysis of Financial Condition and Results of Operations*" and "*SBT's Management's Discussion and Analysis of Financial Condition and Results of Operations*", which are incorporated herein by reference.

Quantitative and Qualitative Disclosures about Market Risk

Reference is made to the disclosure contained in the Proxy in the sections titled "*DraftKings' Management's Discussion and Analysis of Financial Condition and Results of Operations—Quantitative and Qualitative Disclosures About Market Risk*" and "*SBT's Management's Discussion and Analysis of Financial Condition and Results of Operations—Quantitative and Qualitative Disclosures About Market Risk*", which are incorporated herein by reference.

Properties

The properties of DEAC and each of Old DK and SBTech are described in the Proxy in the sections titled "*Other Information Related to DEAC—Properties*" and "*Business of DraftKings and SBTech—Property*", respectively, and that information is incorporated herein by reference.

Security Ownership of Certain Beneficial Owners and Management

The following table sets forth information known to the Company regarding the beneficial ownership of Company common stock as of the Closing Date by:

- each person known to the Company to be the beneficial owner of more than 5% of outstanding Company common stock;
- each of the Company's executive officers and directors; and
- all executive officers and directors of the Company as a group.

Beneficial ownership is determined according to the rules of the SEC, which generally provide that a person has beneficial ownership of a security if he, she or it possesses sole or shared voting or investment power over that security, including options and warrants that are currently exercisable or exercisable within 60 days. Company stock issuable upon exercise of options and warrants currently exercisable within 60 days are deemed outstanding solely for purposes of calculating the percentage of total voting power of the beneficial owner thereof.

The beneficial ownership of Company common stock is based on 312,451,027 shares of Company Class A common stock and 393,013,951 shares of Company Class B common stock issued and outstanding as of the Closing Date.

Unless otherwise indicated, the Company believes that each person named in the table below has sole voting and investment power with respect to all shares of Company common stock beneficially owned by them.

Name and Address of Beneficial Owner	Number of Shares of Class A Common Stock	%	Number of Shares of Class B Common Stock	%	% of Total Voting Power
Current Directors and Executive Officers					
Jason Robins (1)(2)(3)	8,453,094	2.6%	393,013,951	100%	92.7%
Matthew Kalish (1)(3)(4)	4,017,566	1.3%	—	—	*
Paul Liberman (1)(3)(5)	4,661,765	1.5%	—	—	*
M. Gavin Isaacs (6)(7)	479,285	*	—	—	*
Woodrow Levin (1)(3)(8)	415,374	*	—	—	*
Shalom Meckenzie (6)	34,628,397	11.1%		—	*
Ryan R. Moore (1)(3)(9)	10,825,097	3.5%		—	*
Steven J. Murray (1)(3)(10)	7,767,580	2.5%	—	—	*
Hany M. Nada (1)(3)(11)	7,211,006	2.3%	—	—	*
Richard Rosenblatt (1)(12)	224,426	*		—	*
John S. Salter (1)(3)(13)	24,983,757	8.0%	—	—	*
Harry E. Sloan (14)	2,718,717	*		—	*
Marni M. Walden (1)(15)	89,878	*	—	—	*
R. Stanton Dodge (1)(16)	1,734,232	*		—	*
Jason Park (1)(17)	253,151	*	—	—	*
All Directors and Executive Officers as a Group (15 Individuals)	**108,463,325**	**32.9%**	**393,013,951**	**100%**	**94.8%**
Five Percent Holders					
Shalom Meckenzie (6)	34,628,397	11.1%	—	—	*
RPII DK LLC (3)(18)	24,983,757	8.0%	—	—	*
TFCF Sports Enterprises, LLC (19)	18,546,667	5.9%	—	—	*

* Less than one percent.

(1) The business address of each of these shareholders is 222 Berkeley Street, 5th Floor, Boston, MA 02116.

(2) Includes 1,314,329 shares of DraftKings Class A common stock and 7,004,943 vested options to exercise DraftKings Class A common stock beneficially owned by Mr. Robins, Jason Robins Revocable Trust u/d/t January 8, 2014, Robins Family Trust, Jason Robins 2020 Trust and/or Robins Grantor Retained Annuity Trust of 2020, for which Mr. Robins has sole investment and voting power. Also includes 125,752 shares of unvested DraftKings common stock that will vest within 60 days of the Closing Date.

(3) Includes such holder's pro rata portion of DraftKings Class A common stock underlying the private placement warrants transferred from Eagle Equity Partners and Harry Sloan to equityholders of Old DK that will become exercisable on May 23, 2020 as follows: 8,070 shares to Mr. Robins and entities affiliated with him; 7,174 shares to Mr. Kalish and entities affiliated with him; 6,792 shares to Mr. Liberman and entities affiliated with him; 1,983 shares to Mr. Levin and entities affiliated with him; 63,450 shares to Mr. Moore through entities affiliated with him; 47,317 to Mr. Murray through an entity affiliated with him; 43,926 shares to Mr. Nada through an entity affiliated with him; 152,190 shares to RPII DK LLC, for which Mr. Salter shares investment and voting power; and 112,978 shares to TFCF Sports Enterprises, LLC.

(4) Includes 1,170,446 shares of DraftKings Class A common stock and 2,797,926 vested options to exercise DraftKings Class A common stock beneficially owned by Mr. Kalish, Kalish Family 2020 Irrevocable Trusts and Matthew P. Kalish 2020 Trust, for which Mr. Kalish has sole investment and voting power. Also includes 42,020 shares of unvested DraftKings common stock that will vest within 60 days of the Closing Date.

(5) Includes 1,108,132 shares of DraftKings Class A common stock and 3,504,821 vested options to exercise DraftKings Class A common stock beneficially owned by Mr. Liberman, Paul Liberman 2015 Revocable Trust dated May 12, 2015, Paul Liberman 2020 Trust and Liberman Grantor Retained Annuity Trust of 2020, for which Mr. Liberman has sole investment and voting power. Also includes 42,020 shares of unvested DraftKings common stock that will vest within 60 days of the Closing Date.

(6) The business address of Messrs. Isaacs and Meckenzie is c/o Herzog Fox & Neeman, Asia House, 4 Weizman St. Tel Aviv 6423904, Israel.

(7) Represents vested options to exercise DraftKings Class A common stock.

(8) Includes 323,480 shares of DraftKings Class A common stock and 82,802 vested options to exercise DraftKings Class A common stock beneficially owned by Mr. Levin, Levin Family 2015 Irrevocable Trust and OneSixRed LLC, for which Mr. Levin has sole investment and voting power. Also includes 7,109 shares of unvested DraftKings common stock that will vest within 60 days of the Closing Date.

(9) Represents shares of DraftKings Class A common stock held by Accomplice Fund I, L.P., Accomplice Fund II, L.P., Accomplice Management Holdings, LLC, Accomplice DK Investors, LLC, Atlas Venture Fund VIII, L.P. and Accomplice DK Investors, for which Mr. Moore shares investment and voting control. Mr. Moore disclaims beneficial ownership of all shares except to the extent of his pecuniary interest, if any, therein.

(10) Represents shares of DraftKings Class A common stock held by Revolution Growth III, LP. Mr. Murray is the operating manager of the ultimate general partner of Revolution Growth III, LP and may be deemed to have voting and dispositive power with respect to the securities held by Revolution Growth III, LP. Mr. Murray disclaims beneficial ownership of such securities except to the extent of his pecuniary interest therein.

(11) Represents shares of DraftKings Class A common stock held by ACME SPV DK, LLC, for which Mr. Nada shares investment and voting control.

(12) Represents 220,610 vested options to exercise DraftKings Class A common stock and 3,816 shares of unvested DraftKings common stock that will vest within 60 days of the Closing Date.

(13) Represents shares of DraftKings Class A common stock held by RPII DK LLC, for which Mr. Salter shares investment and voting control.

(14) Mr. Sloan's business address is 2121 Avenue of the Stars, Suite 2300, Los Angeles, CA 90067. Amount includes 1,789,618 shares of DraftKings Class A common stock and 929,099 shares underlying private placement warrants and excludes 2,608,065 Earnout Shares which were placed in escrow at the Closing pursuant to the terms of the Earnout Escrow Agreement.
(15) Represents 81,001 vested options to exercise DraftKings Class A common stock and 8,877 shares of unvested DraftKings common stock that will vest within 60 days of the Closing Date.
(16) Includes 1,609,781 vested options to exercise DraftKings Class A common stock and 124,451 shares of unvested DraftKings common stock that will vest within 60 days of the Closing Date.
(17) Includes 108,329 vested options to exercise DraftKings Class A common stock and 144,822 shares of unvested DraftKings common stock that will vest within 60 days of the Closing Date.
(18) The business address of RPII DK LLC is 65 East 55th Street, 24th Floor, New York, NY 10022.
(19) The business address of TFCF Sports Enterprises, LLC is 1211 Avenue of the Americas, New York, NY 10036.

Directors and Executive Officers

The Company's directors and executive officers after the consummation of the Transactions are described in the Proxy in the section titled "*Directors and Executive Officers of New DraftKings After the Business Combination*" and that information is incorporated herein by reference.

Director Independence

Information with respect to the independence of the Company's directors is set forth in the Proxy in the section titled "*Directors and Executive Officers of New DraftKings After the Business Combination—Director Independence; Controlled Company Exemption*" and that information is incorporated herein by reference.

Committees of the Board of Directors

Information with respect to the composition of the board of directors immediately after the Closing is set forth in the Proxy in the section titled "*Directors and Executive Officers of New DraftKings After the Business Combination—Board Composition*" and that information is incorporated herein by reference.

Executive Compensation

A description of the compensation of the named executive officers of DEAC and of Old DK before the consummation of the Business Combination is set forth in the Proxy in the sections titled "*Other Information Related to DEAC—Executive Compensation and Director Compensation*" and "*DraftKings' Executive and Director Compensation*", respectively, and that information is incorporated herein by reference.

At the Special Meeting, the DEAC stockholders approved the Incentive Plan. The description of the Incentive Plan is set forth in the Proxy section entitled "*The Incentive Award Plan Proposal*", which is incorporated herein by reference. A copy of the full text of the Incentive Plan is filed as Exhibit 10.1 to this Current Report on Form 8-K and is incorporated herein by reference. Following the consummation of the Business Combination, the Company expects that the Board or the Compensation Committee will make grants of awards under the Incentive Plan to eligible participants.

Director Compensation

A description of the compensation of the directors of DEAC and of Old DK before the consummation of the Business Combination is set forth in the Proxy in the section titled "*Other Information Related to DEAC—Executive Compensation and Director Compensation*" and "*DraftKings' Executive and Director Compensation—Director Compensation*", respectively, and that information is incorporated herein by reference.

Certain Relationships and Related Party Transactions

The certain relationships and related party transactions of the Company are described in the Proxy in the section titled "*Certain Relationships and Related Person Transactions*" and that information is incorporated herein by reference.

Legal Proceedings

Reference is made to the disclosure regarding legal proceedings in the section of the Proxy titled "*Other Information Related to DEAC—Legal Proceedings*" and "*Business of DraftKings and SBTech—Legal Proceedings*" and that information is incorporated herein by reference.

Market Price of and Dividends on the Registrant's Common Equity and Related Stockholder Matters

Information about the ticker symbol, number of stockholders and dividends for DEAC's securities is set forth in the Proxy in the section titled "*Market Price, Ticker Symbol and Dividend Information*" and such information is incorporated herein by reference. As of the Closing Date, there were approximately 460 holders of record of the Company's Class A common stock and approximately 331 holders of record of the Company's warrants to purchase Class A common stock.

DraftKings' Class A common stock and warrants began trading on Nasdaq under the symbols "DKNG" and "DKNGW", on April 24, 2020, subject to ongoing review of DraftKings' satisfaction of all listing criteria post-Business Combination. DEAC's public units automatically separated into their component securities upon consummation of the Business Combination and, as a result, no longer trade as a separate security and were delisted from Nasdaq.

DraftKings has not paid any cash dividends on shares of its Class A common stock to date. The payment of cash dividends in the future will be dependent upon our revenues and earnings, if any, capital requirements and general financial condition. The payment of any dividends will be within the discretion of DraftKings' board of directors.

Recent Sales of Unregistered Securities

Reference is made to the disclosure set forth below under Item 3.02 of this Current Report on Form 8-K concerning the issuance and sale by the Company of certain unregistered securities, which is incorporated herein by reference.

Description of Registrant's Securities to Be Registered

The description of the Company's securities is contained in the Proxy in the section titled "*Description of New DraftKings Securities*" and that information is incorporated herein by reference.

Immediately following the Closing, there were 312,451,027 shares of the Company's Class A common stock issued and outstanding, held of record by 460 holders, 393,013,951 shares of the Company's Class B common stock issued and outstanding, held of record by one holder and no shares of preferred stock outstanding, and 19,848,835 warrants outstanding held of record by 331 holders. Such amounts do not include DTC participants or beneficial owners holding shares through nominee names.

Indemnification of Directors and Officers

DraftKings has entered into indemnification agreements with each of its directors and executive officers. Each indemnification agreement provides for indemnification and advancements by DraftKings of certain expenses and costs relating to claims, suits or proceedings arising from his or her service to DraftKings or, at our request, service to other entities, as officers or directors to the maximum extent permitted by applicable law.

Further information about the indemnification of DraftKings' directors and officers is set forth in the Proxy in the section titled "*Description of New DraftKings Securities—Limitation on Liability and Indemnification of Officers and Directors*" and that information is incorporated herein by reference.

Financial Statements and Exhibits

The information set forth under Item 9.01 of this Current Report on Form 8-K is incorporated herein by reference.

Changes in and Disagreements with Accountants on Accounting and Financial Disclosure

The information set forth under Item 4.01 of this Current Report on Form 8-K is incorporated herein by reference.

Item 3.02. Unregistered Sales of Equity Securities.

Transaction Consideration

In connection with the Business Combination, at the Closing on April 23, 2020, DraftKings issued 186,335,592 shares of Class A common stock to the holders of common stock of Old DK and 40,739,291 shares of Class A common stock to the holders of ordinary shares of SBTech.

Private Placement and Convertible Notes

As previously disclosed, in connection with satisfying the Minimum Proceeds Condition (as defined in the Business Combination Agreement), DEAC entered into subscription agreements (the "Subscription Agreements"), each dated as of December 22, 2019, with certain institutional investors (the "Investors"), pursuant to which, among other things, DEAC agreed to issue and sell, in private placements, an aggregate of 30,471,352 shares of Class A common stock of DEAC for $10.00 per share and an aggregate of 3,000,000 warrants to purchase shares of Class A common stock of DEAC (the "Private Placement"). The warrants have terms identical to the Company's publicly traded warrants.

On and after December 16, 2019, DraftKings issued subordinated convertible promissory notes to certain investors in an aggregate principal amount of approximately $109.2 million (the "Convertible Notes"). Pursuant to the terms of the Convertible Notes, the outstanding principal and accrued interest on the Convertible Notes converted immediately prior to the reincorporation into shares of DEAC Class A common stock, at a price per share equal to the price per share paid by the Investors in the Private Placement, which resulted in the issuance of 11,254,479 shares of DEAC Class A common stock on the Closing Date.

The Private Placement closed immediately prior to the Business Combination on the Closing Date. The shares of DEAC Class A common stock issued to the Investors and upon conversion of the Convertible Notes, were converted into shares of DraftKings Class A common stock upon consummation of the reincorporation and the Business Combination.

The shares issued to the Investors in the Private Placement and to the holders of Convertible Notes on the Closing Date were issued pursuant to and in accordance with the exemption from registration under the Securities Act, under Section 4(a)(2) and/or Regulation D promulgated under the Securities Act.

Item 3.03. Material Modification to Rights of Security Holders.

On April 23, 2020, DEAC was reincorporated from the State of Delaware to the State of Nevada. We refer to the Company prior to the reincorporation as "DEAC" and following the reincorporation and before the consummation of the Business Combination as "DEAC NV". Upon consummation of the merger of DEAC into DEAC NV, DEAC discontinued its existence as a Delaware company, with DEAC NV surviving the merger. Immediately thereafter, in connection with the consummation of the Business Combination, DEAC NV changed its name to DraftKings Inc. and adopted the amended and restated articles of incorporation) and the amended and restated bylaws.

Also as disclosed below in Item 8.01, in accordance with Rule 12g-3(a) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), the Company is the successor issuer to DEAC and has succeeded to the attributes of DEAC as the registrant. In addition, the shares of common stock of DraftKings, as the successor to DEAC, are deemed to be registered under Section 12(b) of the Exchange Act.

The Company's common stock and public warrants are listed for trading on Nasdaq under the symbols "DKNG" and "DKNGW," respectively. Upon consummation of the Business Combination, the CUSIP numbers relating to the Company's common stock and warrants changed to 26142R104 and 26142R112, respectively.

Amended and Restated Articles of Incorporation

Upon the closing of the Business Combination, DEAC's amended and restated certificate of incorporation, dated May 10, 2019, was replaced with the amended and restated articles of incorporation of DraftKings, which, among other things:

(a) changes the Company's name to DraftKings Inc.;

(b) increases the total number of authorized shares of all classes of capital stock, par value of $0.0001 per share, from 401,000,000 shares, consisting of 400,000,000 shares of common stock, including 380,000,000 shares of Class A common stock, and 20,000,000 shares of Class B common stock, and 1,000,000 shares of preferred stock, to 2,100,000,000 shares, consisting of 1,800,000,000 shares of common stock, including 900,000,000 shares of Class A common stock, par value $0.0001 per share, and 900,000,000 shares of Class B common stock, par value $0.0001 per share, and 300,000,000 shares of preferred stock, par value $0.0001 per share;

(c) declassifies the Company's board of directors;

(d) amends the terms of the shares of common stock, in particular to provide that each share of Class A common stock of DraftKings has one vote and each share of Class B common stock has ten (10) votes and that shares of Class B common stock are not entitled to dividends;

(e) permits stockholders to act by written consent in lieu of a meeting until the time that Mr. Robins beneficially owns less than a majority of the voting power of the voting stock;

(f) selects the Eighth Judicial District Court of Clark County, Nevada as the exclusive forum for any derivative action or proceeding brought on behalf of the Company, subject to certain limitations;

(g) establishes redemption rights and transfer restrictions with respect to capital stock held by any stockholders who are unsuitable persons and their affiliates; and

(h) eliminates certain provisions specific to DEAC's status as a blank check company.

The shareholders of DEAC approved this amendment and restatement at the Special Meeting. This summary is qualified in its entirety by reference to the text of the amended and restated articles of incorporation, which is included as Exhibit 3.1 hereto and incorporated herein by reference.

Amended and Restated Bylaws

Upon the closing of the Business Combination, the Company's bylaws were amended and restated to be consistent with DraftKings' amended and restated articles of incorporation and to make certain other changes that Old DK's board of directors deemed appropriate for a public operating company. This summary is qualified in its entirety by reference to the text of the amended and restated bylaws, which is included as Exhibit 3.2 hereto and incorporated herein by reference.

Item 4.01. Change in Registrant's Certifying Accountant.

(a) *Dismissal of independent registered public accounting firm*

On April 23, 2020, the Audit Committee of the Board of Directors of DraftKings approved the engagement of BDO USA, LLP ("BDO") as the Company's independent registered public accounting firm to audit the Company's consolidated financial statements for the year ended December 31, 2020. BDO served as independent registered public accounting firm of Old DK prior to the Business Combination. Accordingly, WithumSmith+Brown, PC ("Withum"), DEAC's independent registered public accounting firm prior to the Business Combination, was informed that it would be replaced by BDO as the Company's independent registered public accounting firm following completion of the Company's review of the quarter ended March 31, 2020, which consists only of the accounts of the pre-Business Combination special purpose acquisition company, DEAC.

The reports of Withum on DEAC's, the Company's legal predecessor, consolidated balance sheet as of December 31, 2019 and the consolidated statements of operations, changes in stockholders' equity and cash flows for the period from March 27, 2019 (inception) to December 31, 2019, did not contain an adverse opinion or a disclaimer of opinion, and were not qualified or modified as to uncertainties, audit scope or accounting principles.

During the period from March 27, 2019 (inception) to December 31, 2019, there were no disagreements between the Company and Withum on any matter of accounting principles or practices, financial disclosure or auditing scope or procedure, which disagreements, if not resolved to the satisfaction of Withum, would have caused it to make reference to the subject matter of the disagreements in its reports on the Company's financial statements for such period.

During the period from March 27, 2019 (inception) to December 31, 2019, there were no "reportable events" (as defined in Item 304(a)(1)(v) of Regulation S-K under the Exchange Act).

The Company has provided Withum with a copy of the foregoing disclosures and has requested that Withum furnish the Company with a letter addressed to the SEC stating whether it agrees with the statements made by the Company set forth above. A copy of Withum's letter, dated April 28, 2020, is filed as Exhibit 16.1 to this Current Report on Form 8-K.

Item 5.01. Changes in Control of Registrant.

Reference is made to the disclosure in the Proxy in the section titled "The Business Combination," which is incorporated herein by reference. Further reference is made to the information contained in Item 2.01 to this Current Report on Form 8-K, which is incorporated herein by reference.

Immediately after giving effect to the Business Combination, there were 312,451,027 shares of DraftKings Class A common stock outstanding. As of such time, our executive officers and directors and their affiliated entities held 32.9% of our outstanding shares of Class A common stock.

Item 5.02. Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

Upon the consummation of the Transactions, and in accordance with the terms of the Business Combination Agreement, each executive officer of DEAC and DEAC NV ceased serving in such capacities; Jeff Sagansky, Scott Delman, Joshua Kazam, Fredric Rosen and Scott Ross ceased serving on DEAC's board of directors; and Jeff Sagansky and Eli Baker ceased serving on DEAV NV's board of directors. Jason Robins, Harry Sloan, Gavin Isaacs, Matthew Kalish, Woodrow Levin, Paul Liberman, Shalom Meckenzie, Ryan Moore, Steven Murray, Hany Nada, Richard Rosenblatt, John Salter and Marni Walden were appointed as directors of the Company, to serve until the next annual meeting of shareholders and until their successors are elected and qualified.

Upon the consummation of the Transactions, the Company established four board committees: audit committee, compensation committee, nominating and corporate governance committee and compliance committee. Messrs. Moore, Murray and Nada were appointed to serve on the Company's audit committee, with Mr. Murray serving as the chair and qualifying as an audit committee financial expert, as such term is defined in Item 407(d)(5) of Regulation S-K. Messrs. Levin, Moore, Nada and Rosenblatt were appointed to serve on the Company's compensation committee, with Mr. Nada serving as the chair. Messrs. Levin, Murray, Salter and Sloan and Ms. Walden were appointed to serve on the Company's nominating and corporate governance committee, with Mr. Sloan serving as the chair. Messrs. Isaacs, Liberman and Salter and Ms. Walden were appointed to serve on the Company's compliance committee, with Mr. Salter serving as the chair.

Following the consummation of the Transactions, the non-employee directors of the Company will be entitled to the following compensation for their service on the Board: (i) an annual cash retainer of $45,000; (ii) an equity retainer with a grant date fair value equal to $200,000 prorated upon initial election to the Board and then each year at the annual meeting of the Company's stockholders; (iii) an annual cash retainer of $20,000 for the chair of the audit committee, $17,500 for the chair of the compensation committee, $10,000 for the chair of the nominating and corporate governance committee and $10,000 for the chair of the compliance committee; (iv) an annual cash retainer of $10,000 for other members of the audit committee, $7,500 for other members of the compensation committee, $5,000 for other members of the nominating and corporate governance committee and $5,000 for other members of the compliance committee; and (v) an additional annual cash retainer of $75,000 for serving as our non-executive chair or $20,000 for serving as our lead director, in each case, if applicable. Each grant of equity-based awards described above will vest in full on the earlier of (i) the next annual meeting of the Company's stockholders following the grant date and (ii) the first anniversary of the grant date or such other circumstances as set forth in the applicable award agreement.

Additionally, upon consummation of the Transactions, Jason Robins was appointed as the Company's Chief Executive Officer and Chairman of the Board; Matthew Kalish was appointed as President, DraftKings North America; Paul Liberman was appointed as President, Global Technology and Product; Stanton Dodge was appointed as Chief Legal Officer and Secretary; and Jason Park was appointed as the Company's Chief Financial Officer.

Reference is made to the disclosure described in the Proxy in the section titled "*Directors and Executive Officers of New DraftKings After the Business Combination*" beginning on page 286 for biographical information about each of the directors and officers following the Transactions, which is incorporated herein by reference.

The information set forth under Item 1.01. Entry into a Material Definitive Agreement—Indemnification Agreement, —DraftKings Inc. 2020 Incentive Award Plan, —DraftKings Inc. Employee Stock Purchase Plan, and —Employment Agreements of this Current Report on Form 8-K is incorporated herein by reference. The material terms of the employment agreement with Mr. Park and Old DK, and of certain transaction-related awards granted by Old DK prior to the Business Combination, are described in the Proxy in the section titled "*DraftKings' Executive and Director Compensation —Employment Agreements and Transaction Awards*" beginning on page 299 and are incorporated herein by reference. That summary of Mr. Park's employment agreement is qualified in its entirety by reference to the text of Mr. Park's employment agreement, which is filed as Exhibit 10.6 to this Current Report on Form 8-K and is incorporated herein by reference.

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

The disclosure set forth in Item 3.03 of this Current Report on Form 8-K is incorporated in this Item 5.03 by reference.

Item 5.06. Change in Shell Company Status.

As a result of the Business Combination, which fulfilled the definition of an "initial business combination" as required by DEAC's organizational documents, the Company ceased to be a shell company upon the closing of the Business Combination. The material terms of the Business Combination are described in the sections titled "*The Business Combination Proposal*" and "*The Business Combination Agreement*" beginning on page 95 and 112, respectively, of the Proxy, and are incorporated herein by reference.

Item 8.01. Other Events.

Upon the closing of the Business Combination, all outstanding shares of DEAC's Class A common stock (including all of the outstanding shares of DEAC's Class B common stock which were converted into shares of DEAC's Class A common stock in connection with the Closing) were exchanged on a one-for-one basis for shares of DraftKings Class A common stock, and DEAC's outstanding warrants were assumed by the Company and became exercisable for shares of DraftKings Class A common stock on the same terms as were contained in such warrants prior to the Business Combination. By operation of Rule 12g-3(a) under the Exchange Act, the Company is the successor issuer to DEAC and has succeeded to the attributes of DEAC as the registrant, including DEAC's SEC file number (001-38908) and CIK Code (0001772757). The Company's Class A common stock and public warrants are deemed to be registered under Section 12(b) of the Exchange Act, and the Company will hereafter file reports and other information with the SEC using DEAC's SEC file number (001-38908).

The Company's Class A common stock and public warrants are listed for trading on The Nasdaq Global Select Market under the symbols "DKNG" and "DKNGW," respectively, and the CUSIP numbers relating to the Company's Class A common stock and public warrants are 26142R 104 and 26142R 112, respectively.

Holders of uncertificated shares of DEAC's Class A common stock immediately prior to the Business Combination have continued as holders of shares of uncertificated shares of DraftKings Class A common stock.

Holders of DEAC's shares who have filed reports under the Exchange Act with respect to those shares should indicate in their next filing, or any amendment to a prior filing, filed on or after the Closing Date that the Company is the successor to DEAC.

Item 9.01. Financial Statements and Exhibits.

(a) Financial statements of businesses acquired.

The consolidated financial statements of DraftKings Inc., a Delaware corporation, as of December 31, 2019 and 2018 and for the years ended December 31, 2019, 2018 and 2017, the related notes and report of independent registered public accounting firm thereto are set forth in the Proxy beginning on page F-20 and are incorporated herein by reference.

The consolidated financial statements of SBTech (Global) Limited as of December 31, 2019 and 2018 and for the years ended December 31, 2019, 2018 and 2017, the related notes and report of independent registered public accounting firm thereto are set forth in the Proxy beginning on page F-57 and are incorporated herein by reference.

The consolidated financial statements of Diamond Eagle Acquisition Corp. as of December 31, 2019 and for the period from March 27, 2019 (date of inception) through December 31, 2019, the related notes and report of independent registered public accounting firm thereto are set forth in the Proxy beginning on page F-4 and are incorporated herein by reference.

(b) Pro forma financial information.

Certain pro forma financial information of the Company is attached hereto as Exhibit 99.1 and is incorporated herein by reference.

(d) Exhibits.

Exhibit Number	Description
2.1†	Business Combination Agreement, dated as of December 22, 2019, by and among Diamond Eagle Acquisition Corp., DEAC NV Merger Corp., DEAC Merger Sub Inc., DraftKings Inc. (a Delaware corporation), SBTech (Global) Limited, the shareholders of SBTech (Global) Limited and the SBT Sellers' Representative (incorporated by reference to Exhibit 2.1 of DEAC NV Merger Corp.'s Registration Statement on Form S-4 (Reg. No. 333-235805), filed with the SEC on April 14, 2020).
2.2	Amendment to Business Combination Agreement, dated as of April 7, 2020, among DraftKings Inc. (a Delaware corporation), SBTech (Global) Limited, SBTech's shareholders, Diamond Eagle Acquisition Corp., DEAC NV Merger Corp. and a wholly-owned subsidiary of DEAC (incorporated by reference to Exhibit 2.4 of DEAC NV Merger Corp.'s Registration Statement on Form S-4 (Reg. No. 333-235805), filed with the SEC on April 14, 2020).
2.3	Agreement and Plan of Merger, dated as of March 12, 2020, by and among Diamond Eagle Acquisition Corp. and DEAC NV Merger Corp (incorporated by reference to Exhibit 2.3 of DEAC NV Merger Corp.'s Registration Statement on Form S-4 (Reg. No. 333-235805), filed with the SEC on April 14, 2020).
3.1	Amended and Restated Articles of Incorporation of DraftKings Inc.
3.2	Amended and Restated Bylaws of DraftKings Inc.
4.1	Form of Specimen Class A Common Stock Certificate of DraftKings Inc.
4.2	Form of Warrant Certificate of DraftKings Inc.
4.3	Warrant Agreement, dated May 10, 2019, by and between Diamond Eagle Acquisition Corp. and Continental Stock Transfer & Trust Company, as warrant agent (incorporated by reference to Exhibit 4.1 of Diamond Eagle Acquisition Corp.'s Current Report on Form 8-K filed on May 14, 2019).
4.4	Assignment and Assumption Agreement, dated April 23, 2020, by and among DraftKings Inc., DEAC, Continental Stock Transfer & Trust Company, Computershare Trust Company, N.A. and Computershare Inc.
10.1	DraftKings Inc. 2020 Incentive Award Plan.
10.2	Executive Employment Agreement, dated April 23, 2020, between DraftKings Inc. and Matt Kalish.
10.3	Executive Employment Agreement, dated April 23, 2020, between DraftKings Inc. and Paul Liberman.
10.4	Executive Employment Agreement, dated April 23, 2020, between DraftKings Inc. and Jason Robins.

10.5	DraftKings Inc. Employee Stock Purchase Plan.
10.6	Executive Employment Agreement, dated May 30, 2019, between DraftKings Inc. and Jason Park (incorporated by reference to Exhibit 10.3 of DEAC NV Merger Corp.'s Registration Statement on Form S-4 (Reg. No. 333-235805), filed with the SEC on April 14, 2020).
10.7	Form of Indemnification Agreement.
10.8	Escrow Agreement, dated April 23, 2020, by and among DraftKings Inc., Shalom Meckenzie, in his capacity as SBT Sellers' Representative, Eagle Equity Partners LLC, Jeff Sagansky, Eli Baker, Harry Sloan, I.B.I. Trust Management, the trustee, and Computershare Trust Company, N.A., as escrow agent.
10.9	Stockholders Agreement, dated April 23, 2020, by and among DraftKings Inc., the DK Stockholder Group, the SBT Stockholder Group and the DEAC Stockholder Group.
10.10	Share Exchange Agreement, dated April 23, 2020, by and among DraftKings Inc., a Delaware corporation, Jason Robins and DEAC NV Merger Corp.
10.11†*	Agreement for the Provision of a Sports Betting Solution ("License Agreement"), between Sports Information Services Limited and Crown Gaming Inc., dated as of June 19, 2018 (incorporated by reference to Exhibit 10.5 of DEAC NV Merger Corp.'s Registration Statement on Form S-4 (Reg. No. 333-235805), filed with the SEC on April 14, 2020).
10.12†*	Addendum to License Agreement, between Sports Information Services Limited and Crown Gaming Inc., dated as of August 22, 2019 (incorporated by reference to Exhibit 10.6 of DEAC NV Merger Corp.'s Registration Statement on Form S-4 (Reg. No. 333-235805), filed with the SEC on April 14, 2020).
10.13	Amended and Restated Loan and Security Agreement (the ''LSA''), dated October 21, 2016, by and between DraftKings Inc. (a Delaware corporation) and Pacific Western Bank (incorporated by reference to Exhibit 10.7 of DEAC NV Merger Corp.'s Registration Statement on Form S-4 (Reg. No. 333-235805), filed with the SEC on April 14, 2020).
10.14	First Amendment to the LSA, dated July 28, 2017, by and between DraftKings Inc. (a Delaware corporation) and Pacific Western Bank (incorporated by reference to Exhibit 10.8 of DEAC NV Merger Corp.'s Registration Statement on Form S-4 (Reg. No. 333-235805), filed with the SEC on April 14, 2020).
10.15	Second Amendment to the LSA, dated December 28, 2017, by and between DraftKings Inc. (a Delaware corporation) and Pacific Western Bank (incorporated by reference to Exhibit 10.9 of DEAC NV Merger Corp.'s Registration Statement on Form S-4 (Reg. No. 333-235805), filed with the SEC on April 14, 2020).
10.16	Third Amendment and Joinder to the LSA, dated July 3, 2018, by and among DraftKings Inc. (a Delaware corporation), Crown Gaming Inc., Crown DFS Inc. and Pacific Western Bank (incorporated by reference to Exhibit 10.10 of DEAC NV Merger Corp.'s Registration Statement on Form S-4 (Reg. No. 333-235805), filed with the SEC on April 14, 2020).
10.17	Fourth Amendment to the LSA, dated December 19, 2018, by and among DraftKings Inc. (a Delaware corporation), Crown Gaming Inc., Crown DFS Inc. and Pacific Western Bank (incorporated by reference to Exhibit 10.11 of DEAC NV Merger Corp.'s Registration Statement on Form S-4 (Reg. No. 333-235805), filed with the SEC on April 14, 2020).
10.18	Fifth Amendment to the LSA, dated March 28, 2019 by and among DraftKings Inc. (a Delaware corporation), Crown Gaming Inc., Crown DFS Inc. and Pacific Western Bank (incorporated by reference to Exhibit 10.12 of DEAC NV Merger Corp.'s Registration Statement on Form S-4 (Reg. No. 333-235805), filed with the SEC on April 14, 2020).
10.19	Sixth Amendment to the LSA, dated August 15, 2019, by and among DraftKings Inc. (a Delaware corporation), Crown Gaming Inc., Crown DFS Inc. and Pacific Western Bank (incorporated by reference to Exhibit 10.13 of DEAC NV Merger Corp.'s Registration Statement on Form S-4 (Reg. No. 333-235805), filed with the SEC on April 14, 2020).
10.20	Seventh Amendment to the LSA, dated April 23, 2020, by and among DraftKings Inc. (a Nevada corporation), DraftKings Inc. (a Delaware corporation), Crown Gaming Inc., Crown DFS Inc. and Pacific Western Bank.
16.1	Letter from WithumSmith+Brown, PC to the SEC, dated April 28, 2020.
21.1	List of Subsidiaries
99.1	Unaudited Pro Forma Condensed Combined Financial Statements of the Company at December 31, 2019 and for the year ended December 31, 2019.

† Certain of the exhibits and schedules to this Exhibit have been omitted in accordance with Regulation S-K Item 601(a)(5). The Registrant agrees to furnish a copy of all omitted exhibits and schedules to the SEC upon its request.
*Certain portions of this exhibit have been omitted pursuant to Regulation S-K Item 601(b)(10)(iv). The Registrant agrees to furnish an unredacted copy of the exhibit to the SEC upon its request.

SIGNATURES

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

DRAFTKINGS INC.

By: /s/ R. Stanton Dodge
Name: R. Stanton Dodge
Title: Chief Legal Officer and Secretary

Date: April 28, 2020

BARBARA K. CEGAVSKE
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Filed in the Office of	Business Number
Barbara K. Cegavske	E3504642019-1
	Filing Number
	20200618493
Secretary of State	Filed On
State Of Nevada	4/23/2020 8:00:00 AM
	Number of Pages
	36

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Articles of Conversion/Exchange/Merger

NRS 92A.200 and 92A.205

This filing completes the following: ☐ Conversion ☐ Exchange ☒ Merger

TYPE OR PRINT - USE DARK INK ONLY - DO NOT HIGHLIGHT

1. Entity Information: (Constituent, Acquired or Merging)

Entity Name: Diamond Eagle Acquisition Corp.

Jurisdiction: Delaware Entity Type*: Corporation

If more than one entity being acquired or merging please attach additional page.

2. Entity Information: (Resulting, Acquiring or Surviving)

Entity Name: DEAC NV Merger Corp.

Jurisdiction: Nevada Entity Type*: Corporation

3. Plan of Conversion, Exchange or Merger: (select one box)

☒ The entire plan of conversion, exchange or merger is attached to these articles.

☐ The complete executed plan of conversion is on file at the registered office or principal place of business of the resulting entity. The entire plan of exchange or merger is on file at the registered office of the acquiring corporation, limited-liability company or business trust, or at the records office address if a limited partnership, or other place of business of the acquiring entity (NRS 92A.200).

☐ The complete executed plan of conversion for the resulting domestic limited partnership is on file at the records office required by NRS 88.330. (Conversion only)

4. Approval: (If more than one entity being acquired or merging please attach additional approval page.)

Exchange/Merger:

Owner's approval (NRS 92A.200) (options a, b or c must be used for each entity)

☐ A. Owner's approval was not required from the:
- ☐ Acquired/merging
- ☐ Acquiring/surviving

☒ B. The plan was approved by the required consent of the owners of:
- ☒ Acquired/merging
- ☐ Acquiring/surviving

☐ C. Approval of plan of exchange/merger for Nevada non-profit corporation (NRS 92A.160):

Non-profit Corporations only: The plan of exchange/merger has been approved by the directors of the corporation and by each public officer or other person whose approval of the plan of merger is required by the articles of incorporation of the domestic corporation.
- ☐ Acquired/merging
- ☐ Acquiring/surviving

Diamond Eagle Acquisition Corp.
Name of acquired/merging entity

Name of acquiring/surviving entity

5. Effective Date and Time: (Optional)

Date: Time:

(must not be later than 90 days after the certificate is filed)

* *corporation, limited partnership, limited-liability limited partnership, limited-liability company or business trust.*

BARBARA K. CEGAVSKE
Secretary of State
202 North Carson Street
Carson City, Nevada 89701-4201
(775) 684-5708
Website: www.nvsos.gov
www.nvsilverflume.gov

ABOVE SPACE IS FOR OFFICE USE ONLY

Articles of Conversion/Exchange/Merger

NRS 92A.200 and 92A.205

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TYPE OR PRINT - USE DARK INK ONLY - DO NOT HIGHLIGHT

4. Approval Continued:
(If more than one entity being acquired or merging please attach additional approval page.)

Exchange/Merger:
Owner's approval (NRS 92A.200) (options a, b or c must be used for each entity)

☐ A. Owner's approval was not required from the:
- ☐ Acquired/merging
- ☐ Acquiring/surviving

☒ B. The plan was approved by the required consent of the owners of:
- ☐ Acquired/merging
- ☒ Acquiring/surviving

☐ C. Approval of plan of exchange for Nevada non-profit corporation (NRS 92A.160):

Non-profit Corporations only: The plan of exchange/merger has been approved by the directors of the corporation and by each public officer or other person whose approval of the plan of merger is required by the articles of incorporation of the domestic corporation.
- ☐ Acquired/merging
- ☐ Acquiring/surviving

Name of acquired/merging entity

DEAC NV Merger Corp.

Name of acquiring/surviving entity

4. Approval Continued:
(If more than one entity being acquired or merging please attach additional approval page.)

Exchange/Merger:
Owner's approval (NRS 92A.200) (options a, b or c must be used for each entity)

☐ A. Owner's approval was not required from the:
- ☐ Acquired/merging
- ☐ Acquiring/surviving

☐ B. The plan was approved by the required consent of the owners of:
- ☐ Acquired/merging
- ☐ Acquiring/surviving

☐ C. Approval of plan of exchange for Nevada non-profit corporation (NRS 92A.160):

Non-profit Corporations only: The plan of exchange/merger has been approved by the directors of the corporation and by each public officer or other person whose approval of the plan of merger is required by the articles of incorporation of the domestic corporation.
- ☐ Acquired/merging
- ☐ Acquiring/surviving

Name of acquired/merging entity

Name of acquiring/surviving entity

** corporation, limited partnership, limited-liability limited partnership, limited-liability company or business trust.*

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6.Forwarding Address for Service of Process: (Conversion and Mergers only, if resulting/surviving entity is foreign)

Name | Country

Care of:

Address | City | State | Zip/Postal Code

7. Amendment, if any, to the articles or certificate of the surviving entity. (NRS 92A.200): (Merger only) **

The Articles of Incorporation of the surviving corporation shall be replaced in its entirety by the Amended and Restated Articles of Incorporation of DraftKings Inc. attached hereto as Exhibit A.

** Amended and restated articles may be attached as an exhibit or integrated into the articles of merger. Please entitle them "Restated" or "Amended and Restated," accordingly. The form to accompany restated articles prescribed by the secretary of state must accompany the amended and/or restated articles. Pursuant to NRS 92A.180 (merger of subsidiary into parent - Nevada parent owning 90% or more of subsidiary), the articles of merger may not contain amendments to the constituent documents of the surviving entity except that the name of the surviving entity may be changed.

8. Declaration: (Exchange and Merger only)

Exchange:

☐ The undersigned declares that a plan of exchange has been adopted by each constituent entity (NRS 92A.200).

Merger: (Select one box)

☒ The undersigned declares that a plan of merger has been adopted by each constituent entity (NRS 92A.200).

☐ The undersigned declares that a plan of merger has been adopted by the parent domestic entity (NRS 92A.180).

9. Signature Statement: (Required)

☐ **Conversion:**
A plan of conversion has been adopted by the constituent entity in compliance with the law of the jurisdiction governing the constituent entity.

Signatures - must be signed by:

1. If constituent entity is a Nevada entity: an officer of each Nevada corporation, all general partners of each Nevada limited partnership or limited-liability limited partnership, a manager of each Nevada limited-liability company with managers or one member if there are no managers, a trustee of each Nevada business trust, a managing partner of a Nevada limited-liability partnership (a.k.a. general partnership governed by NRS chapter 87).
2. If constituent entity is a foreign entity: must be signed by the constituent entity in the manner provided by the law governing it.

Name of constituent entity

Form will be returned if unsigned.
This form must be accompanied by appropriate fees.

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Articles of Conversion/Exchange/Merger

NRS 92A.200 and 91A.205

9. Signature Statement Continued: (Required)

☐ **Exchange:**

Signatures - Must be signed by: An officer of each Nevada corporation; All general partners of each Nevada limited partnership; All general partners of each Nevada limited-liability limited partnership; A manager of each Nevada limited-liability company with managers or a member if there are no Managers; A trustee of each Nevada business trust (NRS 92A.230)

Unless otherwise provided in the certificate of trust or governing instrument of a business trust, an exchange must be approved by all the trustees and beneficial owners of each business trust that is a constituent entity in the exchange.

The articles of exchange must be signed by each foreign constituent entity in the manner provided by the law governing it (NRS 92A.230). Additional signature blocks may be added to this page or as an attachment, as needed.

☒ **Merger:**

Signatures - Must be signed by: An officer of each Nevada corporation; All general partners of each Nevada limited partnership; All general partners of each Nevada limited-liability limited partnership; A manager of each Nevada limited-liability company with managers or one member if there are no managers; A trustee of each Nevada business trust (NRS 92A.230).

The articles of merger must be signed by each foreign constituent entity in the manner provided by the law governing it (NRS 92A.230). Additional signature blocks may be added to this page or as an attachment, as needed.

10. Signature(s): (Required)

Diamond Eagle Acquisition Corp.
Name of acquired/merging entity

X _____ Chief Executive Officer
Signature (Exchange/Merger) Title Date

If more than one entity being acquired or merging please attach additional page of information and signatures.

DEAC-NV Merger Corp.
Name of acquiring/surviving entity

X _____ Secretary 4-2-20
Signature (Exchange/Merger) Title Date

X _____
Signature of Constituent Entity (Conversion) Title Date

Please include any required or optional information in space below:
(attach additional page(s) if necessary)

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Articles of Conversion/Exchange/Merger

NRS 92A.200 and 91A.205

9. Signature Statement Continued (Required)

☐ **Exchange:**

Signatures - Must be signed by: An officer of each Nevada corporation; All general partners of each Nevada limited partnership; All general partners of each Nevada limited-liability limited partnership; A manager of each Nevada limited-liability company with managers or a member if there are no managers; A trustee of each Nevada business trust (NRS 92A.250)

Unless otherwise provided in the certificate of trust or governing instrument of a business trust, an exchange must be approved by all the trustees and beneficial owners of each business trust that is a constituent entity in the exchange.

The articles of exchange must be signed by each foreign constituent entity in the manner provided by the law governing it (NRS 92A.230). Additional signature blocks may be added to this page or as an attachment, as needed.

☒ **Merger:**

Signatures - Must be signed by: An officer of each Nevada corporation; All general partners of each Nevada limited partnership; All general partners of each Nevada limited-liability limited partnership; A manager of each Nevada limited-liability company with managers or one member if there are no managers; A trustee of each Nevada business trust (NRS 92A.250)

The articles of merger must be signed by each foreign constituent entity in the manner provided by the law governing it (NRS 92A.230). Additional signature blocks may be added to this page or as an attachment, as needed.

10. Signature(s): Required)

Diamond Eagle Acquisition Corp.
Name of acquired/merging entity

X _____ Chief Executive Officer 1-20-10
Signature (Exchange/Merger) Title Date

If more than one entity being acquired or merging, please attach additional page of information and signatures.

DEAC NV Merger Corp.
Name of acquiring/surviving entity

X _____ Secretary
Signature (Exchange/Merger) Title Date

X _____
Signature of Constituent Entity (Conversion) Title Date

Please include any required or optional information in space below:
(attach additional page(s) if necessary)

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orm must be accompanied by appropriate fees.

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Profit Corporation:

Certificate of Amendment (PURSUANT TO NRS 78.380 & 78.385/78.390)
Certificate to Accompany Restated Articles or Amended and Restated Articles (PURSUANT TO NRS 78.403)
Officer's Statement (PURSUANT TO NRS 80.030)

TYPE OR PRINT - USE DARK INK ONLY - DO NOT HIGHLIGHT

1. Entity information:

Name of entity as on file with the Nevada Secretary of State:
DEAC NV Merger Corp.

Entity or Nevada Business Identification Number (NVID): E3504642019-1

2. Restated or Amended and Restated Articles: (Select one)

(If amending and restating only, complete section 1,2 3, 5 and 6)

☒ Certificate to Accompany Restated Articles or Amended and Restated Articles

☐ Restated Articles - No amendments; articles are restated only and are signed by an officer of the corporation who has been authorized to execute the certificate by resolution of the board of directors adopted on: _____
The certificate correctly sets forth the text of the articles or certificate as amended to the date of the certificate.

☒ Amended and Restated Articles

* Restated or Amended and Restated Articles must be included with this filing type.

3. Type of Amendment Filing Being Completed: (Select only one box)

(If amending, complete section 1, 3, 5 and 6.)

☐ Certificate of Amendment to Articles of Incorporation (Pursuant to NRS 78.380 - Before Issuance of Stock)

The undersigned declare that they constitute at least two-thirds of the following:

(Check only one box) ☐ incorporators ☐ board of directors

The undersigned affirmatively declare that to the date of this certificate, no stock of the corporation has been issued

☒ Certificate of Amendment to Articles of Incorporation (Pursuant to NRS 78.385 and 78.390 - After Issuance of Stock)

The vote by which the stockholders holding shares in the corporation entitling them to exercise at least a majority of the voting power, or such greater proportion of the voting power as may be required in the case of a vote by classes or series, or as may be required by the provisions of the articles of incorporation* have voted in favor of the amendment is: Majority

☐ Officer's Statement (foreign qualified entities only) -

Name in home state, if using a modified name in Nevada:

Jurisdiction of formation:

Changes to takes the following effect:

☐ The entity name has been amended.
☐ The purpose of the entity has been amended.
☐ The authorized shares have been amended.
☐ Other: (specify changes)

☐ Dissolution
☐ Merger
☐ Conversion

* Officer's Statement must be submitted with either a certified copy of or a certificate evidencing the filing of any document, amendatory or otherwise, relating to the original articles in the place of the corporations creation.

This form must be accompanied by appropriate fees.

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Profit Corporation:
Certificate of Amendment (PURSUANT TO NRS 78.380 & 78.385/78.390)
Certificate to Accompany Restated Articles or Amended and Restated Articles (PURSUANT TO NRS 78.403)
Officer's Statement (PURSUANT TO NRS 80.030)

4. Effective Date and Time: (Optional)

Date: Time:

(must not be later than 90 days after the certificate is filed)

5. Information Being Changed: (Domestic corporations only)

Changes to takes the following effect:

- [x] The entity name has been amended.
- [ ] The registered agent has been changed. (attach Certificate of Acceptance from new registered agent)
- [x] The purpose of the entity has been amended.
- [x] The authorized shares have been amended.
- [x] The directors, managers or general partners have been amended.
- [ ] IRS tax language has been added.
- [x] Articles have been added.
- [x] Articles have been deleted.
- [x] Other.

The articles have been amended as follows: (provide article numbers, if available)

Articles I, II, III, IV, V, VI, VII, VIII, IX, X, XI and XII

(attach additional page(s) if necessary)

6. Signature: (Required)

X _____ Chief Executive Officer
Signature of Officer or Authorized Signer — Title

X _____ Secretary 4-20-20
Signature of Officer or Authorized Signer — Title

*If any proposed amendment would alter or change any preference or any relative or other right given to any class or series of outstanding shares, then the amendment must be approved by the vote, in addition to the affirmative vote otherwise required, of the holders of shares representing a majority of the voting power of each class or series affected by the amendment regardless to limitations or restrictions on the voting power thereof.

Please include any required or optional information in space below:
(attach additional page(s) if necessary)

This form must be accompanied by appropriate fees.

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Profit Corporation:

Certificate of Amendment (PURSUANT TO NRS 78.380 & 78.385/78.390)

Certificate to Accompany Restated Articles or Amended and Restated Articles (PURSUANT TO NRS 78.403)

Officer's Statement (PURSUANT TO NRS 80.030)

4. Effective Date and Time: (Optional)

Date: Time:

(must not be later than 90 days after the certificate is filed)

5. Information Being Changed: (Domestic corporations only)

Changes to takes the following effect:

- x The entity name has been amended.
- The registered agent has been changed. (attach Certificate of Acceptance from new registered agent)
- x The purpose of the entity has been amended.
- x The authorized shares have been amended.
- x The directors, managers or general partners have been amended.
- IRS tax language has been added.
- x Articles have been added.
- x Articles have been deleted.
- X Other.

The articles have been amended as follows: (provide article numbers, if available)

Articles I, II, III, IV, V, VI, VII, VIII, IX, X, XI and XII

(attach additional page(s) if necessary)

6. Signature: (Required)

X _____ Chief Executive Officer

Signature of Officer or Authorized Signer — Title

X _____ Secretary

Signature of Officer or Authorized Signer — Title

*If any proposed amendment would alter or change any preference or any relative or other right given t any class or series of outstanding shares, then the amendment must be approved by the vote, in addit the affirmative vote otherwise required, of the holders of shares representing a majority of the voting po of each class or series affected by the amendment regardless to limitations or restrictions on the voting power thereof.

Please include any required or optional information in space below:
(attach additional page(s) if necessary)

form must be accompanied by appropriate fees.

Exhibit A

Amended and Restated Articles of Incorporation of DraftKings Inc.

AMENDED AND RESTATED ARTICLES OF INCORPORATION
OF
DRAFTKINGS INC.

ARTICLE I
NAME

The name of the corporation is DraftKings Inc. (the "Corporation").

ARTICLE II
REGISTERED OFFICE AND AGENT

The address of the Corporation's registered office in the State of Nevada is 112 North Curry Street, Carson City, NV 87903. The name of the Corporation's resident agent at that address is Corporation Service Company. Either the registered office or the registered agent may be changed in the manner permitted by law.

ARTICLE III
PURPOSE

The purpose for which this Corporation is organized is to engage in any lawful acts and activities for which corporations may be organized under the laws of the State of Nevada and to exercise any powers permitted to corporations under the laws of the State of Nevada.

ARTICLE IV
CAPITAL STOCK

Section 1. Capital Stock

(a) Authorized Capital Stock. The total number of shares of capital stock which the Corporation is authorized to issue is 2,100,000,000 shares, of which 900,000,000 shares shall be shares of Class A Common Stock, par value $0.0001 per share (the "Class A Common Stock"), 900,000,000 shares shall be shares of Class B Common Stock, par value $0.0001 per share (the "Class B Common Stock", and together with the Class A Common Stock, the "Common Stock"), and 300,000,000 shares shall be shares of Preferred Stock, par value $0.0001 per share (the "Preferred Stock").

(b) Increase or Decrease in Authorized Capital Stock. The number of authorized shares of Preferred Stock and each class of Common Stock may, without a class vote, be increased or decreased (but not below the number of shares thereof then outstanding) from time to time by the affirmative vote of the holders of at least a majority of the voting power of the Corporation's then outstanding capital stock, voting together as a single class, unless a separate vote of any such holders is required pursuant to the terms of any certificate of designations for a series of Preferred Stock, irrespective of the provisions of Sections 78.2055 and 78.207 of the Nevada Revised Statutes (the "NRS") or any successor provision thereof.

(c) Facts or Events Ascertainable outside of Articles of Incorporation. Any of the voting powers, designations, preferences, limitations, restrictions and relative rights of any class or series of stock of the Corporation may be made dependent upon any fact or event which may be ascertained outside the Articles of Incorporation if the manner in which a fact or event may operate upon the voting powers, designations, preferences, limitations, restrictions and relative rights is stated in the articles of incorporation (including any duly filed certificate of designation relating thereto), all to the full extent permitted by the NRS.

(d) No Cumulative Voting. Holders of a class or series of capital stock of the Corporation shall not be entitled to cumulate their votes in any election of directors in which they are entitled to vote and shall not, unless specifically provided in a certificate of designations for such class or series, be entitled to any preemptive rights to acquire shares of any class or series of capital stock of the Corporation.

Section 2. Preferred Stock.

The Board of Directors of the Corporation (the "Board of Directors") is hereby authorized to provide, by resolution or resolutions adopted by such Board of Directors and a certificate of designations filed pursuant to Section 78.1955 of the NRS, for the issuance of Preferred Stock from time to time in one or more classes and/or series, to establish the number of shares of each such class or series, and to fix the voting powers, designations, preferences, limitations, restrictions, relative rights and distinguishing designation of each such class or series, participating, optional or other rights, if any, and the qualifications, limitations or restrictions thereof, of any of the shares of each such class or series, all to the full extent permitted by Chapter 78 of the NRS, or any successor law(s) of the State of Nevada. Without limiting the generality of the foregoing, the Board of Directors is authorized to provide that shares of a class or series of Preferred Stock:

(a) are entitled to cumulative, partially cumulative or noncumulative dividends or other distributions payable in cash, capital stock or indebtedness of the Corporation or other property, at such times and in such amounts as are set forth in the certificate of designations establishing such class or series or as are determined in a manner specified in such certificate of designations;

(b) are entitled to a preference with respect to payment of dividends over one or more other classes and/or series of capital stock of the Corporation;

(c) are entitled to a preference with respect to any distribution of assets of the Corporation its liquidation, dissolution or winding up over one or more other classes and/or series of capital stock of the Corporation in such amount as is set forth in the certificate of designations establishing such class or series or as is determined in a manner specified in such certificate of designations;

(d) are redeemable or exchangeable at the option of the Corporation and/or on a mandatory basis for cash, capital stock or indebtedness of the Corporation or other property, at such times or upon the occurrence of such events, and at such prices, as are set forth in the resolutions of the Board of Directors establishing such class or series or as are determined in a manner specified in such certificate of designations;

(e) are entitled to the benefits of such sinking fund, if any, as is required to be established by the Corporation for the redemption and/or purchase of such shares by the resolutions of the Board of Directors establishing such class or series;

(f) are convertible at the option of the holders thereof into shares of any other class or series of capital stock of the Corporation, at such times or upon the occurrence of such events, and upon such terms, as are set forth in the resolutions of the Board of Directors establishing such class or series or as are determined in a manner specified in such certificate of designations;

(g) are exchangeable at the option of the holders thereof for cash, capital stock or indebtedness of the Corporation or other property, at such times or upon the occurrence of such events, and at such prices, as are set forth in the resolutions of the Board of Directors establishing such class or series or as are determined in a manner specified in such certificate of designations;

(h) are entitled to such voting rights, if any, as are specified in the resolutions of the Board of Directors establishing such class or series (including, without limiting the generality of the foregoing, the right to elect one or more directors voting alone as a single class or series or together with one or more other classes and/or series of Preferred Stock, if so specified by such certificate of designations) at all times or upon the occurrence of specified events; and

(i) are subject to restrictions on the issuance of additional shares of Preferred Stock of such class or series or of any other class or series, or on the reissuance of shares of Preferred Stock of such class or series or of any other class or series, or on increases or decreases in the number of authorized shares of Preferred Stock of such class or series or of any other class or series.

Section 3. Common Stock. The holders of shares of Common Stock shall have such rights as are set forth in the NRS and, to the extent permitted thereunder, such additional rights as are set forth below:

(a) Voting. Except as otherwise expressly provided by these Amended and Restated Articles of Incorporation (the "Amended and Restated Articles") or as provided by law, the holders of shares of Class A Common Stock and Class B Common Stock shall (i) at all times vote together as a single class on all matters (including the election of directors) submitted to a vote or for the consent (if action by written consent of the stockholders is not prohibited at such time under these Amended and Restated Articles) of the stockholders of the Corporation; (ii) be entitled to notice of any stockholders' meeting in accordance with the Bylaws of the Corporation; and (iii) be entitled to vote upon such matters and in such manner as may be provided by applicable law. Except as otherwise expressly provided herein or required by applicable law, each holder of Class A Common Stock shall have the right to one (1) vote per share of Class A Common Stock held of record by such holder and each holder of Class B Common Stock shall have the right to ten (10) votes per share of Class B Common Stock held of record by such holder. Notwithstanding any other provision of these Amended and Restated Articles to the contrary, so long as both shares of Class A Common Stock are outstanding and shares of Class B Common Stock are outstanding, the Corporation shall not amend, alter or repeal any provision of these Amended and Restated Articles so as to adversely affect the relative rights, preferences, qualifications, limitations or restrictions of either such class of Common Stock as compared to those of the other class of Common Stock without the affirmative vote of the holders of a majority of the voting power of the outstanding shares of each class of Common Stock whose relative rights, preferences, qualifications, limitations or restrictions are adversely affected.

(b) Class B Common Stock.

(i) Issuance of Additional Shares. From and after the effective time of these Amended and Restated Articles (the "Effective Time"), additional shares of Class B Common Stock may be issued only to, and registered in the name of, (A) Jason Robins (the "Founder") and (B) any entities, directly or indirectly, wholly-owned by (or in the case of a trust solely for the benefit of) the Founder (including all subsequent successors, assigns and permitted transferees) (collectively, "Permitted Class B Owners").

(ii) Mandatory Cancellation of Class B Common Stock. All outstanding shares of Class B Common Stock shall (A) automatically and without further action on the part of the Corporation or any holder of Class B Common Stock be canceled for no consideration, and the Corporation will take all actions necessary to retire such shares and such shares shall not be re-issued by the Corporation in the event that shares of Class A Common Stock that are then held by the Permitted Class B Owners (including without limitation all shares of Class A Common Stock that are the subject of unvested stock options or other equity awards held by the Founder) represent less than 33% of the Base Class A Shares (as defined below); and (B) be subject to cancelation by the Corporation (without consideration) one year after the date that both of the following conditions (the "Trigger Conditions") apply (the "Founder Termination Anniversary Date"):

(1) the earliest to occur of (a) the Founder's employment as Chief Executive Officer being terminated for Cause (as defined below) or due to death or Permanent Disability (as defined below) and (b) the Founder resigns (other than for Good Reason (as defined below)) as the Chief Executive Officer of the Corporation; and

(2) either (a) the Founder no longer serves as a member of the Board of Directors or (b) the Founder serves as a member of the Board of Directors, but his service to the Corporation is not his primary business occupation;

provided, however, that if the Founder is reinstated as the Chief Executive Officer of the Corporation or is reelected or appointed to serve as a member of the Board of Directors prior to the Founder Termination Anniversary Date (each a "Reset Event"), then the shares of Class B Common Stock shall not be cancelled pursuant to this clause (B) unless and until the one-year anniversary of the date that both Trigger Conditions are subsequently met (such date, the "Next Founder Termination Anniversary Date"); provided, further, that in the event of a subsequent Reset Event, the Next Founder Termination Anniversary Date will extend until the one-year anniversary of the date that both Trigger Conditions are subsequently met without a Reset Event occurring prior to such anniversary.

For purposes of this Section 3,

"Base Class A Shares" shall mean the number of shares of Class A Common Stock held by the Permitted Class B Owners equal to (i) the number of issued and outstanding shares of Class A Common Stock held by the Permitted Class B Owners as of immediately following the Effective Time, plus (ii) all shares of Class A Common Stock that are the subject of unvested stock options or other equity awards held by the Founder as of immediately following the Effective Time ("Founder Awards"), less (iii) any shares of Class A Common Stock that are subject to Founder Awards that have performance-based vesting conditions that subsequently fail to vest; provided, however, that in the event of any transfer of shares of Class A Common Stock held by the Permitted Class B Owners pursuant to divorce settlement, order or decree or domestic relations settlement, order or decree, if any, the amount of Base Class A Shares determined under this definition shall be reduced by fifty percent (50%) immediately prior to such transfer.

A termination for "Cause" shall occur thirty (30) days after written notice by the Corporation to the Founder of a termination for Cause if the Founder shall have failed to cure or remedy such matter, if curable, within such thirty (30) day period. In the event that the basis for Cause is not curable, then such thirty (30) day cure period shall not be required, and such termination shall be effective on the date the Corporation delivers notice of such termination for Cause. "Cause" shall mean the Corporation's termination of the Founder's employment with the Corporation or any of its subsidiaries as a result of: (i) fraud, embezzlement or any willful act of material dishonesty by the Founder in connection with or relating to the Founder's employment with the Corporation or any of its subsidiaries; (ii) theft or misappropriation of property, information or other assets by the Founder in connection with the Founder's employment with the Corporation or any of its subsidiaries which results in or could reasonably be expected to result in material loss, damage or injury to the Corporation and its subsidiaries, their goodwill, business or reputation; (iii) the Founder's conviction, guilty plea, no contest plea, or similar plea for any felony or any crime that results in or could reasonably be expected to result in material loss, damage or injury to the Corporation and its subsidiaries, their goodwill, business or reputation; (iv) the Founder's use of alcohol or drugs while working that materially interferes with the ability of Founder to perform the Founder's material duties hereunder; (v) the Founder's material breach of a material Corporation policy, or material breach of a Corporation policy that results in or could reasonably be expected to result in material loss, damage or injury to the Corporation and its subsidiaries, their goodwill, business or reputation; (vi) the Founder's material breach of any of his obligations under the employment agreement between the Founder and the Corporation, as in effect from time to time (the "Founder Employment Agreement"); or (vii) the Founder's repeated insubordination, or refusal (other than as a result of a Permanent Disability or physical or mental illness) to carry out or follow specific reasonable and lawful instructions, duties or assignments given by the Board of Directors which are consistent with Founder's position with the Corporation; *provided*, that, for clauses (i) – (vii) above, the Corporation delivers written notice to Founder of the condition giving rise to Cause within ninety (90) days after its initial occurrence. For avoidance of doubt, the Founder being deemed an Unsuitable Person shall not independently constitute Cause (but any circumstances giving rise to the Founder being deemed an Unsuitable Person shall constitute Cause to the extent such circumstances are grounds provided in clauses (i) – (vii) above).

A resignation for "Good Reason" shall occur thirty (30) days after written notice by the Founder to the Corporation of an alleged condition giving rise to a resignation for Good Reason if the Corporation shall have failed to cure or remedy such matter, if curable, within such thirty (30) day period. In the event that the basis for Good Reason is not curable, then such thirty (30) day cure period shall not be required, and such resignation shall be effective on the date the Founder delivers such notice. "Good Reason" shall mean the occurrence of any of the following events, without the express written consent of the Founder: (i) the Corporation's material breach of any of its obligations under the Founder Employment Agreement; (ii) any material adverse change in the Founder's duties or authority or responsibilities, or the assignment of duties or responsibilities to the Founder materially inconsistent with his position; (iii) the Founder no longer serving as the Chief Executive Officer of the Corporation; (iv) reduction in the Founder's annual base salary or annual target bonuses / incentives (other than across-the-board reductions affecting similarly situated senior executives of the Corporation or any of its subsidiaries); (v) the Corporation requires Founder to relocate to a facility or location that increases Founder's one-way commute by more than thirty-five (35) miles from the location at which Founder was working immediately prior to the required relocation; or (vi) the failure of a successor to the Corporation to assume the Corporation's obligations under this Agreement; *provided*, that, for clauses (i) – (vi) above, Founder has given written notice to the Corporation of the condition giving rise to Good Reason within ninety (90) days after its initial occurrence.

"Permanent Disability" shall mean a permanent and total disability such that the Founder is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which would reasonably be expected to result in death within twelve (12) months or which has lasted or would reasonably be expected to last for a continuous period of not less than twelve (12) months as determined by a licensed medical practitioner.

(c) Dividends. Subject to applicable law and the rights, if any, of the holders of any outstanding class or series of Preferred Stock or any class or series of stock having a preference over or the right to participate with the Class A Common Stock with respect to the payment of dividends, the holders of Class A Common Stock shall be entitled, on a per share basis, to such dividends and other distributions of cash, property, shares of capital stock or rights to acquire shares of capital stock of the Corporation as may be declared by the Board of Directors from time to time with respect to Common Stock out of assets or funds of the Corporation legally available therefor. Dividends shall not be declared or paid on the Class B Common Stock and holders of Class B Common Stock shall have no entitlement in respect of dividends thereon.

(d) Liquidation, Dissolution, etc. In the event of a voluntary or involuntary liquidation, dissolution, distribution of assets or winding up of the Corporation, the holders of Class A Common Stock shall be entitled, pro rata on a per share basis, to all assets of the Corporation of whatever kind available for distribution to the holders of Common Stock, subject to the designations, preferences, limitations, restrictions and relative rights of any other class or series of Preferred Stock. In the event of a voluntary or involuntary liquidation, dissolution, distribution of assets or winding up of the Corporation, the holders of Class B Common Stock shall not be entitled to any assets of the Corporation of whatever kind available until distribution has first been made to all holders of Class A Common Stock. For purposes of this paragraph, unless otherwise provided with respect to any then outstanding series of Preferred Stock, the voluntary sale, conveyance, lease, exchange or transfer (for cash, shares of stock, securities or other consideration) of all or substantially all of the assets of the Corporation or a consolidation or merger of the Corporation with one or more other corporations (whether or not the Corporation is the corporation surviving such consolidation or merger) shall not be deemed to be a liquidation, dissolution or winding up, either voluntary or involuntary.

(e) Subdivision or Combination. If the Corporation in any manner subdivides or combines the outstanding shares of one class of Common Stock, the outstanding shares of the other class of Common Stock will be subdivided or combined in the same manner.

(f) No Preemptive or Subscription Rights. No holder of shares of Common Stock shall be entitled to preemptive or subscription rights.

Section 4. Power to Sell and Purchase Shares. Subject to the requirements of applicable law, the Corporation shall have the power to issue and sell all or any part of any shares of any class of stock herein or hereafter authorized to such persons (provided that shares of Class B Common Stock may be issued only to, and registered in the name of, the Permitted Class B Owners), and for such consideration, as the Board of Directors shall from time to time, in its discretion, determine, whether or not greater consideration could be received upon the issuance or sale of the same number of shares of another class, and as otherwise permitted by law. Subject to the requirements of applicable law, the Corporation shall have the power to purchase all or any part of any shares of any class of stock herein or hereafter authorized from such persons, and for such consideration, as the Board of Directors shall from time to time, in its discretion, determine, whether or not less consideration could be paid upon the purchase of the same number of shares of another class, and as otherwise permitted by law.

Section 5. Transfers of Class B Common Stock.

(a) A holder of Class B Common Stock may not Transfer (as defined below) shares of Class B Common Stock, other than (i) to a Permitted Class B Owner or (ii) upon divorce, as required by settlement, order or decree, or as required by a domestic relations settlement, order or decree (in each case, a "Permitted Transfer"); provided that in each case, the Founder shall be deemed to retain the sole voting power to vote such transferred Class B Common Stock.

For purposes of this Section 5, "Transfer" of a share of Class B Common Stock shall mean, any sale, assignment, transfer, conveyance, hypothecation or other transfer or disposition, whether direct or indirect, of such share or any legal or beneficial interest in such share, whether or not for value and whether voluntary or involuntary or by operation of law (including by merger, consolidation or otherwise), including, without limitation, a transfer of a share of Class B Common Stock to a broker or other nominee (regardless of whether there is a corresponding change in beneficial ownership), or the transfer of, or entering into a binding agreement with respect to, Voting Control (as defined below) over such share by proxy or otherwise (other than proxy(ies), voting instruction(s) or voting agreement(s) solicited on behalf of the Board of Directors). Notwithstanding the foregoing, the pledge of shares of Class B Common Stock by a stockholder that creates a mere security interest in such shares pursuant to a bona fide loan or indebtedness transaction for so long as such stockholder continues to exercise Voting Control over such pledged shares; provided, however, that a foreclosure on such shares or other similar action by the pledgee shall constitute a "Transfer" unless such foreclosure or similar action independently qualifies as a "Permitted Transfer" at such time shall not be considered a "Transfer" within the meaning of this Article IV.

A "Transfer" shall also be deemed to have occurred with respect to a share of Class B Common Stock beneficially held by the transferor, if there occurs any act or circumstance that causes such transfer to not be a Permitted Transfer.

For purposes of this Section 5, "Voting Control" shall mean, with respect to a share of Class B Common Stock, the power (whether exclusive or shared) to vote or direct the voting of such share by proxy, voting agreement or otherwise.

(b) Any purported transfer of shares of Class B Common Stock in violation of this Section 5 shall be null and void. If, notwithstanding the limitations set out in this Section 5, a person shall voluntarily or involuntarily, purportedly become or attempt to become, the purported owner (the "Purported Owner") of shares of Class B Common Stock in violation of these limitations, then the Purported Owner shall not obtain any rights in and to such shares of Class B Common Stock and the purported transfer shall not be recognized by the Corporation's transfer agent.

(c) Upon a determination by the Board of Directors that a person has attempted or is attempting to acquire shares of Class B Common Stock, or has purportedly transferred or acquired shares of Class B Common Stock, in each case in violation of the limitations set out in this Section 5, the Board of Directors may take such action as it deems advisable to refuse to give effect to such attempted or purported transfer or acquisition on the books and records of the Corporation, including without limitation, to institute proceedings to enjoin any such attempted or purported transfer or acquisition, or reverse any entries or records reflecting such attempted or purported transfer or acquisition.

(d) The Board of Directors shall have all powers necessary to implement the limitations set out in this Section 5, including without limitation, the power to prohibit transfer of any shares of Class B Common Stock in violation thereof.

(e) All certificates or book-entries representing shares of Class B Common Stock shall bear a legend substantially in the following form (or in such other form as the Board of Directors may determine):

THE SECURITIES REPRESENTED BY THIS [CERTIFICATE][BOOK-ENTRY] ARE SUBJECT TO THE RESTRICTIONS (INCLUDING RESTRICTIONS ON TRANSFER) SET FORTH IN THE AMENDED AND RESTATED ARTICLES OF INCORPORATION (A COPY OF WHICH IS ON FILE WITH THE SECRETARY OF THE CORPORATION AND SHALL BE PROVIDED FREE OF CHARGE TO ANY STOCKHOLDER MAKING A REQUEST THEREFOR.

Section 6. Rights and Options. The Corporation has the authority to create and issue rights, warrants and options entitling the holders thereof to acquire from the Corporation any shares of its capital stock of any class or classes, with such rights, warrants and options to be evidenced by or in instrument(s) approved by the Board of Directors. The Board of Directors is empowered to set the exercise price, duration, times for exercise and other terms and conditions of such rights, warrants or options; provided, however, that the consideration to be received for any shares of capital stock issuable upon exercise thereof may not be less than the par value thereof.

ARTICLE V
BOARD OF DIRECTORS

Section 1. Powers of the Board. The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors.

Section 2. Number of Directors. Subject to the rights, if any, of the holders of any outstanding class or series of Preferred Stock with respect to the election of directors, the number of directors of the Corporation shall be fixed, and may be altered from time to time, exclusively by resolution of the Board of Directors; provided that the initial number of directors of the Corporation shall be thirteen (13); provided, further, that from and after the time that a Founder beneficially owns less than a majority of the voting power of all of the then-outstanding shares of capital stock of the Corporation entitled to vote at an annual or special meeting duly noticed and called in accordance with these Amended and Restated Articles (the "Voting Stock"), such number of directors may be modified by the affirmative vote of the holders of at least two-thirds of the voting power of the Voting Stock.

Section 3. Removal; Vacancies. Subject to the rights, if any, of the holders of any class or series of Preferred Stock then outstanding and the terms and conditions of the Stockholders Agreement, dated as of April 23, 2020, by and among the Corporation and the stockholders named therein (the "Stockholders Agreement"), any individual director, or the entire Board of Directors, may be removed from by a vote of stockholders representing not less than two-thirds of the voting power of the issued and outstanding stock entitled to vote at an annual or special meeting duly noticed and called in accordance with these Amended and Restated Articles.

Except as otherwise required by law and subject to the rights, if any, of the holders of any class or series of Preferred Stock then outstanding and the terms and conditions of the Stockholders Agreement, vacancies in the Board of Directors and newly created directorships resulting from any increase in the authorized number of directors or from any other cause shall be filled by, and only by, a majority of the directors then in office, even though less than a quorum. Any director appointed to fill a vacancy or a newly created directorship shall hold office until the next annual meeting of stockholders and his or her successor is elected and qualified or until his or her earlier resignation or removal.

Section 4. Bylaws. The Board of Directors is expressly authorized to make, alter or repeal Bylaws of the Corporation. Notwithstanding the foregoing, the Bylaws of the Corporation may be rescinded, altered, amended or repealed in any respect by the affirmative vote of the holders of (a) a majority of the voting power of the Voting Stock while the Corporation is under Founder Control and (b) at least two-thirds of the voting power of the Voting Stock from and after the time that the Corporation ceases to be under Founder Control.

For the purposes of these Amended and Restated Articles, "Founder Control" means that shares representing a majority of the voting power of the Voting Stock is beneficially owned by the Founder.

Section 5. Elections of Directors. Elections of directors need not be by written ballot except and to the extent provided in the Bylaws of the Corporation.

ARTICLE VI
MATTERS RELATING TO STOCKHOLDERS

Section 1. Action by Written Consent. Subject to the rights, if any, of the holders of any class or series of Preferred Stock then outstanding, any action required or permitted to be taken by the stockholders of the Corporation may be effected by an action by written consent in lieu of a meeting with the approval of the holders of outstanding capital stock having not less than the minimum voting power that would be necessary to authorize or take such action at a meeting at which all shares of capital stock entitled to vote thereon were present and voted; provided that from and after the time that a Founder beneficially owns less than a majority of the voting power of the Voting Stock, no action which is required to be taken or which may be taken at any annual or special meeting of stockholders of the Corporation may be taken by written consent without a meeting. Any alteration, amendment or repeal of this Section 1, Article VI shall require the affirmative vote of (a) a majority of the voting power of the Voting Stock while the Corporation is under Founder Control and (b) at least two-thirds of the voting power of the Voting Stock from and after the time that the Corporation ceases to be under Founder Control.

Section 2. Special Meeting of Stockholders. Subject to the rights, if any, of the holders of any class or series of Preferred Stock then outstanding, special meetings of stockholders of the Corporation may be called at any time (a) by the Chairman of the Board of Directors or by the Chief Executive Officer of the Corporation upon direction of the Board of Directors pursuant to a resolution adopted by a majority of the entire Board of Directors or by the holders of a majority of the voting power of the Voting Stock while the Corporation is under Founder Control and (b) at such time that the Corporation is not under Founder Control, only by the Chairman of the Board of Directors or by the Chief Executive Officer of the Corporation upon direction of the Board of Directors pursuant to a resolution adopted by a majority of the entire Board of Directors, and may not be called by any other person or persons.

Section 3. Meeting Location. Meetings of stockholders may be held within or outside the State of Nevada, as the Bylaws of the Corporation may provide. The books of the Corporation may be kept outside the State of Nevada at such place or places as may be designated from time to time by the Board of Directors or in the Bylaws of the Corporation.

ARTICLE VII
LIABILITY

The Corporation is authorized to indemnify and to advance expenses to each current, former or prospective Director, officer, employee or agent of the Corporation to the fullest extent permitted by Sections 78.7502 and 78.751 of the NRS, or any successor provision of Nevada law allowing greater indemnification or advancement of expenses. To the fullest extent permitted by Section 78.138 of the NRS or any successor provision of Nevada law, no Director or officer shall be personally liable to the Corporation or its stockholders or creditors for any damages as a result of any act or failure to act in his or her capacity as a Director or officer. No amendment to, or modification or repeal of, this Article VII shall adversely affect any right or protection of a Director or of any officer, employee or agent of the Corporation existing hereunder with respect to any act or omission occurring prior to such amendment, modification or repeal.

ARTICLE VIII
TRANSACTIONS WITH STOCKHOLDERS, DIRECTORS AND OFFICERS

Section 1. Control Share Acquisition Exemption. The Corporation shall not be governed by the control share acquisition provisions of Nevada law, Sections 78.378 through 78.3793 of the NRS or any successor provision, until immediately following the time at which the Founder ceases to beneficially own shares of Common Stock representing at least 15% of the voting power of the Voting Stock, and the Corporation shall thereafter be governed by Sections 78.378 through 78.3793 of the NRS, if and for so long as, Sections 78.378 through 78.3793 of the NRS shall apply to the Corporation.

Section 2. Combinations With Interested Stockholders. The Corporation shall not be governed by the provisions of Sections 78.411 through 78.444 of the NRS, or any successor provision, until immediately following the time at which the Founder ceases to beneficially own shares of Common Stock representing at least 15% of the voting power of the Voting Stock, and the Corporation shall thereafter be governed by Sections 78.411 through 78.444 of the NRS, if and for so long as, Sections 78.411 through 78.444 of the NRS shall apply to the Corporation.

ARTICLE IX
EXCLUSIVE FORUM

Unless the Corporation consents in writing to the selection of an alternative forum, the Eighth Judicial District Court of Clark County, Nevada, shall, to the fullest extent permitted by law, be the exclusive forum for any or all actions, suits, proceedings, whether civil, administrative or investigative or that asserts any claim or counterclaim (each, an "Action"), (a) brought in the name or right of the Corporation or on its behalf; (b) asserting a claim for breach of any fiduciary duty owed by any director, officer, employee or agent of the Corporation to the Corporation or the Corporation's stockholders; (c) arising or asserting a claim pursuant to any provision of NRS Chapters 78 or 92A or any provision of the Amended and Restated Articles or the Bylaws of the Corporation; (d) to interpret, apply, enforce or determine the validity of the Amended and Restated Articles or the Bylaws of the Corporation; or (e) asserting a claim governed by the internal affairs doctrine. In the event that the Eighth Judicial District Court of Clark County, Nevada does not have jurisdiction over any such Action, then any other state district court located in the State of Nevada shall be the exclusive forum for such Action. In the event that no state district court in the State of Nevada has jurisdiction over any such Action, then a federal court located within the State of Nevada shall be the exclusive forum for such Action. Any person or entity that acquires any interest in shares of capital stock of the Corporation shall be deemed to have notice of and consented to all of the provisions of this Article IX.

To the extent that any such claims may be based upon federal law claims, Section 27 of the Exchange Act of 1934, as amended, or the rules and regulations thereunder (the "Exchange Act'') establishes exclusive jurisdiction with the federal courts over all suits brought to enforce any duty or liability created by the Exchange Act.

ARTICLE X
AMENDMENT

Notwithstanding any other provisions of these Amended and Restated Articles or any provision of law which might otherwise permit a lesser vote or no vote, but in addition to any affirmative vote of the holders of any particular class or series of the Voting Stock required by law or by the Bylaws of the Corporation or by these Amended and Restated Articles (or by any certificate of designations hereto), any alteration, amendment or repeal of Articles V, VI, VII, VIII, IX, X, XI or XII shall require the affirmative vote of (a) a majority of the voting power of the Voting Stock while the Corporation is under Founder Control and (b) at least two-thirds of the voting power of the Voting Stock from and after the time that the Corporation ceases to be under Founder Control.

The Corporation reserves the right to amend, alter, change, or repeal any provision contained in these Amended and Restated Articles but only in the manner now or hereafter prescribed in these Amended and Restated Articles, the Corporation's Bylaws or the NRS, and all rights herein conferred upon stockholders are granted subject to such reservation.

ARTICLE XI
CORPORATE OPPORTUNITIES

In anticipation that the Corporation and the Founder may engage in the same or similar business activities or lines of business and have an interest in the same areas of corporate opportunities, and in recognition of the benefits to be derived by the Corporation through its continued contractual, corporate and business relations with the Founder (including service of the Founder as a director of the Corporation), the provisions of this Article XI are set forth to regulate and define the conduct of certain affairs of the Corporation as they may involve the Founder, and the powers, rights, duties and liabilities of the Corporation and its officers, directors and stockholders in connection therewith. To the fullest extent permitted by law, any person or entity that acquires any interest in shares of capital stock of the Corporation shall be deemed to have notice of and consented to the provisions of this Article XI. Neither the alteration, amendment, addition to or repeal of this Article XI, nor the adoption of any provision of these Amended and Restated Articles (including any certificate of designations relating to any series of Preferred Stock) inconsistent with this Article XI, shall eliminate or reduce the effect of this Article XI in respect of any business opportunity first identified or any other matter occurring, or any cause of action, suit or claim that, but for this Article XI, would accrue or arise, prior to such alteration, amendment, addition, repeal or adoption.

Section 1. Right to Compete. To the fullest extent permitted by the laws of the State of Nevada, (a) the Corporation hereby renounces all interest and expectancy that it otherwise would be entitled to have in, and all rights to be offered an opportunity to participate in, any business opportunity that from time to time may be presented to (i) the Board of Directors or any Director, (ii) any stockholder, officer or agent of the Corporation, or (iii) any affiliate of any person or entity identified in the preceding clause (i) or (ii), but in each case excluding any such person in his or her capacity as an employee of the Corporation or its subsidiaries; (b) no holder of Class A Common Stock or Class B Common Stock and no Director that is not an employee of the Corporation or its subsidiaries will have any duty to refrain from (i) engaging in a corporate opportunity in the same or similar lines of business in which the Corporation or its subsidiaries from time to time is engaged or proposes to engage or (ii) otherwise competing, directly or indirectly, with the Corporation or any of its subsidiaries; and (c) if any holder of Class A Common Stock or Class B Common Stock or any Director that is not an employee of the Corporation or its subsidiaries acquires knowledge of a potential transaction or other business opportunity which may be a corporate opportunity both for such holder of Class A Common Stock or Class B Common Stock or such Director or any of their respective affiliates, on the one hand, and for the Corporation or its subsidiaries, on the other hand, such holder of Class A Common Stock or Class B Common Stock or Director shall have no duty to communicate or offer such transaction or business opportunity to the Corporation or its subsidiaries and such holder of Class A Common Stock or Class B Common Stock or Director may take any and all such transactions or opportunities for itself or offer such transactions or opportunities to any other person or entity. The preceding sentence of this Section 1, Article XI shall not apply to any potential transaction or business opportunity that is expressly offered to a Director, who is not an employee of the Corporation or its subsidiaries, solely in his or her capacity as a Director.

Section 2. Corporate Opportunities. To the fullest extent permitted by the laws of the State of Nevada, no potential transaction or business opportunity may be deemed to be a potential corporate opportunity of the Corporation or its subsidiaries unless (a) the Corporation and its subsidiaries would be permitted to undertake such transaction or opportunity in accordance with these Amended and Restated Articles, (b) the Corporation and its subsidiaries at such time have sufficient financial resources to undertake such transaction or opportunity and (c) such transaction or opportunity would be in the same or similar line of business in which the Corporation and its subsidiaries are then engaged or a line of business that is reasonably related to, or a reasonable extension of, such line of business.

Section 3. Liability. No holder of Class A Common Stock or Class B Common Stock and no Director that is not an employee of the Corporation or its subsidiaries will be liable to the Corporation or its subsidiaries or stockholders for breach of any duty (contractual or otherwise) by reason of any activities or omissions of the types referred to in this Article XI.

ARTICLE XII
UNSUITABLE PERSONS

Section 1. Finding of Unsuitability.

(a) The Equity Interests owned or controlled by an Unsuitable Person or an Affiliate of an Unsuitable Person (as applicable) shall be subject to mandatory sale and transfer on the terms and conditions set forth herein on the Transfer Date to either the Corporation or one or more Third Party Transferees and in such number and class(es)/series of Equity Interests as determined by the Board of Directors in good faith (following consultation with reputable outside gaming regulatory counsel) pursuant to a resolution adopted by the unanimous affirmative vote of all of the disinterested members of the Board of Directors; provided that any such sale or transfer shall occur subject to the following and shall not occur (and a Transfer Notice shall not be sent, and the Transfer Date shall be extended accordingly) until the later to occur of: (i) delivery to such Person of a copy of a resolution duly adopted by the unanimous affirmative vote of all of the disinterested members of the Board of Directors at a meeting thereof called and held for the purpose (after providing reasonable notice to such Person and a reasonable opportunity for such Person, together with the counsel of such Person, to be heard before the Board of Directors at such meeting and to provide documents and written arguments to the Board a reasonable length of time in advance of such meeting), finding that the Board of Directors has determined in good faith (following consultation with reputable outside gaming regulatory counsel) that (A) such Person is an Unsuitable Person, and (B) it is necessary for such Person or an Affiliate of such Person (as applicable) to sell and transfer such number and class(es)/series of Equity Interests in order for the Corporation or any Affiliated Company to: (1) obtain, renew, maintain or prevent the loss, rejection, rescission, suspension, revocation or non-renewal of a material Gaming License; (2) comply in any material respect with a material Gaming Law; (3) ensure that any material Gaming License held or desired in good faith to be held by the Corporation or any Affiliated Company, or the Corporation's or any Affiliated Company's application for, right to the use of, entitlement to, or ability to obtain or retain, any material Gaming License held or desired in good faith to be held by the Corporation or any Affiliated Company, is not precluded, delayed, impeded, impaired, threatened or jeopardized in any material respect; or (4) prevent the imposition of any materially burdensome terms or conditions on any material Gaming License held or desired in good faith to be held by the Corporation or any Affiliated Company, and specifying the reasoning for such determinations in reasonable detail, and (ii) conclusion of the arbitration process described below (if applicable); provided, further, that in the event that such Person reasonably believes that any of the above-described determinations by the Board of Directors were not made in good faith and such disagreement cannot be settled amicably by such Person and the Corporation, such disagreement with respect to whether the Board of Director's determination(s) were made in good faith shall be finally, exclusively and conclusively settled by mandatory arbitration conducted expeditiously in accordance with the American Arbitration Association ("AAA") rules, by a single independent arbitrator (to be chosen by mutual agreement of the Unsuitable Person and the Corporation, and if the parties are unable to agree, to be chosen as provided in the AAA rules) in an arbitration process that shall take place in Boston, Massachusetts, with each party bearing its own legal fees and expenses, unless otherwise determined by the arbitrator. For the avoidance of doubt, the only question before the arbitrator shall be whether such determinations were made by the Board in good faith. For the further avoidance of doubt, at the initial meeting described above with respect to whether a Person is an Unsuitable Person, the Board of Directors may defer making any such determination in order to conduct further investigation into the matter, but in connection with any future meeting of the Board of Directors regarding the matter, such Person shall be provided with reasonable notice and a reasonable opportunity for such Person, together with the counsel of such Person, to be heard before the Board of Directors at such meeting and to provide documents and written arguments to the Board a reasonable length of time in advance of such meeting. Following (x) the Board of Directors determining in good faith (following consultation with reputable outside gaming regulatory counsel) and in accordance with the foregoing (including such determination being made pursuant to a resolution of the Board of Directors adopted by a unanimous affirmative vote of all of the disinterested members of the Board of Directors), that such Person is an Unsuitable Person and it is necessary for such Person or an Affiliate of such Person (as applicable) to sell and transfer a certain number and class(es)/series of Equity Interests for any of the reasons set forth above, and (y) if applicable, the arbitrator determining that such determinations were made in good faith by the Board of Directors, the Corporation shall deliver a Transfer Notice to the Unsuitable Person or its Affiliate(s) (as applicable) and shall purchase and/or cause one or more Third Party Transferees to purchase such number and class(es)/series of Equity Interests determined in good faith by the Board in accordance with the foregoing and specified in the Transfer Notice on the Transfer Date and for the Purchase Price set forth in the Transfer Notice (which Purchase Price shall be determined in accordance with the definition of Purchase Price in Article I); provided that an Unsuitable Person or its Affiliate(s) (as applicable) shall be permitted, during the forty five (45)-day period commencing on the date of the Transfer Notice (or before a Transfer Notice is formally delivered), to effect and close a disposition of the number and class(es)/series of Equity Interests specified in the Transfer Notice (or a portion of them) to a Person that the Board of Directors determines in good faith (following consultation with reputable outside gaming regulatory counsel) is not an Unsuitable Person, on terms agreed between the Unsuitable Person and such Person (an "Alternate Private Transaction"), it being agreed that in the event that the Board fails to make a determination in good faith that such Person is not an Unsuitable Person within fifteen (15) days from the date on which the Corporation was presented in writing with the identity of such Person and materials reasonably sufficient to make such determination, then the Unsuitable Person shall be entitled to consummate the Alternate Private Transaction with such Person. In the case of a sale and transfer to the Corporation, from and after the Transfer Date and subject only to the right to receive the Purchase Price for such Equity Interests, such Equity Interests shall, be deemed no longer outstanding and such Unsuitable Person or any Affiliate of such Unsuitable Person shall cease to be a stockholder with respect to such Equity Interests, and all rights of such Unsuitable Person or any Affiliate of such Unsuitable Person therein, other than the right to receive the Purchase Price, shall cease.

(b) In the case of an Alternate Private Transaction or a transfer to one or more Third Party Transferees otherwise determined by the Board of Directors above, from and after the earlier to occur of: (i) the Transfer Date, in the case of a transfer to one or more such Third Party Transferees, or (ii) consummation of an Alternate Private Transaction, subject only to the right to receive the Purchase Price for such Unsuitable Person's Equity Securities, all rights and entitlements of the Unsuitable Person or any such Affiliates of an Unsuitable Person as a stockholder of the Corporation shall be terminated, including, without limitation, any such Person shall from such date no longer be entitled to: (i) receive any dividend, payment, distribution or interest with regard to the applicable Equity Interests which has been declared following such date or of which the due payment date according to the applicable declaration is following such date, other than the right to receive the Purchase Price, or (ii) to exercise, directly or indirectly or through any proxy, trustee, or nominee, any voting or other right (including, without limitation, observer and information rights) conferred by the underlying Equity Interests.

(c) The closing of a sale and transfer contemplated by clauses (a) and (b) above in this Article XII, other than an Alternate Private Transaction (the "Closing") shall take place at the principal office of the Corporation or via electronic exchange of documents on the Transfer Date. At the Closing: (i) the Corporation or Third Party Transferee(s) (as applicable), shall deliver the aggregate applicable Purchase Price for the Equity Interests being purchased by each of the foregoing by wire transfer of immediately available funds to the account specified in writing by the Unsuitable Person or an Affiliate of such Unsuitable Person (as applicable) in the case of Third Party Transferees, by unsecured promissory note in the case of the Corporation, or combination of both in the case of the Corporation in such proportion as the Corporation may determine in its sole and absolute discretion and (ii) the Unsuitable Person or Affiliate of such Unsuitable Person (as applicable) shall deliver to the Corporation or each such Third Party Transferee (if applicable), such stock powers, assignment instruments and other agreement as are necessary or appropriate to fully convey all right, title and interest in and to the Equity Interests being purchased by each of the foregoing, free and clear of all liens and other encumbrances (other than restrictions on transfer under these Amended and Restated Articles, the Bylaws of the Corporation, the Stockholders Agreement and applicable federal and state securities laws) and to evidence the subordination of any promissory note if and only to the extent required by any debt obligations of the Corporation (and to the minimum extent required pursuant to such subordination arrangement). Such stock powers, assignment instruments and other agreements shall be in a form reasonably acceptable to the Corporation and shall include no representations and warranties other than such representations and warranties as to title and ownership of the Equity Interests being sold, due authorization, execution and delivery of relevant documents by the Unsuitable Person or any such Affiliates of such Unsuitable Person (as applicable), and the enforceability of relevant obligations of such party under the relevant documents). Under any promissory note, an amount equal to one-third of the principal amount and the interest accrued thereon shall be due and payable no later than three (3) months following the Transfer Date, and the remaining principal amount of any such promissory note together with any unpaid interest accrued thereon shall be due and payable no later than one (1) year following the Transfer Date; provided that in the event that the Corporation does not have funds available to make the first payment, the Corporation and the Unsuitable Party agree to negotiate an alternate payment structure (including, without limitation, whether or not the promissory note or payment obligation should be secured by assets of the Corporation) in good faith (except that in the event that the Corporation and the Unsuitable Person are unable to reach an amicable solution as to such alternate payment structure, the original payment schedule and terms set out in first part of this sentence shall remain in force, and the applicable amounts under the promissory note shall be due and payable in accordance with the payment schedule set out above). The unpaid principal of any such promissory note shall bear interest at the rate of five percent (5%) per annum, and such promissory note shall contain such other reasonable and customary terms and conditions as the Corporation reasonably determines necessary or advisable, provided that they do not include any unduly burdensome or unreasonably adverse terms to the Unsuitable Person or Affiliate of such Unsuitable Person (as applicable), it being agreed that such terms may include, without limitation, prepayment at the maker's option at any time without premium (other than the interest agreed herein) or penalty and subordination if and only to the extent required by any debt obligations of the Corporation (and to the minimum extent required pursuant to such subordination arrangement). The sale and transfer of the applicable Equity Interests shall be effected at the Closing upon delivery of the Purchase Price described in this Section 1(c) without regard to the provision by the Unsuitable Person or Affiliate of such Unsuitable Person (as applicable) of the stock powers, assignment instruments and other agreements described above (and subject to their terms described above) and the Corporation may in its sole and absolute discretion execute and deliver such instruments or other documents described above necessary to effect such transfer under such terms (including, without limitation, any stock powers, assignment instruments and other agreements) and deemed by the Corporation in its sole and absolute discretion (acting in good faith) to be necessary or advisable in its name or in the name and on behalf of the Unsuitable Person or any Affiliate of such Unsuitable Person (as applicable) to effect the sale and transfer; provided, however, that the Unsuitable Person or Affiliate of such Unsuitable Person (as applicable) shall continue to have the obligation to the Corporation and the Third Party Transferees, as applicable, to provide such stock powers, assignment instruments and other agreements.

(d) To the extent that a sale and transfer to one or more Third Party Transferees is determined to be invalid or unenforceable for any reason, the Corporation shall be permitted to redeem or repurchase the Equity Interests owned or controlled by an Unsuitable Person or an Affiliate of an Unsuitable Person (as applicable) for the price and under the terms contemplated by this Article XII promptly following any such determination.

Section 2. Indemnification. Any Unsuitable Person and any Affiliate of an Unsuitable Person that owns or controls Equity Interests shall indemnify and hold harmless the Corporation and its Affiliated Companies for any and all losses, costs and expenses, including, without limitation, attorneys' costs, fees and expenses reasonably incurred by the Corporation and its Affiliated Companies as a result of, or arising out of, such Unsuitable Person's or Affiliate's continuing ownership or control of Equity Interests following the Transfer Date in breach of this Article XII, the neglect, refusal or other failure to comply in any material respect with the provisions of this Article XII, or failure to divest itself of any Equity Interests when and in the specific manner required by the Gaming Laws or this Article XII and by acceptance of its Equity Interests any such Unsuitable Person or Affiliate of an Unsuitable Person shall be deemed to have agreed to so indemnify the Corporation.

Section 3. Non-Exclusivity of Rights. The right of the Corporation to purchase or cause to be purchased Equity Interests pursuant to this Article XII shall not be exclusive of any other rights the Corporation may have or hereafter acquire under any agreement, provision of these Amended and Restated Articles or the Bylaws of the Corporation or otherwise. Notwithstanding the provisions of this Article XII, the Corporation, the Unsuitable Person and any of its Affiliates shall have the right to propose that the parties, immediately upon or following the delivery of the Transfer Notice, enter into an agreement or other arrangement (including, without limitation, based on any agreement that may be reached between the applicable Gaming Authority and an Unsuitable Person or its Affiliates in this regard), including, without limitation, a divestiture trust or divestiture plan, which will reduce or terminate an Unsuitable Person's or its Affiliate's ownership or control of all or a portion of its Equity Interests over time and, in the event such an agreement or arrangement is reached, the terms of such agreement or arrangement as agreed by the Corporation, such Unsuitable Person and any Affiliates of such Unsuitable Person (including, without limitation, as to the purchase price at which the Equity Interests can be sold) shall apply and prevail over the terms of this Article XII.

Section 4. Further Actions. Nothing contained in this Article XII shall limit the authority of the Corporation to take such other action, to the extent permitted by law, as it deems necessary or advisable (following consultation with reputable outside gaming regulatory counsel) to protect the Corporation or its Affiliated Companies from the denial or threatened denial, loss or threatened loss or material delayed issuance or threatened material delayed issuance of any material Gaming License of the Corporation or any of its Affiliated Companies, provided that any forced disposal of Equity Interests shall be effected only in accordance with the terms of this Article XII. In addition, the Corporation may, to the extent permitted by law, from time to time establish, modify, amend or rescind bylaws, regulations, and procedures of the Corporation to the extent they are not inconsistent with the express provisions of this Article XII for the purpose of determining whether any Person is an Unsuitable Person and for the orderly application, administration and implementation of the provisions of this Article XII, provided that the provisions of any such bylaws, regulations and procedures shall not be more adverse in any material respect to the Stockholders (as defined in the Stockholders Agreement) than the provisions of this Article XII. Such procedures and regulations shall be kept on file with the Secretary of the Corporation, the secretary of its Affiliated Companies and with the transfer agent, if any, of the Corporation and any Affiliated Companies, and shall be made available for inspection and, upon reasonable request, mailed to any record holder of Equity Interests. The Board of Directors shall have exclusive authority and power to administer this Article XII and to exercise all rights and powers specifically granted to the Board of Directors or the Corporation, or as may be necessary or advisable in the administration of this Article XII. Subject to the arbitration provisions set forth in Section 1(a) of this Article XII, all such actions which are done or made by the Board of Directors in compliance with the provisions of this Article XII and applicable law shall be final, conclusive and binding on the Corporation and all other Persons; provided, however, the Board of Directors may delegate all or any portion of its duties and powers under this Article XII to a committee of the Board of Directors as it deems necessary or advisable.

Section 5. Legend. The restrictions set forth in this Article XII shall be noted conspicuously on any certificate evidencing Equity Interests in accordance with applicable law in such manner as may be determined by the Corporation in its sole and absolute discretion.

Section 6. Compliance with Gaming Laws. All Persons owning or controlling Equity Interests shall comply with all applicable Gaming Laws which apply to them in their capacity as owners or controllers of the Equity Interests, including, without limitation, any provisions of such Gaming Laws that require such Persons to file applications for Gaming Licenses with, and provide information to, the applicable Gaming Authorities in respect of Gaming Licenses held or desired to be held by the Corporation or any Affiliated Companies, subject to any rights that such Persons may have under such Gaming Laws to seek waivers or similar relief from the applicable Gaming Authorities with respect to such requirements to file applications and provide information. Any transfer of Equity Interests may be subject to the prior approval of the Gaming Authorities and/or the Corporation, and any purported transfer thereof in violation of such requirements shall be void ab initio.

Section 7. Definitions. The purposes of this Article XII, the following definitions apply.

"Affiliate" with respect to any Person, has the meaning ascribed to such term under Rule 12b-2 promulgated by the U.S. Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended.

"Affiliated Companies" means those partnerships, corporations, limited liability companies, trusts or other entities directly or indirectly controlled by the Corporation including, without limitation, any subsidiary of the Corporation, or intermediary company (as those or similar terms are defined under the Gaming Laws of any applicable Gaming Jurisdictions) controlled by the Corporation, in each case that is registered or licensed under applicable Gaming Laws.

"Equity Interest" means Common Stock or any other equity securities of the Corporation, or securities exchangeable or exercisable for, or convertible into, such other equity securities of the Corporation.

"Gaming" or "Gaming Activities" means the conduct of gaming and gambling activities, race books and sports pools, or the use of gaming devices, equipment and supplies in the operation of a casino, gambling simulcasting facility, card club or other similar enterprise, including, without limitation, slot machines, gaming tables, cards, dice, gaming chips, player tracking systems, cashless wagering systems, mobile gaming systems, inter-casino linked systems and related and associated equipment, supplies and systems.

"Gaming Authorities" means all international, national, foreign, domestic, federal, state, provincial, regional, local, tribal, municipal and other regulatory and licensing bodies, instrumentalities, departments, commissions, authorities, boards, officials, tribunals and agencies with authority over or responsibility for the regulation of Gaming within any Gaming Jurisdiction.

"Gaming Jurisdictions" means all jurisdictions, domestic and foreign, and their political subdivisions, in which Gaming Activities are or may be lawfully conducted, and in which or from which the Corporation or any of its Affiliated Companies conducts, or reasonably expects to conduct, Gaming Activities which are subject to Gaming Laws.

"Gaming Laws" means all laws, statutes and ordinances pursuant to which any Gaming Authority possesses regulatory, permit and licensing authority over the conduct of Gaming Activities in which the Corporation or any of its Affiliated Companies engages, or the ownership or control of an Interest in any such entity that conducts Gaming Activities, in any Gaming Jurisdiction, all orders, decrees, rules and regulations promulgated thereunder, all written and unwritten policies of the Gaming Authorities with respect to the foregoing and all written and unwritten interpretations by the Gaming Authorities of such laws, statutes, ordinances, orders, decrees, rules, regulations and policies.

"Gaming Licenses" shall mean all licenses, permits, certifications, approvals, orders, authorizations, registrations, findings of suitability, franchises, exemptions, waivers, concessions and entitlements issued by any Gaming Authority necessary for or relating to the conduct of Gaming Activities by the Corporation or any Affiliated Company or the ownership or control by any Person of an Interest in any of the foregoing entities, to the extent that it conducts or reasonably expects in good faith to conduct Gaming Activities.

"Interest" means the capital stock or other securities of the Corporation or any Affiliated Company or any other interest or financial or other stake therein, including, without limitation, the Equity Interests.

"Person" means an individual, corporation, limited liability company, partnership, association, trust or other entity or organization, including, without limitation, a government or political subdivision or an agency or instrumentality thereof.

"Purchase Price" means the fair value of the applicable Equity Interests based on the per share value of such Equity Interests as determined by the Board of Directors in good faith (it being agreed that in case of shares of Class A Common Stock or shares of Preferred Stock of the Corporation that are listed on a national securities exchange, such fair value per share shall be the average of the Volume Weighted Average Share Price of such share for the twenty (20) consecutive trading days preceding the date on which the Transfer Notice in respect of such Equity Interests is delivered by the Corporation to the Unsuitable Person or Affiliate of such Unsuitable Person (as applicable), if such information is available).

"Third Party Transferees" means one or more third parties determined in accordance with the procedures set forth in Section 1(a) of Article XII of these Amended and Restated Articles to purchase some or all of the Equity Interests to be sold and transferred in accordance with a Transfer Notice and the terms of these Amended and Restated Articles.

"Transfer Date" means the date specified in the Transfer Notice as the date on which the Equity Interests owned or controlled by an Unsuitable Person or an Affiliate of an Unsuitable Person (as applicable) are to be sold and transferred to the Corporation or one or more Third Party Transferees in accordance with Article XII of these Amended and Restated Articles, which date shall be no less forty-six (46) days and no later than seventy-five (75) days after the date of the Transfer Notice.

"Transfer Notice" means a notice of transfer delivered by the Corporation to an Unsuitable Person or an Affiliate of an Unsuitable Person (as applicable) if the Board of Directors deems it necessary or advisable, to cause such Unsuitable Person's or Affiliate's (as applicable) Equity Interests to be sold and transferred pursuant to Article XII of these Amended and Restated Articles. Each Transfer Notice shall set forth (i) the Transfer Date, (ii) the number and class/series of Equity Interests to be sold and transferred, (iii) the Purchase Price with respect to each class/series of such Equity Interests which will be determined in accordance with the terms of Article XII of these Amended and Restated Articles, (iv) the place where any certificates for such Equity Interests shall be surrendered, and (v) any other reasonable requirements of surrender of the Equity Interests imposed in good faith by the Corporation, including, without limitation, how certificates representing such Equity Interests are to be endorsed, if at all.

"Unsuitable Person" means a Person who (i) fails or refuses to file an application (or fails or refuses, as an alternative, to otherwise formally request from the relevant Gaming Authority a waiver or similar relief from filing such application) within thirty (30) days (or such shorter period imposed by any Gaming Authority, including any extensions of that period granted by the relevant Gaming Authority, but in no event more than such original thirty (30) days) after having been requested in writing and in good faith to file an application by the Corporation (based on consultation with reputable outside gaming regulatory counsel), or has withdrawn or requested the withdrawal of a pending application (other than for technical reasons with the intent to promptly file an amended application following such withdrawal), to be found suitable by any Gaming Authority or for any Gaming License, in each case, when such finding of suitability or Gaming License is required by Gaming Laws or Gaming Authorities for the purpose of obtaining a material Gaming License for, or compliance with material Gaming Laws by, the Corporation or any Affiliated Company, (ii) is denied or disqualified from eligibility for any material Gaming License by any Gaming Authority, (iii) is determined by a Gaming Authority in any material Gaming Jurisdiction to be unsuitable to own or control any Equity Interests, or be Affiliated, associated or involved with a Person engaged in Gaming Activities, (iv) is determined by a Gaming Authority to have caused in whole or in part any material Gaming License of the Corporation or any Affiliated Company to be lost, rejected, rescinded, suspended, revoked or not renewed by any Gaming Authority, or to have caused in whole or in part the Corporation or any Affiliated Company to be threatened in writing by any Gaming Authority with the loss, rejection, rescission, suspension, revocation or non-renewal of any material Gaming License (in each of (ii) through (iv) above, only if such denial, disqualification or determination by a Gaming Authority is final and non-appealable), or (v) is reasonably likely to (A) preclude or materially delay, impede, impair, threaten or jeopardize (1) any material Gaming License held or desired in good faith to be held by the Corporation or any Affiliated Company or (2) the Corporation's or any Affiliated Company's application for, right to the use of, entitlement to, or ability to obtain or retain, any material Gaming License held or desired in good faith to be held by the Corporation or any Affiliated Company, or (B) cause or otherwise be reasonably likely to result in the imposition of any materially burdensome terms or conditions on any material Gaming License held or desired in good faith to be held by the Corporation or any Affiliated Company.

"Volume Weighted Average Share Price" means the volume-weighted average share price of the Class A Common Stock (or, if applicable, share of Preferred Stock of the Corporation) as displayed on the Corporation's page on Bloomberg (or any successor service) in respect of the period from 9:30 a.m. to 4:00 p.m., New York City time, on such trading day.

Exhibit 3.2

DRAFTKINGS INC.

AMENDED AND RESTATED BYLAWS

(the "Corporation")

ARTICLE I

Stockholders

1. Annual Meeting. The annual meeting of stockholders of the Corporation for the election of directors to succeed directors whose terms expire and for the transaction of such other business as may properly come before such meeting shall be held each year at the place, date and time determined by the Board of Directors of the Corporation (the "Board of Directors" or the "Board"). The Board of Directors may postpone, reschedule or cancel any annual meeting of stockholders previously scheduled by the Board.

2. Special Meetings. Special meetings of the stockholders of the Corporation may be called only in the manner set forth in the Articles of Incorporation of the Corporation (the "Articles of Incorporation"). The notice for every special meeting shall state the place (if any), date, hour and purposes of the meeting. Except as otherwise required by law, only the purposes specified in the notice of the special meeting shall be considered or dealt with at such special meeting. The Board of Directors may postpone, reschedule or cancel any special meeting of stockholders previously scheduled by the Board.

3. Place of Meeting. Meetings of stockholders may be held at such place, either within or without the State of Nevada, as may be designated in the notice of meeting. The Board of Directors may, in its sole discretion, determine that the meeting shall not be held at any place, but may instead be held solely by means of remote communications, including by webcast, in accordance with applicable law. The Board of Directors may also, in its sole discretion, determine that stockholders and proxy holders may attend and participate by means of remote communications in a stockholder meeting held at a designated place. As to any meeting where attendance and participation by remote communications authorized by the Board of Directors in its sole discretion (including any meeting held solely by remote communications), and subject to such guidelines and procedures as the Board of Directors may adopt for any meeting, stockholders and proxy holders not physically present at such meeting of the stockholders shall be entitled to: (i) participate in any meeting of the stockholders; and (ii) be deemed present in person and vote at such meeting of the stockholders whether such meeting is to be held at a designated place or solely by means of remote communications, provided that (A) the Corporation shall implement reasonable measures to verify that each person deemed present and permitted to vote at the meeting by means of remote communications is a stockholder or proxy holder, (B) the Corporation shall implement reasonable measures to provide stockholders and proxy holders a reasonable opportunity to participate in the meeting and to vote on matters submitted to the stockholders, including an opportunity to read or hear the proceedings substantially concurrently with such proceedings, and (C) if any stockholder or proxy holder votes or takes other action at the meeting by means of remote communications, a record of such vote or other action shall be maintained by the Corporation.

4. Notice of Meetings. Except as otherwise provided by law or the Articles of Incorporation, written notice of each meeting of stockholders shall be given not less than ten (10) nor more than sixty (60) days before the date of the meeting to each stockholder entitled to vote at such meeting, such notice to specify the place, if any, date and time of the meeting, the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such meeting, and, in the case of a special meeting, the purpose or purposes of the meeting. Without limiting the manner by which notice otherwise may be given to stockholders, any notice shall be effective if given by a form of electronic transmission consented to (in a manner consistent with the Nevada Revised Statutes (the "NRS")) by the stockholder to whom the notice is given, and such notice shall be deemed to be given at the time, if delivered by electronic mail when directed to an electronic mail address at which the stockholder has consented to receive notice, and if delivered by any other form of electronic transmission when directed to the stockholder. Notice of the time, place, if any, and purpose of any meeting of stockholders may be waived (i) in writing signed by the person entitled to notice thereof or (ii) by electronic transmission made by the person entitled to notice, either before or after such meeting. Notice will be waived by any stockholder by his or her attendance thereat in person, by remote communications, or by proxy, except when the stockholder attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Any stockholder so waiving notice of such meeting shall be bound by the proceedings of any such meeting in all respects as if due notice thereof had been given. For purposes of these Bylaws, "electronic transmission" means any form of communication, not directly involving the physical transmission of paper, including the use of, or participation in, one or more electronic networks or databases (including one or more distributed electronic networks or databases), that creates a record that may be retained, retrieved and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process.

5. Quorum. The holders of a majority of the voting power of all shares of the Corporation's capital stock issued, outstanding and entitled to vote at a meeting, present in person, by means of remote communications, or represented by proxy, shall constitute a quorum. If, on any issue, voting by the holders of classes or series is required by Chapter 78 or 92A of the NRS, the Articles of Incorporation or these amended and restated bylaws (these "Bylaws"), the holders of at least a majority of the voting power, present in person, by means of remote communications, or represented by proxy, within each such class or series is necessary to constitute a quorum of each such class or series. For purposes of the foregoing, where a separate vote by class or classes is required for any matter, the holders of a majority of the outstanding shares of such class or classes, present in person, by means of remote communications, or represented by proxy, shall constitute a quorum to take action with respect to that vote on that matter. Two or more classes or series of stock shall be considered a single class if the holders thereof are entitled to vote together as a single class at the meeting. The stockholders present at a duly constituted meeting may continue to transact business until adjournment notwithstanding the withdrawal of enough stockholders to reduce the voting shares below a quorum.

6. Adjournments. Any meeting may be adjourned from time to time by the Chairperson of the Board of Directors or by the vote of the holders of a majority of the votes properly cast upon the question, whether or not a quorum is present, to reconvene at the same or some other place, and notice need not be given of any such adjourned meeting if the time, place, if any, thereof, and the means of remote communications, if any, thereof are announced at the meeting at which the adjournment is taken. At the adjourned meeting, the Corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than sixty (60) days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting.

7. Organization.

(a) Meetings of stockholders shall be presided over by the Chairperson of the Board of Directors, if any, or in the absence of the Chairperson of the Board by the Vice Chairperson of the Board, if any, or in the absence of the Vice Chairperson of the Board by the Chief Executive Officer or the President, or in the absence of the Chief Executive Officer and President by a Vice President, or in the absence of the foregoing persons by a chairperson designated by the Board, or in the absence of such designation by a chairperson chosen at the meeting. The Secretary, or in the absence of the Secretary an Assistant Secretary, shall act as secretary of the meeting, but in the absence of the Secretary and any Assistant Secretary the chairperson of the meeting may appoint any person to act as secretary of the meeting.

(b) The order of business at each such meeting shall be as determined by the chairperson of the meeting. The chairperson of the meeting shall have the right and authority to prescribe such rules, regulations and procedures and to do all such acts and things as are necessary or desirable for the proper conduct of the meeting, including, without limitation, the establishment of procedures for the maintenance of order and safety, limitations on the time allotted to questions or comments on the affairs of the Corporation, restrictions on entry to such meeting after the time prescribed for the commencement thereof and the opening and closing of the voting polls, for each item on which a vote is to be taken.

(c) The chairperson of the meeting may appoint one or more inspectors of elections. The inspector or inspectors may (i) ascertain the number of shares outstanding and the voting power of each; (ii) determine the number of shares represented at a meeting and the validity of proxies or ballots; (iii) count all votes and ballots; (iv) determine any challenges made to any determination made by the inspector(s); and (v) certify the determination of the number of shares represented at the meeting and the count of all votes and ballots.

8. Voting and Proxies.

(a) Unless otherwise provided in Chapter 78 of the NRS, the Articles of Incorporation, or the resolution providing for the issuance of preferred stock or series of common stock adopted by the Board of Directors pursuant to authority expressly vested in it by the provisions of the Articles of Incorporation (if any such authority is so vested), each stockholder of record, or such stockholder’s duly authorized proxy, shall be entitled to one (1) vote for each share of voting stock standing registered in such stockholder’s name at the close of business on the record date. So long as the Articles of Incorporation provide for more or less than one vote for any share on any matter, every reference in these Bylaws to a majority or other proportion of stock shall refer to such majority or other proportion of the votes of such stock.

(b) All matters at any meeting at which a quorum is present, except the election of directors, shall be decided by the affirmative vote of the holders of at least a majority in voting power of the outstanding shares of capital stock of the Corporation present in person or represented by proxy at the meeting and entitled to vote on the subject matter in question, unless otherwise expressly provided by express provision of the Articles of Incorporation, the rules or regulations of any stock exchange applicable to the Corporation, or any law or regulation applicable to the Corporation or its securities, in which case such different or minimum vote shall be the applicable vote on the matter. The election of directors shall be decided by the affirmative vote of the holders of at least a plurality of the votes of the outstanding shares of common stock present in person or represented by proxy at the meeting and entitled to vote in an election of directors, unless otherwise expressly provided by the Articles of Incorporation. The stockholders do not have the right to cumulate their votes for the election of directors. The Corporation shall not directly or indirectly vote any share of its own stock; provided, however, that the Corporation may vote shares which it holds in a fiduciary capacity to the extent permitted by law.

(c) Stockholders may vote either in person or by written proxy or express directly or by written proxy their consent or dissent to a corporate action taken without a meeting. Each such proxy shall be valid until its expiration or revocation in a manner permitted by the laws of the State of Nevada. A proxy may be irrevocable if it states that it is irrevocable and, if, and only as long as, it is coupled with an interest sufficient to support an irrevocable power. A duly executed proxy shall be irrevocable if it states that it is irrevocable and if, and only as long as, it is coupled with an interest sufficient in law to support an irrevocable power, regardless of whether the interest with which it is coupled is an interest in the stock itself or an interest in the Corporation generally. A stockholder may revoke any proxy which is not irrevocable by attending the meeting and voting in person or by filing an instrument in writing revoking the proxy or another duly executed proxy bearing a later date with the Secretary of the Corporation. Proxies shall be filed with the secretary of the meeting, or of any adjournment thereof. Except as otherwise limited therein, proxies shall entitle the persons authorized thereby to vote at any adjournment of such meeting.

9. Stockholder Lists. The officer who has charge of the stock ledger of the Corporation shall prepare and make, at least ten (10) days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder; provided that such list shall not be required to contain the electronic mail address or other electronic contact information of any stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, for a period of at least ten (10) days prior to the meeting, either (i) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting, or (ii) during ordinary business hours, at the principal place of business of the Corporation. If the meeting is to be held at a place, the list shall also be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present. If the meeting is to be held solely by means of electronic communication or if attendance at and participation in the meeting is permitted by means of remote communications, then the list shall also be open to the examination of any stockholder during the whole time of the meeting on or a reasonably acceptable electronic network, and the information required to access such list shall be provided with the notice of the meeting.

10. Advance Notice of Stockholder Nominees for Director and Other Stockholder Proposals.

(a) The matters to be considered and brought before any annual or special meeting of stockholders of the Corporation shall be limited to only such matters, including the nomination and election of directors, as shall be brought properly before such meeting in compliance with the procedures set forth in this Section 10 of Article I and the Stockholders Agreement, dated as of April 23, 2020, by and among the Corporation and the stockholders named therein (the "Stockholders Agreement").

(b) For any matter to be brought properly before the annual meeting of stockholders, the matter must be (i) specified in the notice of the annual meeting given by or at the direction of the Board of Directors (or a committee thereof), (ii) otherwise brought before the annual meeting by or at the direction of the Board of Directors (or a committee thereof) or (iii) brought before the annual meeting by a stockholder who is a stockholder of record of the Corporation on the date the notice provided for in this Section 10 of Article I is delivered to the Secretary of the Corporation, who is entitled to vote at the annual meeting and who complies with the procedures set forth in this Section 10 of Article I.

In addition to any other requirements under applicable law and these Bylaws, even if such matter is already the subject of any notice to the stockholders or public announcement by the Board of Directors, written notice (the "Stockholder Notice") of any nomination or other proposal must be timely and any proposal, other than a nomination, must constitute a proper matter for stockholder action.

To be timely, the Stockholder Notice must be delivered to the Secretary of the Corporation at the principal executive office of the Corporation not less than 90 nor more than 120 days prior to the first anniversary date of the annual meeting for the preceding year (which, for purposes of the Corporation's first annual meeting of stockholders after its shares of common stock are first publicly traded, has occurred on April 23, 2020); provided, however, that if (and only if) the annual meeting is not scheduled to be held within a period that commences 30 days before such anniversary date and ends within 60 days after such anniversary date (an annual meeting date outside such period being referred to herein as an "Other Meeting Date"), the Stockholder Notice shall be given in the manner provided herein by the close of business on the later of (i) the date 90 days prior to such Other Meeting Date or (ii) the tenth day following the date such Other Meeting Date is first publicly announced or disclosed.

A Stockholder Notice must contain the following information:

(i) whether the stockholder is providing the notice at the request of a beneficial holder of shares, whether the stockholder, any such beneficial holder or any nominee has any agreement, arrangement or understanding with, or has received any financial assistance, funding or other consideration from, any other person with respect to the investment by the stockholder or such beneficial holder in the Corporation or the matter the Stockholder Notice relates to, and the details thereof, including the name of such other person (the stockholder, any beneficial holder on whose behalf the notice is being delivered, any nominees listed in the notice and any persons with whom such agreement, arrangement or understanding exists or from whom such assistance has been obtained are hereinafter collectively referred to as "Interested Persons");

(ii) the name and address of all Interested Persons;

(iii) a complete listing of the record and beneficial ownership positions (including number or amount) of all equity securities and debt instruments, whether held in the form of loans or capital market instruments, of the Corporation or any of its subsidiaries held by all Interested Persons;

(iv) whether and the extent to which any hedging, derivative or other transaction is in place or has been entered into within the prior six months preceding the date of delivery of the Stockholder Notice by or for the benefit of any Interested Person with respect to the Corporation or its subsidiaries or any of their respective securities, debt instruments or credit ratings, the effect or intent of which transaction is to give rise to gain or loss as a result of changes in the trading price of such securities or debt instruments or changes in the credit ratings for the Corporation, its subsidiaries or any of their respective securities or debt instruments (or, more generally, changes in the perceived creditworthiness of the Corporation or its subsidiaries), or to increase or decrease the voting power of such Interested Person, and if so, a summary of the material terms thereof;

(v) a representation that the stockholder is a holder of record of stock of the Corporation that would be entitled to vote at the meeting and intends to appear in person or by proxy at the meeting to propose the matter set forth in the Stockholder Notice;

(vi) a representation whether any Interested Person, will be or is part of a group that will (x) deliver a proxy statement or form of proxy to holders of at least the percentage of the voting power of the Corporation's outstanding capital stock required to approve or adopt the proposal or elect the nominee or (y) otherwise solicit proxies or votes from stockholders in support of such proposal or nomination;

(vii) a certification regarding whether the Interested Persons have complied with all applicable federal, state and other legal requirements in connection with the acquisition of shares of capital stock or other securities of the Corporation; and

(viii) any other information relating to such Interested Persons required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for, as applicable, the proposal or for the election of directors in an election contest pursuant to and in accordance with Section 14(a) of the Exchange Act and the rules and regulations promulgated thereunder.

As used herein, “beneficially owned” has the meaning provided in Rules 13d-3 and 13d-5 under the Exchange Act. The Stockholder Notice shall be supplemented and updated from time to time to the extent necessary so that the information provided or required to be provided in such notice shall be true and correct (x) as of the record date for determining the stockholders entitled to notice of the meeting and (y) as of the date that is 15 days prior to the meeting or any adjournment or postponement thereof, provided that if the record date for determining the stockholders entitled to vote at the meeting is less than 15 days prior to the meeting or any adjournment or postponement thereof, the information shall be supplemented and updated as of such later date.

Any Stockholder Notice relating to the nomination of directors must also contain:

(i) the information regarding each nominee required by paragraphs (a), (e) and (f) of Item 401 of Regulation S-K adopted by the Securities and Exchange Commission (or the corresponding provisions of any successor regulation);

(ii) each nominee’s signed consent to serve as a director of the Corporation if elected; and

(iii) whether each nominee is eligible for consideration as an independent director under the relevant standards contemplated by Item 407(a) of Regulation S-K (or the corresponding provisions of any successor regulation).

The Corporation may also require any proposed nominee to furnish such other information, including completion of the Corporation’s directors questionnaire, as it may reasonably require to determine whether the nominee would be considered “independent” as a director or as a member of the audit committee of the Board of Directors under the various rules and standards applicable to the Corporation.

Any Stockholder Notice with respect to a matter other than the nomination of directors must contain (i) the text of the proposal to be presented, including the text of any resolutions to be proposed for consideration by stockholders (and, in the event that such proposal is to amend these Bylaws, the language of the proposed amendment) and (ii) a brief written statement of the reasons why such stockholder favors the proposal, including any material interest in such proposal of any Interested Person.

Notwithstanding anything in this Section 10(b) of Article I to the contrary, in the event that the number of directors to be elected to the Board of Directors is increased and either all of the nominees for director or the size of the increased Board of Directors is not publicly announced or disclosed by the Corporation at least 100 days prior to the first anniversary of the preceding year’s annual meeting, a Stockholder Notice shall also be considered timely hereunder, but only with respect to nominees for any new positions created by such increase, if it shall be delivered to the Secretary of the Corporation at the principal executive office of the Corporation not later than the close of business on the tenth day following the first date all of such nominees or the size of the increased Board shall have been publicly announced or disclosed.

(c) For any matter to be brought properly before a special meeting of stockholders, the matter must be set forth in the Corporation's notice of the meeting given by or at the direction of the Board of Directors. In the event that the Corporation calls a special meeting of stockholders for the purpose of electing one or more persons to the Board of Directors, any stockholder may nominate a person or persons (as the case may be), for election to such position(s) as specified in the Corporation's notice of the meeting, if the Stockholder Notice required by Section 10(b) of Article I hereof shall be delivered to the Secretary of the Corporation at the principal executive office of the Corporation not later than the close of business on the tenth day following the day on which the date of the special meeting and the nominees proposed by the Board of Directors to be elected at such meeting are publicly announced or disclosed.

(d) For purposes of this Section 10 of Article I, a matter shall be deemed to have been "publicly announced or disclosed" if such matter is disclosed in a press release reported by the Dow Jones News Service, Associated Press or comparable national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission.

(e) Only persons who are nominated in accordance with either the procedures set forth in this Section 10 of Article I or the terms and conditions of the Stockholders Agreement, shall be eligible for election as directors of the Corporation. In no event shall the postponement or adjournment of an annual meeting already publicly noticed, or any announcement of such postponement or adjournment, commence a new period (or extend any time period) for the giving of notice as provided in this Section 10 of Article I. This Section 10 of Article I shall not apply to stockholders proposals made pursuant to Rule 14a-8 under the Exchange Act. Nothing in these Bylaws shall be deemed to affect any rights of the holders of any class or series of stock having a preference over shares of common stock of the Corporation as to dividends or upon liquidation to elect directors under specified circumstances.

(f) The person presiding at any meeting of stockholders, in addition to making any other determinations that may be appropriate to the conduct of the meeting, shall have the power and duty to determine whether notice of nominees and other matters proposed to be brought before a meeting has been duly given in the manner provided in this Section 10 of Article I and, if not so given, shall direct and declare at the meeting that such nominees and other matters are not properly before the meeting and shall not be considered. Notwithstanding the foregoing provisions of this Section 10 of Article I, if the stockholder or a qualified representative of the stockholder does not appear at the annual or special meeting of stockholders of the Corporation to present any such nomination, or make any such proposal, such nomination or proposal shall be disregarded, notwithstanding that proxies in respect of such vote may have been received by the Corporation.

ARTICLE II

Directors

1. Powers. The business of the Corporation shall be managed by or under the direction of a Board of Directors who may exercise all the powers of the Corporation except as otherwise provided by law, by the Articles of Incorporation or by these Bylaws. In the event of a vacancy in the Board of Directors, the remaining Directors, except as otherwise provided by law, may exercise the powers of the full Board of Directors until the vacancy is filled.

2. Election and Qualification. The total number of directors constituting the entire Board of Directors shall be fixed in the manner provided in the Articles of Incorporation. Directors need not be stockholders.

3. Vacancies: Reduction of Board. Subject to the provisions of the Articles of Incorporation and the terms and conditions of the Stockholders Agreement, a majority of the Directors then in office, whether less than a quorum or otherwise, or a sole remaining Director, may fill vacancies in the Board of Directors occurring for any reason and newly created directorships resulting from any increase in the authorized number of Directors.

4. Tenure. Except as otherwise provided by law, by the Articles of Incorporation or by these Bylaws, Directors shall hold office until the next annual meeting of the stockholders and their successors are duly elected and qualified or until their earlier resignation or removal. Any Director may resign by delivering his or her written resignation to the Board of Directors or to the Chief Executive Officer, President or Secretary of the Corporation. Such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the happening of some other event.

5. Removal. A director may be removed from the Board of Directors by the stockholders of the Corporation only as provided in the Articles of Incorporation and in accordance with the terms and conditions of the Stockholders Agreement.

6. Meetings. Regular meetings of the Board of Directors may be held without notice at such time, date and place (if any) as the Board of Directors may from time to time determine. Special meetings of the Board of Directors may be called, in writing, by the Chairperson, the Chief Executive Officer, the President, or two or more Directors (or the sole Director, if applicable), and designating the time, date and place (if any) thereof. Directors may participate in meetings of the Board of Directors by means of conference telephone or similar communications equipment by means of which all Directors participating in the meeting can hear each other, and participation in a meeting in accordance herewith shall constitute presence in person at such meeting.

7. Notice of Meetings. Notice of the time, date and place (if any) of all special meetings of the Board of Directors shall be given to each Director by the Secretary, or Assistant Secretary, or in case of the death, absence, incapacity or refusal of such persons, by the officer or one of the Directors calling the meeting. Notice shall be given to each Director in person or by telephone, including a voice messaging system or other system or technology designed to record and communicate messages, facsimile, telegraph, or by electronic mail or other electronic means, during normal business hours, at least twenty-four (24) hours in advance of the meeting, or by written notice mailed to his or her business or home address at least forty-eight (48) hours in advance of the meeting. Notice need not be given to any Director if a written waiver of notice is executed by him before or after the meeting, or if communication with such Director is unlawful, and will be waived by any director by attendance thereat, except when the director attends the meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. A notice or waiver of notice of a meeting of the Board of Directors need not specify the purposes of the meeting.

8. Quorum. At any meeting of the Board of Directors, a majority of the Directors then in office shall constitute a quorum. Less than a quorum may adjourn any meeting from time to time and the meeting may be held as adjourned without further notice.

9. Action at Meeting. At any meeting of the Board of Directors at which a quorum is present, a majority of the Directors present may take any action on behalf of the Board of Directors, unless a larger number is required by law or by the Articles of Incorporation.

10. Action without a Meeting. Unless otherwise restricted by the Articles of Incorporation, any action required or permitted to be taken at any meeting of the Board of Directors or committee thereof may be taken without a meeting if all members of the Board of Directors or committee thereof consent thereto in writing or by electronic transmission, and such writings or electronic transmissions are filed with the records of the meetings of the Board of Directors or committee thereof. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form. Such consent shall be treated as a vote of the Board of Directors or committee thereof for all purposes.

11. Committees. The Board of Directors, by vote of a majority of the Directors then in office, may establish one or more committees, each committee to consist of one or more Directors, and may delegate thereto some or all of its powers except those which by law or by the Articles of Incorporation may not be delegated. Except as the Board of Directors may otherwise determine, any such committee may make rules for the conduct of its business, but in the absence of such rules its business shall be conducted so far as possible in the same manner as is provided in these Bylaws for the Board of Directors. In the absence of a provision by the Board or a provision in the rules of such committee to the contrary, a majority of the entire authorized number of members of such committee shall constitute a quorum for the transaction of business, unless the committee has only one or two members, in which case a quorum shall be one member, or unless a greater quorum is established by the Board. The vote of a majority of the members present at a meeting of the committee at the time of such vote if a quorum is then present shall be the act of such committee. All members of such committees shall hold their committee offices at the pleasure of the Board of Directors, and the Board of Directors may abolish any committee at any time. Each such committee shall report its action to the Board of Directors who shall have power to rescind any action of any committee without retroactive effect.

12. Compensation. Directors who are not salaried officers of the Corporation may receive a fixed sum per meeting attended or a fixed annual sum, or both, and such other forms of reasonable compensation as may be determined by resolution of the Board of Directors. All directors shall receive their expenses, if any, of attendance at meetings of the Board of Directors or any committee thereof. Any director may serve the Corporation in any other capacity and receive proper compensation therefor. If the Board of Directors establishes the compensation of directors pursuant to this Section 12, such compensation is presumed to be fair to the Corporation unless proven unfair by a preponderance of the evidence.

13. Chairperson. The Chairperson of the Board, if one is elected, shall preside, when present, at all meetings of the stockholders and of the Board of Directors. The Chairperson of the Board of Directors shall have such other powers and perform such other duties as the Board of Directors may from time to time designate.

14. Protection of Confidential Information; Recusal from Meetings. Each director acknowledges that as part of his or her service to the Corporation, and the exercise of his or her fiduciary duties on behalf of the Corporation, the director may receive confidential information of the Corporation (and its customers, strategic partners, vendors and suppliers). This confidential information includes, without limitation, nonpublic financial information, business and market strategy reports and presentations, pricing information, research and development activities, plans and strategies (including reports and presentations to the Board of Directors), invention disclosures, patentable and unpatentable inventions, technical specifications and information, and other scientific data, laboratory notebooks, unpublished patent or invention disclosures blueprints, biological and chemical compounds and properties, scientific reports, technical specifications and data, whether in hard copy or electronic media. Each director shall not use or disclose such confidential information for any purpose other than to promote and serve the best interests of the Corporation and its stockholders.

ARTICLE III

Officers

1. Enumeration. The officers of the Corporation shall consist of a Chief Executive Officer, a President, a Treasurer, a Secretary, and such other officers, including one or more Vice Presidents, Assistant Treasurers and Assistant Secretaries, as the Board of Directors may determine.

2. Election. The Chief Executive Officer, President, Treasurer and Secretary shall be elected by the Board of Directors. Other officers may be chosen by the Board of Directors at such meeting or at any other meeting.

3. Qualification. No officer need be a stockholder or Director. Any two or more offices may be held by the same person.

4. Tenure. Except as otherwise provided by the Articles of Incorporation, each of the officers of the Corporation shall hold his or her office until his or her successor is duly elected and qualified or until his earlier resignation or removal. Any officer may resign by delivering his or her written resignation to the Corporation, and such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the happening of some other event.

5. Removal. The Board of Directors may remove any officer with or without cause by a vote of a majority of the entire number of Directors then in office.

6. Vacancies. Any vacancy in any office may be filled for the unexpired portion of the term by the Board of Directors.

7. Chief Executive Officer. The Board of Directors may elect a chief executive officer who, subject to the direction of the Board of Directors, shall have the ultimate responsibility for the management and control of the business and affairs of the Corporation, and shall perform such other duties and have such other powers which are delegated to him or her by the Board of Directors, these Bylaws or as may be provided by law.

8. President and Vice Presidents. The President shall be the chief operating officer of the Corporation and shall have general charge of its business operations, subject to the direction of the Board of Directors. The Board of Directors shall have the authority to appoint a temporary presiding officer to serve at any meeting of the stockholders or Board of Directors if the President is unable to do so for any reason.

Any Vice President shall have such powers and shall perform such duties as the Board of Directors may from time to time designate. In the absence of the President or in the event of his or her inability or refusal to act, the Vice President (or in the event there be more than one Vice President, the Vice Presidents in the order designated by the Directors, or in the absence of any designation, then in the order of their election) shall perform the duties of the President, and when so acting, shall have all the powers and responsible of and be subject to all the restrictions upon the President.

9. Treasurer and Assistant Treasurers. The Treasurer shall, subject to the direction of the Board of Directors, have general charge of the financial affairs of the Corporation and shall cause to be kept accurate books of account. The Treasurer shall have custody of all funds, securities, and valuable documents of the Corporation, except as the Board of Directors may otherwise provide.

Any Assistant Treasurer shall have such powers and perform such duties as the Board of Directors may from time to time designate.

10. Secretary and Assistant Secretaries. The Secretary shall record the proceedings of all meetings of the stockholders and the Board of Directors in books kept for that purpose. In his or her absence from any such meeting an Assistant Secretary, or if he or she is absent, a temporary secretary chosen at the meeting, shall record the proceedings thereof.

The Secretary shall have charge of the stock ledger (which may, however, be kept by any transfer or other agent of the Corporation) and shall have such other duties and powers as may be designated from time to time by the Board of Directors, Chief Executive Officer or the President.

Any Assistant Secretary shall have such powers and perform such duties as the Board of Directors may from time to time designate.

11. Other Powers and Duties. Subject to these Bylaws, each officer of the Corporation shall have in addition to the duties and powers specifically set forth in these Bylaws, such duties and powers as are customarily incident to his or her office, and such duties and powers as may be designated from time to time by the Board of Directors.

ARTICLE IV

Capital Stock

1. Certificates of Stock and Uncertificated Shares. Unless the Board of Directors has provided by resolution that some or all of any or all classes or series of stock of the Corporation shall be uncertificated shares, each stockholder shall be entitled to a certificate of stock of the Corporation in such form as may from time to time be prescribed by the Board of Directors. Any such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the Corporation. Such certificate shall be signed by the Chairperson or Vice-Chairperson of the Board of Directors or the Chief Executive Officer, President or a Vice President and by the Treasurer or an Assistant Treasurer or the Secretary or an Assistant Secretary. Such signatures may be facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed on such certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if he or she were such officer, transfer agent or registrar at the time of its issue. Every certificate for shares of stock which are subject to any restriction on transfer and every certificate issued when the Corporation is authorized to issue more than one class or series of stock shall contain such legend with respect thereto as is required by law. The Corporation shall, at the option of the Board of Directors or as otherwise stated in the Articles of Incorporation, be permitted to issue fractional shares.

2. Record Holders. Except as may otherwise be required by law, by the Articles of Incorporation or by these Bylaws, the Corporation shall be entitled to treat the record holder of stock as shown on its books as the owner of such stock for all purposes, including the payment of dividends and the right to vote with respect thereto, regardless of any transfer, pledge or other disposition of such stock, until the shares have been transferred on the books of the Corporation in accordance with the requirements of these Bylaws. It shall be the duty of each stockholder to notify the Corporation of his or her post office address.

3. Record Date. In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, or to consent to corporate action in writing without a meeting, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors may fix, in advance, a record date, which shall not precede the date on which it is established, and which shall not be more than sixty (60) nor less than ten (10) days before the date of such meeting, more than ten (10) days after the date on which the resolution fixing the record date for stockholder consent without a meeting is established, nor more than sixty (60) days prior to any other action. In such case only stockholders of record on such record date shall be so entitled notwithstanding any transfer of stock on the books of the Corporation after the record date.

If no record date is fixed, (a) the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held, (b) the record date for determining stockholders entitled to consent to corporate action in writing without a meeting, when no prior action by the Board of Directors is necessary, shall be the first date on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the Corporation by delivery to its registered office in this state, to its principal place of business, or to an officer or agent of the Corporation having custody of the book in which proceedings of meetings of stockholders are recorded, and (c) the record date for determining stockholders for any other purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

4. Replacement of Certificates. In case of the alleged loss, destruction or mutilation of a certificate of stock, a duplicate certificate may be issued in place thereof, upon such terms as the Board of Directors may prescribe, and the Corporation may require the owner of the lost, stolen or destroyed certificate, or such owner's legal representative, to give the Corporation a bond sufficient to indemnify it against any claim that may be made against it on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate or uncertificated shares.

ARTICLE V

Indemnification

1. Indemnification of Directors and Officers. The Corporation shall, to the fullest extent permitted by Nevada law, indemnify any person who is or was a director or officer of the Corporation or is or was a director or officer of the Corporation serving at the Corporation's request as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other entity (each such person, an "Indemnitee") against expenses, including without limitation attorneys' fees, costs, expenses, judgments, fines, and amounts paid in settlement (collectively, "Expenses"), actually and reasonably incurred by the Indemnitee in connection with any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative, whether or not an action, suit or proceeding by or in the right of the Corporation, to which the Indemnitee is, was, or is threatened to be made a party by reason of being an Indemnitee.

2. Indemnification Against Expenses. The Expenses of Indemnitees must be paid or reimbursed by the Corporation or through insurance purchased and maintained by the Corporation or through other financial arrangements made by the Corporation, as they are incurred and in advance of the final disposition of the action, suit, proceeding or claim described in Section 1 of this Article V, to the fullest extent permitted by Nevada law.

3. Indemnification of Employees and Other Persons. The Corporation may, by action of its Board of Directors and to the extent provided in such action, indemnify employees and other persons as though they were Indemnitees.

4. Insurance. The Corporation may purchase and maintain insurance or make other financial arrangements on behalf of any Indemnitee for any liability asserted against him or her and liability and expenses incurred by him or her in his or her capacity as a director, officer, employee, member, managing member or agent, or arising out of his or her status as such, whether or not the Corporation has the authority to indemnify him or her against such liability and expenses.

5. Non-Exclusivity of Indemnification Rights. The rights of indemnification set out in this Article V shall be in addition to and not exclusive of any other rights to which any Indemnitee may be entitled under the Articles of Incorporation, Bylaws, any other agreement with the Corporation, any action taken by the stockholders or disinterested directors of the Corporation, or otherwise. The indemnification provided under this Article V shall inure to the benefit of the heirs, executors, and administrators of an Indemnitee.

6. Amendment. The provisions of this Article V may be amended as provided in Article VI; provided, however, no amendment or repeal of such provisions which adversely affects the rights of a director or officer under this Article V with respect to his or her acts or omissions prior to such amendment or repeal, shall apply to him without his or her consent.

ARTICLE VI

Miscellaneous Provisions

1. Fiscal Year. Except as otherwise determined by the Board of Directors, the fiscal year of the Corporation shall end on **December 31st** of each year.

2. Seal. The Board of Directors shall have power to adopt and alter the seal of the Corporation.

3. Notices and Waivers Thereof. Except as otherwise provided by law, the Articles of Incorporation or these Bylaws, whenever by law or under the provisions of the Articles of Incorporation or these Bylaws notice is required to be given to any Director or stockholder, it will not be construed to require personal notice, but such notice may be given in writing, by mail or courier service, addressed to such Director or stockholder, at the address of such Director or stockholder as it appears on the records of the Corporation, with postage thereon prepaid, and such notice will be deemed to be given at the time when the same is deposited in the United States mail or upon delivery, if given by courier service. Notice to Directors or stockholders may also be given by telephone, telegram, facsimile, electronic mail, electronic transmission or similar medium of communication or as otherwise may be permitted by these Bylaws. If such notice is delivered to a Director or stockholder by electronic mail, such notice shall be deemed given when directed to the electronic mail address provided by such Director or stockholder, and if such notice is delivered by any other electronic transmission, such notice shall be deemed given when directed to such Director or stockholder.

Whenever any notice is required to be given by law or under the provisions of the Articles of Incorporation or these Bylaws, a waiver thereof, in writing, signed by the person or persons entitled to such notice, or a waiver by electronic transmission by the person entitled to such notice, whether before or after the time of the event for which notice is to be given, will be deemed equivalent to such notice. Attendance of a person at a meeting will constitute a waiver of notice of such meeting, except when the person attends a meeting for the sole and express purpose of objecting, at the time of the meeting, to the transaction of any business because the meeting is not lawfully called or convened.

4. Execution of Instruments. All deeds, leases, transfers, contracts, bonds, notes and other obligations authorized to be executed by an officer of the Corporation in its behalf shall be signed by the Chief Executive Officer, President, Treasurer or Secretary, or by any other officer of the Corporation designated by the Board of Directors or Chief Executive Officer, except as the Board of Directors may generally or in particular cases otherwise determine.

5. Voting of Securities. Unless otherwise provided by the Board of Directors, the Chief Executive Officer, President, Treasurer or Secretary may waive notice of and act on behalf of this Corporation, or appoint another person or persons to act as proxy or attorney in fact for this Corporation with or without discretionary power and/or power of substitution, at any meeting of stockholders or shareholders of any other corporation or organization, any of whose securities are held by this Corporation.

6. Resident Agent. The Board of Directors may appoint a resident agent in any jurisdiction upon whom legal process may be served in any action or proceeding against the Corporation.

7. Corporate Records. The original or attested copies of the Articles of Incorporation, these Bylaws and the records of all meetings of the incorporator, stockholders and the Board of Directors and the stock and transfer records, which shall contain the names of all stockholders, their record addresses and the amount of stock held by each, shall be kept at the principal office of the Corporation, at the office of its counsel, or at an office of its transfer agent. The books of the Corporation may be kept at such place or places within or without the State of Nevada at such place or places as may be designated from time to time by the Board of Directors or in these Bylaws.

8. Articles of Incorporation. All references in these Bylaws to the Articles of Incorporation shall be deemed to refer to the Articles of Incorporation of the Corporation, as amended and in effect from time to time.

9. Amendments. These Bylaws may be amended or repealed or additional Bylaws adopted by the stockholders or by the Board of Directors; provided that (a) the Board of Directors may not amend or repeal this Section 9 of Article VI or any provision of these Bylaws which by law, by the Articles of Incorporation or by these Bylaws requires action by the stockholders, and (b) any amendment or repeal of these Bylaws by the Board of Directors and any Bylaw adopted by the Board of Directors may be amended or repealed by the stockholders.

10. Conflicts. In the event of any conflict between these Bylaws or any stockholders, voting, investor rights or other agreement to which the Corporation and the holders of shares of any class or series of capital stock of the Corporation are a party, then such agreement shall govern. In the event of any conflict between these Bylaws and the Articles of Incorporation, the Articles of Incorporation shall govern.

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Adopted by the Board of Directors: April 23, 2020.

Exhibit 4.1


ZQ|CERT#|COY|CLS|RGSTRY|ACCT#|TRANSTYPE|RUN#|TRANS#
DraftKings Inc.
PO BOX 000000, Louisville, KY 40233-5866
MR A SAMPLE
DESIGNATION (IF ANY)
ADD 1
ADD 2
ADD 3
ADD 4
CUSIP/IDENTIFIER
Holder ID
Insurance Value
Number of Shares
DTC
XXXXXXX XX X
XXXXXXXXXX
1,000,000.00
123456
12345678 12345678912345
Certificate Numbers
Num
No.
Denom.
Total
1234567890123456789
1 1 1 1
2 2 2 2
3 3 3 3
4 4 4 4
5 5 5 5
6 6 6 6
Total Transaction 7
Class A Common Stock
Par Value $0.0001
Class A Common Stock
Certificate Number
ZQ00000000
Shares
DRAFTKINGS INC.
INCORPORATED UNDER THE LAWS OF THE STATE OF NEVADA
THIS CERTIFIES THAT
MR. SAMPLE & MRS. SAMPLE & MR. SAMPLE & MRS. SAMPLE
SEE REVERSE FOR CERTAIN DEFINITIONS
CUSIP 26142R 10 4
is the owner of
ZERO HUNDRED THOUSAND ZERO HUNDRED AND ZERO
THIS CERTIFICATE IS TRANSFERABLE IN CITIES DESIGNATED BY THE TRANSFER AGENT, AVAILABLE ONLINE AT www.computershare.com
FULLY PAID AND NON-ASSESSABLE SHARES OF CLASS A COMMON STOCK, PAR VALUE $0.0001 PER SHARE OF
DraftKings Inc. (hereinafter called the "Company"), transferable on the books of the Company in person or by duly authorized attorney upon surrender of this certificate properly endorsed.
This certificate is not valid unless countersigned by the Transfer Agent and registered by the Registrar of the Company. Witness the facsimile signature of a duly authorized signatory of the Company.
FACSIMILE SIGNATURE TO COME
President
FACSIMILE SIGNATURE TO COME
Secretary
DRAFTKINGS INC. CORPORATE SEAL NEVADA
DATED DD-MMM-YYYY
COUNTERSIGNED AND REGISTERED:
COMPUTERSHARE TRUST COMPANY, N.A.
TRANSFER AGENT AND REGISTRAR,
By
AUTHORIZED SIGNATURE
SECURITY INSTRUCTIONS ON REVERSE
1234567

DRAFTKINGS INC.

THE COMPANY WILL FURNISH WITHOUT CHARGE TO EACH STOCKHOLDER WHO SO REQUESTS, A STATEMENT OF THE POWERS, DESIGNATIONS, PREFERENCES AND RELATIVE, PARTICIPATING, OPTIONAL OR OTHER SPECIAL RIGHTS OF EACH CLASS OF STOCK OR SERIES THEREOF OF THE COMPANY AND THE QUALIFICATIONS, LIMITATIONS, OR RESTRICTIONS OF SUCH PREFERENCES AND/OR RIGHTS. THIS CERTIFICATE AND THE SHARES REPRESENTED THEREBY ARE ISSUED AND SHALL BE HELD SUBJECT TO ALL OF THE PROVISIONS OF THE ARTICLES OF INCORPORATION OF THE COMPANY AND ALL AMENDMENTS THERETO AND RESOLUTIONS OF THE BOARD OF DIRECTORS PROVIDING FOR THE ISSUE OF SECURITIES (COPIES OF WHICH MAY BE OBTAINED FROM THE SECRETARY OF THE COMPANY), TO ALL OF WHICH THE HOLDER OF THIS CERTIFICATE BY ACCEPTANCE HEREOF ASSENTS.

The following abbreviations, when used in the inscription on the face of this certificate, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM - as tenants in common	UNIF GIFT MIN ACT - .....(Cust).....Custodian.....(Minor).....
TEN ENT - as tenants by the entireties	under Uniform Gifts to Minors Act .....(State).....
JT TEN - as joint tenants with right of survivorship and not as tenants in common	UNIF TRF MIN ACT - .....(Cust).....Custodian (until age .....)
	.....(Minor).....under Uniform Transfers to Minors Act .....(State).....

Additional abbreviations may also be used though not in the above list.

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE

For value received, _____hereby sell, assign and transfer unto

_____

(PLEASE PRINT OR TYPEWRITE NAME AND ADDRESS, INCLUDING POSTAL ZIP CODE, OF ASSIGNEE)

_____

_____

_____ Shares

of the Class A Common Stock represented by the within Certificate, and do hereby irrevocably constitute and appoint

_____ Attorney

to transfer the said stock on the books of the within-named Company with full power of substitution in the premises.

Dated: _____20_____

Signature: _____

Signature: _____

Notice: The signature to this assignment must correspond with the name as written upon the face of the certificate, in every particular, without alteration or enlargement, or any change whatever.

Signature(s) Guaranteed: Medallion Guarantee Stamp

THE SIGNATURE(S) SHOULD BE GUARANTEED BY AN ELIGIBLE GUARANTOR INSTITUTION (Banks, Stockbrokers, Savings and Loan Associations and Credit Unions) WITH MEMBERSHIP IN AN APPROVED SIGNATURE GUARANTEE MEDALLION PROGRAM, PURSUANT TO S.E.C. RULE 17Ad-15.

SECURITY INSTRUCTIONS

THIS IS WATERMARKED PAPER. DO NOT ACCEPT WITHOUT NOTING WATERMARK. HOLD TO LIGHT TO VERIFY WATERMARK.

The IRS requires that the named transfer agent ("we") report the cost basis of certain shares or units acquired after January 1, 2011. If your shares or units are covered by the legislation, and you requested to sell or transfer the shares or units using a specific cost basis calculation method, then we have processed as you requested. If you did not specify a cost basis calculation method, then we have defaulted to the first in, first out (FIFO) method. Please consult your tax advisor if you need additional information about cost basis.

If you do not keep in contact with the issuer or do not have any activity in your account for the time period specified by state law, your property may become subject to state unclaimed property laws and transferred to the appropriate state.

1S3426Z

Exhibit 4.2

Form of Warrant Certificate
[FACE]

Number

Warrants
THIS WARRANT SHALL BE VOID IF NOT EXERCISED PRIOR TO THE EXPIRATION OF THE EXERCISE PERIOD PROVIDED FOR IN THE WARRANT AGREEMENT DESCRIBED BELOW
DRAFTKINGS INC.
Incorporated Under the Laws of the State of Nevada

CUSIP _____

Warrant Certificate

This Warrant Certificate certifies that **_____**, or registered assigns, is the registered holder of warrant(s) evidenced hereby (the "***Warrants***" and each, a "***Warrant***") to purchase shares of Class A common stock, $0.0001 par value per share ("***Class A Common Stock***"), of DraftKings Inc., a Nevada corporation (the "***Company***"). Each whole Warrant entitles the holder, upon exercise during the period set forth in the Warrant Agreement referred to below, to receive from the Company that number of fully paid and non-assessable shares of Class A Common Stock as set forth below, at the exercise price (the "***Warrant Price***") as determined pursuant to the Warrant Agreement, payable in lawful money (or through "***cashless exercise***" as provided for in the Warrant Agreement) of the United States of America upon surrender of this Warrant Certificate and payment of the Warrant Price at the office or agency of the Warrant Agent referred to below, subject to the conditions set forth herein and in the Warrant Agreement. Defined terms used in this Warrant Certificate but not defined herein shall have the meanings given to them in the Warrant Agreement.

Each whole Warrant is initially exercisable for one fully paid and non-assessable share of Class A Common Stock. No fractional shares will be issued upon exercise of any Warrant. If, upon the exercise of Warrants, a holder would be entitled to receive a fractional interest in a share of Class A Common Stock, the Company will, upon exercise, round down to the nearest whole number the number of shares of Class A Common Stock to be issued to the Warrant holder. The number of shares of Class A Common Stock issuable upon exercise of the Warrants is subject to adjustment upon the occurrence of certain events set forth in the Warrant Agreement.

The initial Warrant Price per share of Class A Common Stock for any Warrant is equal to $11.50 per share. The Warrant Price is subject to adjustment upon the occurrence of certain events set forth in the Warrant Agreement.

Subject to the conditions set forth in the Warrant Agreement, the Warrants may be exercised only during the Exercise Period and to the extent not exercised by the end of such Exercise Period, such Warrants shall become void. The Warrants may be redeemed, subject to certain conditions, as set forth in the Warrant Agreement.

Reference is hereby made to the further provisions of this Warrant Certificate set forth on the reverse hereof and such further provisions shall for all purposes have the same effect as though fully set forth at this place.

This Warrant Certificate shall not be valid unless countersigned by the Warrant Agent, as such term is used in the Warrant Agreement.

This Warrant Certificate shall be governed by and construed in accordance with the internal laws of the State of New York.

DRAFTKINGS INC.

By: _____
Name: _____
Title: _____

COMPUTERSHARE TRUST COMPANY, N.A.
as Warrant Agent

By: _____
Name: _____
Title: _____

[Form of Warrant Certificate]
[Reverse]

The Warrants evidenced by this Warrant Certificate are part of a duly authorized issue of Warrants entitling the holder on exercise to receive shares of Class A Common Stock and are issued or to be issued pursuant to a Warrant Agreement dated as of May 10, 2019 (the "***Warrant Agreement***"), duly executed and delivered by the Company to Computershare Trust Company, N.A., a federally chartered trust company, as successor warrant agent (the "***Warrant Agent***"), which Warrant Agreement is hereby incorporated by reference in and made a part of this instrument and is hereby referred to for a description of the rights, limitation of rights, obligations, duties and immunities thereunder of the Warrant Agent, the Company and the holders (the words "***holders***" or "***holder***" meaning the Registered Holders or Registered Holder, respectively) of the Warrants. A copy of the Warrant Agreement may be obtained by the holder hereof upon written request to the Company. Defined terms used in this Warrant Certificate but not defined herein shall have the meanings given to them in the Warrant Agreement.

Warrants may be exercised at any time during the Exercise Period set forth in the Warrant Agreement. The holder of Warrants evidenced by this Warrant Certificate may exercise them by surrendering this Warrant Certificate, with the form of election to purchase set forth hereon properly completed and executed, together with payment of the Warrant Price as specified in the Warrant Agreement (or through "cashless exercise" as provided for in the Warrant Agreement) at the principal corporate trust office of the Warrant Agent. In the event that upon any exercise of Warrants evidenced hereby the number of Warrants exercised shall be less than the total number of Warrants evidenced hereby, there shall be issued to the holder hereof or his, her or its assignee, a new Warrant Certificate evidencing the number of Warrants not exercised.

Notwithstanding anything else in this Warrant Certificate or the Warrant Agreement, no Warrant may be exercised unless at the time of exercise (i) a registration statement covering the shares of Class A Common Stock to be issued upon exercise is effective under the Securities Act and (ii) a prospectus thereunder relating to the shares of Class A Common Stock is current, except through "cashless exercise" as provided for in the Warrant Agreement.

The Warrant Agreement provides that upon the occurrence of certain events the number of shares of Class A Common Stock issuable upon exercise of the Warrants set forth on the face hereof may, subject to certain conditions, be adjusted. If, upon exercise of a Warrant, the holder thereof would be entitled to receive a fractional interest in a share of Class A Common Stock, the Company shall, upon exercise, round down to the nearest whole number of shares of Class A Common Stock to be issued to the holder of the Warrant.

Warrant Certificates, when surrendered at the principal corporate trust office of the Warrant Agent by the Registered Holder thereof in person or by legal representative or attorney duly authorized in writing, may be exchanged, in the manner and subject to the limitations provided in the Warrant Agreement, but without payment of any service charge, for another Warrant Certificate or Warrant Certificates of like tenor evidencing in the aggregate a like number of Warrants.

Upon due presentation for registration of transfer of this Warrant Certificate at the office of the Warrant Agent a new Warrant Certificate or Warrant Certificates of like tenor and evidencing in the aggregate a like number of Warrants shall be issued to the transferee(s) in exchange for this Warrant Certificate, subject to the limitations provided in the Warrant Agreement, without charge except for any tax or other governmental charge imposed in connection therewith.

The Company and the Warrant Agent may deem and treat the Registered Holder(s) hereof as the absolute owner(s) of this Warrant Certificate (notwithstanding any notation of ownership or other writing hereon made by anyone), for the purpose of any exercise hereof, of any distribution to the holder(s) hereof, and for all other purposes, and neither the Company nor the Warrant Agent shall be affected by any notice to the contrary. Neither the Warrants nor this Warrant Certificate entitles any holder hereof to any rights of a stockholder of the Company.

Election to Purchase
(To Be Executed Upon Exercise of Warrant)

The undersigned hereby irrevocably elects to exercise the right, represented by this Warrant Certificate, to receive _____ shares of Class A Common Stock and herewith tenders payment for such shares of Class A Common Stock to the order of DraftKings Inc. (the "***Company***") in the amount of $_____ in accordance with the terms hereof. The undersigned requests that a certificate for such shares of Class A Common Stock be registered in the name of _____, whose address is and that such shares of Class A Common Stock be delivered to _____ whose address is _____. If said number of shares of Class A Common Stock is less than all of the shares of Class A Common Stock purchasable hereunder, the undersigned requests that a new Warrant Certificate representing the remaining balance of such shares of Class A Common Stock be registered in the name of _____, whose address is _____ and that such Warrant Certificate be delivered to _____, whose address is _____.

In the event that the Warrant has been called for redemption by the Company pursuant to Section 6.1 or 6.2 of the Warrant Agreement and the Company has required cashless exercise pursuant to Section 6.4 of the Warrant Agreement, the number of shares of Class A Common Stock that this Warrant is exercisable for shall be determined in accordance with subsection 3.3.1(b) and Section 6.4 of the Warrant Agreement.

In the event that the Warrant is a Private Placement Warrant or a Working Capital Warrant that is to be exercised on a "cashless" basis pursuant to subsection 3.3.1(c) of the Warrant Agreement, the number of shares of Class A Common Stock that this Warrant is exercisable for shall be determined in accordance with subsection 3.3.1(c) of the Warrant Agreement.

In the event that the Warrant is to be exercised on a "cashless" basis pursuant to Section 7.4 of the Warrant Agreement, the number of shares of Class A Common Stock that this Warrant is exercisable for shall be determined in accordance with Section 7.4 of the Warrant Agreement.

In the event that the Warrant may be exercised, to the extent allowed by the Warrant Agreement, through cashless exercise (i) the number of shares of Class A Common Stock that this Warrant is exercisable for would be determined in accordance with the relevant section of the Warrant Agreement which allows for such cashless exercise and (ii) the holder hereof shall complete the following: The undersigned hereby irrevocably elects to exercise the right, represented by this Warrant Certificate, through the cashless exercise provisions of the Warrant Agreement, to receive shares of Class A Common Stock. If said number of shares of Class A Common Stock is less than all of the shares of Class A Common Stock purchasable hereunder (after giving effect to the cashless exercise), the undersigned requests that a new Warrant Certificate representing the remaining balance of such shares of Class A Common Stock be registered in the name of _____, whose address is_____ and that such Warrant Certificate be delivered to _____, whose address is _____.

[*Signature Page Follows*]

Date: _____, 20___

Signature

(Address)

(Tax Identification Number)

Signature Guaranteed:

THE SIGNATURE(S) SHOULD BE GUARANTEED BY AN ELIGIBLE GUARANTOR INSTITUTION (BANKS, STOCKBROKERS, SAVINGS AND LOAN ASSOCIATIONS AND CREDIT UNIONS WITH MEMBERSHIP IN AN APPROVED SIGNATURE GUARANTEE MEDALLION PROGRAM, PURSUANT TO S.E.C. RULE 17Ad-15 UNDER THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED (OR ANY SUCCESSOR RULE)).

Exhibit 4.4

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (the "Agreement") is entered into and effective as of April 23, 2020 by and among Diamond Eagle Acquisition Corp., a Delaware corporation ("DEAC"), DEAC NV Merger Corp., a Nevada corporation and a wholly owned subsidiary of DEAC (to be renamed "DraftKings Inc." effective as of the Closing (as defined below)) ("New DraftKings"), Continental Stock Transfer & Trust Company, a New York corporation ("Continental") and Computershare Trust Company, N.A., a federally chartered trust company and Computershare Inc., a Delaware corporation (collectively, "Computershare").

WHEREAS, DEAC and Continental have previously entered into a warrant agreement, dated as of May 10, 2019 (the "Warrant Agreement") governing the terms of DEAC's 19,666,667 outstanding warrants to purchase shares of common stock of DEAC (the "Warrants"); and

WHEREAS, DEAC has entered into a Business Combination Agreement, dated as of December 22, 2019, as amended by Amendment No.1, dated as of April 7, 2020 (as amended, the "Business Combination Agreement"), with New DraftKings, DraftKings Inc. ("DK"), SBTech (Global) Limited ("SBT"), DEAC Merger Sub Inc., a wholly-owned subsidiary of DEAC ("DEAC Merger Sub") and the other parties thereto, pursuant to which (i) DEAC will change its jurisdiction of incorporation to Nevada by merging with and into New DraftKings, with New DraftKings surviving the merger (the "Reincorporation"), (ii) following the Reincorporation, DEAC Merger Sub Inc. will merge with and into DK, with DK surviving the merger (the "DK Merger") and (iii) immediately following the DK Merger, New DraftKings will acquire all of the issued and outstanding share capital of SBT (the "Business Combination"); and

WHEREAS, effective upon the Business Combination, holders of the shares of Class A common stock, par value $0.0001 per share, of DEAC ("DEAC Class A common stock") will receive, on a one-for-one basis, shares of Class A common stock, par value $0.0001 per share, of New DraftKings ("New DraftKings Class A common stock") in exchange for their shares of DEAC Class A common stock; and

WHEREAS, pursuant to Section 4.4 of the Warrant Agreement, upon the closing of the Business Combination (the "Closing"), the Warrants will represent the right of the holders thereof to purchase shares of New DraftKings Class A common stock; and

WHEREAS, as a result of the foregoing, the parties hereto wish for DEAC to assign to New DraftKings all of DEAC's rights and interests and obligations in and under the Warrant Agreement and for New DraftKings to accept such assignment, and assume all of DEAC's obligations thereunder, in each case, effective upon the Closing;

WHEREAS, effective upon the Closing, New DraftKings wishes to appoint Computershare to serve as successor Warrant Agent and Transfer Agent under the Warrant Agreement; and

WHEREAS, in connection with and effective upon such appointment, Continental wishes to assign all of its rights, interests and obligations as Warrant Agent and Transfer Agent under the Warrant Agreement, as hereby amended, to Computershare, Computershare wishes to assume all of such rights, interests and obligations and New DraftKings wishes to approve such assignment and assumption.

NOW, **THEREFORE**, for good and valuable consideration, receipt of which is hereby acknowledged, the parties hereby agree as follows:

1. Assignment and Assumption of Warrant Agreement. DEAC hereby assigns, and New DraftKings hereby agrees to accept and assume, effective as of the Closing, all of DEAC's rights, interests and obligations in, and under the Warrant Agreement and Warrants. Unless the context otherwise requires, from and after the Closing, any references in the Warrant Agreement or the Warrants to: (i) the "Company" shall mean New DraftKings; (ii) "Common Stock" shall mean the shares of New DraftKings Class A common stock; and (iii) the "Board of Directors" or the "Board" or any committee thereof shall mean the board of directors of New DraftKings or any committee thereof.

2. Appointment of Successor Warrant Agent and Transfer Agent. New DraftKings hereby appoints Computershare to serve as successor Warrant Agent and Transfer Agent under the Warrant Agreement and Continental hereby assigns, and Computershare hereby agrees to accept and assume, effective as of the Closing, all of Continental's rights, interests and obligations in, and under the Warrant Agreement and Warrants, as Warrant Agent and Transfer Agent. Unless the context otherwise requires, from and after the Closing, any references in the Warrant Agreement and the Warrants to the "Warrant Agent" or "Transfer Agent" shall mean Computershare. Any notice, statement or demand authorized by the Warrant Agreement to be given or made by the holder of any Warrant or by the Company to or on the Warrant Agent pursuant to Section 9.2 shall be delivered to:

Computershare Trust Company, N.A.
Computershare Inc.
462 South 4th Street
Louisville, Kentucky 40202
Attn: Brandon Roth

3. Replacement Instruments. Following the Closing, upon request by any holder of a Warrant, New DraftKings shall issue a new instrument for such Warrant reflecting the adjustment to the terms and conditions described herein and in Section 4.4 of the Warrant Agreement.

4. Amendment to Warrant Agreement. To the extent required by this Agreement, the Warrant Agreement is hereby deemed amended pursuant to Section 9.8 thereof to reflect the subject matter contained herein, effective as of the Closing, including the following.

a. Section 5.5 is hereby amended to add the following as the final sentence thereof.
"The Warrant Agent may countersign a Definitive Warrant Certificate in manual of facsimile form."

b. Section 8.1 is hereby amended to add the following sentence:

"The Warrant Agent shall not have any duty or obligation to take any action under any section of this Agreement that requires the payment of taxes and/or charges unless and until it is satisfied that all such payments have been made."

c. The first sentence of Section 8.2.1 is amended such the sixty (60) days' notice period is replaced by thirty (30) days. The following language is inserted as the second sentence of Section 8.2.1.

"If for any reason the transfer agency relationship in effect between the Company and the Transfer Agent terminates, the Warrant Agent will be deemed to have resigned automatically and be discharged from its duties under this Agreement"

d. Section 8.3.1 is hereby amended and restated in its entirety as follows:

"Remuneration. The Company agrees to pay to the Warrant Agent reasonable compensation for all services rendered by it hereunder in accordance with a fee schedule to be mutually agreed upon and, from time to time, on demand of the Warrant Agent, to reimburse the Warrant Agent for all of its reasonable and documented out-of-pocket expenses and counsel fees and other disbursements incurred in the preparation, delivery, negotiation, amendment, administration and execution of this Agreement and the exercise and performance of its duties hereunder."

e. Section 8.4.1 is hereby amended and restated in its entirety as follows:

"Reliance on Company Statement. Whenever in the performance of its duties under this Agreement the Warrant Agent shall deem it necessary or desirable that any fact or matter be proved or established by the Company prior to taking, suffering, or omitting to take any action hereunder, such fact or matter may be deemed to be conclusively proved and established by a certificate signed by a person believed by the Warrant Agent to be the Chief Executive Officer, the Chief Financial Officer, Chief Legal Officer, the President, Executive Vice President, Vice President, Secretary or Chairman of the Board of the Company (each an authorized officer); and such certificate shall be full authorization and protection to the Warrant Agent and the Warrant Agent shall incur no liability for or in respect of any action taken, suffered or omitted to be taken by it under the provisions of this Agreement in reliance upon such certificate."

f. Section 8.4.2 is hereby amended and restated in its entirety as follows:

"Indemnity; Limitation on Liability. The Company also covenants and agrees to indemnify the Warrant Agent for, and to hold it harmless against, any and all loss, liability, damage, judgment, fine, penalty, claim, demand, settlement, cost or expense (including, without limitation, the reasonable fees and expenses of legal counsel) ("Losses") that may be paid, incurred or suffered by it, or which it may become subject, other than such Losses arising in connection with the gross negligence, bad faith or willful misconduct on the part of the Warrant Agent (which gross negligence, bad faith, or willful misconduct must be determined by a final, non-appealable judgment of a court of competent jurisdiction), for any action taken, suffered, or omitted to be taken by the Warrant Agent in connection with the execution, acceptance, administration, exercise and performance of its duties under this Agreement, including the costs and expenses of defending against any claim of liability arising therefrom, directly or indirectly, or enforcing its rights hereunder. The costs and expenses incurred in enforcing this right of indemnification shall be paid by the Company. The Warrant Agent shall be liable hereunder only for its own gross negligence, bad faith or willful misconduct (which gross negligence, bad faith or willful misconduct must be determined by a final, non-appealable judgment of a court of competent jurisdiction). Notwithstanding anything in this Agreement to the contrary, any liability of the Warrant Agent under this Agreement will be limited to the amount of annual fees paid by the Company to the Warrant Agent during the twelve (12) months immediately preceding the event for which recovery from the Warrant Agent is being sought. Anything to the contrary notwithstanding, in no event will the Warrant Agent be liable for special, punitive, indirect, incidental or consequential loss or damages of any kind whatsoever (including, without limitation, lost profits), even if the Warrant Agent has been advised of the likelihood of such loss or damages, and regardless of the form of action. The provisions under this Section 8 shall survive the expiration of the Warrant and the termination of this Agreement and the resignation, replacement or removal of the Warrant Agent."

g. Section 8.5 is hereby amended and restated in its entirety as follows:

"Acceptance of Agency. The Warrant Agent hereby accepts the agency established by this Agreement and agrees to perform the same upon the express terms and conditions (and no implied terms and conditions) herein set forth and among other things shall account for, and pay to the Company, all monies received by the Warrant Agent for the purchase of shares of Common Stock through the exercise of the Warrants. The Warrant Agent shall act hereunder solely as agent for the Company. The Warrant Agent shall not assume any obligations or relationship of agency or trust with any of the owners or holders of the Warrants or Common Stock. The Warrant Agent shall not have any duty or responsibility in the case of the receipt of any written demand from any holder of Rights with respect to any action or default by the Company, including, without limiting the generality of the foregoing, any duty or responsibility to initiate or attempt to initiate any proceedings at law or otherwise or to make any demand upon the Company. The Warrant Agent shall have no responsibility to the Company, any holders of Warrants, any holders of shares of Common Stock or any other Person for interest or earnings on any moneys held by the Warrant Agent pursuant to this Agreement."

h. Section 8.6 is hereby deleted.

i. The following provisions are hereby incorporated into Section 8 in the numerical order set forth below:

"8.5 Legal Counsel. The Warrant Agent may consult with legal counsel selected by it (who may be legal counsel for the Company), and the opinion or advice of such counsel shall be full and complete authorization and protection to the Warrant Agent as to any action taken or omitted by it in accordance with such advice or opinion.

8.6 Reliance on Agreement and Warrants. The Warrant Agent shall not be liable for or by reason of any of the statements of fact or recitals contained in this Agreement or in the Warrants (except as to its countersignature thereof) or be required to verify the same, but all such statements and recitals are and shall be deemed to have been made by the Company only.

8.7 No Responsibility as to Certain Matters. The Warrant Agent shall not be under any responsibility in respect of the validity of this Agreement or the execution and delivery hereof (except the due execution hereof by the Warrant Agent) or in respect of the validity or execution of any Right Certificate (except its countersignature thereof); nor shall it be responsible for any breach by the Company of any covenant or condition contained in this Agreement or in any Warrant; nor shall it be responsible for any change in the exercisability of the Warrant any adjustment required under this Agreement or responsible for the manner, method or amount of any such adjustment or the ascertaining of the existence of facts that would require any such adjustment; nor shall it by any act hereunder be deemed to make any representation or warranty as to the authorization or reservation of any securities to be issued pursuant to this Agreement or any Warrant or as to whether any other securities will, when so issued, be validly authorized and issued, fully paid and nonassessable.

8.8 Freedom to Trade in Company Securities. Subject to applicable laws, the Warrant Agent and any stockholder, director, officer or employee of the Warrant Agent may buy, sell or deal in any of the Warrant or other securities of the Company or become pecuniarily interested in any transaction in which the Company may be interested, or contract with or lend money to the Company or otherwise act as fully and freely as though it were not Warrant Agent under this Agreement. Nothing herein shall preclude the Warrant Agent from acting in any other capacity for the Company or for any other legal entity.

8.9 Reliance on Attorneys and Agents. The Warrant Agent may execute and exercise any of the rights or powers hereby vested in it or perform any duty hereunder either itself or by or through its attorneys or agents, and the Warrant Agent shall not be answerable or accountable for any act, omission, default, neglect or misconduct of any such attorneys or agents or for any loss to the Company resulting from any such act, omission, default, neglect or misconduct, absent gross negligence, willful misconduct or bad faith in the selection and continued employment thereof (which gross negligence, willful misconduct or bad faith must be determined by a final, non-appealable judgment of a court of competent jurisdiction).

8.10 No Risk of Own Funds. No provision of this Agreement shall require the Warrant Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder or in the exercise any of its rights or powers if it believes that repayment of such funds or adequate indemnification against such risk or liability is not reasonably assured to it.

8.11 No Notice. The Warrant Agent shall not be required to take notice or be deemed to have notice of any event or condition hereunder, including any event or condition that may require action by the Warrant Agent, unless the Warrant Agent shall be specifically notified in writing of such event or condition by the Company, and all notices or other instruments required by this Agreement to be delivered to the Warrant Agent must, in order to be effective, be received by the Warrant Agent as specified in Section 9.2 hereof, and in the absence of such notice so delivered, the Warrant Agent may conclusively assume no such event or condition exists.

8.12 Ambiguity. In the event the Warrant Agent believes any ambiguity or uncertainty exists hereunder or in any notice, instruction, direction, request or other communication, paper or document received by the Warrant Agent hereunder, the Warrant Agent, may, in its sole discretion, refrain from taking any action, and shall be fully protected and shall not be liable in any way to Company, the holder of any Warrant or any other person for refraining from taking such action, unless the Warrant Agent receives written instructions signed by the Company which eliminates such ambiguity or uncertainty to the satisfaction of Warrant Agent.

8.13 Non-Registration. The Warrant Agent shall not be liable or responsible for any failure of the Company to comply with any of its obligations relating to any registration statement filed with the Securities and Exchange Commission or this Agreement, including without limitation obligations under applicable regulation or law.

8.14 Signature Guarantee. The Warrant Agent may rely on and be fully authorized and protected in acting or failing to act upon (a) any guaranty of signature by an "eligible guarantor institution" that is a member or participant in the Securities Transfer Agents Medallion Program or other comparable "signature guarantee program" or insurance program in addition to, or in substitution for, the foregoing; or (b) any related law, act, regulation or any interpretation of the same.

8.15 Authorized Officers. The Warrant Agent shall be fully authorized and protected in relying upon written instructions received from any authorized officer of the Company and shall not be liable for any action taken, suffered or omitted to be taken by, the Warrant Agent in accordance with such advice or instructions.

8.16 Transfer Agent. For the avoidance of doubt, the Transfer Agent has the same rights and immunities as the Rights Agent set forth in this Section 8 in the performance of its duties under this Agreement."

Section 9.8 is hereby amended to add the following sentences to the end of that provision:

"No supplement or amendment to this Agreement shall be effective unless duly executed by the Warrant Agent and the Company. Upon the delivery of a certificate from an authorized officer of the Company which states that the proposed supplement or amendment is in compliance with the terms of this Section 9.8, the Warrant Agent shall execute such supplement or amendment. Notwithstanding anything in this Agreement to the contrary, the Warrant Agent shall not be required to execute any supplement or amendment to this Agreement that it has determined would adversely affect its own rights, duties, obligations or immunities under this Agreement."

Section 9.9 is hereby amended to remove the period at the end of the first sentence and add the following:

"; provided, however, that if the exclusion of such provision shall adversely affect the rights, immunities, liabilities, duties or obligations of the Warrant Agent, the Warrant Agent shall be entitled to resign immediately upon written notice to the Company."

5. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York, as such laws are applied to contracts entered into and performed in such State without resort to that State's conflict-of-laws rules.

6. Counterpart. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument. Execution and delivery of this Agreement by email or exchange of facsimile copies bearing the facsimile signature of a party hereto shall constitute a valid and binding execution and delivery of this Agreement by such party.

7. Successors and Assigns. All the covenants and provisions of this Agreement shall bind and inure to the benefit of each party's respective successors and assigns.

8. Entire Agreement. This Agreement and the Warrant Agreement, as hereby amended constitute the entire agreement, and supersedes all prior agreements and understandings, both written and oral, between the parties with respect to the subject matter hereof and thereof.

9. Indemnification. The Company agrees to indemnify, defend and hold Computershare harmless from and to hold it harmless against, any and all loss, liability, damage, judgment, fine, penalty, claim, demand, settlement, cost or expense (including, without limitation, the reasonable fees and expenses of legal counsel) that may be paid, incurred or suffered by it, or which it may become subject arising out of the assignment contemplated hereunder in connection with events occurring before the date of this Agreement.

[*Signature Pages Follow*]

IN WITNESS WHEREOF, the parties hereto have signed this Agreement as of the date and year first written above.

DIAMOND EAGLE ACQUISITION CORP.

By: /s/ Eli Baker
Name: Eli Baker
Title: President, Chief Financial Officer and Secretary

DEAC NV MERGER CORP.

By: /s/ Eli Baker
Name: Eli Baker
Title: Secretary and Vice Chairman

CONTINENTAL STOCK TRANSFER & TRUST COMPANY

By: /s/ Henry Farrell
Name: Henry Farrell
Title: Vice President

COMPUTERSHARE TRUST COMPANY, N.A. and
COMPUTERSHARE, INC.,
On behalf of both entities

By: /s/ Thomas Borbely
Name: Thomas Borbely
Title: Manager, Corporate Actions

Exhibit 10.1

DRAFTKINGS INC. 2020 INCENTIVE AWARD PLAN

1. *Purpose*. The purpose of the DraftKings Inc. 2020 Incentive Award Plan (the "Plan") is to provide a means through which the Company and its Affiliates may attract and retain key personnel and to provide a means whereby directors, officers, employees, consultants and advisors (and prospective directors, officers, employees, consultants and advisors) of the Company and its Affiliates can acquire and maintain an equity interest in the Company, or be paid incentive compensation, which may (but need not) be measured by reference to the value of Common Shares, thereby strengthening their commitment to the welfare of the Company and its Affiliates and aligning their interests with those of the Company's shareholders.

2. *Definitions*. The following definitions shall be applicable throughout the Plan:

(a) "*Affiliate*" means (i) any person or entity that directly or indirectly controls, is controlled by or is under common control with the Company and/or (ii) to the extent provided by the Committee, any person or entity in which the Company has a significant interest. The term "control" (including, with correlative meaning, the terms "controlled by" and "under common control with"), as applied to any person or entity, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such person or entity, whether through the ownership of voting or other securities, by contract or otherwise.

(b) "*Award*" means, individually or collectively, any Incentive Stock Option, Nonqualified Stock Option, Stock Appreciation Right, Restricted Stock, Restricted Stock Unit, Stock Bonus Award, and Performance Compensation Award granted under the Plan.

(c) "*Board*" means the Board of Directors of the Company.

(d) "*Business Combination*" has the meaning given such term in the definition of "Change in Control."

(e) "*Cause*" means, in the case of a particular Award, unless the applicable Award agreement states otherwise, (i) the Company or an Affiliate having "cause" to terminate a Participant's employment or service, as defined in any employment or consulting or similar agreement between the Participant and the Company or an Affiliate in effect at the time of such termination or (ii) in the absence of any such employment or consulting or similar agreement (or the absence of any definition of "Cause" contained therein), (A) gross misconduct by the Participant which results in loss, damage or injury to the Company or any of its Affiliates, its goodwill, business or reputation; (B) the commission or attempted commission of an act of embezzlement, fraud or breach of fiduciary duty which results in loss, damage or injury to the Company or any of its Affiliates, its goodwill, business or reputation; (C) the unauthorized disclosure or misappropriation of any trade secret or confidential information of the Company, any of its Affiliate or any third party who has a business relationship with the Company; (D) the Participant's conviction of or plea of nolo contendere to, a felony under any state or federal law which materially interferes with such Participant's ability to perform his or her services for the Company or any of its Affiliates or which results in loss, damage or injury to the Company or any of its Affiliates, its goodwill, business or reputation; (E) the violation (or potential violation) by the Participant, in any material respect, of a non-competition, non-solicitation, non-disclosure or assignment of inventions covenant between the Participant and the Company or any of its Affiliates; (F) the Participant's failure to perform the Participant's assigned duties and responsibilities to the reasonable satisfaction of the Company which failure continues, in the reasonable judgment of the Company, after written notice given to the Participant by the Company; or (G) the use of controlled substances, illicit drugs, alcohol or other substances or behavior which interferes with the Participant's ability to perform his or her services for the Company or any of its Affiliates or which otherwise results in loss, damage or injury to the Company, its goodwill, business or reputation. Any determination of whether Cause exists shall be made by the Committee in its sole discretion.

(f) "*Change in Control*" shall, in the case of a particular Award, unless the applicable Award agreement states otherwise or contains a different definition of "Change in Control," be deemed to occur upon:

(i) Any sale, lease, exchange or other transfer (in one or a series of related transactions) of all or substantially all of the assets of the Company;

(ii) Any "Person" as such term is used in Section 13(d) and Section 14(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act") becomes, directly or indirectly, the "beneficial owner" as defined in Rule 13d-3 under the Exchange Act of securities of the Company that represent more than 50% of the combined voting power of the Company's then outstanding voting securities (the "Outstanding Company Voting Securities"); provided, however, that for purposes of this Section 2(f)(ii), the following acquisitions shall not constitute a Change in Control: (I) any acquisition directly from the Company, (II) any acquisition by the Company, (III) any acquisition by any employee benefit plan (or related trust) sponsored or maintained by the Company or any Affiliate, (IV) any acquisition by any corporation pursuant to a transaction that complies with Sections 2(f)(iv)(A) and 2(f)(iv)(B), (V) any acquisition involving beneficial ownership of less than 50% of the then-outstanding Common Shares (the "Outstanding Company Common Shares") or the Outstanding Company Voting Securities that is determined by the Board, based on review of public disclosure by the acquiring Person with respect to its passive investment intent, not to have a purpose or effect of changing or influencing the control of the Company; provided, however, that for purposes of this clause (V), any such acquisition in connection with (x) an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consents or (y) any "Business Combination" (as defined below) shall be presumed to be for the purpose or with the effect of changing or influencing the control of the Company;

(iii) During any period of not more than two (2) consecutive years, individuals who constitute the Board as of the beginning of the period (the "Incumbent Directors") cease for any reason to constitute at least a majority of the Board, provided that any person becoming a director subsequent to the beginning of such period, whose election or nomination for election was approved by a vote of at least two-thirds of the Incumbent Directors then on the Board (either by a specific vote or by approval of the proxy statement of the Company in which such person is named as a nominee for director, without written objection to such nomination) will be an Incumbent Director; provided, however, that no individual initially elected or nominated as a director of the Company as a result of an actual or threatened election contest with respect to directors or as a result of any other actual or threatened solicitation of proxies by or on behalf of any person other than the Board will be deemed to be an Incumbent Director;

(iv) Consummation of a merger, amalgamation or consolidation (a "Business Combination") of the Company with any other corporation, unless, following such Business Combination, (A) all or substantially all of the individuals and entities that were the beneficial owners of the Outstanding Company Common Shares and the Outstanding Company Voting Securities immediately prior to such Business Combination beneficially own, directly or indirectly, more than 50% of the then-outstanding shares of common stock (or, for a non-corporate entity, equivalent securities) and the combined voting power of the then-outstanding voting securities entitled to vote generally in the election of directors (or, for a non-corporate entity, equivalent governing body), as the case may be, of the entity resulting from such Business Combination (including, without limitation, an entity that, as a result of such transaction, owns the Company or all or substantially all of the Company's assets either directly or through one or more subsidiaries) in substantially the same proportions as their ownership immediately prior to such Business Combination of the Outstanding Company Common Shares and the Outstanding Company Voting Securities, as the case may be, and (B) at least a majority of the members of the board of directors (or, for a non-corporate entity, equivalent governing body) of the entity resulting from such Business Combination were Incumbent Directors at the time of the execution of the initial agreement or of the action of the Board providing for such Business Combination;

(v) Shareholder approval of a plan of complete liquidation of the Company.

(g) "*Code*" means the Internal Revenue Code of 1986, as amended, and any successor thereto. Reference in the Plan to any section of the Code shall be deemed to include any regulations or other interpretative guidance under such section, and any amendments or successor provisions to such section, regulations or guidance.

(h) "*Committee*" means a committee of at least two people as the Board may appoint to administer the Plan or, if no such committee has been appointed by the Board, the Board.

(i) "*Common Shares*" means shares of the Company's Class A common stock, par value $0.0001 per share (and any stock or other securities into which such ordinary shares may be converted or into which they may be exchanged).

(j) "*Company*" means DraftKings Inc., a Nevada corporation.

(k) "*Date of Grant*" means the date on which the granting of an Award is authorized, or such other date as may be specified in such authorization.

(l) "*Effective Date*" means the date on which the Plan is approved by the shareholders of the Company.

(m) "*Eligible Director*" means a person who is a "non-employee director" within the meaning of Rule 16b-3 under the Exchange Act.

(n) "*Eligible Person*" with respect to an Award denominated in Common Shares, means any (i) individual employed by the Company or an Affiliate; provided, however, that no such employee covered by a collective bargaining agreement shall be an Eligible Person unless and to the extent that such eligibility is set forth in such collective bargaining agreement which includes rules regarding equity entitlement or in an agreement or instrument relating thereto; (ii) director of the Company or an Affiliate; (iii) consultant or advisor to the Company or an Affiliate; provided that if the Securities Act applies such persons must be eligible to be offered securities registrable on Form S-8 under the Securities Act; or (iv) prospective employees, directors, officers, consultants or advisors who have accepted offers of employment or consultancy from the Company or its Affiliates (and would satisfy the provisions of clauses (i) through (iii) above once he or she begins employment with or begins providing services to the Company or its Affiliates); and with respect to shares of Class B Common Stock issued under the Plan, "*Eligible Person*" means the employees, directors, consultants or advisors who are eligible holders of Class B Common Stock as determined under the Company's Articles of Incorporation as in effect from time to time.

(o) "*Exchange Act*" has the meaning given such term in the definition of "Change in Control," and any reference in the Plan to any section of (or rule promulgated under) the Exchange Act shall be deemed to include any rules, regulations or other interpretative guidance under such section or rule, and any amendments or successor provisions to such section, rules, regulations or guidance.

(p) "*Exercise Price*" has the meaning given such term in Section 7(b) of the Plan.

(q) "*Fair Market Value*" means, as of any date, the value of Common Shares determined as follows:

(i) If the Common Shares are listed on any established stock exchange or a national market system will be the closing sales price for such shares (or the closing bid, if no sales were reported) as quoted on such exchange or system on the day of determination, as reported in *The Wall Street Journal* or such other source as the Committee deems reliable;

(ii) If the Common Shares are regularly quoted by a recognized securities dealer but selling prices are not reported, the Fair Market Value of a Common Share will be the mean between the high bid and low asked prices for the Common Shares on the day of determination, as reported in *The Wall Street Journal* or such other source as the Committee deems reliable; or

(iii) In the absence of an established market for the Common Shares, the Fair Market Value will be determined in good faith by the Committee.

(r) "*Good Reason*" means, if applicable to any Participant in the case of a particular Award, as defined in the Participant's employment agreement or the applicable Award agreement.

(s) "*Immediate Family Members*" shall have the meaning set forth in Section 15(b).

(t) "*Incentive Stock Option*" means an Option that is designated by the Committee as an incentive stock option as described in Section 422 of the Code and otherwise meets the requirements set forth in the Plan.

(u) "*Indemnifiable Person*" shall have the meaning set forth in Section 4(e) of the Plan.

(v) "*Mature Shares*" means Common Shares owned by a Participant that are not subject to any pledge or security interest and that have been either previously acquired by the Participant on the open market or meet such other requirements, if any, as the Committee may determine are necessary in order to avoid an accounting earnings charge on account of the use of such shares to pay the Exercise Price or satisfy a tax or deduction obligation of the Participant.

(w) "*Nonqualified Stock Option*" means an Option that is not designated by the Committee as an Incentive Stock Option.

(x) "*Option*" means an Award granted under Section 7 of the Plan.

(y) "*Option Period*" has the meaning given such term in Section 7(c) of the Plan.

(z) "*Outstanding Company Common Shares*" has the meaning given such term in the definition of "Change in Control."

(aa) "*Outstanding Company Voting Securities*" has the meaning given such term in the definition of "Change in Control."

(bb) "*Participant*" means an Eligible Person who has been selected by the Committee to participate in the Plan and to receive an Award pursuant to Section 6 of the Plan.

(cc) "*Performance Compensation Award*" shall mean any Award designated by the Committee as a Performance Compensation Award pursuant to Section 11 of the Plan.

(dd) "*Performance Criteria*" shall mean the criterion or criteria that the Committee shall select for purposes of establishing the Performance Goal(s) for a Performance Period with respect to any Performance Compensation Award under the Plan.

(ee) "*Performance Formula*" shall mean, for a Performance Period, the one or more formulae applied against the relevant Performance Goal to determine, with regard to the Performance Compensation Award of a particular Participant, whether all, some portion but less than all, or none of the Performance Compensation Award has been earned for the Performance Period.

(ff) "*Performance Goals*" shall mean, for a Performance Period, the one or more goals established by the Committee for the Performance Period based upon the Performance Criteria.

(gg) "*Performance Period*" shall mean the one or more periods of time, as the Committee may select, over which the attainment of one or more Performance Goals will be measured for the purpose of determining a Participant's right to, and the payment of, a Performance Compensation Award.

(hh) "*Permitted Transferee*" shall have the meaning set forth in Section 15(b) of the Plan.

(ii) "*Person*" has the meaning given such term in the definition of "Change in Control."

(jj) "*Plan*" means this DraftKings Inc. 2020 Incentive Award Plan, as amended from time to time.

(kk) "*Qualifying Termination*" means the occurrence of either a termination of a Participant's employment by the Company without Cause or for Good Reason, in either case, occurring on or within the 12-month period (or such other period specified in the applicable Award Agreement) following the consummation of a Change in Control.

(ll) "*Restricted Period*" means the period of time determined by the Committee during which an Award is subject to restrictions or, as applicable, the period of time within which performance is measured for purposes of determining whether an Award has been earned.

(mm) "*Restricted Stock Unit*" means an unfunded and unsecured promise to deliver Common Shares, cash, other securities or other property, subject to certain performance or time-based restrictions (including, without limitation, a requirement that the Participant remain continuously employed or provide continuous services for a specified period of time), granted under Section 9 of the Plan.

(nn) "*Restricted Stock*" means Common Shares, subject to certain specified performance or time-based restrictions (including, without limitation, a requirement that the Participant remain continuously employed or provide continuous services for a specified period of time), granted under Section 9 of the Plan.

(oo) "*Retirement*" means, in the case of a particular Award, the definition set forth in the applicable Award Agreement.

(pp) "*SAR Period*" has the meaning given such term in Section 8(b) of the Plan.

(qq) "*Securities Act*" means the Securities Act of 1933, as amended, and any successor thereto. Reference in the Plan to any section of the Securities Act shall be deemed to include any rules, regulations or other interpretative guidance under such section, and any amendments or successor provisions to such section, rules, regulations or guidance.

(rr) "*Stock Appreciation Right*" or "*SAR*" means an Award granted under Section 8 of the Plan.

(ss) "*Stock Bonus Award*" means an Award granted under Section 10 of the Plan.

(tt) "*Strike Price*" means, except as otherwise provided by the Committee in the case of Substitute Awards, (i) in the case of a SAR granted in tandem with an Option, the Exercise Price of the related Option, or (ii) in the case of a SAR granted independent of an Option, the Fair Market Value on the Date of Grant.

(uu) "*Subsidiary*" means, with respect to any specified Person:

(i) any corporation, association or other business entity of which more than 50% of the total voting power of shares (without regard to the occurrence of any contingency and after giving effect to any voting agreement or shareholders' agreement that effectively transfers voting power) is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person (or a combination thereof); and

(ii) any partnership (or any comparable foreign entity (a) the sole general partner (or functional equivalent thereof) or the managing general partner of which is such Person or Subsidiary of such Person or (b) the only general partners (or functional equivalents thereof) of which are that Person or one or more Subsidiaries of that Person (or any combination thereof).

(vv) "*Substitute Award*" has the meaning given such term in Section 5(e).

3. *Effective Date; Duration*. The Plan shall be effective as of the Effective Date. The expiration date of the Plan, on and after which date no Awards may be granted hereunder, shall be the tenth anniversary of the Effective Date; provided, however, that such expiration shall not affect Awards then outstanding, and the terms and conditions of the Plan shall continue to apply to such Awards.

4. *Administration*. (a) The Committee shall administer the Plan. To the extent required to comply with the provisions of Rule 16b-3 promulgated under the Exchange Act (if the Board is not acting as the Committee under the Plan), it is intended that each member of the Committee shall, at the time he takes any action with respect to an Award under the Plan, be an Eligible Director. However, the fact that a Committee member shall fail to qualify as an Eligible Director shall not invalidate any Award granted by the Committee that is otherwise validly granted under the Plan.

(b) Subject to the provisions of the Plan and applicable law, the Committee shall have the sole and plenary authority, in addition to other express powers and authorizations conferred on the Committee by the Plan, to: (i) designate Participants; (ii) determine the type or types of Awards to be granted to a Participant; (iii) determine the number of Common Shares or shares of Class B Common Stock to be covered by, or with respect to which payments, rights, or other matters are to be calculated in connection with, Awards; (iv) determine the terms and conditions of any Award; (v) determine whether, to what extent, and under what circumstances Awards may be settled or exercised in cash, Common Shares, other securities, other Awards or other property, or canceled, forfeited, or suspended and the method or methods by which Awards may be settled, exercised, canceled, forfeited, or suspended; (vi) determine whether, to what extent, and under what circumstances the delivery of cash, Common Shares, other securities, other Awards or other property and other amounts payable with respect to an Award shall be deferred either automatically or at the election of the Participant or of the Committee; (vii) interpret, administer, reconcile any inconsistency in, correct any defect in and/or supply any omission in the Plan and any instrument or agreement relating to, or Award granted under, the Plan; (viii) establish, amend, suspend, or waive any rules and regulations and appoint such agents as the Committee shall deem appropriate for the proper administration of the Plan; (ix) accelerate the vesting or exercisability of, payment for or lapse of restrictions on, Awards; and (x) make any other determination and take any other action that the Committee deems necessary or desirable for the administration of the Plan.

(c) The Committee may delegate to one or more officers of the Company or any Affiliate the authority to act on behalf of the Committee with respect to any matter, right, obligation, or election that is the responsibility of or that is allocated to the Committee herein, and that may be so delegated as a matter of law, except for grants of Awards to persons subject to Section 16 of the Exchange Act.

(d) Unless otherwise expressly provided in the Plan, all designations, determinations, interpretations, and other decisions under or with respect to the Plan or any Award or any documents evidencing Awards granted pursuant to the Plan shall be within the sole discretion of the Committee, may be made at any time and shall be final, conclusive and binding upon all persons or entities, including, without limitation, the Company, any Affiliate, any Participant, any holder or beneficiary of any Award, and any shareholder of the Company.

(e) No member of the Board, the Committee, delegate of the Committee or any employee or agent of the Company (each such person, an "Indemnifiable Person") shall be liable for any action taken or omitted to be taken or any determination made in good faith with respect to the Plan or any Award hereunder. Each Indemnifiable Person shall be indemnified and held harmless by the Company against and from any loss, cost, liability, or expense (including attorneys' fees) that may be imposed upon or incurred by such Indemnifiable Person in connection with or resulting from any action, suit or proceeding to which such Indemnifiable Person may be a party or in which such Indemnifiable Person may be involved by reason of any action taken or omitted to be taken under the Plan or any Award agreement and against and from any and all amounts paid by such Indemnifiable Person with the Company's approval, in settlement thereof, or paid by such Indemnifiable Person in satisfaction of any judgment in any such action, suit or proceeding against such Indemnifiable Person, provided that the Company shall have the right, at its own expense, to assume and defend any such action, suit or proceeding and once the Company gives notice of its intent to assume the defense, the Company shall have sole control over such defense with counsel of the Company's choice. The foregoing right of indemnification shall not be available to an Indemnifiable Person to the extent that a final judgment or other final adjudication (in either case not subject to further appeal) binding upon such Indemnifiable Person determines that the acts or omissions of such Indemnifiable Person giving rise to the indemnification claim resulted from such Indemnifiable Person's bad faith, fraud or willful criminal act or omission or that such right of indemnification is otherwise prohibited by law or by the Company's Articles of Incorporation or Bylaws. The foregoing right of indemnification shall not be exclusive of any other rights of indemnification to which such Indemnifiable Persons may be entitled under the Company's Articles of Incorporation or Bylaws, as a matter of law, or otherwise, or any other power that the Company may have to indemnify such Indemnifiable Persons or hold them harmless.

(f) Notwithstanding anything to the contrary contained in the Plan, the Board may, in its sole discretion, at any time and from time to time, grant Awards and administer the Plan with respect to such Awards. In any such case, the Board shall have all the authority granted to the Committee under the Plan.

5. *Grant of Awards; Shares Subject to the Plan; Limitations*. (b) The Committee may, from time to time, grant Options, Stock Appreciation Rights, Restricted Stock, Restricted Stock Units, Stock Bonus Awards and/or Performance Compensation Awards to one or more Eligible Persons.

(b) Subject to Section 12 of the Plan, Awards granted under the Plan shall be subject to the following limitations: (i) the Committee is authorized to deliver under the Plan an aggregate of 52,870,000 Common Shares; provided, that total number of Common Shares that will be reserved, and that may be issued, under the Plan will automatically increase on the first trading day of each calendar year, beginning with calendar year 2021, by a number of Common Shares equal to five percent (5%) of the total outstanding Common Shares on the last day of the prior calendar year (subject to a maximum annual increase of 33,000,000 Common Shares), and (ii) the maximum number of Common Shares that may be granted under the Plan during any single fiscal year to any Participant who is a non-employee director, when taken together with any cash fees paid to such non-employee director during such year in respect of his or her service as a non-employee director (including service as a member or chair of any committee of the Board), shall not exceed $750,000 in total value (calculating the value of any such Awards based on the grant date fair value of such Awards for financial reporting purposes); provided that the non-employee directors who are considered independent (under the rules of The NASDAQ Stock Market or other securities exchange on which the Common Shares are traded) may make exceptions to this limit for a non-executive chair of the Board, if any, in which case the non-employee Director receiving such additional compensation may not participate in the decision to award such compensation. Notwithstanding the automatic annual increase set forth in (i) above, the Board may act prior to January 1st of a given year to provide that there will be no such increase in the share reserve for such year or that the increase in the share reserve for such year will be a lesser number of Common Shares than would otherwise occur pursuant to the stipulated percentage.

(c) In the event that (i) any Option or other Award granted hereunder is exercised through the tendering of Common Shares (either actually or by attestation) or by the withholding of Common Shares by the Company, or (ii) tax or deduction liabilities arising from such Option or other Award are satisfied by the tendering of Common Shares (either actually or by attestation) or by the withholding of Common Shares by the Company, then in each such case the Common Shares so tendered or withheld shall be added to the Common Shares available for grant under the Plan on a one-for-one basis. Shares underlying Awards under this Plan that are forfeited, cancelled, expire unexercised, or are settled in cash are available again for Awards under the Plan.

(d) Common Shares delivered by the Company in settlement of Awards may be authorized and unissued shares, shares held in the treasury of the Company, shares purchased on the open market or by private purchase, or a combination of the foregoing.

(e) Awards may, in the sole discretion of the Committee, be granted under the Plan in assumption of, or in substitution for, outstanding awards previously granted by an entity acquired by the Company or with which the Company combines ("Substitute Awards"). The number of Common Shares underlying any Substitute Awards shall not be counted against the aggregate number of Common Shares available for Awards under the Plan.

(f) In addition to the Common Shares that may be delivered pursuant to this Section 5, the Committee is authorized to deliver under the Plan an aggregate of 52,870,000 shares of the Company's Class B common stock, par value $0.0001 per share (and any stock or other securities into which such shares of Class B common stock may be converted or into which they may be exchanged) ("Class B Common Stock") to Eligible Persons; provided, that the total number of shares of Class B Common Stock that will be reserved, and that may be issued, under the Plan will automatically increase on the first trading day of each calendar year, beginning with calendar year 2021, by a number of shares of Class B Common Stock equal to five percent (5%) of the total outstanding shares of Class B Common Stock on the last day of the prior calendar year (subject to a maximum annual increase of 33,000,000 shares of Class B Common Stock). Notwithstanding the automatic annual increase set forth above, the Board may act prior to January 1st of a given year to provide that there will be no such increase in the share reserve for such year or that the increase in the share reserve for such year will be a lesser number of shares of Class B Common Stock than would otherwise occur pursuant to the stipulated percentage. Shares of Class B Common Stock delivered by the Company under the Plan may be authorized and unissued shares, shares held in the treasury of the Company, shares purchased by private purchase, or a combination of the foregoing.

6. *Eligibility*. Participation shall be limited to Eligible Persons who have entered into an Award agreement or who have received written notification from the Committee, or from a person designated by the Committee, that they have been selected to participate in the Plan.

7. *Options*.

(a) *Generally*. Each Option granted under the Plan shall be evidenced by an Award agreement (whether in paper or electronic medium (including email or the posting on a web site maintained by the Company or a third party under contract with the Company)). Each Option so granted shall be subject to the conditions set forth in this Section 7, and to such other conditions not inconsistent with the Plan as may be reflected in the applicable Award agreement. All Options granted under the Plan shall be Nonqualified Stock Options unless the applicable Award agreement expressly states that the Option is intended to be an Incentive Stock Option. The maximum aggregate number of Common Shares that may be issued through the exercise of Incentive Stock Options granted under the Plan is 52,870,000 Common Shares. Incentive Stock Options shall be granted only to Eligible Persons who are employees of the Company and its Affiliates, and no Incentive Stock Option shall be granted to any Eligible Person who is ineligible to receive an Incentive Stock Option under the Code. No Option shall be treated as an Incentive Stock Option unless the Plan has been approved by the shareholders of the Company in a manner intended to comply with the stockholder approval requirements of Section 422(b)(1) of the Code; provided that any Option intended to be an Incentive Stock Option shall not fail to be effective solely on account of a failure to obtain such approval, but rather such Option shall be treated as a Nonqualified Stock Option unless and until such approval is obtained. In the case of an Incentive Stock Option, the terms and conditions of such grant shall be subject to and comply with such rules as may be prescribed by Section 422 of the Code. If for any reason an Option intended to be an Incentive Stock Option (or any portion thereof) shall not qualify as an Incentive Stock Option, then, to the extent of such nonqualification, such Option or portion thereof shall be regarded as a Nonqualified Stock Option appropriately granted under the Plan.

(b) *Exercise Price*. Except with respect to Substitute Awards, the exercise price ("Exercise Price") per Common Share for each Option shall not be less than 100% of the Fair Market Value of such share determined as of the Date of Grant; provided, however, that in the case of an Incentive Stock Option granted to an employee who, at the time of the grant of such Option, owns shares representing more than 10% of the total combined voting power of all classes of shares of the Company or any related corporation (as determined in accordance with Treasury Regulation Section 1.422-2(f)), the Exercise Price per share shall not be less than 110% of the Fair Market Value per share on the Date of Grant and provided further, that, notwithstanding any provision herein to the contrary, the Exercise Price shall not be less than the par value per Common Share.

(c) *Vesting and Expiration*. Options shall vest and become exercisable in such manner and on such date or dates determined by the Committee and shall expire after such period, not to exceed ten years, as may be determined by the Committee (the "Option Period"); provided, however, that the Option Period shall not exceed five years from the Date of Grant in the case of an Incentive Stock Option granted to a Participant who on the Date of Grant owns shares representing more than 10% of the total combined voting power of all classes of shares of the Company or any related corporation (as determined in accordance with Treasury Regulation Section 1.422-2(f)); provided, further, that notwithstanding any vesting dates set by the Committee, the Committee may, in its sole discretion, accelerate the exercisability of any Option, which acceleration shall not affect the terms and conditions of such Option other than with respect to exercisability. Unless otherwise provided by the Committee in an Award agreement: (i) the unvested portion of an Option shall expire upon termination of employment or service of the Participant granted the Option, and the vested portion of such Option shall remain exercisable for (A) two years following termination of employment or service by reason of such Participant's death or disability (as determined by the Committee), but not later than the expiration of the Option Period or (B) 90 days following termination of employment or service for any reason other than such Participant's death or disability, and other than such Participant's termination of employment or service for Cause, but not later than the expiration of the Option Period; and (ii) both the unvested and the vested portion of an Option shall expire upon the termination of the Participant's employment or service by the Company for Cause. If the Option would expire at a time when the exercise of the Option would violate applicable securities laws, the expiration date applicable to the Option will be automatically extended to a date that is thirty (30) calendar days following the date such exercise would no longer violate applicable securities laws (so long as such extension shall not violate Section 409A of the Code); provided, that in no event shall such expiration date be extended beyond the expiration of the Option Period.

(d) *Method of Exercise and Form of Payment*. No Common Shares shall be delivered pursuant to any exercise of an Option until payment in full of the Exercise Price therefor is received by the Company and the Participant has paid to the Company an amount equal to any taxes required to be withheld or paid. Options that have become exercisable may be exercised by delivery of written or electronic notice of exercise to the Company in accordance with the terms of the Option accompanied by payment of the Exercise Price. The Exercise Price shall be payable (i) in cash, check, cash equivalent and/or Common Shares valued at the fair market value at the time the Option is exercised (including, pursuant to procedures approved by the Committee, by means of attestation of ownership of a sufficient number of Common Shares in lieu of actual delivery of such shares to the Company); provided that such Common Shares are not subject to any pledge or other security interest and are Mature Shares and; (ii) by such other method as the Committee may permit in accordance with applicable law, in its sole discretion, including without limitation: (A) in other property having a fair market value on the date of exercise equal to the Exercise Price or (B) if there is a public market for the Common Shares at such time, by means of a broker-assisted "cashless exercise" pursuant to which the Company is delivered a copy of irrevocable instructions to a stockbroker to sell the Common Shares otherwise deliverable upon the exercise of the Option and to deliver promptly to the Company an amount equal to the Exercise Price or (C) by a "net exercise" method whereby the Company withholds from the delivery of the Common Shares for which the Option was exercised that number of Common Shares having a fair market value equal to the aggregate Exercise Price for the Common Shares for which the Option was exercised. No fractional Common Shares shall be issued or delivered pursuant to the Plan or any Award, and the Committee shall determine whether cash, other securities or other property shall be paid or transferred in lieu of any fractional Common Shares, or whether such fractional Common Shares or any rights thereto shall be canceled, terminated or otherwise eliminated.

(e) *Notification upon Disqualifying Disposition of an Incentive Stock Option*. Each Participant awarded an Incentive Stock Option under the Plan shall notify the Company in writing immediately after the date he makes a disqualifying disposition of any Common Shares acquired pursuant to the exercise of such Incentive Stock Option. A disqualifying disposition is any disposition (including, without limitation, any sale) of such Common Shares before the later of (A) two years after the Date of Grant of the Incentive Stock Option or (B) one year after the date of exercise of the Incentive Stock Option. The Company may, if determined by the Committee and in accordance with procedures established by the Committee, retain possession of any Common Shares acquired pursuant to the exercise of an Incentive Stock Option as agent for the applicable Participant until the end of the period described in the preceding sentence.

(f) *Compliance With Laws, etc*. Notwithstanding the foregoing, in no event shall a Participant be permitted to exercise an Option in a manner that the Committee determines would violate the Sarbanes-Oxley Act of 2002, if applicable, or any other applicable law or the applicable rules and regulations of the Securities and Exchange Commission or the applicable rules and regulations of any securities exchange or inter-dealer quotation system on which the securities of the Company are listed or traded.

8. *Stock Appreciation Rights*.

(a) *Generally*. Each SAR granted under the Plan shall be evidenced by an Award agreement (whether in paper or electronic medium (including email or the posting on a web site maintained by the Company or a third party under contract with the Company)). Each SAR so granted shall be subject to the conditions set forth in this Section 8, and to such other conditions not inconsistent with the Plan as may be reflected in the applicable Award agreement. Any Option granted under the Plan may include tandem SARs. The Committee also may award SARs to Eligible Persons independent of any Option.

(b) *Exercise Price*. The Exercise Price per Common Share for each SAR shall not be less than 100% of the Fair Market Value of such share determined as of the Date of Grant.

(c) *Vesting and Expiration*. A SAR granted in connection with an Option shall become exercisable and shall expire according to the same vesting schedule and expiration provisions as the corresponding Option. A SAR granted independent of an Option shall vest and become exercisable and shall expire in such manner and on such date or dates determined by the Committee and shall expire after such period, not to exceed ten years, as may be determined by the Committee (the "SAR Period"); provided, however, that notwithstanding any vesting dates set by the Committee, the Committee may, in its sole discretion, accelerate the exercisability of any SAR, which acceleration shall not affect the terms and conditions of such SAR other than with respect to exercisability. Unless otherwise provided by the Committee in an Award agreement: (i) the unvested portion of a SAR shall expire upon termination of employment or service of the Participant granted the SAR, and the vested portion of such SAR shall remain exercisable for (A) two years following termination of employment or service by reason of such Participant's death or disability (as determined by the Committee), but not later than the expiration of the SAR Period or (B) 90 days following termination of employment or service for any reason other than such Participant's death or disability, and other than such Participant's termination of employment or service for Cause, but not later than the expiration of the SAR Period; and (ii) both the unvested and the vested portion of a SAR shall expire upon the termination of the Participant's employment or service by the Company for Cause. If the SAR would expire at a time when the exercise of the SAR would violate applicable securities laws, the expiration date applicable to the SAR will be automatically extended to a date that is thirty (30) calendar days following the date such exercise would no longer violate applicable securities laws (so long as such extension shall not violate Section 409A of the Code); provided, that in no event shall such expiration date be extended beyond the expiration of the SAR Period.

(d) *Method of Exercise*. SARs that have become exercisable may be exercised by delivery of written or electronic notice of exercise to the Company in accordance with the terms of the Award, specifying the number of SARs to be exercised and the date on which such SARs were awarded. Notwithstanding the foregoing, if on the last day of the Option Period (or in the case of a SAR independent of an option, the SAR Period), the fair market value exceeds the Strike Price, the Participant has not exercised the SAR or the corresponding Option (if applicable), and neither the SAR nor the corresponding Option (if applicable) has expired, such SAR shall be deemed to have been exercised by the Participant on such last day and the Company shall make the appropriate payment therefor.

(e) *Payment*. Upon the exercise of a SAR, the Company shall pay to the Participant an amount equal to the number of shares subject to the SAR that are being exercised multiplied by the excess, if any, of the fair market value of one Common Share on the exercise date over the Strike Price, less an amount equal to any taxes required to be withheld or paid. The Company shall pay such amount in cash, in Common Shares valued at fair market value, or any combination thereof, as determined by the Committee. No fractional Common Shares shall be issued or delivered pursuant to the Plan or any Award, and the Committee shall determine whether cash, other securities or other property shall be paid or transferred in lieu of any fractional Common Shares, or whether such fractional Common Shares or any rights thereto shall be canceled, terminated or otherwise eliminated.

9. *Restricted Stock and Restricted Stock Units*. (c) *Generally*. Each grant of Restricted Stock and Restricted Stock Units shall be evidenced by an Award agreement (whether in paper or electronic medium (including email or the posting on a web site maintained by the Company or a third party under contract with the Company)). Each such grant shall be subject to the conditions set forth in this Section 9, and to such other conditions not inconsistent with the Plan as may be reflected in the applicable Award agreement.

(b) *Restricted Accounts; Escrow or Similar Arrangement*. Upon the grant of Restricted Stock, a book entry in a restricted account shall be established in the Participant's name at the Company's transfer agent and, if the Committee determines that the Restricted Stock shall be held by the Company or in escrow rather than held in such restricted account pending the release of the applicable restrictions, the Committee may require the Participant to additionally execute and deliver to the Company (i) an escrow agreement satisfactory to the Committee, if applicable, and (ii) the appropriate share power (endorsed in blank) with respect to the Restricted Stock covered by such agreement. If a Participant shall fail to execute an agreement evidencing an Award of Restricted Stock and, if applicable, an escrow agreement and blank share power within the amount of time specified by the Committee, the Award shall be null and void. Subject to the restrictions set forth in this Section 9 and the applicable Award agreement, the Participant generally shall have the rights and privileges of a shareholder as to such Restricted Stock, including without limitation the right to vote such Restricted Stock and the right to receive dividends, if applicable. To the extent shares of Restricted Stock are forfeited, any share certificates issued to the Participant evidencing such shares shall be returned to the Company, and all rights of the Participant to such shares and as a shareholder with respect thereto shall terminate without further obligation on the part of the Company.

(c) *Vesting; Acceleration of Lapse of Restrictions*. Unless otherwise provided by the Committee in an Award agreement the unvested portion of Restricted Stock and Restricted Stock Units shall terminate and be forfeited upon termination of employment or service of the Participant granted the applicable Award.

(d) *Delivery of Restricted Stock and Settlement of Restricted Stock Units*. (i) Upon the expiration of the Restricted Period with respect to any shares of Restricted Stock, the restrictions set forth in the applicable Award agreement shall be of no further force or effect with respect to such shares, except as set forth in the applicable Award agreement. If an escrow arrangement is used, upon such expiration, the Company shall deliver to the Participant, or his beneficiary, without charge, the share certificate evidencing the shares of Restricted Stock that have not then been forfeited and with respect to which the Restricted Period has expired (rounded down to the nearest full share). Dividends, if any, that may have been withheld by the Committee and attributable to any particular share of Restricted Stock shall be distributed to the Committee and attributable to any particular share of Restricted Stock shall be distributed to the Participant in cash or, at the sole discretion of the Committee, in Common Shares having a fair market value equal to the amount of such dividends, upon the release of restrictions on such share and, if such share is forfeited, the Participant shall have no right to such dividends (except as otherwise set forth by the Committee in the applicable Award agreement).

(i) Unless otherwise provided by the Committee in an Award agreement, upon the expiration of the Restricted Period with respect to any outstanding Restricted Stock Units, the Company shall deliver to the Participant, or his beneficiary, without charge, one Common Share for each such outstanding Restricted Stock Unit; provided, however, that the Committee may, in its sole discretion, elect to (i) pay cash or part cash and part Common Share in lieu of delivering only Common Shares in respect of such Restricted Stock Units or (ii) defer the delivery of Common Shares (or cash or part Common Shares and part cash, as the case may be) beyond the expiration of the Restricted Period if such delivery would result in a violation of applicable law until such time as is no longer the case. If a cash payment is made in lieu of delivering Common Shares, the amount of such payment shall be equal to the fair market value of the Common Shares as of the date on which the Restricted Period lapsed with respect to such Restricted Stock Units, less an amount equal to any taxes required to be withheld or paid.

10. *Stock Bonus Awards*. The Committee may issue unrestricted Common Shares, shares of Class B Common Stock or other Awards denominated in Common Shares or shares of Class B Common Stock, under the Plan to Eligible Persons, either alone or in tandem with other awards, in such amounts as the Committee shall from time to time in its sole discretion determine. Each Stock Bonus Award granted under the Plan shall be evidenced by an Award agreement (whether in paper or electronic medium (including email or the posting on a web site maintained by the Company or a third party under contract with the Company)). Each Stock Bonus Award so granted shall be subject to such conditions not inconsistent with the Plan as may be reflected in the applicable Award agreement.

11. *Performance Compensation Awards*. (d) Generally. The Committee shall have the authority, at the time of grant of any Award described in Sections 7 through 10 of the Plan, to designate such Award as a Performance Compensation Award. The Committee shall have the authority to make an award of a cash bonus to any Participant and designate such Award as a Performance Compensation Award. Unless otherwise determined by the Committee, all Performance Compensation Awards shall be evidenced by an Award agreement.

(b) *Discretion of Committee with Respect to Performance Compensation Awards*. The Committee shall have the discretion to establish the terms, conditions and restrictions of any Performance Compensation Award. With regard to a particular Performance Period, the Committee shall have sole discretion to select the length of such Performance Period, the type(s) of Performance Compensation Awards to be issued, the Performance Criteria that will be used to establish the Performance Goal (s), the kind(s) and/or level(s) of the Performance Goals(s) that is (are) to apply and the Performance Formula.

(c) *Performance Criteria*. The Committee may establish Performance Criteria that will be used to establish the Performance Goal(s) for Performance Compensation Awards which may be based on the attainment of specific levels of performance of the Company (and/or one or more Affiliates, divisions, business segments or operational units, or any combination of the foregoing) and may include, without limitation, any of the following: (i) net earnings or net income (before or after taxes); (ii) basic or diluted earnings per share (before or after taxes); (iii) revenue or revenue growth (measured on a net or gross basis); (iv) gross profit or gross profit growth; (v) operating profit (before or after taxes); (vi) return measures (including, but not limited to, return on assets, capital, invested capital, equity, or sales); (vii) cash flow (including, but not limited to, operating cash flow, free cash flow, net cash provided by operations and cash flow return on capital); (viii) financing and other capital raising transactions (including, but not limited to, sales of the Company's equity or debt securities); (ix) earnings before or after taxes, interest, depreciation and/or amortization; (x) gross or operating margins; (xi) productivity ratios; (xii) share price (including, but not limited to, growth measures and total shareholder return); (xiii) expense targets; (xiv) margins; (xv) productivity and operating efficiencies; (xvi) customer satisfaction; (xvii) customer growth; (xviii) working capital targets; (xix) measures of economic value added; (xx) inventory control; (xxi) enterprise value; (xxii) sales; (xxiii) debt levels and net debt; (xxiv) combined ratio; (xxv) timely launch of new facilities; (xxvi) client retention; (xxvii) employee retention; (xxviii) timely completion of new product rollouts; (xxix) cost targets; (xxx) reductions and savings; (xxxi) productivity and efficiencies; (xxxii) strategic partnerships or transactions; and (xxxiii) personal targets, goals or completion of projects. Any one or more of the Performance Criteria may be used on an absolute or relative basis to measure the performance of the Company and/or one or more Affiliates as a whole or any business unit(s) of the Company and/or one or more Affiliates or any combination thereof, as the Committee may deem appropriate, or any of the above Performance Criteria may be compared to the performance of a selected group of comparison or peer companies, or a published or special index that the Committee, in its sole discretion, deems appropriate, or as compared to various stock market indices. The Committee also has the authority to provide for accelerated vesting of any Award based on the achievement of Performance Goals pursuant to the Performance Criteria specified in this paragraph. Any Performance Criteria that are financial metrics, may be determined in accordance with United States Generally Accepted Accounting Principles ("GAAP") or may be adjusted when established to include or exclude any items otherwise includable or excludable under GAAP.

(d) *Modification of Performance Goal(s)*. The Committee is authorized at any time to adjust or modify the calculation of a Performance Goal for such Performance Period, based on and in order to appropriately reflect any specified circumstance or event that occurs during a Performance Period, including but not limited to the following: (i) asset write-downs; (ii) litigation or claim judgments or settlements; (iii) the effect of changes in tax laws, accounting principles, or other laws or regulatory rules affecting reported results; (iv) any reorganization and restructuring programs; (v) unusual and/or infrequently occurring items as described in Accounting Principles Board Opinion No. 30 (or any successor pronouncement thereto) and/or in management's discussion and analysis of financial condition and results of operations appearing in the Company's annual report to shareholders for the applicable year; (vi) acquisitions or divestitures; (vii) discontinued operations; (viii) any other specific unusual or infrequently occurring or non-recurring events, or objectively determinable category thereof; (ix) foreign exchange gains and losses; and (x) a change in the Company's fiscal year.

(e) *Terms and Condition to Receipt of Payment*. Unless otherwise provided in the applicable Award agreement, a Participant must be employed by the Company on the last day of a Performance Period to be eligible for payment in respect of a Performance Compensation Award for such Performance Period. A Participant shall be eligible to receive payment in respect of a Performance Compensation Award only to the extent that: (A) the Performance Goals for such period are achieved; and (B) all or some of the portion of such Participant's Performance Compensation Award has been earned for the Performance Period based on the application of the Performance Formula to such achieved Performance Goals. Following the completion of a Performance Period, the Committee shall determine whether, and to what extent, the Performance Goals for the Performance Period have been achieved and, if so, calculate the amount of the Performance Compensation Awards earned for the period based upon the Performance Formula. The Committee shall then determine the amount of each Participant's Performance Compensation Award actually payable for the Performance Period.

(f) *Timing of Award Payments*. Except as provided in an Award agreement, Performance Compensation Awards granted for a Performance Period shall be paid to Participants as soon as administratively practicable following the Committee's determination in accordance with Section 11(e).

12. *Changes in Capital Structure and Similar Events*. In the event of (i) any dividend (other than ordinary cash dividends) or other distribution (whether in the form of cash, Common Shares, other securities or other property), recapitalization, stock split, reverse stock split, reorganization, merger, amalgamation, consolidation, spin-off, split-up, split-off, combination, repurchase or exchange of Common Shares or other securities of the Company, issuance of warrants or other rights to acquire Common Shares or other securities of the Company, or other similar corporate transaction or event (including, without limitation, a Change in Control) that affects the Common Shares (or with respect to Awards of Class B Common Stock, Class B Common Stock), or (ii) unusual or infrequently occurring events (including, without limitation, a Change in Control) affecting the Company, any Affiliate, or the financial statements of the Company or any Affiliate, or changes in applicable rules, rulings, regulations or other requirements of any governmental body or securities exchange or inter-dealer quotation system, accounting principles or law, such that in either case an adjustment is determined by the Committee in its sole discretion to be necessary or appropriate, then the Committee shall make any such adjustments in such manner as it may deem equitable, including without limitation any or all of the following:

(a) adjusting any or all of (A) the number of Common Shares or other securities of the Company (or number and kind of other securities or other property) that may be delivered in respect of Awards or with respect to which Awards may be granted under the Plan (including, without limitation, adjusting any or all of the limitations under Section 5 of the Plan) and (B) the terms of any outstanding Award, including, without limitation, (1) the number of Common Shares or other securities of the Company (or number and kind of other securities or other property) subject to outstanding Awards or to which outstanding Awards relate, (2) the Exercise Price or Strike Price with respect to any Award or (3) any applicable performance measures (including, without limitation, Performance Criteria and Performance Goals);

(b) providing for a substitution or assumption of Awards in a manner that substantially preserves the applicable terms of such Awards;

(c) accelerating the exercisability or vesting of, lapse of restrictions on, or termination of, Awards or providing for a period of time for exercise prior to the occurrence of such event;

(d) modifying the terms of Awards to add events, conditions or circumstances (including termination of employment within a specified period after a Change in Control) upon which the exercisability or vesting of or lapse of restrictions thereon will accelerate;

(e) deeming any performance measures (including, without limitation, Performance Criteria and Performance Goals) satisfied at target, maximum or actual performance through closing or such other level determined by the Committee in its sole discretion, or providing for the performance measures to continue (as is or as adjusted by the Committee) after closing;

(f) providing that for a period prior to the Change in Control determined by the Committee in its sole discretion, any Options or SARs that would not otherwise become exercisable prior to the Change in Control will be exercisable as to all Common Shares subject thereto (but any such exercise will be contingent upon and subject to the occurrence of the Change in Control and if the Change in Control does not take place after giving such notice for any reason whatsoever, the exercise will be null and void) and that any Options or SARs not exercised prior to the consummation of the Change in Control will terminate and be of no further force and effect as of the consummation of the Change in Control; and

(g) canceling any one or more outstanding Awards and causing to be paid to the holders thereof, in cash, Common Shares, other securities or other property, or any combination thereof, the value of such Awards, if any, as determined by the Committee (which if applicable may be based upon the price per Common Share received or to be received by other shareholders of the Company in such event), including without limitation, in the case of an outstanding Option or SAR, a cash payment in an amount equal to the excess, if any, of the fair market value (as of a date specified by the Committee) of the Common Shares subject to such Option or SAR over the aggregate Exercise Price or Strike Price of such Option or SAR, respectively (it being understood that, in such event, any Option or SAR having a per share Exercise Price or Strike Price equal to, or in excess of, the fair market value of a Common Share subject thereto may be canceled and terminated without any payment or consideration therefor); provided, however, that in the case of any "equity restructuring" (within the meaning of the Financial Accounting Standards Board Accounting Standards Codification Topic 718), the Committee shall make an equitable or proportionate adjustment to outstanding Awards to reflect such equity restructuring. The Company shall give each Participant notice of an adjustment hereunder and, upon notice, such adjustment shall be conclusive and binding for all purposes.

13. *Amendments and Termination*.

(a) *Amendment and Termination of the Plan*. The Board may amend, alter, suspend, discontinue, or terminate the Plan or any portion thereof at any time; provided that (i) no amendment to Section 13(b) (to the extent required by the proviso in such Section 13(b)) shall be made without shareholder approval and (ii) no such amendment, alteration, suspension, discontinuation or termination shall be made without shareholder approval if such approval is necessary to comply with any tax or regulatory requirement applicable to the Plan (including, without limitation, as necessary to comply with any rules or requirements of any securities exchange or inter-dealer quotation system on which the Common Shares may be listed or quoted); provided, further, that any such amendment, alteration, suspension, discontinuance or termination that would materially and adversely affect the rights of any Participant or any holder or beneficiary of any Award theretofore granted shall not to that extent be effective without the consent of the affected Participant, holder or beneficiary.

(b) *Amendment of Award Agreements*. The Committee may, to the extent consistent with the terms of any applicable Award agreement, waive any conditions or rights under, amend any terms of, or alter, suspend, discontinue, cancel or terminate, any Award theretofore granted or the associated Award agreement, prospectively or retroactively; provided that any such waiver, amendment, alteration, suspension, discontinuance, cancellation or termination that would materially and adversely affect the rights of any Participant with respect to any Award theretofore granted shall not to that extent be effective without the consent of the affected Participant; provided, further, that without shareholder approval, except as otherwise permitted under Section 12 of the Plan, (i) no amendment or modification may reduce the Exercise Price of any Option or the Strike Price of any SAR, (ii) the Committee may not cancel any outstanding Option or SAR where the Fair Market Value of the Common Shares underlying such Option or SAR is less than its Exercise Price and replace it with a new Option or SAR, another Award or cash and (iii) the Committee may not take any other action that is considered a "repricing" for purposes of the shareholder approval rules of the applicable securities exchange or inter-dealer quotation system on which the Common Shares are listed or quoted.

14. *General*. (e) *Award Agreements*. Each Award under the Plan shall be evidenced by an Award agreement, which shall be delivered to the Participant (whether in paper or electronic medium (including email or the posting on a web site maintained by the Company or a third party under contract with the Company)) and shall specify the terms and conditions of the Award and any rules applicable thereto, including without limitation, the effect on such Award of the death, disability or termination of employment or service of a Participant, or of such other events as may be determined by the Committee.

(b) *Nontransferability*. (i) Each Award shall be exercisable only by a Participant during the Participant's lifetime, or, if permissible under applicable law, by the Participant's legal guardian or representative. No Award may be assigned, alienated, pledged, attached, sold or otherwise transferred or encumbered by a Participant other than by will or by the laws of descent and distribution and any such purported assignment, alienation, pledge, attachment, sale, transfer or encumbrance shall be void and unenforceable against the Company or an Affiliate; provided that the designation of a beneficiary shall not constitute an assignment, alienation, pledge, attachment, sale, transfer or encumbrance.

(ii) Notwithstanding the foregoing, the Committee may, in its sole discretion, permit Awards (other than Incentive Stock Options) to be transferred by a Participant, without consideration, subject to such rules as the Committee may adopt consistent with any applicable Award agreement to preserve the purposes of the Plan, to: (A) any person who is a "family member" of the Participant, as such term is used in the instructions to Form S-8 under the Securities Act (collectively, the "Immediate Family Members"); (B) a trust solely for the benefit of the Participant and his or her Immediate Family Members; (C) a partnership or limited liability company whose only partners or stockholders are the Participant and his or her Immediate Family Members; or (D) any other transferee as may be approved either (I) by the Board or the Committee in its sole discretion, or (II) as provided in the applicable Award agreement. (each transferee described in clauses (A), (B), (C) and (D) above is hereinafter referred to as a "Permitted Transferee"); provided that the Participant gives the Committee advance written notice describing the terms and conditions of the proposed transfer and the Committee notifies the Participant in writing that such a transfer would comply with the requirements of the Plan.

(iii) The terms of any Award transferred in accordance with the immediately preceding sentence shall apply to the Permitted Transferee and any reference in the Plan, or in any applicable Award agreement, to a Participant shall be deemed to refer to the Permitted Transferee, except that (A) Permitted Transferees shall not be entitled to transfer any Award, other than by will or the laws of descent and distribution; (B) Permitted Transferees shall not be entitled to exercise any transferred Option unless there shall be in effect a registration statement on an appropriate form covering the Common Shares to be acquired pursuant to the exercise of such Option if the Committee determines, consistent with any applicable Award agreement, that such a registration statement is necessary or appropriate; (C) the Committee or the Company shall not be required to provide any notice to a Permitted Transferee, whether or not such notice is or would otherwise have been required to be given to the Participant under the Plan or otherwise; and (D) the consequences of the termination of the Participant's employment by, or services to, the Company or an Affiliate under the terms of the Plan and the applicable Award agreement shall continue to be applied with respect to the Participant, including, without limitation, that an Option shall be exercisable by the Permitted Transferee only to the extent, and for the periods, specified in the Plan and the applicable Award agreement.

(c) *Tax Withholding and Deductions*. (ii) A Participant shall be required to pay to the Company or any Affiliate, and the Company or any Affiliate shall have the right and is hereby authorized to deduct and withhold, from any cash, Common Shares, other securities or other property deliverable under any Award or from any compensation or other amounts owing to a Participant, the amount (in cash, Common Shares, other securities or other property) of any required taxes (up to the maximum statutory rate under applicable law as in effect from time to time as determined by the Committee) and deduction in respect of an Award, its grant, vesting or exercise, or any payment or transfer under an Award or under the Plan and to take such other action as may be necessary in the opinion of the Committee or the Company to satisfy all obligations for the payment of such taxes.

(ii) Without limiting the generality of clause (i) above, the Committee may, in its sole discretion, permit a Participant to satisfy, in whole or in part, the foregoing tax and deduction liability by (A) the delivery of Common Shares (which are not subject to any pledge or other security interest and are Mature Shares, except as otherwise determined by the Committee) owned by the Participant having a fair market value equal to such liability or (B) having the Company withhold from the number of Common Shares otherwise issuable or deliverable pursuant to the exercise or settlement of the Award a number of shares with a fair market value equal to such liability.

(d) *No Claim to Awards; No Rights to Continued Employment; Waiver*. No employee of the Company or an Affiliate, or other person, shall have any claim or right to be granted an Award under the Plan or, having been selected for the grant of an Award, to be selected for a grant of any other Award. There is no obligation for uniformity of treatment of Participants or holders or beneficiaries of Awards. The terms and conditions of Awards and the Committee's determinations and interpretations with respect thereto need not be the same with respect to each Participant and may be made selectively among Participants, whether or not such Participants are similarly situated. Neither the Plan nor any action taken hereunder shall be construed as giving any Participant any right to be retained in the employ or service of the Company or an Affiliate, nor shall it be construed as giving any Participant any rights to continued service on the Board. The Company or any of its Affiliates may at any time dismiss a Participant from employment or discontinue any consulting relationship, free from any liability or any claim under the Plan, unless otherwise expressly provided in the Plan or any Award agreement. By accepting an Award under the Plan, a Participant shall thereby be deemed to have waived any claim to continued exercise or vesting of an Award or to damages or severance entitlement related to non-continuation of the Award beyond the period provided under the Plan or any Award agreement, notwithstanding any provision to the contrary in any written employment contract or other agreement between the Company and its Affiliates and the Participant, whether any such agreement is executed before, on or after the Date of Grant.

(e) *International Participants*. With respect to Participants who reside or work outside of the United States of America, the Committee may in its sole discretion amend the terms of the Plan or outstanding Awards with respect to such Participants in order to conform such terms with the requirements of local law or to obtain more favorable tax or other treatment for a Participant, the Company or its Affiliates.

(f) *Designation and Change of Beneficiary*. Each Participant may file with the Committee a written designation of one or more persons as the beneficiary(ies) who shall be entitled to receive the amounts payable with respect to an Award, if any, due under the Plan upon his death. A Participant may, from time to time, revoke or change his beneficiary designation without the consent of any prior beneficiary by filing a new designation with the Committee. The last such designation received by the Committee shall be controlling; provided, however, that no designation, or change or revocation thereof, shall be effective unless received by the Committee prior to the Participant's death, and in no event shall it be effective as of a date prior to such receipt. If no beneficiary designation is filed by a Participant, the beneficiary shall be deemed to be his or her spouse or, if the Participant is unmarried at the time of death, his or her estate.

(g) *Termination of Employment/Service*. Unless determined otherwise by the Committee at any point following such event: (i) neither a temporary absence from employment or service due to illness, vacation or leave of absence nor a transfer from employment or service with the Company to employment or service with an Affiliate (or vice-versa) shall be considered a termination of employment or service with the Company or an Affiliate; and (ii) if a Participant's employment with the Company and its Affiliates terminates, but such Participant continues to provide services to the Company and its Affiliates in a non-employee capacity (or vice-versa), such change in status shall not be considered a termination of employment with the Company or an Affiliate.

(h) *No Rights as a Stockholder*. Except as otherwise specifically provided in the Plan or any Award agreement, no person shall be entitled to the privileges of ownership in respect of Common Shares or other securities that are subject to Awards hereunder until such shares have been issued or delivered to that person.

(i) *Government and Other Regulations*. (iii) The obligation of the Company to settle Awards in Common Shares or other consideration shall be subject to all applicable laws, rules, and regulations, and to such approvals by governmental agencies as may be required. Notwithstanding any terms or conditions of any Award to the contrary, the Company shall be under no obligation to offer to sell or to sell, and shall be prohibited from offering to sell or selling, any Common Shares or other securities pursuant to an Award unless such shares have been properly registered for sale pursuant to the Securities Act with the Securities and Exchange Commission or unless the Company has received an opinion of counsel, satisfactory to the Company, that such shares may be offered or sold without such registration pursuant to an available exemption therefrom and the terms and conditions of such exemption have been fully complied with. The Company shall be under no obligation to register for sale under the Securities Act any of the Common Shares or other securities to be offered or sold under the Plan. The Committee shall have the authority to provide that all certificates for Common Shares or other securities of the Company or any Affiliate delivered under the Plan shall be subject to such stop transfer orders and other restrictions as the Committee may deem advisable under the Plan, the applicable Award agreement, the federal securities laws, or the rules, regulations and other requirements of the Securities and Exchange Commission, any securities exchange or inter-dealer quotation system upon which such shares or other securities are then listed or quoted and any other applicable federal, state, local or non-U.S. laws, and, without limiting the generality of Section 9 of the Plan, the Committee may cause a legend or legends to be put on any such certificates to make appropriate reference to such restrictions. Notwithstanding any provision in the Plan to the contrary, the Committee reserves the right to add any additional terms or provisions to any Award granted under the Plan that it in its sole discretion deems necessary or advisable in order that such Award complies with the legal requirements of any governmental entity to whose jurisdiction the Award is subject.

(ii) The Committee may cancel an Award or any portion thereof if it determines, in its sole discretion, that legal or contractual restrictions and/or blockage and/or other market considerations would make the Company's acquisition of Common Shares from the public markets, the Company's issuance of Common Shares or other securities to the Participant, the Participant's acquisition of Common Shares or other securities from the Company and/or the Participant's sale of Common Shares to the public markets, illegal, impracticable or inadvisable. If the Committee determines to cancel all or any portion of an Award denominated in Common Shares in accordance with the foregoing, the Company shall pay to the Participant an amount equal to the excess of (A) the aggregate fair market value of the Common Shares subject to such Award or portion thereof canceled (determined as of the applicable exercise date, or the date that the shares would have been vested or delivered, as applicable), over (B) the aggregate Exercise Price or Strike Price (in the case of an Option or SAR, respectively) or any amount payable as a condition of delivery of Common Shares (in the case of any other Award). Such amount shall be delivered to the Participant as soon as practicable following the cancellation of such Award or portion thereof.

(j) *Payments to Persons Other Than Participants*. If the Committee shall find that any person to whom any amount is payable under the Plan is unable to care for his affairs because of illness or accident, or is a minor, or has died, then any payment due to such person or his estate (unless a prior claim therefor has been made by a duly appointed legal representative) may, if the Committee so directs the Company, be paid to his spouse, child, relative, an institution maintaining or having custody of such person, or any other person deemed by the Committee to be a proper recipient on behalf of such person otherwise entitled to payment. Any such payment shall be a complete discharge of the liability of the Committee and the Company therefor.

(k) *Nonexclusivity of the Plan*. Neither the adoption of this Plan by the Board nor the submission of this Plan to the shareholders of the Company for approval shall be construed as creating any limitations on the power of the Board to adopt such other incentive arrangements as it may deem desirable, including, without limitation, the granting of stock options or other equity-based awards otherwise than under this Plan, and such arrangements may be either applicable generally or only in specific cases.

(l) *No Trust or Fund Created*. Neither the Plan nor any Award shall create or be construed to create a trust or separate fund of any kind or a fiduciary relationship between the Company or any Affiliate, on the one hand, and a Participant or other person or entity, on the other hand. No provision of the Plan or any Award shall require the Company, for the purpose of satisfying any obligations under the Plan, to purchase assets or place any assets in a trust or other entity to which contributions are made or otherwise to segregate any assets, nor shall the Company maintain separate bank accounts, books, records or other evidence of the existence of a segregated or separately maintained or administered fund for such purposes. Participants shall have no rights under the Plan other than as unsecured general creditors of the Company, except that insofar as they may have become entitled to payment of additional compensation by performance of services, they shall have the same rights as other employees under general law.

(m) *Reliance on Reports*. Each member of the Committee and each member of the Board shall be fully justified in acting or failing to act, as the case may be, and shall not be liable for having so acted or failed to act in good faith, in reliance upon any report made by the independent public accountant of the Company and its Affiliates and/or any other information furnished in connection with the Plan by any agent of the Company or the Committee or the Board, other than himself.

(n) *Relationship to Other Benefits*. No payment under the Plan shall be taken into account in determining any benefits under any pension, retirement, profit sharing, group insurance or other benefit plan of the Company except as otherwise specifically provided in such other plan.

(o) *Governing Law*. The Plan shall be governed by and construed in accordance with the internal laws of the State of Nevada applicable to contracts made and performed wholly within the State of Nevada, without giving effect to the conflict of laws provisions thereof.

(p) *Severability*. If any provision of the Plan or any Award or Award agreement is or becomes or is deemed to be invalid, illegal, or unenforceable in any jurisdiction or as to any person or entity or Award, or would disqualify the Plan or any Award under any law deemed applicable by the Committee, such provision shall be construed or deemed amended to conform to the applicable laws, or if it cannot be construed or deemed amended without, in the determination of the Committee, materially altering the intent of the Plan or the Award, such provision shall be construed or deemed stricken as to such jurisdiction, person or entity or Award and the remainder of the Plan and any such Award shall remain in full force and effect.

(q) *Obligations Binding on Successors*. The obligations of the Company under the Plan shall be binding upon any successor corporation or organization resulting from the merger, amalgamation, consolidation or other reorganization of the Company, or upon any successor corporation or organization succeeding to substantially all of the assets and business of the Company.

(r) *Code Section 409A*.

(i) Notwithstanding any provision of this Plan to the contrary, all Awards made under this Plan are intended to be exempt from or, in the alternative, comply with Code Section 409A and the interpretive guidance thereunder, including the exceptions for stock rights and short-term deferrals. The Plan shall be construed and interpreted in accordance with such intent. Each payment under an Award shall be treated as a separate payment for purposes of Code Section 409A.

(ii) If a Participant is a "specified employee" (as such term is defined for purposes of Code Section 409A) at the time of his or her termination of service, no amount that is nonqualified deferred compensation subject to Code Section 409A and that becomes payable by reason of such termination of service shall be paid to the Participant (or in the event of the Participant's death, the Participant's representative or estate) before the earlier of (x) the first business day after the date that is six months following the date of the Participant's termination of service, and (y) within 30 days following the date of the Participant's death. For purposes of Code Section 409A, a termination of service shall be deemed to occur only if it is a "separation from service" within the meaning of Code Section 409A, and references in the Plan and any Award agreement to "termination of service" or similar terms shall mean a "separation from service." If any Award is or becomes subject to Code Section 409A, unless the applicable Award agreement provides otherwise, such Award shall be payable upon the Participant's "separation from service" within the meaning of Code Section 409A. If any Award is or becomes subject to Code Section 409A and if payment of such Award would be accelerated or otherwise triggered under a Change in Control, then the definition of Change in Control shall be deemed modified, only to the extent necessary to avoid the imposition of an excise tax under Code Section 409A, to mean a "change in control event" as such term is defined for purposes of Code Section 409A.

(iii) Any adjustments made pursuant to Section 12 to Awards that are subject to Code Section 409A shall be made in compliance with the requirements of Code Section 409A, and any adjustments made pursuant to Section 12 to Awards that are not subject to Code Section 409A shall be made in such a manner as to ensure that after such adjustment, the Awards either (x) continue not to be subject to Code Section 409A or (y) comply with the requirements of Code Section 409A.

(s) *Expenses; Gender; Titles and Headings*. The expenses of administering the Plan shall be borne by the Company and its Affiliates. Masculine pronouns and other words of masculine gender shall refer to both men and women. The titles and headings of the sections in the Plan are for convenience of reference only, and in the event of any conflict, the text of the Plan, rather than such titles or headings shall control.

(t) *Other Agreements*. Notwithstanding the above, the Committee may require, as a condition to the grant of and/or the receipt of Common Shares or other securities under an Award, that the Participant execute lock-up, shareholder or other agreements, as it may determine in its sole and absolute discretion.

(u) *Payments*. Participants shall be required to pay, to the extent required by applicable law, any amounts required to receive Common Shares or other securities under any Award made under the Plan.

(v) *Erroneously Awarded Compensation*. All Awards shall be subject (including on a retroactive basis) to (i) any clawback, forfeiture or similar incentive compensation recoupment policy established from time to time by the Company, including, without limitation, any such policy established to comply with the Dodd-Frank Wall Street Reform and Consumer Protection Act, (ii) applicable law (including, without limitation, Section 304 of the Sarbanes-Oxley Act and Section 954 of the Dodd-Frank Wall Street Reform and Consumer Protection Act), and/or (iii) the rules and regulations of the applicable securities exchange or inter-dealer quotation system on which the Common Shares or other securities are listed or quoted, and such requirements shall be deemed incorporated by reference into all outstanding Award agreements.

* * *

Exhibit 10.2

EXECUTIVE EMPLOYMENT AGREEMENT

This Executive Employment Agreement ("Agreement") is made and effective as of this 23rd day of April 2020 (the "Effective Date") by and between DraftKings Inc., a Nevada corporation ("Company"), and Matthew Kalish ("Executive").

W I T N E S S E T H

WHEREAS, Executive was President of DraftKings North America of DraftKings Inc., a Delaware corporation ("Former DK"), prior to the closing (the "Closing") of the transactions contemplated by the Business Combination Agreement, dated as of December 22, 2019, as amended by Amendment No. 1 thereto, dated as of April 7, 2020, among the Company, Diamond Eagle Acquisition Corp., SBTech (Global) Limited and certain other parties thereto, following which Former DK became a wholly owned subsidiary of the Company;

WHEREAS, the Company desires to continue to employ the Executive as President of DraftKings North America of the Company following the Closing; and

WHEREAS, the Company and the Executive desire to enter into this Agreement to set forth the terms of the Executive's employment with the Company.

NOW, THEREFORE, in consideration of the foregoing, of the mutual promises contained herein and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. POSITION AND DUTIES.

(a) **GENERAL.** Commencing on the Effective Date, Executive shall continue to serve as the Company's President of DraftKings North America and shall report directly to the Chief Executive Officer of the Company (the "CEO"). In this position, Executive shall have such duties, authorities and responsibilities as are customary for an employee in such position, and such other duties, authorities and responsibilities as may reasonably be assigned to the Executive from time to time by the CEO. The Executive's principal place of employment with the Company shall be at the Company's headquarters located in Boston, Massachusetts or such other place as approved by the CEO.

(b) **OTHER ACTIVITIES.** For so long as Executive remains in the employ of the Company (the "Employment Term"), the Executive shall devote substantially all of the Executive's business time, energy, knowledge and skill to the performance of the Executive's duties with the Company, provided that the foregoing shall not prevent the Executive from engaging in any non-Company activity of any kind so long as such activity, together with any other non-Company activity, does not pose a conflict of interest or materially interfere with Executive's performance of his duties under this Agreement, as determined in the reasonable good faith discretion of the CEO.

2. ANNUAL BASE SALARY. During the Employment Term, the Company agrees to pay the Executive an annual base salary at an annual rate of $425,000 payable subject to standard federal and state payroll withholding requirements in accordance with the regular payroll practices of the Company. The Executive's annual base salary shall be subject to annual review by the Company's Board of Directors ("Board") (or a committee thereof), and may be increased (but not decreased) from time to time as determined by the Board (or a committee thereof). The annual base salary as may be increased from time to time shall constitute "Annual Base Salary" for purposes of this Agreement.

3. INCENTIVE COMPENSATION.

(a) Annual Cash Incentive. During the Employment Term, Executive shall be eligible for a minimum annual target cash incentive opportunity of 125% of Annual Base Salary (as may be increased from time to time, the "Target Annual Cash Incentive"), provided Executive shall have the opportunity to earn a greater annual cash incentive for performance above target and, if the annual cash incentive opportunity for performance above target is subject to a maximum, such maximum shall be equal to an amount that is at least equal to 200% of the Target Annual Cash Incentive. The Executive's Target Annual Cash Incentive shall be subject to annual review by the Board (or a committee thereof), and may be increased (but not decreased) from time to time as determined by the Board (or a committee thereof). The Board (or a committee thereof) shall set reasonable and appropriate Company and/or individual performance goals for each annual cash incentive opportunity, in consultation with the CEO, by no later than (i) June 30 for the 2020 performance year, and (ii) March 31 for each performance year thereafter. The earned annual cash incentive (the "Annual Cash Incentive") for any given fiscal year will be determined based on overall Company performance and/or Executive's individual performance (as applicable), as determined in the sole discretion of the Board (or a committee thereof) and provided Executive remains employed by the Company through the applicable performance period. Any such Annual Cash Incentive shall be paid to Executive at the same time that annual cash incentives are paid to other senior executives of the Company, provided, in any event, any such Annual Cash Incentive shall be paid by no later than March 15th of the year following the applicable performance year.

(b) Annual Equity Incentive. During the Employment Term, the Company shall grant Executive an annual equity incentive award within the first three (3) months of each fiscal year (or the first seven (7) months for fiscal year 2020) of the Company with a minimum aggregate target value of $3,500,000 for each such award (as may be increased from time to time, the "Annual Equity Incentive Award"), with the valuation methodology for such awards to be determined by the Board (or a committee thereof) in the reasonable good faith exercise of its discretion. The Executive's Annual Equity Incentive Award shall be subject to annual review by the Board (or a committee thereof), and may be increased (but not decreased) from time to time as determined by the Board (or a committee thereof). The Annual Equity Incentive Awards will be comprised of a mix of fifty percent (50%) of the minimum aggregate target value granted as restricted stock units, with time-based vesting conditions that are not less favorable than vesting in equal quarterly installments over four years, and fifty percent (50%) of the minimum aggregate target value granted as performance stock units ("PSUs"), provided Executive shall have the opportunity to earn a greater amount of PSUs for performance above target and, if the performance-based vesting for such PSUs for performance above target is subject to a maximum, such maximum shall be equal to an amount that is at least equal to 300% of one half (1/2) of the minimum aggregate target value. The performance/vesting period for such PSUs shall be between two (2) and three (3) years, as determined by the Board (or a committee thereof) in the reasonable good faith exercise of its discretion. The Board (or a committee thereof) shall set reasonable and appropriate Company and/or individual performance goals for each annual PSU grant, in consultation with the Chief Executive Officer, by no later than (i) July 31st for the 2020 performance year, and (ii) March 31 for each performance year thereafter. The earned PSUs for any given fiscal year will be determined based on overall Company performance and/or Executive's individual performance (as applicable), as determined in the sole discretion of the Board (or a committee thereof) and provided Executive remains employed by the Company through the applicable performance period.

4. EXECUTIVE BENEFITS.

(a) **BENEFIT PLANS.** During the Employment Term, the Executive shall be entitled to participate in any employee and/or executive benefit plan that the Company has adopted or may adopt, maintain or contribute to for the benefit of its employees and/or executives generally, currently including, without limitation, health and dental insurance coverage, long-term and short-term disability insurance coverage and group life insurance coverage, subject, in all events to satisfying the applicable eligibility requirements, and except to the extent such plans are duplicative of the benefits otherwise provided hereunder. The Executive's participation will be subject to the terms of the applicable plan documents and generally applicable Company policies. Notwithstanding the foregoing, the Company may modify or terminate any employee and/or executive benefit plan at any time.

(b) **VACATION TIME.** During the Employment Term, the Executive shall be entitled to paid vacation in accordance with the Company's policy applicable to its executives as in effect from time to time.

(c) **BUSINESS EXPENSES.** Upon presentation of such reasonable substantiation and documentation as the Company reasonably may specify from time to time, the Executive shall be reimbursed for all reasonable out-of-pocket business expenses incurred and paid by the Executive during the Employment Term in connection with the performance of the Executive's duties hereunder.

5. TERMINATION. The Executive's employment under this Agreement and the Employment Term shall terminate on the first of the following to occur:

(a) **DISABILITY.** Thirty (30) days after written notice by the Company to the Executive of a termination due to Disability. For purposes of this Agreement, "Disability" shall be defined as the inability of the Executive to perform the Executive's material duties hereunder with a reasonable accommodation due to a physical or mental injury, infirmity or incapacity for one hundred and twenty (120) days (including weekends and holidays) in any three hundred sixty-five (365) day period; provided such disability also qualifies as a "disability" as defined in Treasury Regulation Section 1.409A-3(i)(4)(i). The Executive shall reasonably cooperate with the Company if a question arises as to whether the Executive has become disabled.

(b) **DEATH.** Automatically upon the date of death of the Executive.

(c) **CAUSE.** Thirty (30) days after written notice by the Company to the Executive of a termination for Cause if the Executive shall have failed to cure or remedy such matter, if curable, within such thirty (30) day period. In the event that the basis for Cause is not curable, then such thirty (30) day cure period shall not be required, and such termination shall be effective on the date the Company delivers notice of such termination for Cause. "Cause" shall mean the Company's termination of the Executive's employment with the Company or any of its subsidiaries as a result of: (i) fraud, embezzlement or any willful act of material dishonesty by the Executive in connection with or relating to the Executive's employment with the Company or any of its subsidiaries; (ii) theft or misappropriation of property, information or other assets by the Executive in connection with the Executive's employment with the Company or any of its subsidiaries which results in or could reasonably be expected to result in material loss, damage or injury to the Company and its subsidiaries, their goodwill, business or reputation; (iii) the Executive's conviction, guilty plea, no contest plea, or similar plea for any felony or any crime that results in or could reasonably be expected to result in material loss, damage or injury to the Company and its subsidiaries, their goodwill, business or reputation; (iv) the Executive's use of alcohol or drugs while working that materially interferes with the ability of Executive to perform the Executive's material duties hereunder; (v) the Executive's material breach of a material Company policy, or material breach of a Company policy that results in or could reasonably be expected to result in material loss, damage or injury to the Company and its subsidiaries, their goodwill, business or reputation; (vi) the Executive's material breach of any of his obligations under this Agreement; or (vii) the Executive's repeated insubordination, or refusal (other than as a result of a Disability or physical or mental illness) to carry out or follow specific reasonable and lawful instructions, duties or assignments given by the CEO which are consistent with Executive's position with the Company; provided, that, for clauses (i) – (vii) above, the Company delivers written notice to Executive of the condition giving rise to Cause within ninety (90) days after the Company becomes aware of its initial occurrence. For avoidance of doubt, the Executive being deemed an Unsuitable Person, as defined in that certain Amended and Restated Articles of Incorporation of the Company as in effect on the Effective Date (an "Unsuitable Person"), shall not independently constitute Cause (but any circumstances giving rise to the Executive being deemed an Unsuitable Person shall constitute Cause to the extent such circumstances are grounds provided in clauses (i) – (vii) above).

(d) **WITHOUT CAUSE.** The date of termination set forth in any written notice by the Company to the Executive of an involuntary termination without Cause (other than death or Disability).

(e) **GOOD REASON.** Thirty (30) days after written notice by the Executive to the Company of an alleged condition giving rise to a resignation for Good Reason if the Company shall have failed to cure or remedy such matter, if curable, within such thirty (30) day period. In the event that the basis for Good Reason is not curable, then such thirty (30) day cure period shall not be required, and such resignation shall be effective on the date the Executive delivers such notice. "Good Reason" shall mean the occurrence of any of the following events, without the express written consent of the Executive: (i) the Company's material breach of any of its obligations under this Agreement; (ii) any material adverse change in the Executive's duties or authority or responsibilities, or the assignment of duties or responsibilities to the Executive materially inconsistent with his position; (iii) the Executive no longer serving as the President of DraftKings North America of the Company; (iv) reduction in the Executive's Annual Base Salary, Target Annual Cash Incentive or Annual Equity Incentive Award (other than across-the-board reductions affecting similarly situated senior executives of the Company or any of its subsidiaries); (v) the Company requires Executive to relocate to a facility or location that increases Executive's one-way commute by more than thirty-five (35) miles from the location at which Executive was working immediately prior to the required relocation; or (vi) the failure of a successor to the Company to assume the Company's obligations under this Agreement; provided, that, for clauses (i) – (vi) above, Executive has given written notice to the Company of the condition giving rise to Good Reason within ninety (90) days after Executive becomes aware of its initial occurrence.

(f) **WITHOUT GOOD REASON.** Thirty (30) days after written notice by the Executive to the Company of the Executive's voluntary termination of employment without Good Reason (which the Company may, in its sole discretion, make effective earlier).

6. CONSEQUENCES OF TERMINATION.

(a) **DEATH OR DISABILITY.** In the event that the Executive's employment ends on account of the Executive's death or Disability, the Executive or the Executive's estate, as the case may be, shall be entitled to the following (with the amounts due under Sections 6(a)(i) through 6(a)(iii) hereof to be paid within thirty (30) days following termination of employment, or such earlier date as may be required by applicable law):

(i) any unpaid Annual Base Salary earned through the date of termination;

(ii) reimbursement for any unreimbursed business expenses incurred through the date of termination;

(iii) all other accrued and vested payments, benefits or fringe benefits required to be paid or provided to the Executive under the applicable plans or by law, including without limitation, payment for all accrued vacation (collectively, Sections 6(a)(i) through 6(a)(iii) hereof shall be hereafter referred to as the "Accrued Benefits"); and

(iv) provided Executive is in full compliance with his obligations under Exhibits A and B attached hereto and Executive or the Executive's estate, as the case may be, executes, returns to the Company and does not revoke the release and waiver of claims in the form attached hereto as Exhibit C (with such changes as may be required in order to reflect or comply with applicable laws at such time, as determined by the Company in its reasonable judgment, the "Release and Waiver") and the Release and Waiver becomes effective pursuant to its terms and conditions, all within sixty (60) days following termination of employment, then the Company shall also provide Executive or the Executive's estate, as the case may be, with the following:

A. Full vesting of all outstanding unvested equity-based awards, including the portions of Annual Equity Incentive Awards, that are solely subject to time-based vesting on the date of such termination, and Executive or the Executive's estate, as the case may be, shall have twelve (12) months after termination of employment to exercise all stock options that were vested at the time of such termination of employment and all stock options that vest pursuant to this Section 6(a)(iv)(A) in connection with such termination (provided such stock options shall remain subject to the maximum original term and expiration of such stock options).

B. Vesting of the portions of all outstanding unvested Annual Equity Incentive Awards that are solely subject to performance-based vesting on the date of such termination, with such vesting determined based on actual performance against the applicable performance goals established for the applicable awards, as determined at the time and in the manner applicable to such awards pursuant to the applicable stock plans and award agreements, with such awards remaining outstanding through the date such vesting is determined. Notwithstanding the foregoing, if any such awards are in the form of stock options, such stock options shall remain outstanding until such time as Executive or the Executive's estate, as the case may be, shall have twelve (12) months after the later of Executive's termination of employment, or the vesting of the applicable stock options, to exercise such stock options that were vested at the time of such termination of employment and such stock options that vest pursuant to this Section 6(a)(iv)(B) in connection with such termination (provided such stock options shall remain subject to the maximum original term and expiration of such stock options).

C. Vesting of all outstanding unvested equity-based awards that are solely subject to performance-based vesting on the date of such termination other than Annual Equity Incentive Awards (typically referred to by the Company as "LTIPs"), with such vesting determined based on actual performance against the applicable performance goals established for the applicable awards through the date that is two (2) years following Executive's termination of employment, subject to the maximum original term and expiration of the applicable award (the "Performance Vesting End Date"), as determined at the time and in the manner applicable to such awards pursuant to the applicable stock plans and award agreements, with such awards remaining outstanding through the date such vesting is determined, not to exceed the Performance Vesting End Date; provided, if the Performance Vesting End Date falls in the middle of a performance/vesting period applicable to an award, the total shares that shall vest in relation to such performance period shall be pro-rated based on the number of days between the first day of the performance/vesting period and the Performance Vesting End Date. Notwithstanding the foregoing, if any such awards are in the form of stock options, such stock options shall remain outstanding until such time as Executive or the Executive's estate, as the case may be, shall have twelve (12) months after the later of Executive's termination of employment, or the vesting of the applicable stock options, to exercise such stock options that were vested at the time of such termination of employment and such stock options that vest pursuant to this Section 6(a)(iv)(C) in connection with such termination (provided such stock options shall remain subject to the maximum original term and expiration of such stock options).

(b) **TERMINATION FOR CAUSE OR WITHOUT GOOD REASON.** If the Executive's employment is terminated (i) by the Company for Cause, or (ii) by the Executive without Good Reason, the Company shall pay to the Executive the Accrued Benefits, at such times as set forth in Section 6(a) above.

(c) **TERMINATION WITHOUT CAUSE OR FOR GOOD REASON.** If the Executive's employment by the Company is terminated (x) by the Company without Cause, or (y) by the Executive for Good Reason (each, a "Qualifying Termination"), then the Company will provide Executive with the Accrued Benefits at such times as set forth in Section 6(a) above and, provided Executive is in full compliance with his obligations under Exhibits A and B attached hereto and Executive executes, returns to the Company and does not revoke the Release and Waiver and the Release and Waiver becomes effective pursuant to its terms and conditions, all within sixty (60) days following termination of employment, then the Company shall also pay or provide the Executive with the following:

(i) *Termination in Connection with Change in Control*. In the event of a Qualifying Termination within eighteen (18) months after a Change in Control (as defined below), or within three (3) months before a Change in Control, the Company shall provide Executive:

A. Cash severance in an amount equal to two times the sum of (x) Annual Base Salary *plus* (y) Target Annual Cash Incentive, less all applicable withholdings and deductions, payable on the first regular payroll date of the Company that is sixty (60) days following the date of Executive's termination.

B. Continued participation through COBRA coverage or such other method determined by the Company (all costs, expenses and premiums to be paid by Company) on the same basis as the employee and/or executive benefit plans contemplated by Section 4(a) hereof in which the Executive is participating on the date of such termination of employment for 24 months following the month in which coverage would otherwise be lost as an employee of the Company; provided that the Executive is eligible and remains eligible for coverage under such plans by timely electing COBRA continuation, if applicable; and provided, further, that in the event that the Executive obtains other employment that offers Executive health benefits such that Executive is not eligible for COBRA continuation rights, such continuation of coverage by the Company under this Section (6)(c)(i)(B) shall immediately cease (such 24 month or shorter period, the "COBRA Payment Period"). Notwithstanding the foregoing, if at any time the Company determines that its payment of COBRA premiums on Executive's behalf or other method of continued participation would result in a violation of applicable law (including but not limited to the 2010 Patient Protection and Affordable Care Act, as amended by the 2010 Health Care and Education Reconciliation Act), then in lieu of paying COBRA premiums or providing such other method of continued participation pursuant to this Section, the Company shall pay Executive on the last day of each remaining month of the COBRA Payment Period, a fully taxable cash payment equal to the COBRA premium or such other payment for such month, subject to applicable tax withholding (such amount, the "Special Severance Payment"), such Special Severance Payment to be made without regard to Executive's payment of COBRA premiums and without regard to the expiration of the COBRA period prior to the end of the COBRA Payment Period. Nothing in this Agreement shall deprive Executive of his rights under COBRA or ERISA for benefits under plans and policies arising under his employment by the Company.

C. Full vesting of all outstanding unvested equity-based awards (including Annual Equity Incentive Awards) on the date of such termination or, if later, the consummation of the Change in Control, with any performance-based vesting conditions for performance periods that are not completed as of the date of termination deemed satisfied at the target level.

(ii) *Termination Not in Connection with Change in Control*. In the event of a Qualifying Termination that is not within eighteen (18) months after a Change in Control, and not within three (3) months before a Change in Control, the Company shall provide Executive:

A. Cash severance in an amount equal to two times the Executive's Annual Base Salary, less all applicable withholdings and deductions, payable on the first regular payroll date of the Company that is sixty (60) days following the date of Executive's termination.

B. An additional cash severance amount in an amount equal to the Annual Cash Incentive to which Executive would be entitled for the year of termination if Executive were employed by the Company on the last day of such year, based on actual performance against the applicable performance goals established for such bonus, pro-rated based on the number of days Executive was employed by the Company during such year, less all applicable withholdings and deductions, payable at the same time as bonuses are paid to active employees but no later than March 15 of the year after the year of termination.

C. Continued participation through COBRA coverage or such other method determined by the Company (all costs, expenses and premiums to be paid by Company) on the terms and conditions set forth in Section 6(c)(i)(B).

D. Pro rata vesting of all outstanding unvested equity-based awards (including the portions of Annual Equity Incentive Awards) that are solely subject to time-based vesting on the date of such termination based on the number of days Executive was employed by the Company during the vesting period during which the termination occurs.

E. Pro rata vesting of all outstanding unvested equity-based awards (including the portions of Annual Equity Incentive Awards) that are subject to performance-based vesting on the date of such termination, with such vesting determined based on actual performance against the applicable performance goals established for the applicable awards, as determined at the time and in the manner applicable to such awards pursuant to the applicable stock plans and award agreements, with such awards remaining outstanding through the date such vesting is determined, and pro-rated based on the number of days Executive was employed by the Company during the applicable performance/vesting periods.

(iii) "Change in Control" for purposes of this Section 6 will have the meaning set forth in the DraftKings Inc. 2020 Incentive Award Plan (or its successor as in effect at the time of a Qualifying Termination). For the avoidance of doubt, the Closing shall not constitute a Change in Control.

7. RETURN OF COMPANY PROPERTY. Within ten (10) days after Executive's termination of employment with the Company for any reason, the Executive shall return all property belonging to the Company or its affiliates (including, but not limited to, any Company-provided laptops, computers, cell phones, wireless electronic mail devices and other equipment, documents and property belonging to the Company).

8. REPRESENTATIONS AND WARRANTIES.

(a) **AUTHORIZATION.** All corporate action on the part of the Company and its directors necessary for the authorization, execution and delivery of this Agreement by the Company, and the performance of all of the Company's obligations under this Agreement has been taken.

(b) **ENFORCEABILITY.** This Agreement, when executed and delivered by the Company, will constitute valid and legally binding obligations of the Company, enforceable in accordance with its terms.

9. NO ASSIGNMENTS. This Agreement is personal to each of the parties hereto and no party may assign or delegate any rights or obligations hereunder without first obtaining the written consent of the other party hereto; provided, however, that the Company may assign this Agreement to any successor to all or substantially all of the business and/or assets of the Company; provided, further, that the Company shall require such successor to expressly assume and agree to perform this Agreement in the same manner and to the same extent that the Company would be required to perform it if no such succession had taken place. As used in this Agreement, "Company" shall mean the Company and any successor to its business and/or assets, which assumes and agrees to perform the duties and obligations of the Company under this Agreement by operation of law or otherwise.

10. NOTICE. For purposes of this Agreement, notices and all other communications provided for in this Agreement shall be in writing and shall be deemed to have been duly given (a) on the date of delivery, if delivered by hand, (b) upon receipt of confirmation of successful transmission, if delivered by facsimile, (c) on the date of delivery, if delivered by overnight delivery service, or mailed by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

If to the Executive:

Matthew Kalish
Address on file with the Company

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

_____
_____
_____
_____
_____

If to the Company:

DraftKings Inc.
Attn: Chief Legal Officer
222 Berkley Street, 5th Floor
Boston, MA 02116
Fax: (617) 977-1727

or to such other address or fax number as either party may have furnished to the other in writing in accordance herewith.

11. SECTION HEADINGS; INCONSISTENCY. The section headings used in this Agreement are included solely for convenience and shall not affect, or be used in connection with, the interpretation of this Agreement.

12. SEVERABILITY. Each provision of this Agreement will be construed as separable and divisible from every other provision and the enforceability of any one (1) provision will not limit the enforceability, in whole or in part, of any other provision. In the event that a court or administrative body of competent jurisdiction holds any provision of this Agreement to be invalid, illegal, void or less than fully enforceable as to time, scope or otherwise, then such provision will be construed by limiting and reducing it so that such provision is valid, legal and fully enforceable while preserving to the greatest extent permissible the original intent of the parties; the remaining terms and conditions of this Agreement will not be affected by such alteration, and will remain in full force and effect.

13. COUNTERPARTS. This Agreement may be executed in several counterparts, each of which shall be deemed to be an original but all of which together will constitute one and the same instrument.

14. GOVERNING LAW; ARBITRATION. This Agreement, the rights and obligations of the parties hereto, and all claims or disputes relating thereto, shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, without regard to the choice of law provisions thereof. Except for disputes arising under Exhibit A, Exhibit B, Exhibit C or Exhibit D hereof, which shall be decided pursuant to the terms of those Exhibits, any dispute arising from this Agreement or Executive's employment with the Company, including but not limited to claims for wrongful termination; violation of Title VII of the Civil Rights Act of 1964 as amended; violations of the Americans with Disabilities Act of 1990; violations of Massachusetts law, including without limitation claims pursuant to Chapter 151B of the Massachusetts General Laws and the Massachusetts Wage Act and Overtime law; or claims for violations of any state law or rule or regulation regarding discrimination, harassment or other wrongful conduct (collectively, "Covered Claims"), shall be decided solely and exclusively in a final and binding arbitration administered by the JAMS in Boston, Massachusetts, in accordance with the JAMS Employment Arbitration Rules in effect at the time of the filing of the demand for arbitration (the "Rules"), a copy of which is available at http://www.jamsadr.com/rules-employment-arbitration/. The arbitrator shall be a single arbitrator with expertise in employment disputes, mutually selected by the parties, or, if the parties are unable to agree thereon, a single arbitrator with expertise in employment disputes designated by the Boston office of JAMS. The arbitrator shall have the authority to award all remedies available in a court of law. The Company shall pay the arbitrator's fees and all fees and costs to administer the arbitration. The parties acknowledge and agree that their obligations to arbitrate under this Section survive the termination of the Agreement and continue after the termination of the employment relationship between the Executive and the Company. By agreeing to arbitrate disputes arising out of Executive's employment, both the Executive and the Company voluntarily and irrevocably waive any and all rights to have any such dispute heard or resolved in any forum other than through arbitration as provided herein. This waiver specifically includes, but is not limited to, any right to trial by jury. Notwithstanding anything to the contrary set forth herein, this Section will not apply to claims for workers' compensation or unemployment benefits, any claim for injunctive or equitable relief, or any claim arising from Exhibit A, Exhibit B, Exhibit C or Exhibit D to this Agreement brought by the Company or the Executive, which shall be governed by the terms and conditions thereof. All arbitration proceedings hereunder shall be confidential, except: (a) to the extent the parties otherwise agree in writing; (b) as may be otherwise appropriate in response to a request from a government agency, subpoena, or legal process; (c) if the substantive law of the State of Massachusetts (without giving effect to choice of law principles) provides to the contrary; or (d) as is necessary in a court proceeding to enforce, correct, modify or vacate the arbitrator's award or decision (and in the case of this subpart (d), the parties agree to take all reasonable steps to ensure that the arbitrator's award, decision or findings and all other documents, pleadings and papers are filed and/or entered with the court under seal and/or in a manner that would maintain their confidentiality, including, without limitation, complying with all rules of procedure and local rules for filing documents, pleadings and papers under seal).

15. MISCELLANEOUS. No provision of this Agreement may be modified, waived or discharged unless such waiver, modification or discharge is agreed to in writing and signed by the Executive and the CEO or other authorized representative of the Company. No waiver by either party hereto at any time of any breach by the other party hereto of, or compliance with, any condition or provision of this Agreement to be performed by such other party shall be deemed a waiver of similar or dissimilar provisions or conditions at the same or at any prior or subsequent time. This Agreement, the exhibits attached hereto, and the Transaction Performance Award Letter Agreement entered into between the Company and Executive contemporaneously herewith collectively set forth the entire agreement of the parties hereto in respect of the subject matter contained herein and supersede any and all prior agreements or understandings between the Executive and the Company with respect to the subject matter hereof. No agreements or representations, oral or otherwise, express or implied, with respect to the subject matter hereof have been made by either party which are not expressly set forth in this Agreement. In the event of any conflict or inconsistency between the terms and conditions of this Agreement and any offer letter, form, award, plan or policy of the Company, the terms of this Agreement shall govern and control. Notwithstanding the foregoing, in the event of any conflict or inconsistency between this Agreement (including the exhibits hereto) and the DraftKings Inc. 2017 Equity Incentive Plan or the DraftKings Inc. 2012 Stock Option & Restricted Stock Incentive Plan (or any award agreement under such plans to which Executive is a party) regarding (1) the definitions of "Cause" or "Disability", (2) the treatment of equity-based awards in connection with a termination of employment (whether before or after a Change in Control) or (3) the governing law and dispute resolution procedures, then such provisions in this Agreement (including the exhibits hereto) shall control. Notwithstanding the foregoing, the Executive shall remain bound by all covenants, duties and obligations relating to confidentiality, ownership of intellectual property, non-solicitation, non-competition and all other post-employment restrictive covenants, duties and obligations with respect to which the Executive agreed to be bound in connection with the Executive's employment with the Company, including without limitation such covenants, obligations and duties set forth in the Noncompetition, Nonsolicitation, Nondisclosure & Assignment of Inventions Agreement dated March 13, 2013; the Stock Option Grant Notice And Post Employment Noncompetition Covenant (2017 Equity Incentive Plan), dated June 4, 2019; the Stock Option Grant Notice And Post Employment Noncompetition Covenant (2017 Equity Incentive Plan), dated June 4, 2019; and the Stock Option Grant Notice And Post Employment Noncompetition Covenant (2017 Equity Incentive Plan), dated June 4, 2019 (collectively, the "Restrictive Covenants"). The post-employment covenants, duties and obligations set forth in this Agreement are intended to supplement – not replace – the Restrictive Covenants.

16. TAX MATTERS.

(a) **WITHHOLDING.** The Company may withhold from any and all amounts payable under this Agreement or otherwise such federal, state and local taxes as may be required to be withheld pursuant to any applicable law or regulation.

(b) **SECTION 409A COMPLIANCE.**

(i) The intent of the parties is that payments and benefits under this Agreement are exempt from or comply with Internal Revenue Code Section 409A and the regulations and guidance promulgated thereunder (collectively "Code Section 409A") and, accordingly, to the maximum extent permitted, this Agreement shall be interpreted to be in compliance therewith. To the extent that any provision hereof is modified in order to comply with Code Section 409A, such modification shall be made in good faith and shall, to the maximum extent reasonably possible, maintain the original intent and economic benefit to the Executive and the Company of the applicable provision without violating the provisions of Code Section 409A.

(ii) To the extent required to prevent the imposition of taxes or penalties under Code Section 409A, a termination of employment shall not be deemed to have occurred for purposes of any provision of this Agreement providing for the payment of any amount or benefit upon or following a termination of employment unless such termination is also a "separation from service" within the meaning of Code Section 409A and, for purposes of any such provision of this Agreement, references to a "termination," "termination of employment" or like terms shall mean "separation from service." Notwithstanding anything to the contrary in this Agreement, if the Executive is deemed on the date of termination to be a "specified employee" within the meaning of that term under Code Section 409A(a)(2)(B), then with regard to any payment or the provision of any benefit that is considered "nonqualified deferred compensation" under Code Section 409A payable on account of a "separation from service," such payment or benefit shall not be made or provided until the date which is the earlier of (A) the expiration of the six (6)-month period measured from the date of such "separation from service" of the Executive, and (B) the date of the Executive's death, to the extent required under Code Section 409A. Upon the expiration of the foregoing delay period, all payments and benefits delayed pursuant to this Section 16(b)(ii) (whether they would have otherwise been payable in a single sum or in installments in the absence of such delay) shall be paid or reimbursed to the Executive in a lump sum, and all remaining payments and benefits due under this Agreement shall be paid or provided in accordance with the normal payment dates specified for them herein.

(iii) To the extent that reimbursements or other in-kind benefits under this Agreement constitute "nonqualified deferred compensation" for purposes of Code Section 409A, (A) all expenses or other reimbursements hereunder shall be made on or prior to the last day of the taxable year following the taxable year in which such expenses were incurred by the Executive, (B) any right to reimbursement or in-kind benefits shall not be subject to liquidation or exchange for another benefit, and (C) no such reimbursement, expenses eligible for reimbursement, or in-kind benefits provided in any taxable year shall in any way affect the expenses eligible for reimbursement, or in-kind benefits to be provided, in any other taxable year.

(iv) For purposes of Code Section 409A, the Executive's right to receive installment payments pursuant to this Agreement shall be treated as a right to receive a series of separate and distinct payments. Whenever a payment under this Agreement specifies a payment period with reference to a number of days, the actual date of payment within the specified period shall be within the sole discretion of the Company.

(v) Notwithstanding any other provision of this Agreement to the contrary, in no event shall any payment or benefit under this Agreement that constitutes "nonqualified deferred compensation" for purposes of Code Section 409A be subject to offset by any other amount unless otherwise permitted by Code Section 409A.

17. NONSOLICITATION, NONDISCLOSURE & ASSIGNMENT OF INVENTIONS AGREEMENT AND NONCOMPETITION COVENANT. As a condition of continuing employment and as a condition to be eligible to receive the severance compensation set forth herein, Executive agrees to execute and abide by the Nonsolicitation, Nondisclosure & Assignment of Inventions Agreement in the form attached as Exhibit A and the Noncompetition Covenant in the form attached as Exhibit B (together the "Covenants"). The execution of the Covenants by Executive is a condition precedent to this agreement becoming effective. The Covenants contain provisions that are intended by the parties to survive and do survive termination of this Agreement.

18. INDEMNIFICATION. Executive will be insured under the Company's Director's and Officer's Liability Insurance to the extent the Company maintains such a policy and will be entitled to indemnification by the Company pursuant to the terms and conditions of the Company's certification of incorporation and by-laws to the same extent as the Company's executive officers and directors pursuant to an Indemnification Agreement between the Company and the Executive substantially in the form attached hereto as Exhibit D.

19. GOLDEN PARACHUTE. Anything in this Agreement to the contrary notwithstanding, if any payment or benefit Executive would receive from the Company or otherwise (a "Payment") would (a) constitute a "parachute payment" within the meaning of Internal Revenue Code Section 280G ("Code Section 280G"); and (b) but for this Section 19, be subject to the excise tax imposed by Internal Revenue Code Section 4999 (the "Excise Tax"), then such Payment shall be equal to the Reduced Amount. For purposes of this Agreement, the "Reduced Amount" shall be either (x) the largest portion of the Payment that would result in no portion of the Payment being subject to the Excise Tax; or (y) the largest portion, up to and including the total, of the Payment, whichever amount, after taking into account all applicable federal, state and local employment taxes, income taxes, and the Excise Tax (all computed at the highest applicable marginal rate), results in Executive's receipt, on an after-tax basis, of the greater amount of the Payment. Any reduction made pursuant to this Section 19 shall be made in accordance with the following order of priority: (i) Full Credit Payments (as defined below) that are payable in cash, (ii) non-cash Full Credit Payments that are taxable, (iii) non-cash Full Credit Payments that are not taxable, (iv) Partial Credit Payments (as defined below), (v) non-cash employee welfare benefits and (vi) stock options whose exercise price exceeds the fair market value of the optioned stock. In each case, reductions shall be made in reverse chronological order such that the payment or benefit owed on the latest date following the occurrence of the event triggering the Excise Tax will be the first payment or benefit to be reduced (with reductions made pro-rata in the event payments or benefits are owed at the same time). For purposes of this Agreement, "Full Credit Payment" means a payment, distribution or benefit, whether paid or payable or distributed or distributable pursuant to the terms of this Agreement or otherwise, that if reduced in value by one dollar reduces the amount of the parachute payment (as defined in Code Section 280G) by one dollar, determined as if such payment, distribution or benefit had been paid or distributed on the date of the event triggering the excise tax. For purposes of this Agreement, "Partial Credit Payment" means any payment, distribution or benefit that is not a Full Credit Payment. In no event shall Executive has any discretion with respect to the ordering of payment reductions. Unless the Company and Executive otherwise agree in writing, any determination required under this Section 19 will be made in writing by a certified professional services firm selected by the Company, the Company's legal counsel or such other person or entity to which the parties mutually agree (the "Firm"), whose determination will be conclusive and binding upon Executive and the Company for all purposes. For purposes of making the calculations required by this Section 19, the Firm may make reasonable assumptions and approximations concerning applicable taxes and may rely on reasonable, good faith interpretations concerning the application of Code Section 280G and Internal Revenue Code Section 4999. The Company and Executive will furnish to the Firm such information and documents as the Firm may reasonably request in order to make a determination under this Section 19. The Company will bear all costs the Firm may reasonably incur in connection with any calculations contemplated by this Section 19.

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

DRAFTKINGS INC., a Nevada corporation

By: /s/ R. Stanton Dodge

Name: R. Stanton Dodge

Title: Chief Legal Officer

EXECUTIVE

/s/ Matthew Kalish

Name: Matthew Kalish

EXHIBIT A

NONSOLICITATION, NONDISCLOSURE & ASSIGNMENT OF INVENTIONS AGREEMENT

The undersigned Employee (the "Employee"), executes this Nonsolicitation, Nondisclosure & Assignment of Inventions Agreement (the "Agreement") in consideration of, and a material inducement for, the Company's (as defined below) continuing relationship with Employee, whether by employment, contractor, or in advisory or consulting capacities, or otherwise, and in consideration of receiving any form of compensation or benefit from or in the Company, and the entering into of the Executive Employment Agreement (the "Employment Agreement"). Employee understands and agrees that this Agreement shall remain in effect and survive any and all changes in Employee's job duties, titles and compensation during Employee's relationship with Company.

Definitions

i. "Company" shall mean DraftKings Inc., a Nevada corporation, and any entity controlled by, controlling, or under common control with it, including affiliates and subsidiaries. "Control" for this purpose means the direct or indirect possession of the power to direct or cause the direction of the management and policies of an entity, whether through ownership, by contract or otherwise.

ii. "Competing Business" shall mean any person, firm, association, corporation or any other legal entity that is engaged in a business that is competitive with any aspect of the Business of the Company, including but not limited to: FanDuel, Paddy Power Betfair, William Hill, bet365, PointsBet, Penn National, Barstool Sports, SugarHouse, 888, MGM, TheScore, BetStars, Unibet, Caesars, Golden Nugget, Bet America, Borgata, Harrahs, Oceans, Resorts, Tropicana, Virgin, and Pala.

iii. "Business of the Company" shall mean the research, design, development, marketing, sales, operations, maintenance and commercial exploitation pertaining to the operation of, and providing products and services for: (1) fantasy sports contests ("FSC"); (2) Regulated Gaming (defined below); (3) all other products and services that exist, are in development, or are under consideration by the Company during Employee's relationship with the Company ("Other Products and Services"); and (4) all products and services incidentally related to, or which are an extension, development or expansion of, FSC, Regulated Gaming and/or Other Products and Services ("Incidental Products and Services").

iv. "Regulated Gaming" shall mean the operation of games of chance or skill or pari-mutuel or fixed odds games (including, but not limited to, lotteries, pari-mutuel betting, bingo, race tracks, jai alai, legalized bookmaking, off-track betting, casino games, racino, keno, and sports betting or any play for fun (non-wagering) versions of the foregoing) and any type of ancillary service or product related to or connected with the foregoing.

v. "Confidential Information" shall mean all information or a compilation of information, in any form (tangible or intangible or otherwise), that is not generally known to competitors or the public, which Company considers to be confidential and/or proprietary, including but not limited to: research and development; techniques; methodologies; strategies; product information, designs, prototypes and technical specifications; algorithms, source codes, object codes, trade secrets or technical data; training materials methods; internal policies and procedures; marketing plans and strategies; pricing and cost policies; customer, supplier, vendor and partner lists and accounts; customer and supplier preferences; contract terms and rates; financial data, information, reports, and forecasts; inventions, improvements and other intellectual property; product plans or proposed product plans; know-how; designs, processes or formulas; software and website applications; computer passwords; market or sales information, plans or strategies; business plans, prospects and opportunities (including, but not limited to, possible acquisitions or dispositions of businesses or facilities); information concerning existing or potential customers, partners or vendors. Confidential Information shall also mean information of or related to Company's current or potential customers, vendors or partners that is considered to be confidential or proprietary to the applicable customer, vendor or partner.

Confidential Information does not include: information in the public domain (other than as a result of disclosure directly or indirectly by Employee); information approved in writing for unrestricted release by Company; or information produced or disclosed pursuant to a valid court order, provided Employee has given Company written notice of such request such that Company has an actual, reasonable opportunity to defend, limit or protect such production or disclosure.

1. **Duty of Loyalty**. During the period of Employee's relationship with the Company, Employee will devote Employee's best efforts on behalf of the Company. Employee agrees not to provide any services to any Competing Business or engage in any conduct which may create an actual or appear to create a conflict of interest, without the expressed, written permission of the Company.

2. **Nonsolicitation of Customers, Clients or Vendors.** During the period of Employee's relationship with the Company and for a period of twelve (12) months after termination of such relationship (for any reason), Employee shall not directly or indirectly either for him/herself or for any other person, partnership, legal entity, or enterprise, solicit or transact business, or attempt to solicit or transact business with, any of the individuals or entities actually known to Employee to be the Company's customers, clients, vendors or partners, or prospective customers, clients, vendors or partners, in all cases, about which Employee learned Confidential Information (as defined above) or which Employee had some involvement or knowledge related to the Business of the Company.

3. **Nonsolicitation of Employees and Contractors.** During the period of Employee's relationship with the Company and for a period of twelve (12) months after termination of such relationship (for any reason), Employee will not directly or indirectly either for him/herself or for any other person, partnership, legal entity, or enterprise: (i) solicit, in person or through supervision or control of others, an employee, advisor, consultant or contractor of the Company for the purpose of inducing or encouraging the employee, advisor, consultant or contractor to leave his or her relationship with the Company or to change an existing business relationship with the Company or to change an existing business relationship to the detriment of the Company, (ii) hire away an employee, advisor, consultant or contractor of the Company; or (iii) help another person or entity hire away a Company employee, advisor, consultant or contractor. Notwithstanding the foregoing, the placement of general advertisements offering employment, other service relationships or activities that are not specifically targeted toward employees, advisors, consultants or contractors of the Company shall not be deemed to be a breach of this Section 3.

4. **Nondisclosure of Customer, Partner and Vendor Information**. Employee understands and agrees that it is essential to the Company's success that all nonpublic customer, partner, and vendor information is deemed and treated as Confidential Information and a confidential trade secret. Employee will not, directly or indirectly, either for him/herself or for any other person, partnership, legal entity, or enterprise, use or disclose any such customer, partner, or vendor information, except as may be necessary in the normal conduct of the Company's business for the specific customer, partner, or vendor. Employee agrees that at the end of Employee's relationship with the Company, or upon request by the Company, Employee will return to the Company any materials containing such information.

5. **Nondisclosure of Confidential Information**. All such Confidential Information is (and will be) the exclusive property of the Company, and Employee shall not, during or after Employee's employment: (i) use any Confidential Information for any purpose that is not authorized by the Company; (ii) disclose any Confidential Information to any person or entity, except as authorized by the Company in connection with Employee's job duties; or (iii) remove or transfer Confidential Information from the Company's premises or systems except as authorized by the Company.

Upon termination of Employee's relationship (for any reason), or upon the request of the Company, Employee will immediately surrender to the Company all Company property in Employee's possession, custody, or control, including any and all documents, electronic information, and materials of any nature containing any Confidential Information, without retaining any copies.

Employee understands that the Company is now and may hereafter be subject to non-disclosure or confidentiality agreements with third persons that require the Company to protect or refrain from use of Confidential Information. Employee agrees to respect and be bound by the terms of such agreements in the event Employee has access to such Confidential Information.

Employee understands that Confidential Information is never to be used or disclosed by Employee, as provided in this Section 5. If a temporal limitation on Employee's obligation not to use or disclose such information is required under applicable law, and the Agreement or its restriction(s) cannot otherwise be enforced, Employee agrees and the Company agrees that the two (2) year period after the date Employee's employment ends will be the temporal limitation relevant to the contested restriction; provided, however, that this sentence will not apply to trade secrets protected without temporal limitation under applicable law.

Notwithstanding the foregoing or anything to the contrary in this Agreement or any other agreement between the Company and the Employee, nothing in this Agreement shall limit the Employee's right to discuss Employee's employment or report possible violations of law or regulation with the Equal Employment Opportunity Commission, United States Department of Labor, the National Labor Relations Board, the Securities and Exchange Commission, or other federal government agency or similar state or local agency or to discuss the terms and conditions of his employment with others to the extent expressly permitted by Section 7 of the National Labor Relations Act or to the extent that such disclosure is protected under the applicable provisions of law or regulation, including but not limited to "whistleblower" statutes or other similar provisions that protect such disclosure. Employee agrees to take all reasonable steps to ensure that the Company's Confidential Information is not made public during any such disclosure. Pursuant to 18 U.S.C. Section 1833(b), the Employee shall not be held criminally or civilly liable under any Federal or State trade secret law for the disclosure of a trade secret that: (1) is made in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney, and solely for the purpose of reporting or investigating a suspected violation of law; or (2) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal.

6. **Assignment of Inventions**. Employee expressly understands and agrees that any and all right or interest Employee obtains in any designs, trade secrets, technical specifications and technical data, know-how and show-how, customer and vendor lists, marketing plans, pricing policies, inventions, concepts, ideas, expressions, discoveries, improvements and patent or patent rights which are authored, conceived, devised, developed, reduced to practice, or otherwise obtained by him during the term of this Agreement which relate to or arise out of his relationship with the Company and which relate to the business of the Company are expressly regarded as "*works for hire*" or works invented or authored within the scope of employment or engagement, whether as an adviser, consultant, officer, executive, director or other capacity (the "Inventions"). Employee hereby assigns to the Company the sole and exclusive right to such Inventions. Any assignment of Inventions (and all intellectual property rights with respect thereto) hereunder includes an assignment of all "Moral Rights" (which shall mean all paternity, integrity, disclosure, withdrawal, special and any other similar rights recognized by the laws of any jurisdiction or country). To the extent such Moral Rights cannot be assigned to the Company and to the extent the following is allowed by the laws in any country where Moral Rights exist, Employee hereby unconditionally and irrevocably waives the enforcement of such Moral Rights, and all claims and causes of action of any kind against the Company or related to the Company's customers, with respect to such rights. Employee further acknowledges and agrees that neither his successors-in-interest nor legal heirs retain any Moral Rights in any Inventions (and any intellectual property rights with respect thereto).

Employee agrees to disclose all Inventions fully and in writing to the Company promptly after development, conception, invention, creation or discovery of the same, and at any time upon request. Employee will provide all assistance that the Company reasonably requests to secure or enforce its rights throughout the world with respect to Inventions, including signing all necessary documents to memorialize those rights and take any other action which the Company shall deem necessary to assign to and vest completely in the Company, to perfect trademark, copyright and patent protection with respect to, or to otherwise protect the Company's trade secrets and proprietary interest in such Inventions. The obligations of this Section shall continue beyond the termination of Employee's relationship with respect to such Inventions conceived of, reduced to practice, or developed by the Employee during the term of this Agreement. The Company agrees to pay any and all copyright, trademark and patent fees and expenses or other costs incurred by Employee for any assistance rendered to the Company pursuant to this Section.

In the event the Company is unable, after reasonable effort, to secure Employee's signature on any patent application, copyright or trademark registration or other analogous protection relating to an Invention, the Employee hereby irrevocably designates and appoints the Company and its duly authorized officer and agent as his agent and attorney-in-fact, to act for and on his behalf and stead to execute and file any such application or applications and to do all other lawfully permitted acts to further the prosecution and issuance of letters patent, copyright or other analogous protection thereon with the same legal force and effect as if executed by the Employee.

In Attachment A to this Agreement, Employee has listed all Inventions that relate to the business of the Company that Employee (alone or jointly with others) made, conceived, or first reduced to practice by Employee prior to Employee's execution of this Agreement, and in which Employee has any property interest or claim of ownership. If no such Inventions are listed in said Attachment, Employee represents that Employee has no such Inventions.

To the extent Employee is a citizen of and subject to law of a state which provides a limitation on invention assignments, then this Agreement's assignment shall not include inventions excluded under such law.

Notwithstanding anything to the contrary in this Section 6, this Section 6 shall not apply to inventions that the Employee develops entirely on his own time without using the Company's equipment, supplies, facilities, or trade secret information, except to the extent such inventions (a) relate at the time of conception or reduction to practice of the invention to the Company's business, or actual or demonstrably anticipated research or development of the Company; or (b) result from any work performed by the Employee for the Company.

7. **Absence of Conflicting Agreements**. Employee understands that the Company does not desire to acquire from Employee any trade secrets, know-how or confidential business information that Employee may have acquired from others, and Employee agrees not to disclose any such information to the Company or otherwise utilize any such information in connection with Employee's performance of duties with the Company. Employee represents that Employee is not bound by any agreement or any other existing or previous business relationship which purports to conflict or impact the full performance of Employee's duties and obligations to the Company.

8. **Remedies Upon Breach**. Employee agrees that any action that violates this Agreement would cause the Company irreparable harm for which monetary damages are inadequate. Accordingly, in the event of a breach, or threatened breach, the Company shall be entitled to an injunction restraining such breach or threatened breach, or requiring specific performance, in addition to any and all rights and remedies at law and equity. The Company shall not be obligated to present additional evidence of irreparable harm or the insufficiency of monetary damages and, to the extent permitted by law or under applicable court rule, does not need to post a bond or other surety. Nothing herein shall be construed as prohibiting the Company from pursuing any other remedy available to the Company for such breach or threatened breach.

9. **Jurisdiction, Venue and Choice of Law** The parties hereby mutually agree to the exclusive jurisdiction of the Superior Court (inclusive of the Business Litigation Session) of the Commonwealth of Massachusetts or the United States District Court for the District of Massachusetts for any dispute arising hereunder. Accordingly, with respect to any such court action, Employee (a) submits to the personal jurisdiction of such courts; (b) consents to service of process by regular mail to his last known address; and (c) waives any other requirement (whether imposed by statute, rule of court, or otherwise) with respect to personal jurisdiction or service of process. If either party hereto commences a legal action or other proceeding against the other party concerning a dispute arising from or relating to this Agreement outside of Massachusetts, such commencing party shall reimburse such other party for its or his reasonable attorneys' fees, costs and expenses if such other party prevails in staying, transferring, dismissing or otherwise defending such action or proceeding based on the location of the action or proceeding, regardless of whether such fees, costs and expenses are incurred in the forum where such commencing party commenced the action or in a Massachusetts forum. This Agreement shall be governed by the internal substantive laws of Massachusetts, without regard to the doctrine of conflicts of law.

10. **Employment Relationship.** Employee agrees and acknowledges that Employee is an employee "at will" and nothing in this Agreement is intended to guarantee employment for any period of time. The parties enter this Agreement with the understanding that Employee's position, title, duties and responsibilities could change in a material way in the future and, in light of that understanding, the parties intend that this Agreement shall follow Employee throughout the entire course of Employee's employment with the Company, and such subsequent material change shall not affect the enforceability or validity of this Agreement.

11. **Return of Property**. Employee agrees that, at the time of termination of Employee's employment (for any reason), Employee will return immediately to the Company, in good condition, all property of the Company. This return of property includes, without limitation, a return of physical property (such as computer, phone or other mobile devices, credit card, promotional materials, etc.) and intangible property (such as computer passwords).

12. **Litigation and Regulatory Cooperation**. During and after the Employee's relationship with the Company, Employee shall cooperate fully with the Company in the defense or prosecution of any claims or actions now in existence or that may be brought in the future against or on behalf of the Company by/against third parties that relate to events or occurrences that transpired while the Employee was employed by the Company. Employee's full cooperation in connection with such claims or actions shall include, but not be limited to, being available to meet with counsel to prepare for discovery or trial and to act as a witness at mutually convenient times. During and after the Employee's employment, Employee also shall cooperate fully with the Company in connection with any investigation or review of any federal, state, or local regulatory authority as any such investigation or review relates to events or occurrences that transpired while the Employee was employed by the Company, unless such claim is brought by Employee. As consideration for the Employee's services under this Section 12, the Company shall remit to Employee, as agreed between the parties in advance, (a) reasonable expenses related to such cooperation, and (b) an hourly rate equal to Employee's last base salary divided by 2,000.

13. **Communication to Future Employers**. Employee agrees to communicate the contents of all post-relationship obligations in this Agreement to any Competing Business that Employee intends to be employed by, associated with, or represent. Employee understands and agrees that the Company may, in its discretion, also share any post-employment obligation set out in this Agreement with any future employer or potential employer of Employee, or any entity which seeks to be associated with Employee for Employee's services.

14. **Miscellaneous**. Any waiver by the Company of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach hereof. If a court determines that one or more of the provisions contained in this Agreement shall be invalid or unenforceable, such court shall construe, reform or otherwise revise such provision(s) so as to render it/them enforceable to the maximum extent allowed by law, without invalidating the remaining provisions of this Agreement. The obligations of each party hereto under this Agreement shall survive the termination of the Employee's relationship with the Company regardless of the manner of such termination to the extent expressly provided in, or logically would be expected under, this Agreement. All covenants and agreements hereunder shall inure to the benefit of and be enforceable by the successors of the Company. This Agreement amends, supplants and supersedes any agreement previously executed between the parties regarding the subject matter of this Agreement.

    Notwithstanding the foregoing, the Employee shall remain bound by all covenants, duties and obligations relating to confidentiality, ownership of intellectual property, non-solicitation, non-competition and all other post-employment restrictive covenants, duties and obligations with respect to which the Employee agreed to be bound in connection with the Employee's employment with the Company, including without limitation such covenants, obligations and duties set forth in the Noncompetition, Nonsolicitation, Nondisclosure & Assignment of Inventions Agreement dated March 13, 2013; the Stock Option Grant Notice And Post Employment Noncompetition Covenant (2017 Equity Incentive Plan), dated June 4, 2019; the Stock Option Grant Notice And Post Employment Noncompetition Covenant (2017 Equity Incentive Plan), dated June 4, 2019; and the Stock Option Grant Notice And Post Employment Noncompetition Covenant (2017 Equity Incentive Plan), dated June 4, 2019 (collectively, the "Restrictive Covenants"). The post-employment covenants, duties and obligations set forth in this Agreement are intended to supplement – not replace – the Restrictive Covenants.

Employee recognizes and agrees that the enforcement of this Agreement is necessary, among other things, to ensure the preservation, protection and continuity of Confidential Information, trade secrets and goodwill of the Company. Employee agrees that, due to the proprietary nature of the Business of the Company and relationships with others, the post-employment restrictions set forth above are reasonable as to duration and scope.

Employee is advised to consult with an attorney before entering into this Agreement.

IN WITNESS WHEREOF, the undersigned Employee and the Company have executed this Nonsolicitation, Nondisclosure and Assignment of Inventions Agreement as an instrument under seal as of this 23rd day of April, 2020.

DraftKings Inc.

/s/ R. Stanton Dodge
By: R. Stanton Dodge
Title: Chief Legal Officer

Employee

/s/ Matthew Kalish
Name: Matthew Kalish

NONSOLICITATION, NONDISCLOSURE & ASSIGNMENT OF INVENTIONS AGREEMENT

Attachment A

List of all inventions or improvements (referred to in Section 6) made by Employee, alone or jointly with others, prior to joining the Company.

Right, Title or Interest (If none, please write "NONE".)	**Date Acquired**	**Identifying Number or Brief Description of Inventions or Improvements**

Name of Employee:

Matthew Kalish
Print

/s/ Matthew Kalish
Sign

April 23, 2020
Date

EXHIBIT B

NONCOMPETITION COVENANT

(a) During the period of your relationship with Company, you, Matthew Kalish (hereinafter "you") agree to not, anywhere within the Restricted Area (defined below), acting individually, or as an owner, shareholder, partner, employee, contractor, agent or otherwise (other than on behalf of Company): provide services to a Competing Business (defined below). For a period of twelve (12) months following termination of your relationship with Company (for any reason other than referenced below in section (b)), you agree to not, anywhere within the Restricted Area, acting individually, or as an owner, shareholder, partner, employee, contractor, agent or otherwise (other than on behalf of Company): provide services to a Competing Business that relate to any aspect of the Business of the Company (i.e., FSC, Regulated Gaming, Other Products and Services, and/or Incidental Products and Services) for which you performed services or received confidential information at any time during the twelve (12) month period prior to such termination. For example, if you performed services for the FSC aspect of the Business of the Company and received confidential information about the Regulated Gaming aspect of the Business of the Company during the twelve (12) month period prior to the termination of your relationship with the Company (for any reason other than referenced below in section (b)), then for twelve (12) months after such termination, you shall not, anywhere within the Restricted Area, acting individually, or as an owner, shareholder, partner, employee, contractor, agent or otherwise (other than on behalf of Company), provide services to a Competing Business that relate to FSC or Regulated Gaming. The foregoing shall not be construed to preclude you from (i) owning up to one percent (1%) of the outstanding stock of a publicly held corporation that constitutes or is affiliated with a Competing Business, or (ii) becoming a shareholder, partner, contractor, agent, member, employee or otherwise of a private equity, venture capital or other investment firm, and providing services in connection therewith. The foregoing shall, however, be construed to specifically prevent you from (x) acting individually, or as an owner, shareholder, partner, employee, contractor, agent or otherwise (other than on behalf of Company) anywhere within the Restricted Area, during the period of your relationship with the Company and for a period of twelve (12) months following termination of your relationship with Company (for any reason other than referenced below in section (b)), and (y) providing services that relate to any aspect of the Business of the Company for any private equity, venture capital or other investment firm that at any time during such twelve (12) month period, has investments in any Competing Business; provided that you may work for a division, entity or subgroup of any companies that engage in a Competing Business (a "Separate BU") so long as such Separate BU does not engage in any Competing Business and you do not provide any investment advice or consulting related to any Competing Business. To the extent that you act individually, or as an owner, shareholder, partner, employee, contractor, agent or otherwise and provide services unrelated to the Business of the Company for any Separate BU or private equity, venture capital or other investment firm at any time during such twelve (12) month period, you agree to institute an ethical screen that prevents your access to communications, information and participation in all services related to the Business of the Company.

As set out in the Massachusetts Noncompetition Agreement Act, you and the Company agree that the opportunity for post-employment benefits and compensation set forth in the Executive Employment Agreement dated April 23, 2020 (the "Employment Agreement") constitute mutually-agreed upon consideration for this Noncompetition Covenant, and is fair and reasonable consideration for this Noncompetition Covenant, independent of continued employment. Such consideration is specifically designated and you acknowledge the receipt and sufficiency of the consideration**.**

i. "Company" shall mean any entity controlled by, controlling, or under common control with DraftKings Inc., a Nevada corporation, including affiliates and subsidiaries. Control means the direct or indirect possession of the power to direct or cause the direction of the management and policies of an entity, whether through ownership, by contract or otherwise.

ii. "Restricted Area" shall mean the entire United States since the Business of the Company encompasses the entire United States, of which you acknowledge and agree. Additionally, the Restricted Area shall include any territory or country outside the United States in which the Company operates the Business of the Company.

iii. "Competing Business" shall mean any person, firm, association, corporation or any other legal entity that is engaged in a business that is competitive with any aspect of the Business of the Company, including but not limited to: FanDuel, Paddy Power Betfair, William Hill, bet365, PointsBet, Penn National, Barstool Sports, SugarHouse, 888, MGM, TheScore, BetStars, Unibet, Caesars, Golden Nugget, Bet America, Borgata, Harrahs, Oceans, and Resorts, Tropicana, Virgin, and Pala.

iv. "Business of the Company" shall mean the research, design, development, marketing, sales, operations, maintenance and commercial exploitation pertaining to the operation of, and providing products and services for: (1) fantasy sports contests ("FSC"); (2) Regulated Gaming (defined below); (3) all other products and services that exist, are in development, or are under consideration by the Company during your relationship with the Company ("Other Products and Services"); and (4) all products and services incidentally related to, or which are an extension, development or expansion of, FSC, Regulated Gaming and/or Other Products and Services ("Incidental Products and Services").

v. "Regulated Gaming" shall mean the operation of games of chance or skill or pari-mutuel or fixed odds games (including, but not limited to, lotteries, pari-mutuel betting, bingo, race tracks, jai alai, legalized bookmaking, off-track betting, casino games, racino, keno, and sports betting or any play for fun (non-wagering) versions of the foregoing) and any type of ancillary service or product related to or connected with the foregoing.

vi. "Confidential Information" shall mean all information or a compilation of information, in any form (tangible or intangible or otherwise), that is not generally known to competitors or the public, which Company considers to be confidential and/or proprietary, including but not limited to: research and development; techniques; methodologies; strategies; product information, designs, prototypes and technical specifications; algorithms, source codes, object codes, trade secrets or technical data; training materials methods; internal policies and procedures; marketing plans and strategies; pricing and cost policies; customer, supplier, vendor and partner lists and accounts; customer and supplier preferences; contract terms and rates; financial data, information, reports, and forecasts; inventions, improvements and other intellectual property; product plans or proposed product plans; know-how; designs, processes or formulas; software and website applications; computer passwords; market or sales information, plans or strategies; business plans, prospects and opportunities (including, but not limited to, possible acquisitions or dispositions of businesses or facilities); information concerning existing or potential customers, partners or vendors. Confidential Information shall also mean information of or related to Company's current or potential customers, vendors or partners that is considered to be confidential or proprietary to the applicable customer, vendor or partner.

Confidential Information does not include: information in the public domain (other than as a result of disclosure by you); approved in writing for unrestricted release by Company; or produced or disclosed pursuant to a valid court order, provided you have given Company written notice of such request such that Company has an actual, reasonable opportunity to defend, limit or protect such production or disclosure.

(b) You and the Company agree that the Noncompetition Covenant shall not be enforceable against you if the Company terminates your employment without cause or you are subject to a layoff as set forth in the Massachusetts Noncompetition Agreement Act. In the event of a termination without cause or a layoff as set forth in the Massachusetts Noncompetition Agreement Act, all other agreements with the Company shall remain in full force and effect to the extent expressly intended, or logically would be expected, to survive termination of your employment.

(c) You agree to communicate the contents of all post-relationship obligations in this Noncompetition Covenant to any Competing Business that you intend to be employed by, associated with, or represent. You understand and agree that the Company may, in its discretion, also share any post-relationship obligation in this Noncompetition Covenant with any future (or potential) employer or association that is a Competing Business that seeks to be associated with you or employ you for your services.

(d) You agree that the enforcement of the Noncompetition Covenant is necessary, among other things, to ensure the preservation, protection and continuity of the Company's Confidential Information, trade secrets and goodwill of the Company. You agree that, due to the proprietary nature of the Business of the Company and relationships with others, the post-employment restrictions set forth above are reasonable as to duration and scope. You further acknowledge that the Company's legitimate business interest cannot be adequately protected through an alternative restrictive covenant, including but not limited to a non-solicitation agreement or a non-disclosure or confidentiality agreement.

(e) You agree that any action that violates this Noncompetition Covenant would cause the Company irreparable harm for which monetary damages are inadequate. Accordingly, in the event of a breach, or threatened breach, of this Noncompetition Covenant, the Company shall be entitled to an injunction restraining such breach or threatened breach, or requiring specific performance, in addition to any and all rights and remedies at law and equity. The Company shall not be obligated to present additional evidence of irreparable harm or the insufficiency of monetary damages and, to the extent permitted by law or under applicable court rule, does not need to post a bond or other surety. Nothing herein shall be construed as prohibiting the Company from pursuing any other remedy available to the Company for such breach or threatened breach.

(f) You and the Company hereby mutually agree to the exclusive jurisdiction of the Superior Court (inclusive of the Business Litigation Session) of the Commonwealth of Massachusetts or the United States District Court for the District of Massachusetts for any dispute arising hereunder. Accordingly, with respect to any such court action, you (a) submit to the personal jurisdiction of such courts; (b) consent to service of process by regular mail to your last known address; and (c) waive any other requirement (whether imposed by statute, rule of court, or otherwise) with respect to personal jurisdiction or service of process. If either party hereto commences a legal action or other proceeding against the other party hereto concerning a dispute arising from or relating to this Noncompetition Covenant outside of Massachusetts, such commencing party shall reimburse such other party for its or his reasonable attorneys' fees, costs and expenses if such other party prevails in staying, transferring, dismissing or otherwise defending such action or proceeding based on the location of the action or proceeding, regardless of whether such fees, costs and expenses are incurred in the forum where such commencing party commenced the action or in a Massachusetts forum. This Noncompetition Covenant shall be governed by the internal substantive laws of Massachusetts, without regard to the doctrine of conflicts of law.

(g) The failure of you or Company to insist upon strict performance of this Noncompetition Covenant irrespective of the length of time for which such failure continues, shall not be a waiver of such party's rights herein. No term or provision of this Noncompetition Covenant may be waived unless such waiver is in writing.

(h) If a court determines that one or more of the provisions contained in this Noncompetition Covenant shall be invalid or unenforceable, such court shall construe, reform or otherwise revise such provision(s) so as to render it/them enforceable to the maximum extent allowed by law, without invalidating the remaining provisions of this Noncompetition Covenant.

(i) Except as described in Section (b) of this Noncompetition Covenant, your obligations under this Noncompetition Covenant shall survive the termination of your relationship with the Company regardless of the manner of such termination.

(j) The rights granted to the Company under the Noncompetition Covenant shall inure to the benefit of, and be enforceable by, the successors or assigns of Company.

(k) You acknowledge that the Company provided you with a copy of this Noncompetition Covenant at least ten (10) business days before it is to be effective. Provided it is executed by both parties, this Noncompetition Covenant shall become effective on the later of (i) the date it is fully executed, or (ii) ten (10) business days after you received a copy of it.

Before agreeing to this Noncompetition Covenant, you have the right to consult with counsel, and the Company advises you to do so.

Notwithstanding the foregoing, you shall remain bound by all covenants, duties and obligations relating to confidentiality, ownership of intellectual property, non-solicitation, non-competition and all other post-employment restrictive covenants, duties and obligations with respect to which you agreed to be bound in connection with your employment with the Company, including without limitation such covenants, obligations and duties set forth in the Noncompetition, Nonsolicitation, Nondisclosure & Assignment of Inventions Agreement dated March 13, 2013; the Stock Option Grant Notice And Post Employment Noncompetition Covenant (2017 Equity Incentive Plan), dated June 4, 2019; the Stock Option Grant Notice And Post Employment Noncompetition Covenant (2017 Equity Incentive Plan), dated June 4, 2019; and the Stock Option Grant Notice And Post Employment Noncompetition Covenant (2017 Equity Incentive Plan), dated June 4, 2019 (collectively, the "Restrictive Covenants"). The post-employment covenants, duties and obligations set forth in this Agreement are intended to supplement – not replace – the Restrictive Covenants.

(l) The parties agree that you are employed "at will" and nothing in this Noncompetition Covenant is intended to guarantee employment for any period of time. The parties enter this Noncompetition Covenant with the understanding that your position, title, duties and responsibilities could change in a material way in the future and, in light of that understanding, the parties intend that this Noncompetition Covenant shall follow you throughout the entire course of your employment with the Company, and such subsequent material change shall not affect the enforceability or validity of this Noncompetition Covenant.

DraftKings Inc.

/s/ R. Stanton Dodge
By: R. Stanton Dodge
Title: Chief Legal Officer

Employee

/s/ Matthew Kalish
Name: Matthew Kalish

EXHIBIT C

RELEASE AND WAIVER OF CLAIMS

In consideration for the end of employment / termination benefits set forth in the Executive Employment Agreement, to which this form is attached (the **"Employment Agreement"**), including without limitation the end of employment / termination benefits set forth in Section 6 thereof, among other things, Matthew Kalish (the **"Executive"** or **"I"**) and DraftKings, Inc. (the **"Company"**) hereby enter into the following release and waiver of claims (the **"Release"**). For the avoidance of doubt, nothing in this Release is intended or shall be construed to waive, release or limit in any manner the end of employment / termination benefits described in the Employment Agreement.

The Executive hereby generally and completely release the Company, its affiliates, and its and their current and former directors, officers, employees, shareholders, partners, agents, attorneys, predecessors, successors, parent and subsidiary entities, insurers, affiliates, family and assigns (collectively, the **"Released Parties"**) of and from any and all claims, liabilities and obligations, both known and unknown, that arise out of or are in any way related to events, acts, conduct, or omissions occurring prior to or on the date that Executive signs this Release (collectively, the **"Released Claims"**). The Released Claims include, but are not limited to: (i) all claims arising out of or in any way related to the Executive's employment with the Company, or the termination of that employment; (ii) all claims related to the Executive's compensation or benefits from the Company, including salary, bonuses, retention bonuses, commissions, vacation pay, expense reimbursements, severance pay, fringe benefits, stock, stock options, or any other ownership interests or equity-based awards in the Company; (iii) all claims for breach of contract, wrongful termination, and breach of the implied covenant of good faith and fair dealing; (iv) all tort claims, including claims for fraud, defamation, emotional distress, and discharge in violation of public policy; and (v) all federal, state, and local statutory claims, including claims for discrimination, harassment, retaliation, attorneys' fees, or other claims arising under the federal Civil Rights Act of 1964 (as amended), the federal Americans with Disabilities Act of 1990 (as amended), the federal Family and Medical Leave Act (as amended) (the **"FMLA"**), the federal Age Discrimination in Employment Act of 1967 (as amended) (the **"ADEA"**), the Employee Retirement Income Security Act of 1974 (as amended), the National Labor Relations Act of 1935 (as amended), Chapter 151B of the Massachusetts General Laws, and any similar applicable state laws, including those of the Commonwealth of Massachusetts and any other federal, state or local civil or human rights law or any other local, state or federal law, regulation or ordinance, and any public policy, contract, tort, or common law. Released Claims specifically includes, without limitation, claims pursuant to the Massachusetts Wage Act and State Overtime Law, M.G.L. c. 149 §§ 148, 150 et seq. and M.G.L. c 151, §1A et seq, as amended. Notwithstanding the foregoing, the following are not included in the Released Claims (the **"Excluded Claims"**): (i) any rights or claims for indemnification that Executive may have pursuant to any written indemnification agreement with the Company, the charter, bylaws, or operating agreements of the Company, or under applicable law; (ii) any rights which are not waivable as a matter of law; (iii) any claims arising from the breach of this Release; or (iv) any claims related to any Accrued Benefits or other vested benefits or any severance benefits payable or due to the Executive on account of the end of the Executive's employment or the Executive's termination under the terms of the Executive Employment Agreement. For the avoidance of doubt, nothing in this Release shall prevent Executive from challenging the validity of the Release in a legal or administrative proceeding. Nothing in this Release shall prevent the Executive from filing, cooperating with, or participating in any proceeding or investigation before the Equal Employment Opportunity Commission, United States Department of Labor, the National Labor Relations Board, the Occupational Safety and Health Administration, the Securities and Exchange Commission or any other federal government agency, or similar state or local agency ("**Government Agencies**"), or exercising any rights pursuant to Section 7 of the National Labor Relations Act. The Executive further understands that this Release does not limit the Executive's ability to voluntarily communicate with any Government Agencies or otherwise participate in any investigation or proceeding that may be conducted by any Government Agency, including providing documents or other information, without notice to the Company. While this Release does not limit the Executive's right to receive an award for information provided to the Securities and Exchange Commission, the Executive understands and agrees that the Executive is otherwise waiving, to the fullest extent permitted by law, any and all rights the Executive may have to individual relief based upon any claims arising out of any proceeding or investigation before one or more of the Government Agencies. If any such claim is not subject to release, to the extent permitted by law, the Executive waives any right or ability to be a class or collective action representative or to otherwise participate in any putative or certified class, collective or multi-party action or proceeding based on such a claim in which any of the Released Parties is a party. Notwithstanding anything to the contrary set forth herein, this Release does not abrogate the Executive's existing rights under any Company benefit plan, the Executive Employment Agreement or any plan or agreement related to equity ownership in the Company.

I acknowledge that I am knowingly and voluntarily waiving and releasing any rights I may have under the ADEA **("ADEA Waiver")**. I also acknowledge that (i) the consideration given for the ADEA Waiver is in addition to anything of value to which I was already entitled; and (ii) that, subject only to Company providing the end of employment / termination benefits described in the first paragraph of this Release, I have been paid for all time worked, has received all the leave, leaves of absence and leave benefits and protections for which I am eligible, and have not suffered any on-the-job injury for which I have not already filed a claim. I affirm that all of the decisions of the Released Parties regarding my pay and benefits through the date of my execution of this Release were not discriminatory based on age, disability, race, color, sex, religion, national origin or any other classification protected by law. I affirm that I have not filed or caused to be filed, and am not presently a party to, a claim against any of the Released Parties. I further affirm that I have no known workplace injuries or occupational diseases. I acknowledge and affirm that I have not been retaliated against for reporting any allegation of corporate fraud or other wrongdoing by any of the Released Parties, or for exercising any rights protected by law, including any rights protected by the Fair Labor Standards Act, the Family Medical Leave Act or any related statute or local leave or disability accommodation laws, or any applicable state workers' compensation law. I have been advised by this writing, as required by the ADEA, that: (a) my waiver and release do not apply to any claims that may arise after I sign this Release; (b) I should consult with an attorney prior to executing this release; (c) I have twenty-one (21) days within which to consider this release (although I may choose to voluntarily execute this release earlier); (d) I have seven (7) days following the execution of this release to revoke this Release (in a written revocation sent to the Chief Executive Officer of the Company); and (e) this Release will not be effective until the eighth day after I sign this Release, provided that I have not earlier revoked this Release (the **"Effective Date"**). I will not be entitled to receive any of the benefits specified by this Release unless and until it becomes effective.

In granting the release herein, which includes claims that may be unknown to me at present, I acknowledge that I expressly waive and relinquish any and all rights and benefits under any applicable law or statute providing, in substance, that a general release does not extend to claims which a party does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her would have materially affected the terms of such release.

The Executive agrees that the Executive will not make any negative or disparaging statements or comments, either as fact or as opinion, about the Released Parties or their vendors, products or services, business, technologies, market position or performance. The Company (including its subsidiaries and affiliates) will not make, and agrees to use commercially reasonable efforts to cause the executive officers and board of directors of the Company to refrain from making, any negative or disparaging statements or comments, either as fact or as opinion, about the Executive (or authorizing any statements or comments to be reported as being attributed to the Company). Nothing in this paragraph shall prohibit the Executive or the Company from providing truthful information in response to a subpoena or other legal process. In addition, nothing in the Release shall apply to any legally protected whistleblower rights (including under Rule 21F under the Securities Exchange Act of 1934).

Noncompetition Covenant. For a period of twelve (12) months following the last day of my employment, I agree to not, anywhere within the Restricted Area acting individually, or as an owner, shareholder, partner, employee, contractor, agent or otherwise (other than on behalf of Company) provide services to a Competing Business that relate to any aspect of the Business of the Company (the "Noncompetition Covenant"). The foregoing shall not be construed to preclude me from (i) owning up to one percent (1%) of the outstanding stock of a publicly held corporation that constitutes or is affiliated with a Competing Business, or (ii) becoming a shareholder, partner, contractor, agent, member, employee or otherwise of a private equity, venture capital or other investment firm, and providing services in connection therewith. The foregoing shall, however, be construed to specifically prevent me from (x) acting individually, or as an owner, shareholder, partner, employee, contractor, agent or otherwise (other than on behalf of Company) anywhere within the Restricted Area, during the period of your relationship with the Company and for a period of twelve (12) months following termination of your relationship with Company (for any reason other than referenced below in section (b)), and (y) providing services that relate to any aspect of the Business of the Company for any private equity, venture capital or other investment firm that at any time during such twelve (12) month period, has investments in any Competing Business; provided that I may work for a division, entity or subgroup of any companies that engage in a Competing Business (a "Separate BU") so long as such Separate BU does not engage in any Competing Business and I do not provide any investment advice or consulting related to any Competing Business. To the extent that I act individually, or as an owner, shareholder, partner, employee, contractor, agent or otherwise and provide services unrelated to the Business of the Company for any Separate BU or private equity, venture capital or other investment firm at any time during such twelve (12) month period, I agree to institute an ethical screen that prevents my access to communications, information and participation in all services related to the Business of the Company. The following definitions apply to this Noncompetition Covenant:

i. "Company" shall mean any entity controlled by, controlling, or under common control with DraftKings Inc., including affiliates and subsidiaries. Control means the direct or indirect possession of the power to direct or cause the direction of the management and policies of an entity, whether through ownership, by contract or otherwise.

ii. "Restricted Area" shall mean the entire United States since the Business of the Company encompasses the entire United States, of which you acknowledge and agree.

iii. "Competing Business" shall mean any person, firm, association, corporation or any other legal entity that is engaged in a business that is competitive with any aspect of the Business of the Company, including but not limited to: FanDuel, Paddy Power Betfair, William Hill bet365, PointsBet, Penn National, Barstool Sports, SugarHouse, 888, MGM, TheScore, BetStars, Unibet, Caesars, Golden Nugget, Bet America, Borgata, Harrahs, Oceans, and Resorts, Tropicana, Virgin, and Pala.

iv. "Business of the Company" shall mean the research, design, development, marketing, sales, operations, maintenance and commercial exploitation pertaining to the operation of, and providing products and services for: (1) fantasy sports contests ("FSC"); (2) Regulated Gaming (defined below); (3) all other products and services that exist, are in development, or are under consideration by the Company during your relationship with the Company ("Other Products and Services"); and (4) all products and services incidentally related to, or which are an extension, development or expansion of, FSC, Regulated Gaming and/or Other Products and Services ("Incidental Products and Services").

v. "Regulated Gaming" shall mean the operation of games of chance or skill or pari-mutuel or fixed odds games (including, but not limited to, lotteries, pari-mutuel betting, bingo, race tracks, jai alai, legalized bookmaking, off-track betting, casino games, racino, keno, and sports betting or any play for fun (non-wagering) versions of the foregoing) and any type of ancillary service or product related to or connected with the foregoing.

I agree to communicate the contents of all post-relationship obligations to any Competing Business that I intend to be employed by, associated with, or represent. I understand and agree that the Company may, in its discretion, also share any post-relationship obligation with any future (or potential) employer or association that is a Competing Business that seeks to be associated with you or employ you for your services.

I agree that the enforcement of the Noncompetition Covenant is necessary, among other things, to ensure the preservation, protection and continuity of the Company's confidential information, trade secrets and goodwill of the Company. I agree that, due to the proprietary nature of the Business of the Company and relationships with others, the post-employment restrictions set forth above are reasonable as to duration and scope. I acknowledge that the Company's legitimate business interest cannot be adequately protected through an alternative restrictive covenant, including but not limited to a non-solicitation agreement or a non-disclosure or confidentiality agreement.

I agree that any action that violates this Noncompetition Covenant would cause the Company irreparable harm for which monetary damages are inadequate. Accordingly, in the event of a breach, or threatened breach, the Company shall be entitled to an injunction restraining such breach or threatened breach, or requiring specific performance, in addition to any and all rights and remedies at law and equity. The Company shall not be obligated to present additional evidence of irreparable harm or the insufficiency of monetary damages and, to the extent permitted by law or under applicable court rule, does not need to post a bond or other surety. Nothing herein shall be construed as prohibiting the Company from pursuing any other remedy available to the Company for such breach or threatened breach.

The parties hereby mutually agree to the exclusive jurisdiction of the Superior Court (inclusive of the Business Litigation Session) of the Commonwealth of Massachusetts or the United States District Court for the District of Massachusetts for any dispute arising hereunder. Accordingly, with respect to any such court action, I (a) submit to the personal jurisdiction of such courts; (b) consent to service of process by regular mail to my last known address; and (c) waive any other requirement (whether imposed by statute, rule of court, or otherwise) with respect to personal jurisdiction or service of process. If either party hereto commences a legal action or other proceeding against the other party hereto concerning a dispute arising from or relating to this Noncompetition Covenant outside of Massachusetts, such commencing party will reimburse such other party for its or my reasonable attorneys' fees, costs and expenses if such other party prevails in staying, transferring, dismissing or otherwise defending such action or proceeding based on the location of the action or proceeding, regardless of whether such fees, costs and expenses are incurred in the forum where such commencing party commenced the action or in a Massachusetts forum. This Noncompetition Covenant shall be governed by the internal substantive laws of Massachusetts, without regard to the doctrine of conflicts of law.

The failure of myself or the Company to insist upon strict performance of this Noncompetition Covenant irrespective of the length of time for which such failure continues, shall not be a waiver of such party's rights herein. No term or provision of this Noncompetition Covenant may be waived unless such waiver is in writing.

If a court determines that one or more of the provisions contained in the Noncompetition Covenant shall be invalid or unenforceable, such court shall construe, reform or otherwise revise such provision(s) so as to render it/them enforceable to the maximum extent allowed by law, without invalidating the remaining provisions of this Noncompetition Covenant.

The rights granted to the Company under the Noncompetition Covenant shall inure to the benefit of, and be enforceable by, the successors or assigns of Company. The Noncompetition Covenant is entered into in connection with my cessation of employment.

This Release constitutes the complete, final and exclusive embodiment of the entire agreement between the Company and me with regard to the subject matter hereof. Notwithstanding the above, the Noncompetition Covenant is intended to supplement, but not replace, any other post-employment obligations between me and the Company [to be listed at the time of separation], as such other post-employment obligations remain in full force and effect. By signing below, I am not relying on any promise or representation by the Company that is not expressly stated herein. This Release may only be modified by a writing signed by both me and a duly authorized officer of the Company.

The Company advises me to consult with legal counsel before entering into this Release.

THE EXECUTIVE:

Date: _____

_____
Name: Matthew Kalish

THE COMPANY:

Date: _____

_____

By: _____

Its: _____

EXHIBIT D

INDEMNIFICATION AGREEMENT

This **Indemnification Agreement** (the "***Agreement***") is made and entered into as of April 23, 2020 between **DraftKings Inc.**, a Nevada corporation (the "***Company***"), and Matthew Kalish ("***Indemnitee***").

WITNESSETH THAT:

WHEREAS, highly competent persons have become more reluctant to serve corporations as directors, officers or in other capacities unless they are provided with adequate protection through insurance or adequate indemnification against inordinate risks of claims and actions against them arising out of their service to and activities on behalf of the corporation;

WHEREAS, the Board of Directors of the Company (the "***Board***") has determined that, in order to attract and retain qualified individuals, the Company will attempt to maintain on an ongoing basis, at its sole expense, liability insurance to protect persons serving the Company and its subsidiaries from certain liabilities. Although the furnishing of such insurance has been a customary and widespread practice among United States-based corporations and other business enterprises, the Company believes that, given current market conditions and trends, such insurance may be available to it in the future only at higher premiums and with more exclusions. At the same time, directors, officers, and other persons in service to corporations or business enterprises are being increasingly subjected to expensive and time-consuming litigation relating to, among other things, matters that traditionally would have been brought only against the Company or business enterprise itself. Chapter 78 of the Nevada Revised Statutes (the "***NRS***") and the Amended and Restated Articles of Incorporation of the Company (the "***Articles***") authorize indemnification of the directors, officers, employees, fiduciaries and agents of the Company. The Amended and Restated Bylaws of the Company (the "***Bylaws***") provide that the Company will indemnify the directors and officers of the Company. The NRS expressly provides that the indemnification provisions set forth therein are not exclusive, and thereby contemplate that contracts may be entered into between the Company and persons acting on behalf of the Company with respect to indemnification;

WHEREAS, the uncertainties relating to such insurance and to indemnification have increased the difficulty of attracting and retaining such persons;

WHEREAS, the Board has determined that the increased difficulty in attracting and retaining such persons is detrimental to the best interests of the Company's stockholders and that the Company should act to assure such persons that there will be increased certainty of such protection in the future;

WHEREAS, it is reasonable, prudent and necessary for the Company contractually to obligate itself to indemnify, and to advance expenses on behalf of, such persons to the fullest extent permitted by applicable law so that they will serve or continue to serve the Company free from undue concern that they will not be so indemnified;

WHEREAS, this Agreement is a supplement to and in furtherance of any indemnification provisions in the Articles and/or the Bylaws of the Company and any resolutions adopted pursuant thereto, and shall not be deemed a substitute therefor, nor to diminish or abrogate any rights of Indemnitee thereunder; and

WHEREAS, Indemnitee does not regard the protection available under the NRS, the Bylaws and insurance as adequate in the present circumstances, and may not be willing to serve as an officer or a director without adequate protection, and the Company desires Indemnitee to serve in such capacity. Indemnitee is willing to serve, continue to serve and to take on additional service for or on behalf of the Company on the condition that he or she be so indemnified.

NOW, THEREFORE, in consideration of Indemnitee's agreement to serve as an officer and/or a director from and after the date of this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Indemnity of Indemnitee. The Company hereby agrees to hold harmless and indemnify Indemnitee to the fullest extent permitted by law, as such may be amended from time to time. In furtherance of the foregoing indemnification, and without limiting the generality thereof.

(a) Proceedings Other Than Proceedings by or in the Right of the Company. Indemnitee shall be entitled to the rights of indemnification provided in this Section 1(a) if, by reason of his or her Corporate Status (as hereinafter defined), Indemnitee was or is a party, or is threatened to be made a party, to any Proceeding (as hereinafter defined) other than a Proceeding by or in the right of the Company. Pursuant to this Section 1(a), the Company shall indemnify Indemnitee against all Expenses (as hereinafter defined), judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her, or on his or her behalf, in connection with such Proceeding or any claim, issue or matter therein, if Indemnitee either (i) is not liable pursuant to NRS 78.138 or (ii) acted in good faith and in a manner Indemnitee reasonably believed to be in or not opposed to the best interests of the Company, and with respect to any criminal Proceeding, had no reasonable cause to believe Indemnitee's conduct was unlawful.

(b) Proceedings by or in the Right of the Company. Indemnitee shall be entitled to the rights of indemnification provided in this Section 1(b) if, by reason of his or her Corporate Status, Indemnitee is, or is threatened to be made, a party to or participant in any Proceeding brought by or in the right of the Company to procure a judgment in its favor. Pursuant to this Section 1(b), the Company shall indemnify Indemnitee against all Expenses and amounts paid in settlement actually and reasonably incurred by Indemnitee, or on Indemnitee's behalf, in connection with such Proceeding or any claim, issue or matters therein, if Indemnitee either (i) is not liable pursuant to NRS 78.138 or (ii) acted in good faith and in a manner Indemnitee reasonably believed to be in or not opposed to the best interests of the Company; provided, however, if applicable law so provides, no indemnification against such Expenses or other amounts shall be made in respect of any claim, issue or matter as to which Indemnitee shall have been adjudged by a court of competent jurisdiction, after exhaustion of all appeals therefrom, to be liable to the Company or for amounts paid in settlement to the Company, unless and only to the extent that the court in which the Proceeding was brought or other court of competent jurisdiction shall determine that in view of all the circumstances in the case, Indemnitee is fairly and reasonably entitled to indemnity for such expenses as the court deems proper.

(c) Termination of Proceeding. The termination of any Proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent, shall not, of itself, adversely affect the right of Indemnitee to indemnification or create an inference or presumption either that Indemnitee is liable pursuant to NRS 78.138, that Indemnitee did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the corporation, or, with respect to any criminal action or proceeding, that Indemnitee had reasonable cause to believe that the conduct was unlawful. The Company acknowledges that such a resolution, short of final judgment, may be successful on the merits if it permits a party to avoid expense, delay, distraction, disruption and uncertainty. In the event that any Proceeding to which Indemnitee is a party is resolved in any manner other than by adverse judgment against Indemnitee (including, without limitation, settlement of such Proceeding with or without payment of money or other consideration) it shall be presumed that Indemnitee has been successful on the merits or otherwise in such Proceeding. Anyone seeking to overcome this presumption shall have the burden of proof and the burden of persuasion by clear and convincing evidence.

(d) Indemnification for Expenses of a Party Who is Wholly or Partly Successful. Notwithstanding any other provision of this Agreement, to the extent that Indemnitee is, by reason of his or her Corporate Status, a party to and is successful, on the merits or otherwise, in any Proceeding, the Company shall indemnify Indemnitee to the maximum extent permitted by law, as such may be amended from time to time, against all Expenses actually and reasonably incurred by him or her on his or her behalf in connection with the defense of the Proceeding. If Indemnitee is not wholly successful in such Proceeding but is successful, on the merits or otherwise, as to one or more but less than all claims, issues or matters in such Proceeding, the Company shall indemnify Indemnitee against all Expenses actually and reasonably incurred by him or her, or on his or her behalf, in connection with each successfully resolved claim, issue or matter. For purposes of this Section and without limitation, the termination of any claim, issue or matter in such a Proceeding by dismissal, with or without prejudice, shall be deemed to be a successful result as to such claim, issue or matter.

2. Additional Indemnity. In addition to, and without regard to any limitations on, the indemnification provided for in Section 1 of this Agreement, the Company shall and hereby does indemnify and hold harmless Indemnitee, to the fullest extent permitted by law, as may be amended from time to time, against all Expenses, judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her, or on his or her behalf, if, by reason of his or her Corporate Status, he or she was or is a party, or is threatened to be made a party, to any Proceeding (including a Proceeding by or in the right of the Company), including, without limitation, all liability arising out of the simple or gross negligence, recklessness, or active or passive wrongdoing of Indemnitee. The only limitation that shall exist upon the Company's obligations pursuant to this Agreement shall be that the Company shall not be obligated to make any payment to Indemnitee that is finally determined (under the procedures, and subject to the presumptions, set forth in Section 6 and Section 7 hereof) to be unlawful.

3. Contribution.

(a) Whether or not the indemnification provided in Section 1 and Section 2 hereof is available, in respect of any Proceeding in which the Company is jointly liable with Indemnitee (or would be if joined in such Proceeding), the Company shall pay the entire amount of any judgment or settlement of such Proceeding without requiring Indemnitee to contribute to such payment and the Company hereby waives and relinquishes any right of contribution it may have against Indemnitee. The Company shall not enter into any settlement of any Proceeding in which the Company is jointly liable with Indemnitee (or would be if joined in such Proceeding) unless such settlement provides for a full and final release of all claims asserted against Indemnitee.

(b) Without diminishing or impairing the obligations of the Company set forth in the preceding subparagraph, if, for any reason, Indemnitee shall elect or be required to pay all or any portion of any judgment or settlement in any Proceeding in which the Company is jointly liable with Indemnitee (or would be if joined in such Proceeding), the Company shall contribute to the amount of Expenses, judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Indemnitee in proportion to the relative benefits received by the Company and all officers, directors or employees of the Company, other than Indemnitee, who are jointly liable with Indemnitee (or would be if joined in such Proceeding), on the one hand, and Indemnitee, on the other hand, from the transaction from which such Proceeding arose; provided, however, that the proportion determined on the basis of relative benefit may, to the extent necessary to conform to law, be further adjusted by reference to the relative fault of the Company and all officers, directors or employees of the Company other than Indemnitee who are jointly liable with Indemnitee (or would be if joined in such Proceeding), on the one hand, and Indemnitee, on the other hand, in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other equitable considerations which applicable law may require to be considered. The relative fault of the Company and all officers, directors or employees of the Company, other than Indemnitee, who are jointly liable with Indemnitee (or would be if joined in such Proceeding), on the one hand, and Indemnitee, on the other hand, shall be determined by reference to, among other things, the degree to which their actions were motivated by intent to gain personal profit or advantage, the degree to which their liability is primary or secondary and the degree to which their conduct is active or passive.

(c) The Company hereby agrees to fully indemnify and hold Indemnitee harmless from any claims of contribution which may be brought by officers, directors, or employees of the Company, other than Indemnitee, who may be jointly liable with Indemnitee.

(d) To the fullest extent permissible under applicable law, if the indemnification provided for in this Agreement is unavailable to Indemnitee for any reason whatsoever, the Company, in lieu of indemnifying Indemnitee, shall contribute to the amount incurred by Indemnitee, whether for judgments, fines, amounts paid or to be paid in settlement and/or for Expenses, in connection with any claim relating to an indemnifiable event under this Agreement, in such proportion as is deemed fair and reasonable in light of all of the circumstances of such Proceeding in order to reflect (i) the relative benefits received by the Company and Indemnitee as a result of the event(s) and/or transaction(s) giving cause to such Proceeding and/or (ii) the relative fault of the Company (and its directors, officers, employees and agents) and Indemnitee in connection with such event(s) and/or transaction(s).

(e) The Company hereby acknowledges that Indemnitee may have rights to indemnification for payment of the judgment or settlement amount provided by another entity ("***Other Indemnitor(s)***"). The Company agrees with Indemnitee that the Company is the indemnitor of first resort of Indemnitee with respect to matters for which indemnification is provided under this Agreement and that the Company will be obligated to make all payments due to or for the benefit of Indemnitee under this agreement without regard to any rights that Indemnitee may have against the Other Indemnitor(s). The Company hereby waives any equitable rights to contribution or indemnification from the Other Indemnitor in respect of any amounts paid to Indemnitee hereunder until such time as the Indemnitee has been fully and finally indemnified. The Company further agrees that no payment of Expenses or losses by the Other Indemnitor(s) to or for the benefit of Indemnitee shall affect the obligations of the Company hereunder.

4. Indemnification for Expenses of a Witness. Notwithstanding any other provision of this Agreement, to the extent that Indemnitee, by reason of his or her Corporate Status, is a witness, or is made (or asked) to respond to discovery requests or otherwise asked to participate in any Proceeding to which Indemnitee is not a party, the Company shall indemnify Indemnitee against all Expenses actually and reasonably incurred by him or her, or on his or her behalf, in connection therewith.

5. Advancement of Expenses. Notwithstanding any other provision of this Agreement, the Company shall advance all Expenses incurred by or on behalf of Indemnitee in connection with defending any Proceeding within thirty (30) days after the receipt by the Company of a statement or statements from Indemnitee requesting such advance or advances from time to time, whether prior to or after final disposition of such Proceeding. Such statement or statements shall reasonably evidence the Expenses incurred by Indemnitee and Indemnitee shall also submit a written undertaking to repay any Expenses advanced if it shall ultimately be determined by a court of competent jurisdiction that Indemnitee is not entitled to be indemnified by the Company against such Expenses. Any advances and undertakings to repay pursuant to this Section 5 shall be unsecured and interest free. In furtherance of the foregoing, Indemnitee hereby undertakes to repay such amounts advanced if, and to the extent that, it shall ultimately be determined by a court of competent jurisdiction that Indemnitee is not entitled to be indemnified by the Company pursuant to the terms of this Agreement.

6. Procedures and Presumptions for Determination of Entitlement to Indemnification. It is the intent of this Agreement to secure for Indemnitee rights of indemnity that are as favorable as may be permitted under the NRS and public policy of the State of Nevada. Accordingly, the parties agree that the following procedures and presumptions shall apply in the event of any question as to whether Indemnitee is entitled to indemnification under this Agreement:

(a) To obtain indemnification under this Agreement, Indemnitee shall submit to the Company a written request, including therein or therewith such documentation and information as is reasonably available to Indemnitee and is reasonably necessary to determine whether and to what extent Indemnitee is entitled to indemnification. The Secretary of the Company shall, promptly upon receipt of such a request for indemnification, advise the Board in writing that Indemnitee has requested indemnification. Notwithstanding the foregoing, any failure of Indemnitee to provide such a request to the Company, or to provide such a request in a timely fashion, shall not relieve the Company of any liability that it may have to Indemnitee unless, and to the extent that, the Company is actually and materially prejudiced as a result of such failure.

(b) Upon written request by Indemnitee for indemnification pursuant to the first sentence of Section 6(a) hereof, a determination with respect to Indemnitee's entitlement thereto shall be made in the specific case by one of the following three methods, which shall be at the election of the Board (i) by a majority vote of a quorum consisting of Disinterested Directors (as defined below), (ii) if a majority vote of a quorum consisting of Disinterested Directors so orders, or if a quorum of Disinterested Directors cannot be obtained, by Independent Counsel (as defined below) in a written opinion to the Board, a copy of which shall be delivered to Indemnitee, or (iii) by the stockholders of the Company.

(c) Notwithstanding anything to the contrary set forth in this Agreement, if a request for indemnification is made after a Change in Control, at the election of Indemnitee made in writing to the Company, and if the Board by a majority vote of a quorum consisting of Disinterested Directors orders the determination of Indemnitee's entitlement to indemnification to be made by an Independent Counsel, or if a quorum of Disinterested Directors cannot be obtained, any determination required to be made pursuant to Section 6(b) above as to whether Indemnitee is entitled to indemnification shall be made by Independent Counsel selected as provided in this Section 6(c). The Independent Counsel shall be selected by Indemnitee, unless Indemnitee shall request that such selection be made by the Board. The party making the selection shall give written notice to the other party advising it of the identity of the Independent Counsel so selected. The party receiving such notice may, within seven (7) days after such written notice of selection shall have been given, deliver to the other party a written objection to such selection. Such objection may be asserted only on the ground that the Independent Counsel so selected does not meet the requirements of "Independent Counsel" as defined in Section 13 hereof, and the objection shall set forth with particularity the factual basis of such assertion. Absent a proper and timely objection, the person so selected shall act as Independent Counsel. If a written objection is made, the Independent Counsel so selected may not serve as Independent Counsel unless and until a court has determined that such objection is without merit. If, within twenty (20) days after submission by Indemnitee of a written request for indemnification pursuant to Section 6(a) hereof, no Independent Counsel shall have been selected (or, if selected, such selection shall have been objected to) in accordance with this paragraph, then either the Company or Indemnitee may petition the courts of the State of Nevada or other court of competent jurisdiction for resolution of any objection which shall have been made by the Company or Indemnitee to the other's selection of Independent Counsel and/or for the appointment as Independent Counsel of a person selected by the court or by such other person as the court shall designate, and the person with respect to whom an objection is favorably resolved or the person so appointed shall act as Independent Counsel under Section 6(c) hereof. The Company shall pay any and all reasonable fees and expenses of Independent Counsel incurred by such Independent Counsel in connection with acting pursuant to Section 6(b) hereof. The Company shall pay any and all reasonable and necessary fees and expenses incident to the procedures of this Section 6(c), regardless of the manner in which such Independent Counsel was selected or appointed.

(d) If the determination of entitlement to indemnification is to be made by Independent Counsel pursuant to Section 6(b) hereof, the Independent Counsel shall be selected as provided in this Section 6(d). The Independent Counsel shall be selected by the Board. Indemnitee may, within ten (10) days after such written notice of selection shall have been given, deliver to the Company a written objection to such selection; provided, however, that such objection may be asserted only on the ground that the Independent Counsel so selected does not meet the requirements of "***Independent Counsel***" as defined in Section 13 of this Agreement, and the objection shall set forth with particularity the factual basis of such assertion. Absent a proper and timely objection, the person so selected shall act as Independent Counsel. If a written objection is made and substantiated, the Independent Counsel selected may not serve as Independent Counsel unless and until such objection is withdrawn or a court has determined that such objection is without merit. If, within twenty (20) days after submission by Indemnitee of a written request for indemnification pursuant to Section 6(a) hereof, no Independent Counsel shall have been selected (or, if selected, such selection shall have been objected to) in accordance with this paragraph, then either the Company or Indemnitee may petition the appropriate courts of the State of Nevada or other court of competent jurisdiction for resolution of any objection which shall have been made by Indemnitee to the Company's selection of Independent Counsel and/or for the appointment as Independent Counsel of a person selected by the court or by such other person as the court shall designate, and the person with respect to whom an objection is favorably resolved or the person so appointed shall act as Independent Counsel under Section 6(b) hereof. The Company shall pay any and all reasonable fees and expenses of Independent Counsel in connection with acting pursuant to Section 6(b) hereof, and the Company shall pay any and all reasonable fees and expenses incident to the procedures of this Section 6(d), regardless of the manner in which such Independent Counsel was selected or appointed.

(e) In making a determination with respect to entitlement to indemnification hereunder, the person or persons or entity making such determination shall presume that Indemnitee is entitled to indemnification under this Agreement. Anyone seeking to overcome this presumption shall have the burden of proof and the burden of persuasion by clear and convincing evidence. Neither the failure of the Company (including by its directors or independent legal counsel) to have made a determination prior to the commencement of any action pursuant to this Agreement that indemnification is proper in the circumstances because Indemnitee has met the applicable standard of conduct, nor an actual determination by the Company (including by its directors or independent legal counsel) that Indemnitee has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that Indemnitee has not met the applicable standard of conduct.

(f) Indemnitee shall be deemed to have acted in good faith if Indemnitee's action is based on the records or books of account of the Enterprise (as hereinafter defined), including financial statements, or on information supplied to Indemnitee by the officers of the Enterprise in the course of their duties, or on the advice of legal counsel for the Enterprise or on information or records given or reports made to the Enterprise by an independent certified public accountant or by an appraiser or other expert selected with reasonable care by the Enterprise. In addition, the knowledge and/or actions, or failure to act, of any director, officer, agent or employee of the Enterprise shall not be imputed to Indemnitee for purposes of determining the right to indemnification under this Agreement. Whether or not the foregoing provisions of this Section 6(f) are satisfied, it shall in any event be presumed that Indemnitee has at all times acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Company. Anyone seeking to overcome this presumption shall have the burden of proof and the burden of persuasion by clear and convincing evidence. The Company will promptly advise Indemnitee in writing with respect to any determination that Indemnitee is or is not entitled to indemnification, including a description of any reason or basis for which indemnification has been denied.

(g) Notwithstanding anything to the contrary set forth in this Agreement, if the person, persons or entity empowered or selected under Section 6 to determine whether Indemnitee is entitled to indemnification shall not have been appointed or shall not have made a determination within sixty (60) days after receipt by the Company of the request therefor, the requisite determination of entitlement to indemnification shall be deemed to have been made and Indemnitee shall be entitled to such indemnification, unless the Company establishes by written opinion of Independent Counsel that (i) a misstatement by Indemnitee of a material fact, or an omission of a material fact necessary to make Indemnitee's statement not materially misleading, in connection with the request for indemnification, or (ii) a prohibition of such indemnification under applicable law; provided, however, that such sixty (60) day period may be extended for a reasonable time, not to exceed an additional thirty (30) days, if the person, persons or entity making such determination with respect to entitlement to indemnification in good faith requires such additional time to obtain or evaluate documentation and/or information relating thereto; and provided, further, that the foregoing provisions of this Section 6(g) shall not apply if the determination of entitlement to indemnification is to be made by the stockholders pursuant to Section 6(b) of this Agreement and if (A) within fifteen (15) days after receipt by the Company of the request for such determination, the Disinterested Directors resolve as required by Section 6(b)(iii) of this Agreement to submit such determination to the stockholders for their consideration at an annual meeting thereof to be held within seventy five (75) days after such receipt and such determination is made thereat, or (B) a special meeting of stockholders is called within fifteen (15) days after such receipt for the purpose of making such determination, such meeting is held for such purpose within sixty (60) days after having been so called and such determination is made thereat.

(h) Indemnitee shall cooperate with the person, persons or entity making such determination with respect to Indemnitee's entitlement to indemnification, including providing to such person, persons or entity upon reasonable advance request any documentation or information which is not privileged or otherwise protected from disclosure and which is reasonably available to Indemnitee and reasonably necessary to such determination. Any Independent Counsel or member of the Board or stockholder of the Company shall act reasonably and in good faith in making a determination regarding Indemnitee's entitlement to indemnification under this Agreement. Any costs or expenses (including attorneys' fees and disbursements) incurred by Indemnitee in so cooperating with the person, persons or entity making such determination shall be borne by the Company (irrespective of the determination as to Indemnitee's entitlement to indemnification) and the Company hereby indemnifies and agrees to hold Indemnitee harmless therefrom.

7. Remedies of Indemnitee.

(a) In the event that (i) a determination is made pursuant to Section 6 of this Agreement that Indemnitee is not entitled to indemnification under this Agreement, (ii) advancement of Expenses is not timely made pursuant to Section 5 of this Agreement, (iii) no determination of entitlement to indemnification is made pursuant to Section 6(b) or Section 6(c) of this Agreement within sixty (60) days after receipt by the Company of the request for indemnification, or such longer period, not to exceed an additional thirty (30) days, to which the period may be extended pursuant to Section 6(g), (iv) payment of indemnification is not made pursuant to this Agreement within ten (10) days after receipt by the Company of a written request therefor or (v) payment of indemnification is not made within ten (10) days after a determination has been made that Indemnitee is entitled to indemnification or such determination is deemed to have been made pursuant to Section 6 of this Agreement, Indemnitee shall be entitled to an adjudication of Indemnitee's entitlement to such indemnification or advancement of expenses either, at Indemnitee's sole option, in (1) an appropriate court of the State of Nevada, or any other court of competent jurisdiction or (2) an arbitration to be conducted by a single arbitrator, selected by mutual agreement of the Company and Indemnitee, pursuant to the rules of the American Arbitration Association. The Company shall not oppose Indemnitee's right to seek any such adjudication.

(b) In the event that a determination shall have been made pursuant to Section 6(b) or Section 6(c) of this Agreement that Indemnitee is not entitled to indemnification, (i) any judicial proceeding or arbitration commenced pursuant to this Section 7 shall be conducted in all respects de novo on the merits, and Indemnitee shall not be prejudiced by reason of any adverse determination under Section 6(b) or Section 6(c); and (ii) in any such judicial proceeding or arbitration, the Company shall have the burden of proving that Indemnitee is not entitled to indemnification under this Agreement.

(c) If a determination shall have been made pursuant to Section 6(b) or Section 6(c), or shall have been deemed to have been made pursuant to Section 6(g), of this Agreement that Indemnitee is entitled to indemnification, the Company shall be obligated to pay the amounts constituting such indemnification within five (5) days after such determination has been made or has been deemed to have been made and shall be conclusively bound by such determination in any judicial proceeding commenced pursuant to this Section 7, unless the Company establishes by written opinion of Independent Counsel that (i) a misstatement by Indemnitee of a material fact, or an omission of a material fact necessary to make Indemnitee's misstatement not materially misleading in connection with the request for indemnification or (ii) a prohibition of such indemnification under applicable law.

(d) In the event that Indemnitee, pursuant to this Section 7, seeks a judicial adjudication of, or an award in arbitration to enforce, his or her rights under, or to recover damages for breach of, this Agreement, or to recover under any directors' and officers' liability insurance policies maintained by the Company, the Company shall pay to him or her, or on his or her behalf, in advance, and shall indemnify him or her against, any and all expenses (of the types described in the definition of Expenses in Section 13 of this Agreement) actually and reasonably incurred by him or her in such judicial adjudication or arbitration, regardless of whether Indemnitee ultimately is determined to be entitled to such indemnification, advancement of expenses or insurance recovery.

(e) The Company shall be precluded from asserting in any judicial proceeding or arbitration commenced pursuant to this Section 7 that the procedures and presumptions of this Agreement are not valid, binding and enforceable and shall stipulate in any such court or before any such arbitrator that the Company is bound by all the provisions of this Agreement. The Company shall indemnify Indemnitee against any and all Expenses and, if requested by Indemnitee, shall (within ten (10) days after receipt by the Company of a written request therefore) advance, to the extent not prohibited by law, such expenses to Indemnitee, which are incurred by Indemnitee in connection with any action brought by Indemnitee for indemnification or advance of Expenses from the Company under this Agreement or under any directors' and officers' liability insurance policies maintained by the Company, regardless of whether Indemnitee ultimately is determined to be entitled to such indemnification, advancement of Expenses or insurance recovery, as the case may be.

8. Non-Exclusivity; Survival of Rights; Insurance; Subrogation.

(a) The rights of indemnification and advancement of expenses as provided by this Agreement shall not be deemed exclusive of, and shall be in addition to, any other rights to which Indemnitee may at any time be entitled under applicable law, the Articles or the Bylaws of the Company, any agreement, a vote of stockholders, a resolution of directors of the Company, or otherwise, and nothing in this Agreement shall diminish or otherwise restrict Indemnitee's rights to indemnification or advancement of expenses under any of the foregoing. No amendment, alteration or repeal of this Agreement or of any provision hereof shall limit or restrict any right of Indemnitee under this Agreement in respect of any action taken or omitted by such Indemnitee in his or her Corporate Status prior to such amendment, alteration or repeal. To the extent that a change in the NRS, whether by statute or judicial decision, permits greater indemnification than would be afforded currently under the Articles, the Bylaws and this Agreement, it is the intent of the parties hereto that Indemnitee shall enjoy by this Agreement the greater benefits so afforded by such change and Indemnitee shall be deemed to have such greater benefits hereunder. No right or remedy herein conferred is intended to be exclusive of any other right or remedy, and every other right and remedy shall be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other right or remedy. The Company shall not adopt any amendments to its Articles or Bylaws, the effect of which would be to deny, diminish or encumber Indemnitee's right to indemnification or advancement of expenses under this Agreement, any other agreement or otherwise, without the prior written consent of the Indemnitee.

(b) To the extent that the Company maintains an insurance policy or policies providing liability insurance for directors, officers, employees, or agents or fiduciaries of the Company or of any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise that such person serves at the request of the Company, Indemnitee shall be covered by such policy or policies in accordance with its or their terms to the maximum extent of the coverage available for any director, officer, employee, agent or fiduciary under such policy or policies. If, at the time of the receipt of a notice of a claim pursuant to the terms hereof, the Company has director and officer liability insurance in effect, the Company shall give prompt notice of the commencement of such Proceeding to the insurers in accordance with the procedures set forth in the respective policies. The Company shall thereafter take all necessary or desirable action to cause such insurers to pay, on behalf of Indemnitee, all amounts payable as a result of such Proceeding in accordance with the terms of such policies.

(c) In the event of any payment under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of Indemnitee, who shall execute all papers required and take all action necessary to secure such rights, including execution of such documents as are necessary to enable the Company to bring suit to enforce such rights (with all of Indemnitee's reasonable expenses, including, without limitation, attorneys' fees and charges, related thereto to be reimbursed by or, at the option of Indemnitee, advanced by the Company).

(d) The Company shall not be liable under this Agreement to make any payment of amounts otherwise indemnifiable hereunder if and to the extent that Indemnitee has otherwise actually received such payment under any insurance policy, contract, agreement or otherwise.

(e) The Company's obligation to indemnify or advance Expenses hereunder to Indemnitee who is or was serving at the request of the Company as a director, officer, employee or agent of any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise shall be reduced by any amount Indemnitee has actually received as indemnification or advancement of expenses from such other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise.

9. Exception to Right of Indemnification. Notwithstanding any provision in this Agreement, the Company shall not be obligated under this Agreement to make any indemnity in connection with any claim made against Indemnitee:

(a) for which payment has actually been made to or on behalf of Indemnitee under any insurance policy or other indemnity provision, except with respect to any excess beyond the amount paid under any insurance policy or other indemnity provision; or

(b) for an accounting of profits made from the purchase and sale (or sale and purchase) by Indemnitee of securities of the Company within the meaning of Section 16(b) of the Securities Exchange Act of 1934, as amended (the "***Exchange Act***"), or similar provisions of state statutory law or common law; or

(c) for any reimbursement of the Company by Indemnitee of any bonus or other incentive-based or equity-based compensation or of any profits realized by Indemnitee from the sale of securities of the Company, as required in each case under the Exchange Act (including any such reimbursements that arise from an accounting restatement of the Company pursuant to Section 304 of the Sarbanes-Oxley Act of 2002 (the "***Sarbanes-Oxley Act***"), or the payment to the Company of profits arising from the purchase and sale by Indemnitee of securities in violation of Section 306 of the Sarbanes-Oxley Act); or

(d) for any reimbursement of the Company by Indemnitee of any compensation pursuant to any compensation recoupment or clawback policy adopted by the Board or the compensation committee of the Board, including but not limited to any such policy adopted to comply with stock exchange listing requirements implementing Section 10D of the Exchange Act; or

(e) in connection with any Proceeding (or any part of any Proceeding) initiated by Indemnitee, including any Proceeding (or any part of any Proceeding) initiated by Indemnitee against the Company (other than to enforce Indemnitee's rights under this Agreement) or its directors, officers, employees or other indemnitees, unless (i) the Board of the Company authorized the Proceeding (or such part of the Proceeding) prior to its initiation, or (ii) the Company indemnifies Indemnitee, in its sole discretion, independently of this Agreement pursuant to the powers vested in the Company under applicable law.

10. Retroactive Effect; Duration of Agreement; Successors and Binding Agreement. All agreements and obligations of the Company contained herein shall be deemed to have become effective upon the date Indemnitee first had Corporate Status; shall continue during the period Indemnitee has Corporate Status; and shall continue thereafter so long as Indemnitee may be subject to any Proceeding (or any action commenced under Section 7 hereof) by reason of his or her Corporate Status, whether or not he or she is acting or serving in any such capacity at the time any liability or expense is incurred for which indemnification can be provided under this Agreement. This Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties hereto and their respective successors (including any direct or indirect successor by purchase, merger, consolidation, reorganization or otherwise to all or substantially all of the business or assets of the Company), assigns, spouses, heirs, executors and personal and legal representatives. The Company shall require any such successor to all or substantially all of the business or assets of the Company, by agreement in form and substance satisfactory to Indemnitee and his or her counsel, expressly to assume and agree to perform this Agreement in the same manner and to the same extent the Company would be required to perform if no such succession had taken place. Except as otherwise set forth in this Section 10, this Agreement shall not be assignable or delegable by the Company.

11. Security. To the extent requested by Indemnitee and approved by the Board of the Company, the Company may at any time and from time to time provide security to Indemnitee for the Company's obligations hereunder through an irrevocable bank line of credit, funded trust or other collateral. Any such security, once provided to Indemnitee, may not be revoked or released without the prior written consent of Indemnitee.

12. Enforcement.

(a) The Company expressly confirms and agrees that it has entered into this Agreement and assumes the obligations imposed on it hereby in order to induce Indemnitee to serve, or continue to serve, as an officer or a director of the Company, and the Company acknowledges that Indemnitee is relying upon this Agreement in serving or continuing to serve as an officer or a director of the Company.

(b) This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral, written and implied, between the parties hereto with respect to the subject matter hereof.

13. Definitions. For purposes of this Agreement:

(a) "***Change in Control***" means the occurrence of any one of the following events:

(i) any sale, lease, exchange or other transfer (in one or a series of related transactions) of all or substantially all of the assets of the Company;

(ii) any "Person" as such term is used in Section 13(d) and Section 14(d) of the Exchange Act becomes, directly or indirectly, the "beneficial owner" as defined in Rule 13d-3 under the Exchange Act of securities of the Company that represent more than 50% of the combined voting power of the Company's then outstanding voting securities (the "***Outstanding Company Voting Securities***"); provided, however, that for purposes of this Section 13(a)(ii), the following acquisitions shall not constitute a Change in Control: (I) any acquisition directly from the Company, (II) any acquisition by the Company, (III) any acquisition by any employee benefit plan (or related trust) sponsored or maintained by the Company or any person or entity that directly or indirectly controls, is controlled by or is under common control with the Company and/or to the extent provided by the Board, any person or entity in which the Company has a significant interest, (IV) any acquisition by any corporation pursuant to a transaction that complies with Sections 13(a)(iv)(A) and 13(a)(iv)(B), (V) any acquisition involving beneficial ownership of less than 50% of the then-outstanding shares of the Company's Class A common stock, par value $0.0001 per share (and any stock or other securities into which such ordinary shares may be converted or into which they may be exchanged) (the "***Outstanding Company Common Shares***") or the Outstanding Company Voting Securities that is determined by the Board, based on review of public disclosure by the acquiring Person with respect to its passive investment intent, not to have a purpose or effect of changing or influencing the control of the Company; provided, however, that for purposes of this clause (V), any such acquisition in connection with (x) an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consents or (y) any "Business Combination" (as defined below) shall be presumed to be for the purpose or with the effect of changing or influencing the control of the Company;

(iii) during any period of not more than two (2) consecutive years, individuals who constitute the Board as of the beginning of the period (the "***Incumbent Directors***") cease for any reason to constitute at least a majority of the Board, provided that any person becoming a director subsequent to the beginning of such period, whose election or nomination for election was approved by a vote of at least two-thirds of the Incumbent Directors then on the Board (either by a specific vote or by approval of the proxy statement of the Company in which such person is named as a nominee for director, without written objection to such nomination) will be an Incumbent Director; provided, however, that no individual initially elected or nominated as a director of the Company as a result of an actual or threatened election contest with respect to directors or as a result of any other actual or threatened solicitation of proxies by or on behalf of any person other than the Board will be deemed to be an Incumbent Director;

(iv) consummation of a merger, amalgamation or consolidation (a "***Business Combination***") of the Company with any other corporation, unless, following such Business Combination, (A) all or substantially all of the individuals and entities that were the beneficial owners of the Outstanding Company Common Shares and the Outstanding Company Voting Securities immediately prior to such Business Combination beneficially own, directly or indirectly, more than 50% of the then-outstanding shares of common stock (or, for a non-corporate entity, equivalent securities) and the combined voting power of the then-outstanding voting securities entitled to vote generally in the election of directors (or, for a non-corporate entity, equivalent governing body), as the case may be, of the entity resulting from such Business Combination (including, without limitation, an entity that, as a result of such transaction, owns the Company or all or substantially all of the Company's assets either directly or through one or more subsidiaries) in substantially the same proportions as their ownership immediately prior to such Business Combination of the Outstanding Company Common Shares and the Outstanding Company Voting Securities, as the case may be, and (B) at least a majority of the members of the board of directors (or, for a non-corporate entity, equivalent governing body) of the entity resulting from such Business Combination were Incumbent Directors at the time of the execution of the initial agreement or of the action of the Board providing for such Business Combination;

(v) the stockholders of the Company approve a plan of complete liquidation of the Company.

(b) "***Corporate Status***" means the fact that a person is or was a director, officer, employee, agent or fiduciary of the Company or is or was serving at the request of the Company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise.

(c) "***Disinterested Director***" means a director of the Company who is not and was not a party to the Proceeding in respect of which indemnification is sought by Indemnitee.

(d) "***Enterprise***" shall mean the Company and any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise that Indemnitee is or was serving at the express written request of the Company as a director, officer, trustee, partner, manager, managing member, employee, agent or fiduciary.

(e) "***Expenses***" shall include all reasonable attorneys' fees, retainers, court costs, transcript costs, fees of experts and other professionals, witness fees, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees, ERISA excise taxes and penalties, and all other disbursements or expenses of the types customarily incurred or actually incurred in connection with prosecuting, defending, preparing to prosecute or defend, investigating, participating, or being or preparing to be a witness in a Proceeding, or responding to, or objecting to, a request to provide discovery in a Proceeding. Expenses also shall include Expenses incurred in connection with any appeal resulting from any Proceeding, including, without limitation, the premium, security for, and other costs relating to any cost bond, supersede as bond, or other appeal bond or its equivalent. Should any payments by the Company to or for the account of Indemnitee under this Agreement be determined to be subject to any federal, state or local income or excise tax, Expenses shall also include such amounts as are necessary to place Indemnitee in the same after-tax position (after giving effect to all applicable taxes) Indemnitee would have been in had no such tax been determined to apply to those payments. The parties agree that for the purposes of any advancement of Expenses for which Indemnitee has made written demand to the Company in accordance with this Agreement, all Expenses included in such demand that are certified by affidavit of Indemnitee's counsel as being reasonable in the good faith judgment of such counsel shall be presumed conclusively to be reasonable. Expenses, however, shall not include amounts paid in settlement by Indemnitee or the amount of judgments or fines against Indemnitee.

(f) "***Independent Counsel***" means a law firm, or a member of a law firm, that is experienced in matters of corporation law and neither presently is, nor in the past five (5) years has been, retained to represent (i) the Company or Indemnitee in any matter material to either such party (other than with respect to matters concerning Indemnitee under this Agreement, or of other indemnitees under similar indemnification agreements), or (ii) any other party to the Proceeding giving rise to a claim for indemnification hereunder. Notwithstanding the foregoing, the term "Independent Counsel" shall not include any person who, under the applicable standards of professional conduct then prevailing, would have a conflict of interest in representing either the Company or Indemnitee in an action to determine Indemnitee's rights under this Agreement. The Company agrees to pay the reasonable fees of the Independent Counsel referred to above and to fully indemnify such counsel against any and all Expenses, claims, liabilities and damages arising out of or relating to this Agreement or its engagement pursuant hereto.

(g) "***Proceeding***" includes any threatened, pending or completed action, suit, claim, counterclaim, cross claim, arbitration, mediation, alternate dispute resolution mechanism, investigation, inquiry, administrative hearing or any other actual, threatened or completed proceeding, whether brought by or in the right of the Company or otherwise and whether civil, criminal, administrative, legislative or investigative (formal or informal); in each case whether or not Indemnitee's Corporate Status existed at the time any liability or expense is incurred for which indemnification can be provided under this Agreement; including one pending on or before the date of this Agreement, but excluding one initiated by an Indemnitee pursuant to Section 7 of this Agreement to enforce his or her rights under this Agreement.

14. Severability. The invalidity or unenforceability of any provision hereof shall in no way affect the validity or enforceability of any other provision. Without limiting the generality of the foregoing, this Agreement is intended to confer upon Indemnitee indemnification rights to the fullest extent permitted by applicable laws. In the event any provision hereof conflicts with any applicable law, such provision shall be deemed modified, consistent with the aforementioned intent, to the extent necessary to resolve such conflict.

15. Modification and Waiver. No supplement, modification, termination or amendment of this Agreement shall be binding unless executed in writing by both of the parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions hereof (whether or not similar) nor shall such waiver constitute a continuing waiver.

16. Notice by Indemnitee. Indemnitee agrees promptly to notify the Company in writing upon being served with or otherwise receiving any summons, citation, subpoena, complaint, indictment, information or other document relating to any Proceeding or matter which may be subject to indemnification covered hereunder. The failure to so notify the Company shall not relieve the Company of any obligation which it may have to Indemnitee under this Agreement unless, and only to the extent that, the Company is actually and materially prejudiced as a result of such delay or failure.

17. Notices. All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given (a) upon personal delivery to the party to be notified, (b) when sent by confirmed facsimile, or (c) upon delivery when sent by a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All communications shall be sent:

To Indemnitee at the address set forth below Indemnitee's signature hereto.

To the Company at:

DraftKings Inc.
222 Berkeley Street 5th Floor
Boston, Massachusetts 02116
Attention: Chief Legal Officer

or to such other address as may have been furnished to Indemnitee by the Company or to the Company by Indemnitee, as the case may be.

18. Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same the same instrument. Counterparts may be delivered via facsimile, electronic mail (including pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, *e.g.*, www.docusign.com) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

19. Headings. The headings of the paragraphs of this Agreement are inserted for convenience only and shall not be deemed to constitute part of this Agreement or to affect the construction thereof.

20. Successors and Assigns. The terms of this Agreement shall be binding upon the Company and its successors and assigns and shall inure to the benefit of Indemnitee and Indemnitee's spouse, assigns, heirs, devisees, executors, administrators and other legal representatives.

21. Governing Law and Consent to Jurisdiction. This Agreement and the legal relations among the parties shall be governed by, and construed and enforced in accordance with, the laws of the State of Nevada, without regard to its conflict of laws rules. The Company and Indemnitee hereby irrevocably and unconditionally (i) agree that any action or proceeding arising out of or in connection with this Agreement (other than an arbitration pursuant to Section 7 hereof) shall be brought only in the Eighth Judicial District Court of Clark County (the "***Nevada Court***"), and not in any other state or federal court in the United States of America or any court in any other country, (ii) consent to submit to the exclusive jurisdiction of the Nevada Court for purposes of such action or proceeding, (iii) waive any objection to the laying of venue of any such action or proceeding in the Nevada Court, and (iv) waive, and agree not to plead or to make, any claim that any such action or proceeding brought in the Nevada Court has been brought in an improper or inconvenient forum.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on and as of the day and year first above written.

COMPANY

DRAFTKINGS INC.

By: /s/ R. Stanton Dodge
Name: R. Stanton Dodge
Title: Chief Legal Officer

INDEMNITEE

/s/ Matthew Kalish
Name: Matthew Kalish

Address: Address on file with the Company

Exhibit 10.3

EXECUTIVE EMPLOYMENT AGREEMENT

This Executive Employment Agreement ("Agreement") is made and effective as of this 23rd day of April 2020 (the "Effective Date") by and between DraftKings Inc., a Nevada corporation ("Company"), and Paul Liberman ("Executive").

W I T N E S S E T H

WHEREAS, Executive was President of Global Technology and Product of DraftKings Inc., a Delaware corporation ("Former DK"), prior to the closing (the "Closing") of the transactions contemplated by the Business Combination Agreement, dated as of December 22, 2019, as amended by Amendment No. 1 thereto, dated as of April 7, 2020, among the Company, Diamond Eagle Acquisition Corp., SBTech (Global) Limited and certain other parties thereto, following which Former DK became a wholly owned subsidiary of the Company;

WHEREAS, the Company desires to continue to employ the Executive as President of Global Technology and Product of the Company following the Closing; and

WHEREAS, the Company and the Executive desire to enter into this Agreement to set forth the terms of the Executive's employment with the Company.

NOW, THEREFORE, in consideration of the foregoing, of the mutual promises contained herein and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. POSITION AND DUTIES.

(a) **GENERAL.** Commencing on the Effective Date, Executive shall continue to serve as the Company's President of Global Technology and Product and shall report directly to the Chief Executive Officer of the Company (the "CEO"). In this position, Executive shall have such duties, authorities and responsibilities as are customary for an employee in such position, and such other duties, authorities and responsibilities as may reasonably be assigned to the Executive from time to time by the CEO. The Executive's principal place of employment with the Company shall be at the Company's headquarters located in Boston, Massachusetts or such other place as approved by the CEO.

(b) **OTHER ACTIVITIES.** For so long as Executive remains in the employ of the Company (the "Employment Term"), the Executive shall devote substantially all of the Executive's business time, energy, knowledge and skill to the performance of the Executive's duties with the Company, provided that the foregoing shall not prevent the Executive from engaging in any non-Company activity of any kind so long as such activity, together with any other non-Company activity, does not pose a conflict of interest or materially interfere with Executive's performance of his duties under this Agreement, as determined in the reasonable good faith discretion of the CEO.

2. ANNUAL BASE SALARY. During the Employment Term, the Company agrees to pay the Executive an annual base salary at an annual rate of $425,000, payable subject to standard federal and state payroll withholding requirements in accordance with the regular payroll practices of the Company. The Executive's annual base salary shall be subject to annual review by the Company's Board of Directors ("Board") (or a committee thereof), and may be increased (but not decreased) from time to time as determined by the Board (or a committee thereof). The annual base salary as may be increased from time to time shall constitute "Annual Base Salary" for purposes of this Agreement.

3. INCENTIVE COMPENSATION.

(a) Annual Cash Incentive. During the Employment Term, Executive shall be eligible for a minimum annual target cash incentive opportunity of 125% of Annual Base Salary (as may be increased from time to time, the "Target Annual Cash Incentive"), provided Executive shall have the opportunity to earn a greater annual cash incentive for performance above target and, if the annual cash incentive opportunity for performance above target is subject to a maximum, such maximum shall be equal to an amount that is at least equal to 200% of the Target Annual Cash Incentive. The Executive's Target Annual Cash Incentive shall be subject to annual review by the Board (or a committee thereof), and may be increased (but not decreased) from time to time as determined by the Board (or a committee thereof). The Board (or a committee thereof) shall set reasonable and appropriate Company and/or individual performance goals for each annual cash incentive opportunity, in consultation with the CEO, by no later than (i) June 30 for the 2020 performance year, and (ii) March 31 for each performance year thereafter. The earned annual cash incentive (the "Annual Cash Incentive") for any given fiscal year will be determined based on overall Company performance and/or Executive's individual performance (as applicable), as determined in the sole discretion of the Board (or a committee thereof) and provided Executive remains employed by the Company through the applicable performance period. Any such Annual Cash Incentive shall be paid to Executive at the same time that annual cash incentives are paid to other senior executives of the Company, provided, in any event, any such Annual Cash Incentive shall be paid by no later than March 15th of the year following the applicable performance year.

(b) Annual Equity Incentive. During the Employment Term, the Company shall grant Executive an annual equity incentive award within the first three (3) months of each fiscal year (or the first seven (7) months for fiscal year 2020) of the Company with a minimum aggregate target value of $3,500,000 for each such award (as may be increased from time to time, the "Annual Equity Incentive Award"), with the valuation methodology for such awards to be determined by the Board (or a committee thereof) in the reasonable good faith exercise of its discretion. The Executive's Annual Equity Incentive Award shall be subject to annual review by the Board (or a committee thereof), and may be increased (but not decreased) from time to time as determined by the Board (or a committee thereof). The Annual Equity Incentive Awards will be comprised of a mix of fifty percent (50%) of the minimum aggregate target value granted as restricted stock units, with time-based vesting conditions that are not less favorable than vesting in equal quarterly installments over four years, and fifty percent (50%) of the minimum aggregate target value granted as performance stock units ("PSUs"), provided Executive shall have the opportunity to earn a greater amount of PSUs for performance above target and, if the performance-based vesting for such PSUs for performance above target is subject to a maximum, such maximum shall be equal to an amount that is at least equal to 300% of one half (1/2) of the minimum aggregate target value. The performance/vesting period for such PSUs shall be between two (2) and three (3) years, as determined by the Board (or a committee thereof) in the reasonable good faith exercise of its discretion. The Board (or a committee thereof) shall set reasonable and appropriate Company and/or individual performance goals for each annual PSU grant, in consultation with the Chief Executive Officer, by no later than (i) July 31st for the 2020 performance year, and (ii) March 31 for each performance year thereafter. The earned PSUs for any given fiscal year will be determined based on overall Company performance and/or Executive's individual performance (as applicable), as determined in the sole discretion of the Board (or a committee thereof) and provided Executive remains employed by the Company through the applicable performance period.

4. EXECUTIVE BENEFITS.

(a) **BENEFIT PLANS.** During the Employment Term, the Executive shall be entitled to participate in any employee and/or executive benefit plan that the Company has adopted or may adopt, maintain or contribute to for the benefit of its employees and/or executives generally, currently including, without limitation, health and dental insurance coverage, long-term and short-term disability insurance coverage and group life insurance coverage, subject, in all events to satisfying the applicable eligibility requirements, and except to the extent such plans are duplicative of the benefits otherwise provided hereunder. The Executive's participation will be subject to the terms of the applicable plan documents and generally applicable Company policies. Notwithstanding the foregoing, the Company may modify or terminate any employee and/or executive benefit plan at any time.

(b) **VACATION TIME.** During the Employment Term, the Executive shall be entitled to paid vacation in accordance with the Company's policy applicable to its executives as in effect from time to time.

(c) **BUSINESS EXPENSES.** Upon presentation of such reasonable substantiation and documentation as the Company reasonably may specify from time to time, the Executive shall be reimbursed for all reasonable out-of-pocket business expenses incurred and paid by the Executive during the Employment Term in connection with the performance of the Executive's duties hereunder.

5. TERMINATION. The Executive's employment under this Agreement and the Employment Term shall terminate on the first of the following to occur:

(a) **DISABILITY.** Thirty (30) days after written notice by the Company to the Executive of a termination due to Disability. For purposes of this Agreement, "Disability" shall be defined as the inability of the Executive to perform the Executive's material duties hereunder with a reasonable accommodation due to a physical or mental injury, infirmity or incapacity for one hundred and twenty (120) days (including weekends and holidays) in any three hundred sixty-five (365) day period; provided such disability also qualifies as a "disability" as defined in Treasury Regulation Section 1.409A-3(i)(4)(i). The Executive shall reasonably cooperate with the Company if a question arises as to whether the Executive has become disabled.

(b) **DEATH.** Automatically upon the date of death of the Executive.

(c) **CAUSE.** Thirty (30) days after written notice by the Company to the Executive of a termination for Cause if the Executive shall have failed to cure or remedy such matter, if curable, within such thirty (30) day period. In the event that the basis for Cause is not curable, then such thirty (30) day cure period shall not be required, and such termination shall be effective on the date the Company delivers notice of such termination for Cause. "Cause" shall mean the Company's termination of the Executive's employment with the Company or any of its subsidiaries as a result of: (i) fraud, embezzlement or any willful act of material dishonesty by the Executive in connection with or relating to the Executive's employment with the Company or any of its subsidiaries; (ii) theft or misappropriation of property, information or other assets by the Executive in connection with the Executive's employment with the Company or any of its subsidiaries which results in or could reasonably be expected to result in material loss, damage or injury to the Company and its subsidiaries, their goodwill, business or reputation; (iii) the Executive's conviction, guilty plea, no contest plea, or similar plea for any felony or any crime that results in or could reasonably be expected to result in material loss, damage or injury to the Company and its subsidiaries, their goodwill, business or reputation; (iv) the Executive's use of alcohol or drugs while working that materially interferes with the ability of Executive to perform the Executive's material duties hereunder; (v) the Executive's material breach of a material Company policy, or material breach of a Company policy that results in or could reasonably be expected to result in material loss, damage or injury to the Company and its subsidiaries, their goodwill, business or reputation; (vi) the Executive's material breach of any of his obligations under this Agreement; or (vii) the Executive's repeated insubordination, or refusal (other than as a result of a Disability or physical or mental illness) to carry out or follow specific reasonable and lawful instructions, duties or assignments given by the CEO which are consistent with Executive's position with the Company; provided, that, for clauses (i) – (vii) above, the Company delivers written notice to Executive of the condition giving rise to Cause within ninety (90) days after the Company becomes aware of its initial occurrence. For avoidance of doubt, the Executive being deemed an Unsuitable Person, as defined in that certain Amended and Restated Articles of Incorporation of the Company as in effect on the Effective Date (an "Unsuitable Person"), shall not independently constitute Cause (but any circumstances giving rise to the Executive being deemed an Unsuitable Person shall constitute Cause to the extent such circumstances are grounds provided in clauses (i) – (vii) above).

(d) **WITHOUT CAUSE.** The date of termination set forth in any written notice by the Company to the Executive of an involuntary termination without Cause (other than death or Disability).

(e) **GOOD REASON.** Thirty (30) days after written notice by the Executive to the Company of an alleged condition giving rise to a resignation for Good Reason if the Company shall have failed to cure or remedy such matter, if curable, within such thirty (30) day period. In the event that the basis for Good Reason is not curable, then such thirty (30) day cure period shall not be required, and such resignation shall be effective on the date the Executive delivers such notice. "Good Reason" shall mean the occurrence of any of the following events, without the express written consent of the Executive: (i) the Company's material breach of any of its obligations under this Agreement; (ii) any material adverse change in the Executive's duties or authority or responsibilities, or the assignment of duties or responsibilities to the Executive materially inconsistent with his position; (iii) the Executive no longer serving as the President of Global Technology and Product of the Company; (iv) reduction in the Executive's Annual Base Salary, Target Annual Cash Incentive or Annual Equity Incentive Award (other than across-the-board reductions affecting similarly situated senior executives of the Company or any of its subsidiaries); (v) the Company requires Executive to relocate to a facility or location that increases Executive's one-way commute by more than thirty-five (35) miles from the location at which Executive was working immediately prior to the required relocation; or (vi) the failure of a successor to the Company to assume the Company's obligations under this Agreement; provided, that, for clauses (i) – (vi) above, Executive has given written notice to the Company of the condition giving rise to Good Reason within ninety (90) days after Executive becomes aware of its initial occurrence.

(f) **WITHOUT GOOD REASON.** Thirty (30) days after written notice by the Executive to the Company of the Executive's voluntary termination of employment without Good Reason (which the Company may, in its sole discretion, make effective earlier).

6. CONSEQUENCES OF TERMINATION.

(a) **DEATH OR DISABILITY.** In the event that the Executive's employment ends on account of the Executive's death or Disability, the Executive or the Executive's estate, as the case may be, shall be entitled to the following (with the amounts due under Sections 6(a)(i) through 6(a)(iii) hereof to be paid within thirty (30) days following termination of employment, or such earlier date as may be required by applicable law):

(i) any unpaid Annual Base Salary earned through the date of termination;

(ii) reimbursement for any unreimbursed business expenses incurred through the date of termination;

(iii) all other accrued and vested payments, benefits or fringe benefits required to be paid or provided to the Executive under the applicable plans or by law, including without limitation, payment for all accrued vacation (collectively, Sections 6(a)(i) through 6(a)(iii) hereof shall be hereafter referred to as the "Accrued Benefits"); and

(iv) provided Executive is in full compliance with his obligations under Exhibits A and B attached hereto and Executive or the Executive's estate, as the case may be, executes, returns to the Company and does not revoke the release and waiver of claims in the form attached hereto as Exhibit C (with such changes as may be required in order to reflect or comply with applicable laws at such time, as determined by the Company in its reasonable judgment, the "Release and Waiver") and the Release and Waiver becomes effective pursuant to its terms and conditions, all within sixty (60) days following termination of employment, then the Company shall also provide Executive or the Executive's estate, as the case may be, with the following:

A. Full vesting of all outstanding unvested equity-based awards, including the portions of Annual Equity Incentive Awards, that are solely subject to time-based vesting on the date of such termination, and Executive or the Executive's estate, as the case may be, shall have twelve (12) months after termination of employment to exercise all stock options that were vested at the time of such termination of employment and all stock options that vest pursuant to this Section 6(a)(iv)(A) in connection with such termination (provided such stock options shall remain subject to the maximum original term and expiration of such stock options).

B. Vesting of the portions of all outstanding unvested Annual Equity Incentive Awards that are solely subject to performance-based vesting on the date of such termination, with such vesting determined based on actual performance against the applicable performance goals established for the applicable awards, as determined at the time and in the manner applicable to such awards pursuant to the applicable stock plans and award agreements, with such awards remaining outstanding through the date such vesting is determined. Notwithstanding the foregoing, if any such awards are in the form of stock options, such stock options shall remain outstanding until such time as Executive or the Executive's estate, as the case may be, shall have twelve (12) months after the later of Executive's termination of employment, or the vesting of the applicable stock options, to exercise such stock options that were vested at the time of such termination of employment and such stock options that vest pursuant to this Section 6(a)(iv)(B) in connection with such termination (provided such stock options shall remain subject to the maximum original term and expiration of such stock options).

C. Vesting of all outstanding unvested equity-based awards that are solely subject to performance-based vesting on the date of such termination other than Annual Equity Incentive Awards (typically referred to by the Company as "LTIPs"), with such vesting determined based on actual performance against the applicable performance goals established for the applicable awards through the date that is two (2) years following Executive's termination of employment, subject to the maximum original term and expiration of the applicable award (the "Performance Vesting End Date"), as determined at the time and in the manner applicable to such awards pursuant to the applicable stock plans and award agreements, with such awards remaining outstanding through the date such vesting is determined, not to exceed the Performance Vesting End Date; provided, if the Performance Vesting End Date falls in the middle of a performance/vesting period applicable to an award, the total shares that shall vest in relation to such performance period shall be pro-rated based on the number of days between the first day of the performance/vesting period and the Performance Vesting End Date. Notwithstanding the foregoing, if any such awards are in the form of stock options, such stock options shall remain outstanding until such time as Executive or the Executive's estate, as the case may be, shall have twelve (12) months after the later of Executive's termination of employment, or the vesting of the applicable stock options, to exercise such stock options that were vested at the time of such termination of employment and such stock options that vest pursuant to this Section 6(a)(iv)(C) in connection with such termination (provided such stock options shall remain subject to the maximum original term and expiration of such stock options).

(b) **TERMINATION FOR CAUSE OR WITHOUT GOOD REASON.** If the Executive's employment is terminated (i) by the Company for Cause, or (ii) by the Executive without Good Reason, the Company shall pay to the Executive the Accrued Benefits, at such times as set forth in Section 6(a) above.

(c) **TERMINATION WITHOUT CAUSE OR FOR GOOD REASON.** If the Executive's employment by the Company is terminated (x) by the Company without Cause, or (y) by the Executive for Good Reason (each, a "Qualifying Termination"), then the Company will provide Executive with the Accrued Benefits at such times as set forth in Section 6(a) above and, provided Executive is in full compliance with his obligations under Exhibits A and B attached hereto and Executive executes, returns to the Company and does not revoke the Release and Waiver and the Release and Waiver becomes effective pursuant to its terms and conditions, all within sixty (60) days following termination of employment, then the Company shall also pay or provide the Executive with the following:

(i) *Termination in Connection with Change in Control*. In the event of a Qualifying Termination within eighteen (18) months after a Change in Control (as defined below), or within three (3) months before a Change in Control, the Company shall provide Executive:

A. Cash severance in an amount equal to two times the sum of (x) Annual Base Salary *plus* (y) Target Annual Cash Incentive, less all applicable withholdings and deductions, payable on the first regular payroll date of the Company that is sixty (60) days following the date of Executive's termination.

B. Continued participation through COBRA coverage or such other method determined by the Company (all costs, expenses and premiums to be paid by Company) on the same basis as the employee and/or executive benefit plans contemplated by Section 4(a) hereof in which the Executive is participating on the date of such termination of employment for 24 months following the month in which coverage would otherwise be lost as an employee of the Company; provided that the Executive is eligible and remains eligible for coverage under such plans by timely electing COBRA continuation, if applicable; and provided, further, that in the event that the Executive obtains other employment that offers Executive health benefits such that Executive is not eligible for COBRA continuation rights, such continuation of coverage by the Company under this Section (6)(c)(i)(B) shall immediately cease (such 24 month or shorter period, the "COBRA Payment Period"). Notwithstanding the foregoing, if at any time the Company determines that its payment of COBRA premiums on Executive's behalf or other method of continued participation would result in a violation of applicable law (including but not limited to the 2010 Patient Protection and Affordable Care Act, as amended by the 2010 Health Care and Education Reconciliation Act), then in lieu of paying COBRA premiums or providing such other method of continued participation pursuant to this Section, the Company shall pay Executive on the last day of each remaining month of the COBRA Payment Period, a fully taxable cash payment equal to the COBRA premium or such other payment for such month, subject to applicable tax withholding (such amount, the "Special Severance Payment"), such Special Severance Payment to be made without regard to Executive's payment of COBRA premiums and without regard to the expiration of the COBRA period prior to the end of the COBRA Payment Period. Nothing in this Agreement shall deprive Executive of his rights under COBRA or ERISA for benefits under plans and policies arising under his employment by the Company.

C. Full vesting of all outstanding unvested equity-based awards (including Annual Equity Incentive Awards) on the date of such termination or, if later, the consummation of the Change in Control, with any performance-based vesting conditions for performance periods that are not completed as of the date of termination deemed satisfied at the target level.

(ii) *Termination Not in Connection with Change in Control*. In the event of a Qualifying Termination that is not within eighteen (18) months after a Change in Control, and not within three (3) months before a Change in Control, the Company shall provide Executive:

A. Cash severance in an amount equal to two times the Executive's Annual Base Salary, less all applicable withholdings and deductions, payable on the first regular payroll date of the Company that is sixty (60) days following the date of Executive's termination.

B. An additional cash severance amount in an amount equal to the Annual Cash Incentive to which Executive would be entitled for the year of termination if Executive were employed by the Company on the last day of such year, based on actual performance against the applicable performance goals established for such bonus, pro-rated based on the number of days Executive was employed by the Company during such year, less all applicable withholdings and deductions, payable at the same time as bonuses are paid to active employees but no later than March 15 of the year after the year of termination.

C. Continued participation through COBRA coverage or such other method determined by the Company (all costs, expenses and premiums to be paid by Company) on the terms and conditions set forth in Section 6(c)(i)(B).

D. Pro rata vesting of all outstanding unvested equity-based awards (including the portions of Annual Equity Incentive Awards) that are solely subject to time-based vesting on the date of such termination based on the number of days Executive was employed by the Company during the vesting period during which the termination occurs.

E. Pro rata vesting of all outstanding unvested equity-based awards (including the portions of Annual Equity Incentive Awards) that are subject to performance-based vesting on the date of such termination, with such vesting determined based on actual performance against the applicable performance goals established for the applicable awards, as determined at the time and in the manner applicable to such awards pursuant to the applicable stock plans and award agreements, with such awards remaining outstanding through the date such vesting is determined, and pro-rated based on the number of days Executive was employed by the Company during the applicable performance/vesting periods.

(iii) "Change in Control" for purposes of this Section 6 will have the meaning set forth in the DraftKings Inc. 2020 Incentive Award Plan (or its successor as in effect at the time of a Qualifying Termination). For the avoidance of doubt, the Closing shall not constitute a Change in Control.

7. RETURN OF COMPANY PROPERTY. Within ten (10) days after Executive's termination of employment with the Company for any reason, the Executive shall return all property belonging to the Company or its affiliates (including, but not limited to, any Company-provided laptops, computers, cell phones, wireless electronic mail devices and other equipment, documents and property belonging to the Company).

8. REPRESENTATIONS AND WARRANTIES.

(a) **AUTHORIZATION.** All corporate action on the part of the Company and its directors necessary for the authorization, execution and delivery of this Agreement by the Company, and the performance of all of the Company's obligations under this Agreement has been taken.

(b) **ENFORCEABILITY.** This Agreement, when executed and delivered by the Company, will constitute valid and legally binding obligations of the Company, enforceable in accordance with its terms.

9. NO ASSIGNMENTS. This Agreement is personal to each of the parties hereto and no party may assign or delegate any rights or obligations hereunder without first obtaining the written consent of the other party hereto; provided, however that the Company may assign this Agreement to any successor to all or substantially all of the business and/or assets of the Company; provided, further, that the Company shall require such successor to expressly assume and agree to perform this Agreement in the same manner and to the same extent that the Company would be required to perform it if no such succession had taken place. As used in this Agreement, "Company" shall mean the Company and any successor to its business and/or assets, which assumes and agrees to perform the duties and obligations of the Company under this Agreement by operation of law or otherwise.

10. NOTICE. For purposes of this Agreement, notices and all other communications provided for in this Agreement shall be in writing and shall be deemed to have been duly given (a) on the date of delivery, if delivered by hand, (b) upon receipt of confirmation of successful transmission, if delivered by facsimile, (c) on the date of delivery, if delivered by overnight delivery service, or mailed by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

If to the Executive:

Paul Liberman
Address on file with the Company

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

_____
_____
_____
_____
_____

If to the Company:

DraftKings Inc.
Attn: Chief Legal Officer
222 Berkley Street, 5th Floor
Boston, MA 02116
Fax: (617) 977-1727

or to such other address or fax number as either party may have furnished to the other in writing in accordance herewith.

11. SECTION HEADINGS; INCONSISTENCY. The section headings used in this Agreement are included solely for convenience and shall not affect, or be used in connection with, the interpretation of this Agreement.

12. SEVERABILITY. Each provision of this Agreement will be construed as separable and divisible from every other provision and the enforceability of any one (1) provision will not limit the enforceability, in whole or in part, of any other provision. In the event that a court or administrative body of competent jurisdiction holds any provision of this Agreement to be invalid, illegal, void or less than fully enforceable as to time, scope or otherwise, then such provision will be construed by limiting and reducing it so that such provision is valid, legal and fully enforceable while preserving to the greatest extent permissible the original intent of the parties; the remaining terms and conditions of this Agreement will not be affected by such alteration, and will remain in full force and effect.

13. COUNTERPARTS. This Agreement may be executed in several counterparts, each of which shall be deemed to be an original but all of which together will constitute one and the same instrument.

14. GOVERNING LAW; ARBITRATION. This Agreement, the rights and obligations of the parties hereto, and all claims or disputes relating thereto, shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, without regard to the choice of law provisions thereof. Except for disputes arising under Exhibit A, Exhibit B, Exhibit C or Exhibit D hereof, which shall be decided pursuant to the terms of those Exhibits, any dispute arising from this Agreement or Executive's employment with the Company, including but not limited to claims for wrongful termination; violation of Title VII of the Civil Rights Act of 1964 as amended; violations of the Americans with Disabilities Act of 1990; violations of Massachusetts law, including without limitation claims pursuant to Chapter 151B of the Massachusetts General Laws and the Massachusetts Wage Act and Overtime law; or claims for violations of any state law or rule or regulation regarding discrimination, harassment or other wrongful conduct (collectively, "Covered Claims"), shall be decided solely and exclusively in a final and binding arbitration administered by the JAMS in Boston, Massachusetts, in accordance with the JAMS Employment Arbitration Rules in effect at the time of the filing of the demand for arbitration (the "Rules"), a copy of which is available at http://www.jamsadr.com/rules-employment-arbitration/. The arbitrator shall be a single arbitrator with expertise in employment disputes, mutually selected by the parties, or, if the parties are unable to agree thereon, a single arbitrator with expertise in employment disputes designated by the Boston office of JAMS. The arbitrator shall have the authority to award all remedies available in a court of law. The Company shall pay the arbitrator's fees and all fees and costs to administer the arbitration. The parties acknowledge and agree that their obligations to arbitrate under this Section survive the termination of the Agreement and continue after the termination of the employment relationship between the Executive and the Company. By agreeing to arbitrate disputes arising out of Executive's employment, both the Executive and the Company voluntarily and irrevocably waive any and all rights to have any such dispute heard or resolved in any forum other than through arbitration as provided herein. This waiver specifically includes, but is not limited to, any right to trial by jury. Notwithstanding anything to the contrary set forth herein, this Section will not apply to claims for workers' compensation or unemployment benefits, any claim for injunctive or equitable relief, or any claim arising from Exhibit A, Exhibit B, Exhibit C or Exhibit D to this Agreement brought by the Company or the Executive, which shall be governed by the terms and conditions thereof. All arbitration proceedings hereunder shall be confidential, except: (a) to the extent the parties otherwise agree in writing; (b) as may be otherwise appropriate in response to a request from a government agency, subpoena, or legal process; (c) if the substantive law of the State of Massachusetts (without giving effect to choice of law principles) provides to the contrary; or (d) as is necessary in a court proceeding to enforce, correct, modify or vacate the arbitrator's award or decision (and in the case of this subpart (d), the parties agree to take all reasonable steps to ensure that the arbitrator's award, decision or findings and all other documents, pleadings and papers are filed and/or entered with the court under seal and/or in a manner that would maintain their confidentiality, including, without limitation, complying with all rules of procedure and local rules for filing documents, pleadings and papers under seal).

15. MISCELLANEOUS. No provision of this Agreement may be modified, waived or discharged unless such waiver, modification or discharge is agreed to in writing and signed by the Executive and the CEO or other authorized representative of the Company. No waiver by either party hereto at any time of any breach by the other party hereto of, or compliance with, any condition or provision of this Agreement to be performed by such other party shall be deemed a waiver of similar or dissimilar provisions or conditions at the same or at any prior or subsequent time. This Agreement, the exhibits attached hereto, and the Transaction Performance Award Letter Agreement entered into between the Company and Executive contemporaneously herewith collectively set forth the entire agreement of the parties hereto in respect of the subject matter contained herein and supersede any and all prior agreements or understandings between the Executive and the Company with respect to the subject matter hereof. No agreements or representations, oral or otherwise, express or implied, with respect to the subject matter hereof have been made by either party which are not expressly set forth in this Agreement. In the event of any conflict or inconsistency between the terms and conditions of this Agreement and any offer letter, form, award, plan or policy of the Company, the terms of this Agreement shall govern and control. Notwithstanding the foregoing, in the event of any conflict or inconsistency between this Agreement (including the exhibits hereto) and the DraftKings Inc. 2017 Equity Incentive Plan or the DraftKings Inc. 2012 Stock Option & Restricted Stock Incentive Plan (or any award agreement under such plans to which Executive is a party) regarding (1) the definitions of "Cause" or "Disability", (2) the treatment of equity-based awards in connection with a termination of employment (whether before or after a Change in Control) or (3) the governing law and dispute resolution procedures, then such provisions in this Agreement (including the exhibits hereto) shall control. Notwithstanding the foregoing, the Executive shall remain bound by all covenants, duties and obligations relating to confidentiality, ownership of intellectual property, non-solicitation, non-competition and all other post-employment restrictive covenants, duties and obligations with respect to which the Executive agreed to be bound in connection with the Executive's employment with the Company, including without limitation such covenants, obligations and duties set forth in the Noncompetition, Nonsolicitation, Nondisclosure & Assignment of Inventions Agreement dated March 13, 2013; the Stock Option Grant Notice And Post Employment Noncompetition Covenant (2017 Equity Incentive Plan), dated June 4, 2019; the Stock Option Grant Notice And Post Employment Noncompetition Covenant (2017 Equity Incentive Plan), dated June 4, 2019; and the Stock Option Grant Notice And Post Employment Noncompetition Covenant (2017 Equity Incentive Plan), dated June 4, 2019 (collectively, the "Restrictive Covenants"). The post-employment covenants, duties and obligations set forth in this Agreement are intended to supplement – not replace – the Restrictive Covenants.

16. TAX MATTERS.

(a) **WITHHOLDING.** The Company may withhold from any and all amounts payable under this Agreement or otherwise such federal, state and local taxes as may be required to be withheld pursuant to any applicable law or regulation.

(b) **SECTION 409A COMPLIANCE.**

(i) The intent of the parties is that payments and benefits under this Agreement are exempt from or comply with Internal Revenue Code Section 409A and the regulations and guidance promulgated thereunder (collectively "Code Section 409A") and, accordingly, to the maximum extent permitted, this Agreement shall be interpreted to be in compliance therewith. To the extent that any provision hereof is modified in order to comply with Code Section 409A, such modification shall be made in good faith and shall, to the maximum extent reasonably possible, maintain the original intent and economic benefit to the Executive and the Company of the applicable provision without violating the provisions of Code Section 409A.

(ii) To the extent required to prevent the imposition of taxes or penalties under Code Section 409A, a termination of employment shall not be deemed to have occurred for purposes of any provision of this Agreement providing for the payment of any amount or benefit upon or following a termination of employment unless such termination is also a "separation from service" within the meaning of Code Section 409A and, for purposes of any such provision of this Agreement, references to a "termination," "termination of employment" or like terms shall mean "separation from service." Notwithstanding anything to the contrary in this Agreement, if the Executive is deemed on the date of termination to be a "specified employee" within the meaning of that term under Code Section 409A(a)(2)(B), then with regard to any payment or the provision of any benefit that is considered "nonqualified deferred compensation" under Code Section 409A payable on account of a "separation from service," such payment or benefit shall not be made or provided until the date which is the earlier of (A) the expiration of the six (6)-month period measured from the date of such "separation from service" of the Executive, and (B) the date of the Executive's death, to the extent required under Code Section 409A. Upon the expiration of the foregoing delay period, all payments and benefits delayed pursuant to this Section 16(b)(ii) (whether they would have otherwise been payable in a single sum or in installments in the absence of such delay) shall be paid or reimbursed to the Executive in a lump sum, and all remaining payments and benefits due under this Agreement shall be paid or provided in accordance with the normal payment dates specified for them herein.

(iii) To the extent that reimbursements or other in-kind benefits under this Agreement constitute "nonqualified deferred compensation" for purposes of Code Section 409A, (A) all expenses or other reimbursements hereunder shall be made on or prior to the last day of the taxable year following the taxable year in which such expenses were incurred by the Executive, (B) any right to reimbursement or in-kind benefits shall not be subject to liquidation or exchange for another benefit, and (C) no such reimbursement, expenses eligible for reimbursement, or in-kind benefits provided in any taxable year shall in any way affect the expenses eligible for reimbursement, or in-kind benefits to be provided, in any other taxable year.

(iv) For purposes of Code Section 409A, the Executive's right to receive installment payments pursuant to this Agreement shall be treated as a right to receive a series of separate and distinct payments. Whenever a payment under this Agreement specifies a payment period with reference to a number of days, the actual date of payment within the specified period shall be within the sole discretion of the Company.

(v) Notwithstanding any other provision of this Agreement to the contrary, in no event shall any payment or benefit under this Agreement that constitutes "nonqualified deferred compensation" for purposes of Code Section 409A be subject to offset by any other amount unless otherwise permitted by Code Section 409A.

17. NONSOLICITATION, NONDISCLOSURE & ASSIGNMENT OF INVENTIONS AGREEMENT AND NONCOMPETITION COVENANT. As a condition of continuing employment and as a condition to be eligible to receive the severance compensation set forth herein, Executive agrees to execute and abide by the Nonsolicitation, Nondisclosure & Assignment of Inventions Agreement in the form attached as Exhibit A and the Noncompetition Covenant in the form attached as Exhibit B (together the "Covenants"). The execution of the Covenants by Executive is a condition precedent to this agreement becoming effective. The Covenants contain provisions that are intended by the parties to survive and do survive termination of this Agreement.

18. INDEMNIFICATION. Executive will be insured under the Company's Director's and Officer's Liability Insurance to the extent the Company maintains such a policy and will be entitled to indemnification by the Company pursuant to the terms and conditions of the Company's certification of incorporation and by-laws to the same extent as the Company's executive officers and directors pursuant to an Indemnification Agreement between the Company and the Executive substantially in the form attached hereto as Exhibit D.

19. GOLDEN PARACHUTE. Anything in this Agreement to the contrary notwithstanding, if any payment or benefit Executive would receive from the Company or otherwise (a "Payment") would (a) constitute a "parachute payment" within the meaning of Internal Revenue Code Section 280G ("Code Section 280G"); and (b) but for this Section 19, be subject to the excise tax imposed by Internal Revenue Code Section 4999 (the "Excise Tax"), then such Payment shall be equal to the Reduced Amount. For purposes of this Agreement, the "Reduced Amount" shall be either (x) the largest portion of the Payment that would result in no portion of the Payment being subject to the Excise Tax; or (y) the largest portion, up to and including the total, of the Payment, whichever amount, after taking into account all applicable federal, state and local employment taxes, income taxes, and the Excise Tax (all computed at the highest applicable marginal rate), results in Executive's receipt, on an after-tax basis, of the greater amount of the Payment. Any reduction made pursuant to this Section 19 shall be made in accordance with the following order of priority: (i) Full Credit Payments (as defined below) that are payable in cash, (ii) non-cash Full Credit Payments that are taxable, (iii) non-cash Full Credit Payments that are not taxable, (iv) Partial Credit Payments (as defined below), (v) non-cash employee welfare benefits and (vi) stock options whose exercise price exceeds the fair market value of the optioned stock. In each case, reductions shall be made in reverse chronological order such that the payment or benefit owed on the latest date following the occurrence of the event triggering the Excise Tax will be the first payment or benefit to be reduced (with reductions made pro-rata in the event payments or benefits are owed at the same time). For purposes of this Agreement, "Full Credit Payment" means a payment, distribution or benefit, whether paid or payable or distributed or distributable pursuant to the terms of this Agreement or otherwise, that if reduced in value by one dollar reduces the amount of the parachute payment (as defined in Code Section 280G) by one dollar, determined as if such payment, distribution or benefit had been paid or distributed on the date of the event triggering the excise tax. For purposes of this Agreement, "Partial Credit Payment" means any payment, distribution or benefit that is not a Full Credit Payment. In no event shall Executive has any discretion with respect to the ordering of payment reductions. Unless the Company and Executive otherwise agree in writing, any determination required under this Section 19 will be made in writing by a certified professional services firm selected by the Company, the Company's legal counsel or such other person or entity to which the parties mutually agree (the "Firm"), whose determination will be conclusive and binding upon Executive and the Company for all purposes. For purposes of making the calculations required by this Section 19, the Firm may make reasonable assumptions and approximations concerning applicable taxes and may rely on reasonable, good faith interpretations concerning the application of Code Section 280G and Internal Revenue Code Section 4999. The Company and Executive will furnish to the Firm such information and documents as the Firm may reasonably request in order to make a determination under this Section 19. The Company will bear all costs the Firm may reasonably incur in connection with any calculations contemplated by this Section 19.

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

DRAFTKINGS INC., a Nevada corporation

By: /s/ R. Stanton Dodge

Name: R. Stanton Dodge

Title: Chief Legal Officer

EXECUTIVE

/s/ Paul Liberman

Name: Paul Liberman

EXHIBIT A

NONSOLICITATION, NONDISCLOSURE & ASSIGNMENT OF INVENTIONS AGREEMENT

The undersigned Employee (the "Employee"), executes this Nonsolicitation, Nondisclosure & Assignment of Inventions Agreement (the "Agreement") in consideration of, and a material inducement for, the Company's (as defined below) continuing relationship with Employee, whether by employment, contractor, or in advisory or consulting capacities, or otherwise, and in consideration of receiving any form of compensation or benefit from or in the Company, and the entering into of the Executive Employment Agreement (the "Employment Agreement"). Employee understands and agrees that this Agreement shall remain in effect and survive any and all changes in Employee's job duties, titles and compensation during Employee's relationship with Company.

Definitions

i. "Company" shall mean DraftKings Inc., a Nevada corporation, and any entity controlled by, controlling, or under common control with it, including affiliates and subsidiaries. "Control" for this purpose means the direct or indirect possession of the power to direct or cause the direction of the management and policies of an entity, whether through ownership, by contract or otherwise.

ii. "Competing Business" shall mean any person, firm, association, corporation or any other legal entity that is engaged in a business that is competitive with any aspect of the Business of the Company, including but not limited to: FanDuel, Paddy Power Betfair, William Hill, bet365, PointsBet, Penn National, Barstool Sports, SugarHouse, 888, MGM, TheScore, BetStars, Unibet, Caesars, Golden Nugget, Bet America, Borgata, Harrahs, Oceans, Resorts, Tropicana, Virgin, and Pala.

iii. "Business of the Company" shall mean the research, design, development, marketing, sales, operations, maintenance and commercial exploitation pertaining to the operation of, and providing products and services for: (1) fantasy sports contests ("FSC"); (2) Regulated Gaming (defined below); (3) all other products and services that exist, are in development, or are under consideration by the Company during Employee's relationship with the Company ("Other Products and Services"); and (4) all products and services incidentally related to, or which are an extension, development or expansion of, FSC, Regulated Gaming and/or Other Products and Services ("Incidental Products and Services").

iv. "Regulated Gaming" shall mean the operation of games of chance or skill or pari-mutuel or fixed odds games (including, but not limited to, lotteries, pari-mutuel betting, bingo, race tracks, jai alai, legalized bookmaking, off-track betting, casino games, racino, keno, and sports betting or any play for fun (non-wagering) versions of the foregoing) and any type of ancillary service or product related to or connected with the foregoing.

v. "Confidential Information" shall mean all information or a compilation of information, in any form (tangible or intangible or otherwise), that is not generally known to competitors or the public, which Company considers to be confidential and/or proprietary, including but not limited to: research and development; techniques; methodologies; strategies; product information, designs, prototypes and technical specifications; algorithms, source codes, object codes, trade secrets or technical data; training materials methods; internal policies and procedures; marketing plans and strategies; pricing and cost policies; customer, supplier, vendor and partner lists and accounts; customer and supplier preferences; contract terms and rates; financial data, information, reports, and forecasts; inventions, improvements and other intellectual property; product plans or proposed product plans; know-how; designs, processes or formulas; software and website applications; computer passwords; market or sales information, plans or strategies; business plans, prospects and opportunities (including, but not limited to, possible acquisitions or dispositions of businesses or facilities); information concerning existing or potential customers, partners or vendors. Confidential Information shall also mean information of or related to Company's current or potential customers, vendors or partners that is considered to be confidential or proprietary to the applicable customer, vendor or partner.

Confidential Information does not include: information in the public domain (other than as a result of disclosure directly or indirectly by Employee); information approved in writing for unrestricted release by Company; or information produced or disclosed pursuant to a valid court order, provided Employee has given Company written notice of such request such that Company has an actual, reasonable opportunity to defend, limit or protect such production or disclosure.

1. **Duty of Loyalty**. During the period of Employee's relationship with the Company, Employee will devote Employee's best efforts on behalf of the Company. Employee agrees not to provide any services to any Competing Business or engage in any conduct which may create an actual or appear to create a conflict of interest, without the expressed, written permission of the Company.

2. **Nonsolicitation of Customers, Clients or Vendors.** During the period of Employee's relationship with the Company and for a period of twelve (12) months after termination of such relationship (for any reason), Employee shall not directly or indirectly either for him/herself or for any other person, partnership, legal entity, or enterprise, solicit or transact business, or attempt to solicit or transact business with, any of the individuals or entities actually known to Employee to be the Company's customers, clients, vendors or partners, or prospective customers, clients, vendors or partners, in all cases, about which Employee learned Confidential Information (as defined above) or which Employee had some involvement or knowledge related to the Business of the Company.

3. **Nonsolicitation of Employees and Contractors.** During the period of Employee's relationship with the Company and for a period of twelve (12) months after termination of such relationship (for any reason), Employee will not directly or indirectly either for him/herself or for any other person, partnership, legal entity, or enterprise: (i) solicit, in person or through supervision or control of others, an employee, advisor, consultant or contractor of the Company for the purpose of inducing or encouraging the employee, advisor, consultant or contractor to leave his or her relationship with the Company or to change an existing business relationship with the Company or to change an existing business relationship to the detriment of the Company, (ii) hire away an employee, advisor, consultant or contractor of the Company; or (iii) help another person or entity hire away a Company employee, advisor, consultant or contractor. Notwithstanding the foregoing, the placement of general advertisements offering employment, other service relationships or activities that are not specifically targeted toward employees, advisors, consultants or contractors of the Company shall not be deemed to be a breach of this Section 3.

4. **Nondisclosure of Customer, Partner and Vendor Information**. Employee understands and agrees that it is essential to the Company's success that all nonpublic customer, partner, and vendor information is deemed and treated as Confidential Information and a confidential trade secret. Employee will not, directly or indirectly, either for him/herself or for any other person, partnership, legal entity, or enterprise, use or disclose any such customer, partner, or vendor information, except as may be necessary in the normal conduct of the Company's business for the specific customer, partner, or vendor. Employee agrees that at the end of Employee's relationship with the Company, or upon request by the Company, Employee will return to the Company any materials containing such information.

5. **Nondisclosure of Confidential Information**. All such Confidential Information is (and will be) the exclusive property of the Company, and Employee shall not, during or after Employee's employment: (i) use any Confidential Information for any purpose that is not authorized by the Company; (ii) disclose any Confidential Information to any person or entity, except as authorized by the Company in connection with Employee's job duties; or (iii) remove or transfer Confidential Information from the Company's premises or systems except as authorized by the Company.

Upon termination of Employee's relationship (for any reason), or upon the request of the Company, Employee will immediately surrender to the Company all Company property in Employee's possession, custody, or control, including any and all documents, electronic information, and materials of any nature containing any Confidential Information, without retaining any copies.

Employee understands that the Company is now and may hereafter be subject to non-disclosure or confidentiality agreements with third persons that require the Company to protect or refrain from use of Confidential Information. Employee agrees to respect and be bound by the terms of such agreements in the event Employee has access to such Confidential Information.

Employee understands that Confidential Information is never to be used or disclosed by Employee, as provided in this Section 5. If a temporal limitation on Employee's obligation not to use or disclose such information is required under applicable law, and the Agreement or its restriction(s) cannot otherwise be enforced, Employee agrees and the Company agrees that the two (2) year period after the date Employee's employment ends will be the temporal limitation relevant to the contested restriction; provided, however, that this sentence will not apply to trade secrets protected without temporal limitation under applicable law.

Notwithstanding the foregoing or anything to the contrary in this Agreement or any other agreement between the Company and the Employee, nothing in this Agreement shall limit the Employee's right to discuss Employee's employment or report possible violations of law or regulation with the Equal Employment Opportunity Commission, United States Department of Labor, the National Labor Relations Board, the Securities and Exchange Commission, or other federal government agency or similar state or local agency or to discuss the terms and conditions of his employment with others to the extent expressly permitted by Section 7 of the National Labor Relations Act or to the extent that such disclosure is protected under the applicable provisions of law or regulation, including but not limited to "whistleblower" statutes or other similar provisions that protect such disclosure. Employee agrees to take all reasonable steps to ensure that the Company's Confidential Information is not made public during any such disclosure. Pursuant to 18 U.S.C. Section 1833(b), the Employee shall not be held criminally or civilly liable under any Federal or State trade secret law for the disclosure of a trade secret that: (1) is made in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney, and solely for the purpose of reporting or investigating a suspected violation of law; or (2) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal.

6. **Assignment of Inventions**. Employee expressly understands and agrees that any and all right or interest Employee obtains in any designs, trade secrets, technical specifications and technical data, know-how and show-how, customer and vendor lists, marketing plans, pricing policies, inventions, concepts, ideas, expressions, discoveries, improvements and patent or patent rights which are authored, conceived, devised, developed, reduced to practice, or otherwise obtained by him during the term of this Agreement which relate to or arise out of his relationship with the Company and which relate to the business of the Company are expressly regarded as "*works for hire*" or works invented or authored within the scope of employment or engagement, whether as an adviser, consultant, officer, executive, director or other capacity (the "Inventions"). Employee hereby assigns to the Company the sole and exclusive right to such Inventions. Any assignment of Inventions (and all intellectual property rights with respect thereto) hereunder includes an assignment of all "Moral Rights" (which shall mean all paternity, integrity, disclosure, withdrawal, special and any other similar rights recognized by the laws of any jurisdiction or country). To the extent such Moral Rights cannot be assigned to the Company and to the extent the following is allowed by the laws in any country where Moral Rights exist, Employee hereby unconditionally and irrevocably waives the enforcement of such Moral Rights, and all claims and causes of action of any kind against the Company or related to the Company's customers, with respect to such rights. Employee further acknowledges and agrees that neither his successors-in-interest nor legal heirs retain any Moral Rights in any Inventions (and any intellectual property rights with respect thereto).

Employee agrees to disclose all Inventions fully and in writing to the Company promptly after development, conception, invention, creation or discovery of the same, and at any time upon request. Employee will provide all assistance that the Company reasonably requests to secure or enforce its rights throughout the world with respect to Inventions, including signing all necessary documents to memorialize those rights and take any other action which the Company shall deem necessary to assign to and vest completely in the Company, to perfect trademark, copyright and patent protection with respect to, or to otherwise protect the Company's trade secrets and proprietary interest in such Inventions. The obligations of this Section shall continue beyond the termination of Employee's relationship with respect to such Inventions conceived of, reduced to practice, or developed by the Employee during the term of this Agreement. The Company agrees to pay any and all copyright, trademark and patent fees and expenses or other costs incurred by Employee for any assistance rendered to the Company pursuant to this Section.

In the event the Company is unable, after reasonable effort, to secure Employee's signature on any patent application, copyright or trademark registration or other analogous protection relating to an Invention, the Employee hereby irrevocably designates and appoints the Company and its duly authorized officer and agent as his agent and attorney-in-fact, to act for and on his behalf and stead to execute and file any such application or applications and to do all other lawfully permitted acts to further the prosecution and issuance of letters patent, copyright or other analogous protection thereon with the same legal force and effect as if executed by the Employee.

In Attachment A to this Agreement, Employee has listed all Inventions that relate to the business of the Company that Employee (alone or jointly with others) made, conceived, or first reduced to practice by Employee prior to Employee's execution of this Agreement, and in which Employee has any property interest or claim of ownership. If no such Inventions are listed in said Attachment, Employee represents that Employee has no such Inventions.

To the extent Employee is a citizen of and subject to law of a state which provides a limitation on invention assignments, then this Agreement's assignment shall not include inventions excluded under such law.

Notwithstanding anything to the contrary in this Section 6, this Section 6 shall not apply to inventions that the Employee develops entirely on his own time without using the Company's equipment, supplies, facilities, or trade secret information, except to the extent such inventions (a) relate at the time of conception or reduction to practice of the invention to the Company's business, or actual or demonstrably anticipated research or development of the Company; or (b) result from any work performed by the Employee for the Company.

7. **Absence of Conflicting Agreements**. Employee understands that the Company does not desire to acquire from Employee any trade secrets, know-how or confidential business information that Employee may have acquired from others, and Employee agrees not to disclose any such information to the Company or otherwise utilize any such information in connection with Employee's performance of duties with the Company. Employee represents that Employee is not bound by any agreement or any other existing or previous business relationship which purports to conflict or impact the full performance of Employee's duties and obligations to the Company.

8. **Remedies Upon Breach**. Employee agrees that any action that violates this Agreement would cause the Company irreparable harm for which monetary damages are inadequate. Accordingly, in the event of a breach, or threatened breach, the Company shall be entitled to an injunction restraining such breach or threatened breach, or requiring specific performance, in addition to any and all rights and remedies at law and equity. The Company shall not be obligated to present additional evidence of irreparable harm or the insufficiency of monetary damages and, to the extent permitted by law or under applicable court rule, does not need to post a bond or other surety. Nothing herein shall be construed as prohibiting the Company from pursuing any other remedy available to the Company for such breach or threatened breach.

9. **Jurisdiction, Venue and Choice of Law** The parties hereby mutually agree to the exclusive jurisdiction of the Superior Court (inclusive of the Business Litigation Session) of the Commonwealth of Massachusetts or the United States District Court for the District of Massachusetts for any dispute arising hereunder. Accordingly, with respect to any such court action, Employee (a) submits to the personal jurisdiction of such courts; (b) consents to service of process by regular mail to his last known address; and (c) waives any other requirement (whether imposed by statute, rule of court, or otherwise) with respect to personal jurisdiction or service of process. If either party hereto commences a legal action or other proceeding against the other party concerning a dispute arising from or relating to this Agreement outside of Massachusetts, such commencing party shall reimburse such other party for its or his reasonable attorneys' fees, costs and expenses if such other party prevails in staying, transferring, dismissing or otherwise defending such action or proceeding based on the location of the action or proceeding, regardless of whether such fees, costs and expenses are incurred in the forum where such commencing party commenced the action or in a Massachusetts forum. This Agreement shall be governed by the internal substantive laws of Massachusetts, without regard to the doctrine of conflicts of law.

10. **Employment Relationship.** Employee agrees and acknowledges that Employee is an employee "at will" and nothing in this Agreement is intended to guarantee employment for any period of time. The parties enter this Agreement with the understanding that Employee's position, title, duties and responsibilities could change in a material way in the future and, in light of that understanding, the parties intend that this Agreement shall follow Employee throughout the entire course of Employee's employment with the Company, and such subsequent material change shall not affect the enforceability or validity of this Agreement.

11. **Return of Property**. Employee agrees that, at the time of termination of Employee's employment (for any reason), Employee will return immediately to the Company, in good condition, all property of the Company. This return of property includes, without limitation, a return of physical property (such as computer, phone or other mobile devices, credit card, promotional materials, etc.) and intangible property (such as computer passwords).

12. **Litigation and Regulatory Cooperation**. During and after the Employee's relationship with the Company, Employee shall cooperate fully with the Company in the defense or prosecution of any claims or actions now in existence or that may be brought in the future against or on behalf of the Company by/against third parties that relate to events or occurrences that transpired while the Employee was employed by the Company. Employee's full cooperation in connection with such claims or actions shall include, but not be limited to, being available to meet with counsel to prepare for discovery or trial and to act as a witness at mutually convenient times. During and after the Employee's employment, Employee also shall cooperate fully with the Company in connection with any investigation or review of any federal, state, or local regulatory authority as any such investigation or review relates to events or occurrences that transpired while the Employee was employed by the Company, unless such claim is brought by Employee. As consideration for the Employee's services under this Section 12, the Company shall remit to Employee, as agreed between the parties in advance, (a) reasonable expenses related to such cooperation, and (b) an hourly rate equal to Employee's last base salary divided by 2,000.

13. **Communication to Future Employers**. Employee agrees to communicate the contents of all post-relationship obligations in this Agreement to any Competing Business that Employee intends to be employed by, associated with, or represent. Employee understands and agrees that the Company may, in its discretion, also share any post-employment obligation set out in this Agreement with any future employer or potential employer of Employee, or any entity which seeks to be associated with Employee for Employee's services.

14. **Miscellaneous**. Any waiver by the Company of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach hereof. If a court determines that one or more of the provisions contained in this Agreement shall be invalid or unenforceable, such court shall construe, reform or otherwise revise such provision(s) so as to render it/them enforceable to the maximum extent allowed by law, without invalidating the remaining provisions of this Agreement. The obligations of each party hereto under this Agreement shall survive the termination of the Employee's relationship with the Company regardless of the manner of such termination to the extent expressly provided in, or logically would be expected under, this Agreement. All covenants and agreements hereunder shall inure to the benefit of and be enforceable by the successors of the Company. This Agreement amends, supplants and supersedes any agreement previously executed between the parties regarding the subject matter of this Agreement.

    Notwithstanding the foregoing, the Employee shall remain bound by all covenants, duties and obligations relating to confidentiality, ownership of intellectual property, non-solicitation, non-competition and all other post-employment restrictive covenants, duties and obligations with respect to which the Employee agreed to be bound in connection with the Employee's employment with the Company, including without limitation such covenants, obligations and duties set forth in the Noncompetition, Nonsolicitation, Nondisclosure & Assignment of Inventions Agreement dated March 13, 2013; the Stock Option Grant Notice And Post Employment Noncompetition Covenant (2017 Equity Incentive Plan), dated June 4, 2019; the Stock Option Grant Notice And Post Employment Noncompetition Covenant (2017 Equity Incentive Plan), dated June 4, 2019; and the Stock Option Grant Notice And Post Employment Noncompetition Covenant (2017 Equity Incentive Plan), dated June 4, 2019 (collectively, the "Restrictive Covenants"). The post-employment covenants, duties and obligations set forth in this Agreement are intended to supplement – not replace – the Restrictive Covenants.

Employee recognizes and agrees that the enforcement of this Agreement is necessary, among other things, to ensure the preservation, protection and continuity of Confidential Information, trade secrets and goodwill of the Company. Employee agrees that, due to the proprietary nature of the Business of the Company and relationships with others, the post-employment restrictions set forth above are reasonable as to duration and scope.

Employee is advised to consult with an attorney before entering into this Agreement.

IN WITNESS WHEREOF, the undersigned Employee and the Company have executed this Nonsolicitation, Nondisclosure and Assignment of Inventions Agreement as an instrument under seal as of this 23rd day of April, 2020.

DraftKings Inc.

/s/ R. Stanton Dodge
By: R. Stanton Dodge
Title: Chief Legal Officer

Employee

/s/ Paul Liberman
Name: Paul Liberman

NONSOLICITATION, NONDISCLOSURE & ASSIGNMENT OF INVENTIONS AGREEMENT

Attachment A

List of all inventions or improvements (referred to in Section 6) made by Employee, alone or jointly with others, prior to joining the Company.

Right, Title or Interest (If none, please write "NONE".)	**Date Acquired**	**Identifying Number or Brief Description of Inventions or Improvements**

Name of Employee:

Paul Liberman
Print

/s/ Paul Liberman
Sign

April 23, 2020
Date

EXHIBIT B

NONCOMPETITION COVENANT

(a) During the period of your relationship with Company, you, Paul Liberman (hereinafter "you") agree to not, anywhere within the Restricted Area (defined below), acting individually, or as an owner, shareholder, partner, employee, contractor, agent or otherwise (other than on behalf of Company): provide services to a Competing Business (defined below). For a period of twelve (12) months following termination of your relationship with Company (for any reason other than referenced below in section (b)), you agree to not, anywhere within the Restricted Area, acting individually, or as an owner, shareholder, partner, employee, contractor, agent or otherwise (other than on behalf of Company): provide services to a Competing Business that relate to any aspect of the Business of the Company (i.e., FSC, Regulated Gaming, Other Products and Services, and/or Incidental Products and Services) for which you performed services or received confidential information at any time during the twelve (12) month period prior to such termination. For example, if you performed services for the FSC aspect of the Business of the Company and received confidential information about the Regulated Gaming aspect of the Business of the Company during the twelve (12) month period prior to the termination of your relationship with the Company (for any reason other than referenced below in section (b)), then for twelve (12) months after such termination, you shall not, anywhere within the Restricted Area, acting individually, or as an owner, shareholder, partner, employee, contractor, agent or otherwise (other than on behalf of Company), provide services to a Competing Business that relate to FSC or Regulated Gaming. The foregoing shall not be construed to preclude you from (i) owning up to one percent (1%) of the outstanding stock of a publicly held corporation that constitutes or is affiliated with a Competing Business, or (ii) becoming a shareholder, partner, contractor, agent, member, employee or otherwise of a private equity, venture capital or other investment firm, and providing services in connection therewith. The foregoing shall, however, be construed to specifically prevent you from (x) acting individually, or as an owner, shareholder, partner, employee, contractor, agent or otherwise (other than on behalf of Company) anywhere within the Restricted Area, during the period of your relationship with the Company and for a period of twelve (12) months following termination of your relationship with Company (for any reason other than referenced below in section (b)), and (y) providing services that relate to any aspect of the Business of the Company for any private equity, venture capital or other investment firm that at any time during such twelve (12) month period, has investments in any Competing Business; provided that you may work for a division, entity or subgroup of any companies that engage in a Competing Business (a "Separate BU") so long as such Separate BU does not engage in any Competing Business and you do not provide any investment advice or consulting related to any Competing Business. To the extent that you act individually, or as an owner, shareholder, partner, employee, contractor, agent or otherwise and provide services unrelated to the Business of the Company for any Separate BU or private equity, venture capital or other investment firm at any time during such twelve (12) month period, you agree to institute an ethical screen that prevents your access to communications, information and participation in all services related to the Business of the Company.

As set out in the Massachusetts Noncompetition Agreement Act, you and the Company agree that the opportunity for post-employment benefits and compensation set forth in the Executive Employment Agreement dated April 23, 2020 (the "Employment Agreement") constitute mutually-agreed upon consideration for this Noncompetition Covenant, and is fair and reasonable consideration for this Noncompetition Covenant, independent of continued employment. Such consideration is specifically designated and you acknowledge the receipt and sufficiency of the consideration**.**

i. "Company" shall mean any entity controlled by, controlling, or under common control with DraftKings Inc., a Nevada corporation, including affiliates and subsidiaries. Control means the direct or indirect possession of the power to direct or cause the direction of the management and policies of an entity, whether through ownership, by contract or otherwise.

ii. "Restricted Area" shall mean the entire United States since the Business of the Company encompasses the entire United States, of which you acknowledge and agree. Additionally, the Restricted Area shall include any territory or country outside the United States in which the Company operates the Business of the Company.

iii. "Competing Business" shall mean any person, firm, association, corporation or any other legal entity that is engaged in a business that is competitive with any aspect of the Business of the Company, including but not limited to: FanDuel, Paddy Power Betfair, William Hill, bet365, PointsBet, Penn National, Barstool Sports, SugarHouse, 888, MGM, TheScore, BetStars, Unibet, Caesars, Golden Nugget, Bet America, Borgata, Harrahs, Oceans, and Resorts, Tropicana, Virgin, and Pala.

iv. "Business of the Company" shall mean the research, design, development, marketing, sales, operations, maintenance and commercial exploitation pertaining to the operation of, and providing products and services for: (1) fantasy sports contests ("FSC"); (2) Regulated Gaming (defined below); (3) all other products and services that exist, are in development, or are under consideration by the Company during your relationship with the Company ("Other Products and Services"); and (4) all products and services incidentally related to, or which are an extension, development or expansion of, FSC, Regulated Gaming and/or Other Products and Services ("Incidental Products and Services").

v. "Regulated Gaming" shall mean the operation of games of chance or skill or pari-mutuel or fixed odds games (including, but not limited to, lotteries, pari-mutuel betting, bingo, race tracks, jai alai, legalized bookmaking, off-track betting, casino games, racino, keno, and sports betting or any play for fun (non-wagering) versions of the foregoing) and any type of ancillary service or product related to or connected with the foregoing.

vi. "Confidential Information" shall mean all information or a compilation of information, in any form (tangible or intangible or otherwise), that is not generally known to competitors or the public, which Company considers to be confidential and/or proprietary, including but not limited to: research and development; techniques; methodologies; strategies; product information, designs, prototypes and technical specifications; algorithms, source codes, object codes, trade secrets or technical data; training materials methods; internal policies and procedures; marketing plans and strategies; pricing and cost policies; customer, supplier, vendor and partner lists and accounts; customer and supplier preferences; contract terms and rates; financial data, information, reports, and forecasts; inventions, improvements and other intellectual property; product plans or proposed product plans; know-how; designs, processes or formulas; software and website applications; computer passwords; market or sales information, plans or strategies; business plans, prospects and opportunities (including, but not limited to, possible acquisitions or dispositions of businesses or facilities); information concerning existing or potential customers, partners or vendors. Confidential Information shall also information mean of or related to Company's current or potential customers, vendors or partners that is considered to be confidential or proprietary to the applicable customer, vendor or partner.

Confidential Information does not include: information in the public domain (other than as a result of disclosure by you); approved in writing for unrestricted release by Company; or produced or disclosed pursuant to a valid court order, provided you have given Company written notice of such request such that Company has an actual, reasonable opportunity to defend, limit or protect such production or disclosure.

(b) You and the Company agree that the Noncompetition Covenant shall not be enforceable against you if the Company terminates your employment without cause or you are subject to a layoff as set forth in the Massachusetts Noncompetition Agreement Act. In the event of a termination without cause or a layoff as set forth in the Massachusetts Noncompetition Agreement Act, all other agreements with the Company shall remain in full force and effect to the extent expressly intended, or logically would be expected, to survive termination of your employment.

(c) You agree to communicate the contents of all post-relationship obligations in this Noncompetition Covenant to any Competing Business that you intend to be employed by, associated with, or represent. You understand and agree that the Company may, in its discretion, also share any post-relationship obligation in this Noncompetition Covenant with any future (or potential) employer or association that is a Competing Business that seeks to be associated with you or employ you for your services.

(d) You agree that the enforcement of the Noncompetition Covenant is necessary, among other things, to ensure the preservation, protection and continuity of the Company's Confidential Information, trade secrets and goodwill of the Company. You agree that, due to the proprietary nature of the Business of the Company and relationships with others, the post-employment restrictions set forth above are reasonable as to duration and scope. You further acknowledge that the Company's legitimate business interest cannot be adequately protected through an alternative restrictive covenant, including but not limited to a non-solicitation agreement or a non-disclosure or confidentiality agreement.

(e) You agree that any action that violates this Noncompetition Covenant would cause the Company irreparable harm for which monetary damages are inadequate. Accordingly, in the event of a breach, or threatened breach, of this Noncompetition Covenant, the Company shall be entitled to an injunction restraining such breach or threatened breach, or requiring specific performance, in addition to any and all rights and remedies at law and equity. The Company shall not be obligated to present additional evidence of irreparable harm or the insufficiency of monetary damages and, to the extent permitted by law or under applicable court rule, does not need to post a bond or other surety. Nothing herein shall be construed as prohibiting the Company from pursuing any other remedy available to the Company for such breach or threatened breach.

(f) You and the Company hereby mutually agree to the exclusive jurisdiction of the Superior Court (inclusive of the Business Litigation Session) of the Commonwealth of Massachusetts or the United States District Court for the District of Massachusetts for any dispute arising hereunder. Accordingly, with respect to any such court action, you (a) submit to the personal jurisdiction of such courts; (b) consent to service of process by regular mail to your last known address; and (c) waive any other requirement (whether imposed by statute, rule of court, or otherwise) with respect to personal jurisdiction or service of process. If either party hereto commences a legal action or other proceeding against the other party hereto concerning a dispute arising from or relating to this Noncompetition Covenant outside of Massachusetts, such commencing party shall reimburse such other party for its or his reasonable attorneys' fees, costs and expenses if such other party prevails in staying, transferring, dismissing or otherwise defending such action or proceeding based on the location of the action or proceeding, regardless of whether such fees, costs and expenses are incurred in the forum where such commencing party commenced the action or in a Massachusetts forum. This Noncompetition Covenant shall be governed by the internal substantive laws of Massachusetts, without regard to the doctrine of conflicts of law.

(g) The failure of you or Company to insist upon strict performance of this Noncompetition Covenant irrespective of the length of time for which such failure continues, shall not be a waiver of such party's rights herein. No term or provision of this Noncompetition Covenant may be waived unless such waiver is in writing.

(h) If a court determines that one or more of the provisions contained in this Noncompetition Covenant shall be invalid or unenforceable, such court shall construe, reform or otherwise revise such provision(s) so as to render it/them enforceable to the maximum extent allowed by law, without invalidating the remaining provisions of this Noncompetition Covenant.

(i) Except as described in Section (b) of this Noncompetition Covenant, your obligations under this Noncompetition Covenant shall survive the termination of your relationship with the Company regardless of the manner of such termination.

(j) The rights granted to the Company under the Noncompetition Covenant shall inure to the benefit of, and be enforceable by, the successors or assigns of Company.

(k) You acknowledge that the Company provided you with a copy of this Noncompetition Covenant at least ten (10) business days before it is to be effective. Provided it is executed by both parties, this Noncompetition Covenant shall become effective on the later of (i) the date it is fully executed, or (ii) ten (10) business days after you received a copy of it.

Before agreeing to this Noncompetition Covenant, you have the right to consult with counsel, and the Company advises you to do so.

Notwithstanding the foregoing, you shall remain bound by all covenants, duties and obligations relating to confidentiality, ownership of intellectual property, non-solicitation, non-competition and all other post-employment restrictive covenants, duties and obligations with respect to which you agreed to be bound in connection with your employment with the Company, including without limitation such covenants, obligations and duties set forth in the Noncompetition, Nonsolicitation, Nondisclosure & Assignment of Inventions Agreement dated March 13, 2013; the Stock Option Grant Notice And Post Employment Noncompetition Covenant (2017 Equity Incentive Plan), dated June 4, 2019; the Stock Option Grant Notice And Post Employment Noncompetition Covenant (2017 Equity Incentive Plan), dated June 4, 2019; and the Stock Option Grant Notice And Post Employment Noncompetition Covenant (2017 Equity Incentive Plan), dated June 4, 2019 (collectively, the "Restrictive Covenants"). The post-employment covenants, duties and obligations set forth in this Agreement are intended to supplement – not replace – the Restrictive Covenants.

(l) The parties agree that you are employed "at will" and nothing in this Noncompetition Covenant is intended to guarantee employment for any period of time. The parties enter this Noncompetition Covenant with the understanding that your position, title, duties and responsibilities could change in a material way in the future and, in light of that understanding, the parties intend that this Noncompetition Covenant shall follow you throughout the entire course of your employment with the Company, and such subsequent material change shall not affect the enforceability or validity of this Noncompetition Covenant.

DraftKings Inc.	**Employee**
/s/ R. Stanton Dodge	/s/ Paul Liberman
By: R. Stanton Dodge	Name: Paul Liberman
Title: Chief Legal Officer	

EXHIBIT C

RELEASE AND WAIVER OF CLAIMS

In consideration for the end of employment / termination benefits set forth in the Executive Employment Agreement, to which this form is attached (the **"Employment Agreement"**), including without limitation the end of employment / termination benefits set forth in Section 6 thereof, among other things, Paul Liberman (the **"Executive"** or **"I"**) and DraftKings, Inc. (the **"Company"**) hereby enter into the following release and waiver of claims (the **"Release"**). For the avoidance of doubt, nothing in this Release is intended or shall be construed to waive, release or limit in any manner the end of employment / termination benefits described in the Employment Agreement.

The Executive hereby generally and completely release the Company, its affiliates, and its and their current and former directors, officers, employees, shareholders, partners, agents, attorneys, predecessors, successors, parent and subsidiary entities, insurers, affiliates, family and assigns (collectively, the **"Released Parties"**) of and from any and all claims, liabilities and obligations, both known and unknown, that arise out of or are in any way related to events, acts, conduct, or omissions occurring prior to or on the date that Executive signs this Release (collectively, the **"Released Claims"**). The Released Claims include, but are not limited to: (i) all claims arising out of or in any way related to the Executive's employment with the Company, or the termination of that employment; (ii) all claims related to the Executive's compensation or benefits from the Company, including salary, bonuses, retention bonuses, commissions, vacation pay, expense reimbursements, severance pay, fringe benefits, stock, stock options, or any other ownership interests or equity-based awards in the Company; (iii) all claims for breach of contract, wrongful termination, and breach of the implied covenant of good faith and fair dealing; (iv) all tort claims, including claims for fraud, defamation, emotional distress, and discharge in violation of public policy; and (v) all federal, state, and local statutory claims, including claims for discrimination, harassment, retaliation, attorneys' fees, or other claims arising under the federal Civil Rights Act of 1964 (as amended), the federal Americans with Disabilities Act of 1990 (as amended), the federal Family and Medical Leave Act (as amended) (the **"FMLA"**), the federal Age Discrimination in Employment Act of 1967 (as amended) (the **"ADEA"**), the Employee Retirement Income Security Act of 1974 (as amended), the National Labor Relations Act of 1935 (as amended), Chapter 151B of the Massachusetts General Laws, and any similar applicable state laws, including those of the Commonwealth of Massachusetts and any other federal, state or local civil or human rights law or any other local, state or federal law, regulation or ordinance, and any public policy, contract, tort, or common law. Released Claims specifically includes, without limitation, claims pursuant to the Massachusetts Wage Act and State Overtime Law, M.G.L. c. 149 §§ 148, 150 et seq. and M.G.L. c 151, §1A et seq, as amended. Notwithstanding the foregoing, the following are not included in the Released Claims (the **"Excluded Claims"**): (i) any rights or claims for indemnification that Executive may have pursuant to any written indemnification agreement with the Company, the charter, bylaws, or operating agreements of the Company, or under applicable law; (ii) any rights which are not waivable as a matter of law; (iii) any claims arising from the breach of this Release; or (iv) any claims related to any Accrued Benefits or other vested benefits or any severance benefits payable or due to the Executive on account of the end of the Executive's employment or the Executive's termination under the terms of the Executive Employment Agreement. For the avoidance of doubt, nothing in this Release shall prevent Executive from challenging the validity of the Release in a legal or administrative proceeding. Nothing in this Release shall prevent the Executive from filing, cooperating with, or participating in any proceeding or investigation before the Equal Employment Opportunity Commission, United States Department of Labor, the National Labor Relations Board, the Occupational Safety and Health Administration, the Securities and Exchange Commission or any other federal government agency, or similar state or local agency ("**Government Agencies**"), or exercising any rights pursuant to Section 7 of the National Labor Relations Act. The Executive further understands that this Release does not limit the Executive's ability to voluntarily communicate with any Government Agencies or otherwise participate in any investigation or proceeding that may be conducted by any Government Agency, including providing documents or other information, without notice to the Company. While this Release does not limit the Executive's right to receive an award for information provided to the Securities and Exchange Commission, the Executive understands and agrees that the Executive is otherwise waiving, to the fullest extent permitted by law, any and all rights the Executive may have to individual relief based upon any claims arising out of any proceeding or investigation before one or more of the Government Agencies. If any such claim is not subject to release, to the extent permitted by law, the Executive waives any right or ability to be a class or collective action representative or to otherwise participate in any putative or certified class, collective or multi-party action or proceeding based on such a claim in which any of the Released Parties is a party. Notwithstanding anything to the contrary set forth herein, this Release does not abrogate the Executive's existing rights under any Company benefit plan, the Executive Employment Agreement or any plan or agreement related to equity ownership in the Company.

I acknowledge that I am knowingly and voluntarily waiving and releasing any rights I may have under the ADEA **("ADEA Waiver")**. I also acknowledge that (i) the consideration given for the ADEA Waiver is in addition to anything of value to which I was already entitled; and (ii) that, subject only to Company providing the end of employment / termination benefits described in the first paragraph of this Release, I have been paid for all time worked, has received all the leave, leaves of absence and leave benefits and protections for which I am eligible, and have not suffered any on-the-job injury for which I have not already filed a claim. I affirm that all of the decisions of the Released Parties regarding my pay and benefits through the date of my execution of this Release were not discriminatory based on age, disability, race, color, sex, religion, national origin or any other classification protected by law. I affirm that I have not filed or caused to be filed, and am not presently a party to, a claim against any of the Released Parties. I further affirm that I have no known workplace injuries or occupational diseases. I acknowledge and affirm that I have not been retaliated against for reporting any allegation of corporate fraud or other wrongdoing by any of the Released Parties, or for exercising any rights protected by law, including any rights protected by the Fair Labor Standards Act, the Family Medical Leave Act or any related statute or local leave or disability accommodation laws, or any applicable state workers' compensation law. I have been advised by this writing, as required by the ADEA, that: (a) my waiver and release do not apply to any claims that may arise after I sign this Release; (b) I should consult with an attorney prior to executing this release; (c) I have twenty-one (21) days within which to consider this release (although I may choose to voluntarily execute this release earlier); (d) I have seven (7) days following the execution of this release to revoke this Release (in a written revocation sent to the Chief Executive Officer of the Company); and (e) this Release will not be effective until the eighth day after I sign this Release, provided that I have not earlier revoked this Release (the **"Effective Date"**). I will not be entitled to receive any of the benefits specified by this Release unless and until it becomes effective.

In granting the release herein, which includes claims that may be unknown to me at present, I acknowledge that I expressly waive and relinquish any and all rights and benefits under any applicable law or statute providing, in substance, that a general release does not extend to claims which a party does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her would have materially affected the terms of such release.

The Executive agrees that the Executive will not make any negative or disparaging statements or comments, either as fact or as opinion, about the Released Parties or their vendors, products or services, business, technologies, market position or performance. The Company (including its subsidiaries and affiliates) will not make, and agrees to use commercially reasonable efforts to cause the executive officers and board of directors of the Company to refrain from making, any negative or disparaging statements or comments, either as fact or as opinion, about the Executive (or authorizing any statements or comments to be reported as being attributed to the Company). Nothing in this paragraph shall prohibit the Executive or the Company from providing truthful information in response to a subpoena or other legal process. In addition, nothing in the Release shall apply to any legally protected whistleblower rights (including under Rule 21F under the Securities Exchange Act of 1934).

Noncompetition Covenant. For a period of twelve (12) months following the last day of my employment, I agree to not, anywhere within the Restricted Area acting individually, or as an owner, shareholder, partner, employee, contractor, agent or otherwise (other than on behalf of Company) provide services to a Competing Business that relate to any aspect of the Business of the Company (the "Noncompetition Covenant"). The foregoing shall not be construed to preclude me from (i) owning up to one percent (1%) of the outstanding stock of a publicly held corporation that constitutes or is affiliated with a Competing Business, or (ii) becoming a shareholder, partner, contractor, agent, member, employee or otherwise of a private equity, venture capital or other investment firm, and providing services in connection therewith. The foregoing shall, however, be construed to specifically prevent me from (x) acting individually, or as an owner, shareholder, partner, employee, contractor, agent or otherwise (other than on behalf of Company) anywhere within the Restricted Area, during the period of your relationship with the Company and for a period of twelve (12) months following termination of your relationship with Company (for any reason other than referenced below in section (b)), and (y) providing services that relate to any aspect of the Business of the Company for any private equity, venture capital or other investment firm that at any time during such twelve (12) month period, has investments in any Competing Business; provided that I may work for a division, entity or subgroup of any companies that engage in a Competing Business (a "Separate BU") so long as such Separate BU does not engage in any Competing Business and I do not provide any investment advice or consulting related to any Competing Business. To the extent that I act individually, or as an owner, shareholder, partner, employee, contractor, agent or otherwise and provide services unrelated to the Business of the Company for any Separate BU or private equity, venture capital or other investment firm at any time during such twelve (12) month period, I agree to institute an ethical screen that prevents my access to communications, information and participation in all services related to the Business of the Company. The following definitions apply to this Noncompetition Covenant:

i. "Company" shall mean any entity controlled by, controlling, or under common control with DraftKings Inc., including affiliates and subsidiaries. Control means the direct or indirect possession of the power to direct or cause the direction of the management and policies of an entity, whether through ownership, by contract or otherwise.

ii. "Restricted Area" shall mean the entire United States since the Business of the Company encompasses the entire United States, of which you acknowledge and agree.

iii. "Competing Business" shall mean any person, firm, association, corporation or any other legal entity that is engaged in a business that is competitive with any aspect of the Business of the Company, including but not limited to: FanDuel, Paddy Power Betfair, William Hill bet365, PointsBet, Penn National, Barstool Sports, SugarHouse, 888, MGM, TheScore, BetStars, Unibet, Caesars, Golden Nugget, Bet America, Borgata, Harrahs, Oceans, and Resorts, Tropicana, Virgin, and Pala.

iv. "Business of the Company" shall mean the research, design, development, marketing, sales, operations, maintenance and commercial exploitation pertaining to the operation of, and providing products and services for: (1) fantasy sports contests ("FSC"); (2) Regulated Gaming (defined below); (3) all other products and services that exist, are in development, or are under consideration by the Company during your relationship with the Company ("Other Products and Services"); and (4) all products and services incidentally related to, or which are an extension, development or expansion of, FSC, Regulated Gaming and/or Other Products and Services ("Incidental Products and Services").

v. "Regulated Gaming" shall mean the operation of games of chance or skill or pari-mutuel or fixed odds games (including, but not limited to, lotteries, pari-mutuel betting, bingo, race tracks, jai alai, legalized bookmaking, off-track betting, casino games, racino, keno, and sports betting or any play for fun (non-wagering) versions of the foregoing) and any type of ancillary service or product related to or connected with the foregoing.

I agree to communicate the contents of all post-relationship obligations to any Competing Business that I intend to be employed by, associated with, or represent. I understand and agree that the Company may, in its discretion, also share any post-relationship obligation with any future (or potential) employer or association that is a Competing Business that seeks to be associated with you or employ you for your services.

I agree that the enforcement of the Noncompetition Covenant is necessary, among other things, to ensure the preservation, protection and continuity of the Company's confidential information, trade secrets and goodwill of the Company. I agree that, due to the proprietary nature of the Business of the Company and relationships with others, the post-employment restrictions set forth above are reasonable as to duration and scope. I acknowledge that the Company's legitimate business interest cannot be adequately protected through an alternative restrictive covenant, including but not limited to a non-solicitation agreement or a non-disclosure or confidentiality agreement.

I agree that any action that violates this Noncompetition Covenant would cause the Company irreparable harm for which monetary damages are inadequate. Accordingly, in the event of a breach, or threatened breach, the Company shall be entitled to an injunction restraining such breach or threatened breach, or requiring specific performance, in addition to any and all rights and remedies at law and equity. The Company shall not be obligated to present additional evidence of irreparable harm or the insufficiency of monetary damages and, to the extent permitted by law or under applicable court rule, does not need to post a bond or other surety. Nothing herein shall be construed as prohibiting the Company from pursuing any other remedy available to the Company for such breach or threatened breach.

The parties hereby mutually agree to the exclusive jurisdiction of the Superior Court (inclusive of the Business Litigation Session) of the Commonwealth of Massachusetts or the United States District Court for the District of Massachusetts for any dispute arising hereunder. Accordingly, with respect to any such court action, I (a) submit to the personal jurisdiction of such courts; (b) consent to service of process by regular mail to my last known address; and (c) waive any other requirement (whether imposed by statute, rule of court, or otherwise) with respect to personal jurisdiction or service of process. If either party hereto commences a legal action or other proceeding against the other party hereto concerning a dispute arising from or relating to this Noncompetition Covenant outside of Massachusetts, such commencing party will reimburse such other party for its or my reasonable attorneys' fees, costs and expenses if such other party prevails in staying, transferring, dismissing or otherwise defending such action or proceeding based on the location of the action or proceeding, regardless of whether such fees, costs and expenses are incurred in the forum where such commencing party commenced the action or in a Massachusetts forum. This Noncompetition Covenant shall be governed by the internal substantive laws of Massachusetts, without regard to the doctrine of conflicts of law.

The failure of myself or the Company to insist upon strict performance of this Noncompetition Covenant irrespective of the length of time for which such failure continues, shall not be a waiver of such party's rights herein. No term or provision of this Noncompetition Covenant may be waived unless such waiver is in writing.

If a court determines that one or more of the provisions contained in the Noncompetition Covenant shall be invalid or unenforceable, such court shall construe, reform or otherwise revise such provision(s) so as to render it/them enforceable to the maximum extent allowed by law, without invalidating the remaining provisions of this Noncompetition Covenant.

The rights granted to the Company under the Noncompetition Covenant shall inure to the benefit of, and be enforceable by, the successors or assigns of Company. The Noncompetition Covenant is entered into in connection with my cessation of employment.

This Release constitutes the complete, final and exclusive embodiment of the entire agreement between the Company and me with regard to the subject matter hereof. Notwithstanding the above, the Noncompetition Covenant is intended to supplement, but not replace, any other post-employment obligations between me and the Company [to be listed at the time of separation], as such other post-employment obligations remain in full force and effect. By signing below, I am not relying on any promise or representation by the Company that is not expressly stated herein. This Release may only be modified by a writing signed by both me and a duly authorized officer of the Company.

The Company advises me to consult with legal counsel before entering into this Release.

THE EXECUTIVE:

Date: _____

_____
Name: Paul Liberman

THE COMPANY:

Date: _____

_____

By: _____

Its: _____

EXHIBIT D

INDEMNIFICATION AGREEMENT

This **Indemnification Agreement** (the "***Agreement***") is made and entered into as of April 23, 2020 between **DraftKings Inc.**, a Nevada corporation (the "***Company***"), and Paul Liberman ("***Indemnitee***").

WITNESSETH THAT:

WHEREAS, highly competent persons have become more reluctant to serve corporations as directors, officers or in other capacities unless they are provided with adequate protection through insurance or adequate indemnification against inordinate risks of claims and actions against them arising out of their service to and activities on behalf of the corporation;

WHEREAS, the Board of Directors of the Company (the "***Board***") has determined that, in order to attract and retain qualified individuals, the Company will attempt to maintain on an ongoing basis, at its sole expense, liability insurance to protect persons serving the Company and its subsidiaries from certain liabilities. Although the furnishing of such insurance has been a customary and widespread practice among United States-based corporations and other business enterprises, the Company believes that, given current market conditions and trends, such insurance may be available to it in the future only at higher premiums and with more exclusions. At the same time, directors, officers, and other persons in service to corporations or business enterprises are being increasingly subjected to expensive and time-consuming litigation relating to, among other things, matters that traditionally would have been brought only against the Company or business enterprise itself. Chapter 78 of the Nevada Revised Statutes (the "***NRS***") and the Amended and Restated Articles of Incorporation of the Company (the "***Articles***") authorize indemnification of the directors, officers, employees, fiduciaries and agents of the Company. The Amended and Restated Bylaws of the Company (the "***Bylaws***") provide that the Company will indemnify the directors and officers of the Company. The NRS expressly provides that the indemnification provisions set forth therein are not exclusive, and thereby contemplate that contracts may be entered into between the Company and persons acting on behalf of the Company with respect to indemnification;

WHEREAS, the uncertainties relating to such insurance and to indemnification have increased the difficulty of attracting and retaining such persons;

WHEREAS, the Board has determined that the increased difficulty in attracting and retaining such persons is detrimental to the best interests of the Company's stockholders and that the Company should act to assure such persons that there will be increased certainty of such protection in the future;

WHEREAS, it is reasonable, prudent and necessary for the Company contractually to obligate itself to indemnify, and to advance expenses on behalf of, such persons to the fullest extent permitted by applicable law so that they will serve or continue to serve the Company free from undue concern that they will not be so indemnified;

WHEREAS, this Agreement is a supplement to and in furtherance of any indemnification provisions in the Articles and/or the Bylaws of the Company and any resolutions adopted pursuant thereto, and shall not be deemed a substitute therefor, nor to diminish or abrogate any rights of Indemnitee thereunder; and

WHEREAS, Indemnitee does not regard the protection available under the NRS, the Bylaws and insurance as adequate in the present circumstances, and may not be willing to serve as an officer or a director without adequate protection, and the Company desires Indemnitee to serve in such capacity. Indemnitee is willing to serve, continue to serve and to take on additional service for or on behalf of the Company on the condition that he or she be so indemnified.

NOW, THEREFORE, in consideration of Indemnitee's agreement to serve as an officer and/or a director from and after the date of this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Indemnity of Indemnitee. The Company hereby agrees to hold harmless and indemnify Indemnitee to the fullest extent permitted by law, as such may be amended from time to time. In furtherance of the foregoing indemnification, and without limiting the generality thereof.

(a) Proceedings Other Than Proceedings by or in the Right of the Company. Indemnitee shall be entitled to the rights of indemnification provided in this Section 1(a) if, by reason of his or her Corporate Status (as hereinafter defined), Indemnitee was or is a party, or is threatened to be made a party, to any Proceeding (as hereinafter defined) other than a Proceeding by or in the right of the Company. Pursuant to this Section 1(a), the Company shall indemnify Indemnitee against all Expenses (as hereinafter defined), judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her, or on his or her behalf, in connection with such Proceeding or any claim, issue or matter therein, if Indemnitee either (i) is not liable pursuant to NRS 78.138 or (ii) acted in good faith and in a manner Indemnitee reasonably believed to be in or not opposed to the best interests of the Company, and with respect to any criminal Proceeding, had no reasonable cause to believe Indemnitee's conduct was unlawful.

(b) Proceedings by or in the Right of the Company. Indemnitee shall be entitled to the rights of indemnification provided in this Section 1(b) if, by reason of his or her Corporate Status, Indemnitee is, or is threatened to be made, a party to or participant in any Proceeding brought by or in the right of the Company to procure a judgment in its favor. Pursuant to this Section 1(b), the Company shall indemnify Indemnitee against all Expenses and amounts paid in settlement actually and reasonably incurred by Indemnitee, or on Indemnitee's behalf, in connection with such Proceeding or any claim, issue or matters therein, if Indemnitee either (i) is not liable pursuant to NRS 78.138 or (ii) acted in good faith and in a manner Indemnitee reasonably believed to be in or not opposed to the best interests of the Company; provided, however, if applicable law so provides, no indemnification against such Expenses or other amounts shall be made in respect of any claim, issue or matter as to which Indemnitee shall have been adjudged by a court of competent jurisdiction, after exhaustion of all appeals therefrom, to be liable to the Company or for amounts paid in settlement to the Company, unless and only to the extent that the court in which the Proceeding was brought or other court of competent jurisdiction shall determine that in view of all the circumstances in the case, Indemnitee is fairly and reasonably entitled to indemnity for such expenses as the court deems proper.

(c) Termination of Proceeding. The termination of any Proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent, shall not, of itself, adversely affect the right of Indemnitee to indemnification or create an inference or presumption either that Indemnitee is liable pursuant to NRS 78.138, that Indemnitee did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the corporation, or, with respect to any criminal action or proceeding, that Indemnitee had reasonable cause to believe that the conduct was unlawful. The Company acknowledges that such a resolution, short of final judgment, may be successful on the merits if it permits a party to avoid expense, delay, distraction, disruption and uncertainty. In the event that any Proceeding to which Indemnitee is a party is resolved in any manner other than by adverse judgment against Indemnitee (including, without limitation, settlement of such Proceeding with or without payment of money or other consideration) it shall be presumed that Indemnitee has been successful on the merits or otherwise in such Proceeding. Anyone seeking to overcome this presumption shall have the burden of proof and the burden of persuasion by clear and convincing evidence.

(d) Indemnification for Expenses of a Party Who is Wholly or Partly Successful. Notwithstanding any other provision of this Agreement, to the extent that Indemnitee is, by reason of his or her Corporate Status, a party to and is successful, on the merits or otherwise, in any Proceeding, the Company shall indemnify Indemnitee to the maximum extent permitted by law, as such may be amended from time to time, against all Expenses actually and reasonably incurred by him or her on his or her behalf in connection with the defense of the Proceeding. If Indemnitee is not wholly successful in such Proceeding but is successful, on the merits or otherwise, as to one or more but less than all claims, issues or matters in such Proceeding, the Company shall indemnify Indemnitee against all Expenses actually and reasonably incurred by him or her, or on his or her behalf, in connection with each successfully resolved claim, issue or matter. For purposes of this Section and without limitation, the termination of any claim, issue or matter in such a Proceeding by dismissal, with or without prejudice, shall be deemed to be a successful result as to such claim, issue or matter.

2. Additional Indemnity. In addition to, and without regard to any limitations on, the indemnification provided for in Section 1 of this Agreement, the Company shall and hereby does indemnify and hold harmless Indemnitee, to the fullest extent permitted by law, as may be amended from time to time, against all Expenses, judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her, or on his or her behalf, if, by reason of his or her Corporate Status, he or she was or is a party, or is threatened to be made a party, to any Proceeding (including a Proceeding by or in the right of the Company), including, without limitation, all liability arising out of the simple or gross negligence, recklessness, or active or passive wrongdoing of Indemnitee. The only limitation that shall exist upon the Company's obligations pursuant to this Agreement shall be that the Company shall not be obligated to make any payment to Indemnitee that is finally determined (under the procedures, and subject to the presumptions, set forth in Section 6 and Section 7 hereof) to be unlawful.

3. Contribution.

(a) Whether or not the indemnification provided in Section 1 and Section 2 hereof is available, in respect of any Proceeding in which the Company is jointly liable with Indemnitee (or would be if joined in such Proceeding), the Company shall pay the entire amount of any judgment or settlement of such Proceeding without requiring Indemnitee to contribute to such payment and the Company hereby waives and relinquishes any right of contribution it may have against Indemnitee. The Company shall not enter into any settlement of any Proceeding in which the Company is jointly liable with Indemnitee (or would be if joined in such Proceeding) unless such settlement provides for a full and final release of all claims asserted against Indemnitee.

(b) Without diminishing or impairing the obligations of the Company set forth in the preceding subparagraph, if, for any reason, Indemnitee shall elect or be required to pay all or any portion of any judgment or settlement in any Proceeding in which the Company is jointly liable with Indemnitee (or would be if joined in such Proceeding), the Company shall contribute to the amount of Expenses, judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Indemnitee in proportion to the relative benefits received by the Company and all officers, directors or employees of the Company, other than Indemnitee, who are jointly liable with Indemnitee (or would be if joined in such Proceeding), on the one hand, and Indemnitee, on the other hand, from the transaction from which such Proceeding arose; provided, however, that the proportion determined on the basis of relative benefit may, to the extent necessary to conform to law, be further adjusted by reference to the relative fault of the Company and all officers, directors or employees of the Company other than Indemnitee who are jointly liable with Indemnitee (or would be if joined in such Proceeding), on the one hand, and Indemnitee, on the other hand, in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other equitable considerations which applicable law may require to be considered. The relative fault of the Company and all officers, directors or employees of the Company, other than Indemnitee, who are jointly liable with Indemnitee (or would be if joined in such Proceeding), on the one hand, and Indemnitee, on the other hand, shall be determined by reference to, among other things, the degree to which their actions were motivated by intent to gain personal profit or advantage, the degree to which their liability is primary or secondary and the degree to which their conduct is active or passive.

(c) The Company hereby agrees to fully indemnify and hold Indemnitee harmless from any claims of contribution which may be brought by officers, directors, or employees of the Company, other than Indemnitee, who may be jointly liable with Indemnitee.

(d) To the fullest extent permissible under applicable law, if the indemnification provided for in this Agreement is unavailable to Indemnitee for any reason whatsoever, the Company, in lieu of indemnifying Indemnitee, shall contribute to the amount incurred by Indemnitee, whether for judgments, fines, amounts paid or to be paid in settlement and/or for Expenses, in connection with any claim relating to an indemnifiable event under this Agreement, in such proportion as is deemed fair and reasonable in light of all of the circumstances of such Proceeding in order to reflect (i) the relative benefits received by the Company and Indemnitee as a result of the event(s) and/or transaction(s) giving cause to such Proceeding and/or (ii) the relative fault of the Company (and its directors, officers, employees and agents) and Indemnitee in connection with such event(s) and/or transaction(s).

(e) The Company hereby acknowledges that Indemnitee may have rights to indemnification for payment of the judgment or settlement amount provided by another entity ("***Other Indemnitor(s)***"). The Company agrees with Indemnitee that the Company is the indemnitor of first resort of Indemnitee with respect to matters for which indemnification is provided under this Agreement and that the Company will be obligated to make all payments due to or for the benefit of Indemnitee under this agreement without regard to any rights that Indemnitee may have against the Other Indemnitor(s). The Company hereby waives any equitable rights to contribution or indemnification from the Other Indemnitor in respect of any amounts paid to Indemnitee hereunder until such time as the Indemnitee has been fully and finally indemnified. The Company further agrees that no payment of Expenses or losses by the Other Indemnitor(s) to or for the benefit of Indemnitee shall affect the obligations of the Company hereunder.

4. Indemnification for Expenses of a Witness. Notwithstanding any other provision of this Agreement, to the extent that Indemnitee, by reason of his or her Corporate Status, is a witness, or is made (or asked) to respond to discovery requests or otherwise asked to participate in any Proceeding to which Indemnitee is not a party, the Company shall indemnify Indemnitee against all Expenses actually and reasonably incurred by him or her, or on his or her behalf, in connection therewith.

5. Advancement of Expenses. Notwithstanding any other provision of this Agreement, the Company shall advance all Expenses incurred by or on behalf of Indemnitee in connection with defending any Proceeding within thirty (30) days after the receipt by the Company of a statement or statements from Indemnitee requesting such advance or advances from time to time, whether prior to or after final disposition of such Proceeding. Such statement or statements shall reasonably evidence the Expenses incurred by Indemnitee and Indemnitee shall also submit a written undertaking to repay any Expenses advanced if it shall ultimately be determined by a court of competent jurisdiction that Indemnitee is not entitled to be indemnified by the Company against such Expenses. Any advances and undertakings to repay pursuant to this Section 5 shall be unsecured and interest free. In furtherance of the foregoing, Indemnitee hereby undertakes to repay such amounts advanced if, and to the extent that, it shall ultimately be determined by a court of competent jurisdiction that Indemnitee is not entitled to be indemnified by the Company pursuant to the terms of this Agreement.

6. Procedures and Presumptions for Determination of Entitlement to Indemnification. It is the intent of this Agreement to secure for Indemnitee rights of indemnity that are as favorable as may be permitted under the NRS and public policy of the State of Nevada. Accordingly, the parties agree that the following procedures and presumptions shall apply in the event of any question as to whether Indemnitee is entitled to indemnification under this Agreement:

(a) To obtain indemnification under this Agreement, Indemnitee shall submit to the Company a written request, including therein or therewith such documentation and information as is reasonably available to Indemnitee and is reasonably necessary to determine whether and to what extent Indemnitee is entitled to indemnification. The Secretary of the Company shall, promptly upon receipt of such a request for indemnification, advise the Board in writing that Indemnitee has requested indemnification. Notwithstanding the foregoing, any failure of Indemnitee to provide such a request to the Company, or to provide such a request in a timely fashion, shall not relieve the Company of any liability that it may have to Indemnitee unless, and to the extent that, the Company is actually and materially prejudiced as a result of such failure.

(b) Upon written request by Indemnitee for indemnification pursuant to the first sentence of Section 6(a) hereof, a determination with respect to Indemnitee's entitlement thereto shall be made in the specific case by one of the following three methods, which shall be at the election of the Board (i) by a majority vote of a quorum consisting of Disinterested Directors (as defined below), (ii) if a majority vote of a quorum consisting of Disinterested Directors so orders, or if a quorum of Disinterested Directors cannot be obtained, by Independent Counsel (as defined below) in a written opinion to the Board, a copy of which shall be delivered to Indemnitee, or (iii) by the stockholders of the Company.

(c) Notwithstanding anything to the contrary set forth in this Agreement, if a request for indemnification is made after a Change in Control, at the election of Indemnitee made in writing to the Company, and if the Board by a majority vote of a quorum consisting of Disinterested Directors orders the determination of Indemnitee's entitlement to indemnification to be made by an Independent Counsel, or if a quorum of Disinterested Directors cannot be obtained, any determination required to be made pursuant to Section 6(b) above as to whether Indemnitee is entitled to indemnification shall be made by Independent Counsel selected as provided in this Section 6(c). The Independent Counsel shall be selected by Indemnitee, unless Indemnitee shall request that such selection be made by the Board. The party making the selection shall give written notice to the other party advising it of the identity of the Independent Counsel so selected. The party receiving such notice may, within seven (7) days after such written notice of selection shall have been given, deliver to the other party a written objection to such selection. Such objection may be asserted only on the ground that the Independent Counsel so selected does not meet the requirements of "Independent Counsel" as defined in Section 13 hereof, and the objection shall set forth with particularity the factual basis of such assertion. Absent a proper and timely objection, the person so selected shall act as Independent Counsel. If a written objection is made, the Independent Counsel so selected may not serve as Independent Counsel unless and until a court has determined that such objection is without merit. If, within twenty (20) days after submission by Indemnitee of a written request for indemnification pursuant to Section 6(a) hereof, no Independent Counsel shall have been selected (or, if selected, such selection shall have been objected to) in accordance with this paragraph, then either the Company or Indemnitee may petition the courts of the State of Nevada or other court of competent jurisdiction for resolution of any objection which shall have been made by the Company or Indemnitee to the other's selection of Independent Counsel and/or for the appointment as Independent Counsel of a person selected by the court or by such other person as the court shall designate, and the person with respect to whom an objection is favorably resolved or the person so appointed shall act as Independent Counsel under Section 6(c) hereof. The Company shall pay any and all reasonable fees and expenses of Independent Counsel incurred by such Independent Counsel in connection with acting pursuant to Section 6(b) hereof. The Company shall pay any and all reasonable and necessary fees and expenses incident to the procedures of this Section 6(c), regardless of the manner in which such Independent Counsel was selected or appointed.

(d) If the determination of entitlement to indemnification is to be made by Independent Counsel pursuant to Section 6(b) hereof, the Independent Counsel shall be selected as provided in this Section 6(d). The Independent Counsel shall be selected by the Board. Indemnitee may, within ten (10) days after such written notice of selection shall have been given, deliver to the Company a written objection to such selection; provided, however, that such objection may be asserted only on the ground that the Independent Counsel so selected does not meet the requirements of "***Independent Counsel***" as defined in Section 13 of this Agreement, and the objection shall set forth with particularity the factual basis of such assertion. Absent a proper and timely objection, the person so selected shall act as Independent Counsel. If a written objection is made and substantiated, the Independent Counsel selected may not serve as Independent Counsel unless and until such objection is withdrawn or a court has determined that such objection is without merit. If, within twenty (20) days after submission by Indemnitee of a written request for indemnification pursuant to Section 6(a) hereof, no Independent Counsel shall have been selected (or, if selected, such selection shall have been objected to) in accordance with this paragraph, then either the Company or Indemnitee may petition the appropriate courts of the State of Nevada or other court of competent jurisdiction for resolution of any objection which shall have been made by Indemnitee to the Company's selection of Independent Counsel and/or for the appointment as Independent Counsel of a person selected by the court or by such other person as the court shall designate, and the person with respect to whom an objection is favorably resolved or the person so appointed shall act as Independent Counsel under Section 6(b) hereof. The Company shall pay any and all reasonable fees and expenses of Independent Counsel in connection with acting pursuant to Section 6(b) hereof, and the Company shall pay any and all reasonable fees and expenses incident to the procedures of this Section 6(d), regardless of the manner in which such Independent Counsel was selected or appointed.

(e) In making a determination with respect to entitlement to indemnification hereunder, the person or persons or entity making such determination shall presume that Indemnitee is entitled to indemnification under this Agreement. Anyone seeking to overcome this presumption shall have the burden of proof and the burden of persuasion by clear and convincing evidence. Neither the failure of the Company (including by its directors or independent legal counsel) to have made a determination prior to the commencement of any action pursuant to this Agreement that indemnification is proper in the circumstances because Indemnitee has met the applicable standard of conduct, nor an actual determination by the Company (including by its directors or independent legal counsel) that Indemnitee has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that Indemnitee has not met the applicable standard of conduct.

(f) Indemnitee shall be deemed to have acted in good faith if Indemnitee's action is based on the records or books of account of the Enterprise (as hereinafter defined), including financial statements, or on information supplied to Indemnitee by the officers of the Enterprise in the course of their duties, or on the advice of legal counsel for the Enterprise or on information or records given or reports made to the Enterprise by an independent certified public accountant or by an appraiser or other expert selected with reasonable care by the Enterprise. In addition, the knowledge and/or actions, or failure to act, of any director, officer, agent or employee of the Enterprise shall not be imputed to Indemnitee for purposes of determining the right to indemnification under this Agreement. Whether or not the foregoing provisions of this Section 6(f) are satisfied, it shall in any event be presumed that Indemnitee has at all times acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Company. Anyone seeking to overcome this presumption shall have the burden of proof and the burden of persuasion by clear and convincing evidence. The Company will promptly advise Indemnitee in writing with respect to any determination that Indemnitee is or is not entitled to indemnification, including a description of any reason or basis for which indemnification has been denied.

(g) Notwithstanding anything to the contrary set forth in this Agreement, if the person, persons or entity empowered or selected under Section 6 to determine whether Indemnitee is entitled to indemnification shall not have been appointed or shall not have made a determination within sixty (60) days after receipt by the Company of the request therefor, the requisite determination of entitlement to indemnification shall be deemed to have been made and Indemnitee shall be entitled to such indemnification, unless the Company establishes by written opinion of Independent Counsel that (i) a misstatement by Indemnitee of a material fact, or an omission of a material fact necessary to make Indemnitee's statement not materially misleading, in connection with the request for indemnification, or (ii) a prohibition of such indemnification under applicable law; provided, however, that such sixty (60) day period may be extended for a reasonable time, not to exceed an additional thirty (30) days, if the person, persons or entity making such determination with respect to entitlement to indemnification in good faith requires such additional time to obtain or evaluate documentation and/or information relating thereto; and provided, further, that the foregoing provisions of this Section 6(g) shall not apply if the determination of entitlement to indemnification is to be made by the stockholders pursuant to Section 6(b) of this Agreement and if (A) within fifteen (15) days after receipt by the Company of the request for such determination, the Disinterested Directors resolve as required by Section 6(b)(iii) of this Agreement to submit such determination to the stockholders for their consideration at an annual meeting thereof to be held within seventy five (75) days after such receipt and such determination is made thereat, or (B) a special meeting of stockholders is called within fifteen (15) days after such receipt for the purpose of making such determination, such meeting is held for such purpose within sixty (60) days after having been so called and such determination is made thereat.

(h) Indemnitee shall cooperate with the person, persons or entity making such determination with respect to Indemnitee's entitlement to indemnification, including providing to such person, persons or entity upon reasonable advance request any documentation or information which is not privileged or otherwise protected from disclosure and which is reasonably available to Indemnitee and reasonably necessary to such determination. Any Independent Counsel or member of the Board or stockholder of the Company shall act reasonably and in good faith in making a determination regarding Indemnitee's entitlement to indemnification under this Agreement. Any costs or expenses (including attorneys' fees and disbursements) incurred by Indemnitee in so cooperating with the person, persons or entity making such determination shall be borne by the Company (irrespective of the determination as to Indemnitee's entitlement to indemnification) and the Company hereby indemnifies and agrees to hold Indemnitee harmless therefrom.

7. Remedies of Indemnitee.

(a) In the event that (i) a determination is made pursuant to Section 6 of this Agreement that Indemnitee is not entitled to indemnification under this Agreement, (ii) advancement of Expenses is not timely made pursuant to Section 5 of this Agreement, (iii) no determination of entitlement to indemnification is made pursuant to Section 6(b) or Section 6(c) of this Agreement within sixty (60) days after receipt by the Company of the request for indemnification, or such longer period, not to exceed an additional thirty (30) days, to which the period may be extended pursuant to Section 6(g), (iv) payment of indemnification is not made pursuant to this Agreement within ten (10) days after receipt by the Company of a written request therefor or (v) payment of indemnification is not made within ten (10) days after a determination has been made that Indemnitee is entitled to indemnification or such determination is deemed to have been made pursuant to Section 6 of this Agreement, Indemnitee shall be entitled to an adjudication of Indemnitee's entitlement to such indemnification or advancement of expenses either, at Indemnitee's sole option, in (1) an appropriate court of the State of Nevada, or any other court of competent jurisdiction or (2) an arbitration to be conducted by a single arbitrator, selected by mutual agreement of the Company and Indemnitee, pursuant to the rules of the American Arbitration Association. The Company shall not oppose Indemnitee's right to seek any such adjudication.

(b) In the event that a determination shall have been made pursuant to Section 6(b) or Section 6(c) of this Agreement that Indemnitee is not entitled to indemnification, (i) any judicial proceeding or arbitration commenced pursuant to this Section 7 shall be conducted in all respects de novo on the merits, and Indemnitee shall not be prejudiced by reason of any adverse determination under Section 6(b) or Section 6(c); and (ii) in any such judicial proceeding or arbitration, the Company shall have the burden of proving that Indemnitee is not entitled to indemnification under this Agreement.

(c) If a determination shall have been made pursuant to Section 6(b) or Section 6(c), or shall have been deemed to have been made pursuant to Section 6(g), of this Agreement that Indemnitee is entitled to indemnification, the Company shall be obligated to pay the amounts constituting such indemnification within five (5) days after such determination has been made or has been deemed to have been made and shall be conclusively bound by such determination in any judicial proceeding commenced pursuant to this Section 7, unless the Company establishes by written opinion of Independent Counsel that (i) a misstatement by Indemnitee of a material fact, or an omission of a material fact necessary to make Indemnitee's misstatement not materially misleading in connection with the request for indemnification or (ii) a prohibition of such indemnification under applicable law.

(d) In the event that Indemnitee, pursuant to this Section 7, seeks a judicial adjudication of, or an award in arbitration to enforce, his or her rights under, or to recover damages for breach of, this Agreement, or to recover under any directors' and officers' liability insurance policies maintained by the Company, the Company shall pay to him or her, or on his or her behalf, in advance, and shall indemnify him or her against, any and all expenses (of the types described in the definition of Expenses in Section 13 of this Agreement) actually and reasonably incurred by him or her in such judicial adjudication or arbitration, regardless of whether Indemnitee ultimately is determined to be entitled to such indemnification, advancement of expenses or insurance recovery.

(e) The Company shall be precluded from asserting in any judicial proceeding or arbitration commenced pursuant to this Section 7 that the procedures and presumptions of this Agreement are not valid, binding and enforceable and shall stipulate in any such court or before any such arbitrator that the Company is bound by all the provisions of this Agreement. The Company shall indemnify Indemnitee against any and all Expenses and, if requested by Indemnitee, shall (within ten (10) days after receipt by the Company of a written request therefore) advance, to the extent not prohibited by law, such expenses to Indemnitee, which are incurred by Indemnitee in connection with any action brought by Indemnitee for indemnification or advance of Expenses from the Company under this Agreement or under any directors' and officers' liability insurance policies maintained by the Company, regardless of whether Indemnitee ultimately is determined to be entitled to such indemnification, advancement of Expenses or insurance recovery, as the case may be.

8. Non-Exclusivity; Survival of Rights; Insurance; Subrogation.

(a) The rights of indemnification and advancement of expenses as provided by this Agreement shall not be deemed exclusive of, and shall be in addition to, any other rights to which Indemnitee may at any time be entitled under applicable law, the Articles or the Bylaws of the Company, any agreement, a vote of stockholders, a resolution of directors of the Company, or otherwise, and nothing in this Agreement shall diminish or otherwise restrict Indemnitee's rights to indemnification or advancement of expenses under any of the foregoing. No amendment, alteration or repeal of this Agreement or of any provision hereof shall limit or restrict any right of Indemnitee under this Agreement in respect of any action taken or omitted by such Indemnitee in his or her Corporate Status prior to such amendment, alteration or repeal. To the extent that a change in the NRS, whether by statute or judicial decision, permits greater indemnification than would be afforded currently under the Articles, the Bylaws and this Agreement, it is the intent of the parties hereto that Indemnitee shall enjoy by this Agreement the greater benefits so afforded by such change and Indemnitee shall be deemed to have such greater benefits hereunder. No right or remedy herein conferred is intended to be exclusive of any other right or remedy, and every other right and remedy shall be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other right or remedy. The Company shall not adopt any amendments to its Articles or Bylaws, the effect of which would be to deny, diminish or encumber Indemnitee's right to indemnification or advancement of expenses under this Agreement, any other agreement or otherwise, without the prior written consent of the Indemnitee.

(b) To the extent that the Company maintains an insurance policy or policies providing liability insurance for directors, officers, employees, or agents or fiduciaries of the Company or of any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise that such person serves at the request of the Company, Indemnitee shall be covered by such policy or policies in accordance with its or their terms to the maximum extent of the coverage available for any director, officer, employee, agent or fiduciary under such policy or policies. If, at the time of the receipt of a notice of a claim pursuant to the terms hereof, the Company has director and officer liability insurance in effect, the Company shall give prompt notice of the commencement of such Proceeding to the insurers in accordance with the procedures set forth in the respective policies. The Company shall thereafter take all necessary or desirable action to cause such insurers to pay, on behalf of Indemnitee, all amounts payable as a result of such Proceeding in accordance with the terms of such policies.

(c) In the event of any payment under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of Indemnitee, who shall execute all papers required and take all action necessary to secure such rights, including execution of such documents as are necessary to enable the Company to bring suit to enforce such rights (with all of Indemnitee's reasonable expenses, including, without limitation, attorneys' fees and charges, related thereto to be reimbursed by or, at the option of Indemnitee, advanced by the Company).

(d) The Company shall not be liable under this Agreement to make any payment of amounts otherwise indemnifiable hereunder if and to the extent that Indemnitee has otherwise actually received such payment under any insurance policy, contract, agreement or otherwise.

(e) The Company's obligation to indemnify or advance Expenses hereunder to Indemnitee who is or was serving at the request of the Company as a director, officer, employee or agent of any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise shall be reduced by any amount Indemnitee has actually received as indemnification or advancement of expenses from such other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise.

9. Exception to Right of Indemnification. Notwithstanding any provision in this Agreement, the Company shall not be obligated under this Agreement to make any indemnity in connection with any claim made against Indemnitee:

(a) for which payment has actually been made to or on behalf of Indemnitee under any insurance policy or other indemnity provision, except with respect to any excess beyond the amount paid under any insurance policy or other indemnity provision; or

(b) for an accounting of profits made from the purchase and sale (or sale and purchase) by Indemnitee of securities of the Company within the meaning of Section 16(b) of the Securities Exchange Act of 1934, as amended (the "***Exchange Act***"), or similar provisions of state statutory law or common law; or

(c) for any reimbursement of the Company by Indemnitee of any bonus or other incentive-based or equity-based compensation or of any profits realized by Indemnitee from the sale of securities of the Company, as required in each case under the Exchange Act (including any such reimbursements that arise from an accounting restatement of the Company pursuant to Section 304 of the Sarbanes-Oxley Act of 2002 (the "***Sarbanes-Oxley Act***"), or the payment to the Company of profits arising from the purchase and sale by Indemnitee of securities in violation of Section 306 of the Sarbanes-Oxley Act); or

(d) for any reimbursement of the Company by Indemnitee of any compensation pursuant to any compensation recoupment or clawback policy adopted by the Board or the compensation committee of the Board, including but not limited to any such policy adopted to comply with stock exchange listing requirements implementing Section 10D of the Exchange Act; or

(e) in connection with any Proceeding (or any part of any Proceeding) initiated by Indemnitee, including any Proceeding (or any part of any Proceeding) initiated by Indemnitee against the Company (other than to enforce Indemnitee's rights under this Agreement) or its directors, officers, employees or other indemnitees, unless (i) the Board of the Company authorized the Proceeding (or such part of the Proceeding) prior to its initiation, or (ii) the Company indemnifies Indemnitee, in its sole discretion, independently of this Agreement pursuant to the powers vested in the Company under applicable law.

10. Retroactive Effect; Duration of Agreement; Successors and Binding Agreement. All agreements and obligations of the Company contained herein shall be deemed to have become effective upon the date Indemnitee first had Corporate Status; shall continue during the period Indemnitee has Corporate Status; and shall continue thereafter so long as Indemnitee may be subject to any Proceeding (or any action commenced under Section 7 hereof) by reason of his or her Corporate Status, whether or not he or she is acting or serving in any such capacity at the time any liability or expense is incurred for which indemnification can be provided under this Agreement. This Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties hereto and their respective successors (including any direct or indirect successor by purchase, merger, consolidation, reorganization or otherwise to all or substantially all of the business or assets of the Company), assigns, spouses, heirs, executors and personal and legal representatives. The Company shall require any such successor to all or substantially all of the business or assets of the Company, by agreement in form and substance satisfactory to Indemnitee and his or her counsel, expressly to assume and agree to perform this Agreement in the same manner and to the same extent the Company would be required to perform if no such succession had taken place. Except as otherwise set forth in this Section 10, this Agreement shall not be assignable or delegable by the Company.

11. Security. To the extent requested by Indemnitee and approved by the Board of the Company, the Company may at any time and from time to time provide security to Indemnitee for the Company's obligations hereunder through an irrevocable bank line of credit, funded trust or other collateral. Any such security, once provided to Indemnitee, may not be revoked or released without the prior written consent of Indemnitee.

12. Enforcement.

(a) The Company expressly confirms and agrees that it has entered into this Agreement and assumes the obligations imposed on it hereby in order to induce Indemnitee to serve, or continue to serve, as an officer or a director of the Company, and the Company acknowledges that Indemnitee is relying upon this Agreement in serving or continuing to serve as an officer or a director of the Company.

(b) This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral, written and implied, between the parties hereto with respect to the subject matter hereof.

13. Definitions. For purposes of this Agreement:

(a) "***Change in Control***" means the occurrence of any one of the following events:

(i) any sale, lease, exchange or other transfer (in one or a series of related transactions) of all or substantially all of the assets of the Company;

(ii) any "Person" as such term is used in Section 13(d) and Section 14(d) of the Exchange Act becomes, directly or indirectly, the "beneficial owner" as defined in Rule 13d-3 under the Exchange Act of securities of the Company that represent more than 50% of the combined voting power of the Company's then outstanding voting securities (the "***Outstanding Company Voting Securities***"); provided, however, that for purposes of this Section 13(a)(ii), the following acquisitions shall not constitute a Change in Control: (I) any acquisition directly from the Company, (II) any acquisition by the Company, (III) any acquisition by any employee benefit plan (or related trust) sponsored or maintained by the Company or any person or entity that directly or indirectly controls, is controlled by or is under common control with the Company and/or to the extent provided by the Board, any person or entity in which the Company has a significant interest, (IV) any acquisition by any corporation pursuant to a transaction that complies with Sections 13(a)(iv)(A) and 13(a)(iv)(B), (V) any acquisition involving beneficial ownership of less than 50% of the then-outstanding shares of the Company's Class A common stock, par value $0.0001 per share (and any stock or other securities into which such ordinary shares may be converted or into which they may be exchanged) (the "***Outstanding Company Common Shares***") or the Outstanding Company Voting Securities that is determined by the Board, based on review of public disclosure by the acquiring Person with respect to its passive investment intent, not to have a purpose or effect of changing or influencing the control of the Company; provided, however, that for purposes of this clause (V), any such acquisition in connection with (x) an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consents or (y) any "Business Combination" (as defined below) shall be presumed to be for the purpose or with the effect of changing or influencing the control of the Company;

(iii) during any period of not more than two (2) consecutive years, individuals who constitute the Board as of the beginning of the period (the "***Incumbent Directors***") cease for any reason to constitute at least a majority of the Board, provided that any person becoming a director subsequent to the beginning of such period, whose election or nomination for election was approved by a vote of at least two-thirds of the Incumbent Directors then on the Board (either by a specific vote or by approval of the proxy statement of the Company in which such person is named as a nominee for director, without written objection to such nomination) will be an Incumbent Director; provided, however, that no individual initially elected or nominated as a director of the Company as a result of an actual or threatened election contest with respect to directors or as a result of any other actual or threatened solicitation of proxies by or on behalf of any person other than the Board will be deemed to be an Incumbent Director;

(iv) consummation of a merger, amalgamation or consolidation (a "***Business Combination***") of the Company with any other corporation, unless, following such Business Combination, (A) all or substantially all of the individuals and entities that were the beneficial owners of the Outstanding Company Common Shares and the Outstanding Company Voting Securities immediately prior to such Business Combination beneficially own, directly or indirectly, more than 50% of the then-outstanding shares of common stock (or, for a non-corporate entity, equivalent securities) and the combined voting power of the then-outstanding voting securities entitled to vote generally in the election of directors (or, for a non-corporate entity, equivalent governing body), as the case may be, of the entity resulting from such Business Combination (including, without limitation, an entity that, as a result of such transaction, owns the Company or all or substantially all of the Company's assets either directly or through one or more subsidiaries) in substantially the same proportions as their ownership immediately prior to such Business Combination of the Outstanding Company Common Shares and the Outstanding Company Voting Securities, as the case may be, and (B) at least a majority of the members of the board of directors (or, for a non-corporate entity, equivalent governing body) of the entity resulting from such Business Combination were Incumbent Directors at the time of the execution of the initial agreement or of the action of the Board providing for such Business Combination;

(v) the stockholders of the Company approve a plan of complete liquidation of the Company.

(b) "***Corporate Status***" means the fact that a person is or was a director, officer, employee, agent or fiduciary of the Company or is or was serving at the request of the Company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise.

(c) "***Disinterested Director***" means a director of the Company who is not and was not a party to the Proceeding in respect of which indemnification is sought by Indemnitee.

(d) "***Enterprise***" shall mean the Company and any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise that Indemnitee is or was serving at the express written request of the Company as a director, officer, trustee, partner, manager, managing member, employee, agent or fiduciary.

(e) "***Expenses***" shall include all reasonable attorneys' fees, retainers, court costs, transcript costs, fees of experts and other professionals, witness fees, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees, ERISA excise taxes and penalties, and all other disbursements or expenses of the types customarily incurred or actually incurred in connection with prosecuting, defending, preparing to prosecute or defend, investigating, participating, or being or preparing to be a witness in a Proceeding, or responding to, or objecting to, a request to provide discovery in a Proceeding. Expenses also shall include Expenses incurred in connection with any appeal resulting from any Proceeding, including, without limitation, the premium, security for, and other costs relating to any cost bond, supersede as bond, or other appeal bond or its equivalent. Should any payments by the Company to or for the account of Indemnitee under this Agreement be determined to be subject to any federal, state or local income or excise tax, Expenses shall also include such amounts as are necessary to place Indemnitee in the same after-tax position (after giving effect to all applicable taxes) Indemnitee would have been in had no such tax been determined to apply to those payments. The parties agree that for the purposes of any advancement of Expenses for which Indemnitee has made written demand to the Company in accordance with this Agreement, all Expenses included in such demand that are certified by affidavit of Indemnitee's counsel as being reasonable in the good faith judgment of such counsel shall be presumed conclusively to be reasonable. Expenses, however, shall not include amounts paid in settlement by Indemnitee or the amount of judgments or fines against Indemnitee.

(f) "***Independent Counsel***" means a law firm, or a member of a law firm, that is experienced in matters of corporation law and neither presently is, nor in the past five (5) years has been, retained to represent (i) the Company or Indemnitee in any matter material to either such party (other than with respect to matters concerning Indemnitee under this Agreement, or of other indemnitees under similar indemnification agreements), or (ii) any other party to the Proceeding giving rise to a claim for indemnification hereunder. Notwithstanding the foregoing, the term "Independent Counsel" shall not include any person who, under the applicable standards of professional conduct then prevailing, would have a conflict of interest in representing either the Company or Indemnitee in an action to determine Indemnitee's rights under this Agreement. The Company agrees to pay the reasonable fees of the Independent Counsel referred to above and to fully indemnify such counsel against any and all Expenses, claims, liabilities and damages arising out of or relating to this Agreement or its engagement pursuant hereto.

(g) "***Proceeding***" includes any threatened, pending or completed action, suit, claim, counterclaim, cross claim, arbitration, mediation, alternate dispute resolution mechanism, investigation, inquiry, administrative hearing or any other actual, threatened or completed proceeding, whether brought by or in the right of the Company or otherwise and whether civil, criminal, administrative, legislative or investigative (formal or informal); in each case whether or not Indemnitee's Corporate Status existed at the time any liability or expense is incurred for which indemnification can be provided under this Agreement; including one pending on or before the date of this Agreement, but excluding one initiated by an Indemnitee pursuant to Section 7 of this Agreement to enforce his or her rights under this Agreement.

14. Severability. The invalidity or unenforceability of any provision hereof shall in no way affect the validity or enforceability of any other provision. Without limiting the generality of the foregoing, this Agreement is intended to confer upon Indemnitee indemnification rights to the fullest extent permitted by applicable laws. In the event any provision hereof conflicts with any applicable law, such provision shall be deemed modified, consistent with the aforementioned intent, to the extent necessary to resolve such conflict.

15. Modification and Waiver. No supplement, modification, termination or amendment of this Agreement shall be binding unless executed in writing by both of the parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions hereof (whether or not similar) nor shall such waiver constitute a continuing waiver.

16. Notice by Indemnitee. Indemnitee agrees promptly to notify the Company in writing upon being served with or otherwise receiving any summons, citation, subpoena, complaint, indictment, information or other document relating to any Proceeding or matter which may be subject to indemnification covered hereunder. The failure to so notify the Company shall not relieve the Company of any obligation which it may have to Indemnitee under this Agreement unless, and only to the extent that, the Company is actually and materially prejudiced as a result of such delay or failure.

17. Notices. All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given (a) upon personal delivery to the party to be notified, (b) when sent by confirmed facsimile, or (c) upon delivery when sent by a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All communications shall be sent:

To Indemnitee at the address set forth below Indemnitee's signature hereto.

To the Company at:

DraftKings Inc.
222 Berkeley Street 5th Floor
Boston, Massachusetts 02116
Attention: Chief Legal Officer

or to such other address as may have been furnished to Indemnitee by the Company or to the Company by Indemnitee, as the case may be.

18. Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same the same instrument. Counterparts may be delivered via facsimile, electronic mail (including pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, *e.g.*, www.docusign.com) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

19. Headings. The headings of the paragraphs of this Agreement are inserted for convenience only and shall not be deemed to constitute part of this Agreement or to affect the construction thereof.

20. Successors and Assigns. The terms of this Agreement shall be binding upon the Company and its successors and assigns and shall inure to the benefit of Indemnitee and Indemnitee's spouse, assigns, heirs, devisees, executors, administrators and other legal representatives.

21. Governing Law and Consent to Jurisdiction. This Agreement and the legal relations among the parties shall be governed by, and construed and enforced in accordance with, the laws of the State of Nevada, without regard to its conflict of laws rules. The Company and Indemnitee hereby irrevocably and unconditionally (i) agree that any action or proceeding arising out of or in connection with this Agreement (other than an arbitration pursuant to Section 7 hereof) shall be brought only in the Eighth Judicial District Court of Clark County (the "***Nevada Court***"), and not in any other state or federal court in the United States of America or any court in any other country, (ii) consent to submit to the exclusive jurisdiction of the Nevada Court for purposes of such action or proceeding, (iii) waive any objection to the laying of venue of any such action or proceeding in the Nevada Court, and (iv) waive, and agree not to plead or to make, any claim that any such action or proceeding brought in the Nevada Court has been brought in an improper or inconvenient forum.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on and as of the day and year first above written.

COMPANY

DRAFTKINGS INC.

By: /s/ R. Stanton Dodge
Name: R. Stanton Dodge
Title: Chief Legal Officer

INDEMNITEE

/s/ Paul Liberman
Name: Paul Liberman

Address: Address on file with the Company

Exhibit 10.4

EXECUTIVE EMPLOYMENT AGREEMENT

This Executive Employment Agreement ("Agreement") is made and effective as of this 23rd day of April 2020 (the "Effective Date") by and between DraftKings Inc., a Nevada corporation ("Company"), and Jason Robins ("Executive").

W I T N E S S E T H

WHEREAS, Executive was Chief Executive Officer (the "CEO") of DraftKings Inc., a Delaware corporation ("Former DK"), prior to the closing (the "Closing") of the transactions contemplated by the Business Combination Agreement, dated as of December 22, 2019, as amended by Amendment No. 1 thereto, dated as of April 7, 2020, among the Company, Diamond Eagle Acquisition Corp., SBTech (Global) Limited and certain other parties thereto, following which Former DK became a wholly owned subsidiary of the Company;

WHEREAS, the Company desires to continue to employ the Executive as CEO the Company following the Closing; and

WHEREAS, the Company and the Executive desire to enter into this Agreement to set forth the terms of the Executive's employment with the Company.

NOW, THEREFORE, in consideration of the foregoing, of the mutual promises contained herein and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. POSITION AND DUTIES.

(a) **GENERAL.** Commencing on the Effective Date, Executive shall continue to serve as the Company's CEO and shall report directly to the Company's Board of Directors (the "Board"). In this position, Executive shall have such duties, authorities and responsibilities as are customary for an employee in such position, and such other duties, authorities and responsibilities as may reasonably be assigned to the Executive from time to time by the Board. The Executive's principal place of employment with the Company shall be at the Company's headquarters located in Boston, Massachusetts or such other place as approved by the Board.

(b) **OTHER ACTIVITIES.** For so long as Executive remains in the employ of the Company (the "Employment Term"), the Executive shall devote substantially all of the Executive's business time, energy, knowledge and skill to the performance of the Executive's duties with the Company, provided that the foregoing shall not prevent the Executive from engaging in any non-Company activity of any kind so long as such activity, together with any other non-Company activity, does not pose a conflict of interest or materially interfere with Executive's performance of his duties under this Agreement, as determined in the reasonable good faith discretion of the Board.

2. ANNUAL BASE SALARY. During the Employment Term, the Company agrees to pay the Executive an annual base salary at an annual rate of $650,000, payable subject to standard federal and state payroll withholding requirements in accordance with the regular payroll practices of the Company. The Executive's annual base salary shall be subject to annual review by the Board (or a committee thereof), and may be increased (but not decreased) from time to time as determined by the Board (or a committee thereof). The annual base salary as may be increased from time to time shall constitute "Annual Base Salary" for purposes of this Agreement.

3. INCENTIVE COMPENSATION.

(a) Annual Cash Incentive. During the Employment Term, Executive shall be eligible for a minimum annual target cash incentive opportunity of 150% of Annual Base Salary (as may be increased from time to time, the "Target Annual Cash Incentive"), provided Executive shall have the opportunity to earn a greater annual cash incentive for performance above target and, if the annual cash incentive opportunity for performance above target is subject to a maximum, such maximum shall be equal to an amount that is at least equal to 200% of the Target Annual Cash Incentive. The Executive's Target Annual Cash Incentive shall be subject to annual review by the Board (or a committee thereof), and may be increased (but not decreased) from time to time as determined by the Board (or a committee thereof). The Board (or a committee thereof) shall set reasonable and appropriate Company and/or individual performance goals for each annual cash incentive opportunity, in consultation with Executive, by no later than (i) June 30 for the 2020 performance year, and (ii) March 31 for each performance year thereafter. The earned annual cash incentive (the "Annual Cash Incentive") for any given fiscal year will be determined based on overall Company performance and/or Executive's individual performance (as applicable), as determined in the sole discretion of the Board (or a committee thereof) and provided Executive remains employed by the Company through the applicable performance period. Any such Annual Cash Incentive shall be paid to Executive at the same time that annual cash incentives are paid to other senior executives of the Company, provided, in any event, any such Annual Cash Incentive shall be paid by no later than March 15th of the year following the applicable performance year.

(b) Annual Equity Incentive. During the Employment Term, the Company shall grant Executive an annual equity incentive award within the first three (3) months of each fiscal year (or the first seven (7) months for fiscal year 2020) of the Company with a minimum aggregate target value of $6,500,000 for each such award (as may be increased from time to time, the "Annual Equity Incentive Award"), with the valuation methodology for such awards to be determined by the Board (or a committee thereof) in the reasonable good faith exercise of its discretion. The Executive's Annual Equity Incentive Award shall be subject to annual review by the Board (or a committee thereof), and may be increased (but not decreased) from time to time as determined by the Board (or a committee thereof). The Annual Equity Incentive Awards will be comprised of a mix of fifty percent (50%) of the minimum aggregate target value granted as restricted stock units, with time-based vesting conditions that are not less favorable than vesting in equal quarterly installments over four years, and fifty percent (50%) of the minimum aggregate target value granted as performance stock units ("PSUs"), provided Executive shall have the opportunity to earn a greater amount of PSUs for performance above target and, if the performance-based vesting for such PSUs for performance above target is subject to a maximum, such maximum shall be equal to an amount that is at least equal to 300% of one half (1/2) of the minimum aggregate target value. The performance/vesting period for such PSUs shall be between two (2) and three (3) years, as determined by the Board (or a committee thereof) in the reasonable good faith exercise of its discretion. The Board (or a committee thereof) shall set reasonable and appropriate Company and/or individual performance goals for each annual PSU grant, in consultation with Executive, by no later than (i) July 31st for the 2020 performance year, and (ii) March 31 for each performance year thereafter. The earned PSUs for any given fiscal year will be determined based on overall Company performance and/or Executive's individual performance (as applicable), as determined in the sole discretion of the Board (or a committee thereof) and provided Executive remains employed by the Company through the applicable performance period.

4. EXECUTIVE BENEFITS.

(a) **BENEFIT PLANS.** During the Employment Term, the Executive shall be entitled to participate in any employee and/or executive benefit plan that the Company has adopted or may adopt, maintain or contribute to for the benefit of its employees and/or executives generally, currently including, without limitation, health and dental insurance coverage, long-term and short-term disability insurance coverage and group life insurance coverage, subject, in all events to satisfying the applicable eligibility requirements, and except to the extent such plans are duplicative of the benefits otherwise provided hereunder. The Executive's participation will be subject to the terms of the applicable plan documents and generally applicable Company policies. Notwithstanding the foregoing, the Company may modify or terminate any employee and/or executive benefit plan at any time.

(b) **VACATION TIME.** During the Employment Term, the Executive shall be entitled to paid vacation in accordance with the Company's policy applicable to its executives as in effect from time to time.

(c) **BUSINESS EXPENSES.** Upon presentation of such reasonable substantiation and documentation as the Company reasonably may specify from time to time, the Executive shall be reimbursed for all reasonable out-of-pocket business expenses incurred and paid by the Executive during the Employment Term in connection with the performance of the Executive's duties hereunder.

5. TERMINATION. The Executive's employment under this Agreement and the Employment Term shall terminate on the first of the following to occur:

(a) **DISABILITY.** Thirty (30) days after written notice by the Company to the Executive of a termination due to Disability. For purposes of this Agreement, "Disability" shall be defined as the inability of the Executive to perform the Executive's material duties hereunder with a reasonable accommodation due to a physical or mental injury, infirmity or incapacity for one hundred and twenty (120) days (including weekends and holidays) in any three hundred sixty-five (365) day period; provided such disability also qualifies as a "disability" as defined in Treasury Regulation Section 1.409A-3(i)(4)(i). The Executive shall reasonably cooperate with the Company if a question arises as to whether the Executive has become disabled.

(b) **DEATH.** Automatically upon the date of death of the Executive.

(c) **CAUSE.** Thirty (30) days after written notice by the Company to the Executive of a termination for Cause if the Executive shall have failed to cure or remedy such matter, if curable, within such thirty (30) day period. In the event that the basis for Cause is not curable, then such thirty (30) day cure period shall not be required, and such termination shall be effective on the date the Company delivers notice of such termination for Cause. "Cause" shall mean the Company's termination of the Executive's employment with the Company or any of its subsidiaries as a result of: (i) fraud, embezzlement or any willful act of material dishonesty by the Executive in connection with or relating to the Executive's employment with the Company or any of its subsidiaries; (ii) theft or misappropriation of property, information or other assets by the Executive in connection with the Executive's employment with the Company or any of its subsidiaries which results in or could reasonably be expected to result in material loss, damage or injury to the Company and its subsidiaries, their goodwill, business or reputation; (iii) the Executive's conviction, guilty plea, no contest plea, or similar plea for any felony or any crime that results in or could reasonably be expected to result in material loss, damage or injury to the Company and its subsidiaries, their goodwill, business or reputation; (iv) the Executive's use of alcohol or drugs while working that materially interferes with the ability of Executive to perform the Executive's material duties hereunder; (v) the Executive's material breach of a material Company policy, or material breach of a Company policy that results in or could reasonably be expected to result in material loss, damage or injury to the Company and its subsidiaries, their goodwill, business or reputation; (vi) the Executive's material breach of any of his obligations under this Agreement; or (vii) the Executive's repeated insubordination, or refusal (other than as a result of a Disability or physical or mental illness) to carry out or follow specific reasonable and lawful instructions, duties or assignments given by the Board which are consistent with Executive's position with the Company; provided, that, for clauses (i) – (vii) above, the Company delivers written notice to Executive of the condition giving rise to Cause within ninety (90) days after the Company becomes aware of its initial occurrence. For avoidance of doubt, the Executive being deemed an Unsuitable Person, as defined in that certain Amended and Restated Articles of Incorporation of the Company as in effect on the Effective Date (an "Unsuitable Person"), shall not independently constitute Cause (but any circumstances giving rise to the Executive being deemed an Unsuitable Person shall constitute Cause to the extent such circumstances are grounds provided in clauses (i) – (vii) above).

(d) **WITHOUT CAUSE.** The date of termination set forth in any written notice by the Company to the Executive of an involuntary termination without Cause (other than death or Disability).

(e) **GOOD REASON.** Thirty (30) days after written notice by the Executive to the Company of an alleged condition giving rise to a resignation for Good Reason if the Company shall have failed to cure or remedy such matter, if curable, within such thirty (30) day period. In the event that the basis for Good Reason is not curable, then such thirty (30) day cure period shall not be required, and such resignation shall be effective on the date the Executive delivers such notice. "Good Reason" shall mean the occurrence of any of the following events, without the express written consent of the Executive: (i) the Company's material breach of any of its obligations under this Agreement; (ii) any material adverse change in the Executive's duties or authority or responsibilities, or the assignment of duties or responsibilities to the Executive materially inconsistent with his position; (iii) the Executive no longer serving as the CEO of the Company; (iv) reduction in the Executive's Annual Base Salary, Target Annual Cash Incentive or Annual Equity Incentive Award (other than across-the-board reductions affecting similarly situated senior executives of the Company or any of its subsidiaries); (v) the Company requires Executive to relocate to a facility or location that increases Executive's one-way commute by more than thirty-five (35) miles from the location at which Executive was working immediately prior to the required relocation; or (vi) the failure of a successor to the Company to assume the Company's obligations under this Agreement; provided, that, for clauses (i) – (vi) above, Executive has given written notice to the Company of the condition giving rise to Good Reason within ninety (90) days after Executive becomes aware of its initial occurrence.

(f) **WITHOUT GOOD REASON.** Thirty (30) days after written notice by the Executive to the Company of the Executive's voluntary termination of employment without Good Reason (which the Company may, in its sole discretion, make effective earlier).

6. CONSEQUENCES OF TERMINATION.

(a) **DEATH OR DISABILITY.** In the event that the Executive's employment ends on account of the Executive's death or Disability, the Executive or the Executive's estate, as the case may be, shall be entitled to the following (with the amounts due under Sections 6(a)(i) through 6(a)(iii) hereof to be paid within thirty (30) days following termination of employment, or such earlier date as may be required by applicable law):

(i) any unpaid Annual Base Salary earned through the date of termination;

(ii) reimbursement for any unreimbursed business expenses incurred through the date of termination;

(iii) all other accrued and vested payments, benefits or fringe benefits required to be paid or provided to the Executive under the applicable plans or by law, including without limitation, payment for all accrued vacation (collectively, Sections 6(a)(i) through 6(a)(iii) hereof shall be hereafter referred to as the "Accrued Benefits"); and

(iv) provided Executive is in full compliance with his obligations under Exhibits A and B attached hereto and Executive or the Executive's estate, as the case may be, executes, returns to the Company and does not revoke the release and waiver of claims in the form attached hereto as Exhibit C (with such changes as may be required in order to reflect or comply with applicable laws at such time, as determined by the Company in its reasonable judgment, the "Release and Waiver") and the Release and Waiver becomes effective pursuant to its terms and conditions, all within sixty (60) days following termination of employment, then the Company shall also provide Executive or the Executive's estate, as the case may be, with the following:

A. Full vesting of all outstanding unvested equity-based awards, including the portions of Annual Equity Incentive Awards, that are solely subject to time-based vesting on the date of such termination, and Executive or the Executive's estate, as the case may be, shall have twelve (12) months after termination of employment to exercise all stock options that were vested at the time of such termination of employment and all stock options that vest pursuant to this Section 6(a)(iv)(A) in connection with such termination (provided such stock options shall remain subject to the maximum original term and expiration of such stock options).

B. Vesting of the portions of all outstanding unvested Annual Equity Incentive Awards that are solely subject to performance-based vesting on the date of such termination, with such vesting determined based on actual performance against the applicable performance goals established for the applicable awards, as determined at the time and in the manner applicable to such awards pursuant to the applicable stock plans and award agreements, with such awards remaining outstanding through the date such vesting is determined. Notwithstanding the foregoing, if any such awards are in the form of stock options, such stock options shall remain outstanding until such time as Executive or the Executive's estate, as the case may be, shall have twelve (12) months after the later of Executive's termination of employment, or the vesting of the applicable stock options, to exercise all stock options that were vested at the time of such termination of employment and such stock options that vest pursuant to this Section 6(a)(iv)(B) in connection with such termination (provided such stock options shall remain subject to the maximum original term and expiration of such stock options).

C. Vesting of all outstanding unvested equity-based awards that are solely subject to performance-based vesting on the date of such termination other than Annual Equity Incentive Awards (typically referred to by the Company as "LTIPs"), with such vesting determined based on actual performance against the applicable performance goals established for the applicable awards through the date that is two (2) years following Executive's termination of employment, subject to the maximum original term and expiration of the applicable award (the "Performance Vesting End Date"), as determined at the time and in the manner applicable to such awards pursuant to the applicable stock plans and award agreements, with such awards remaining outstanding through the date such vesting is determined, not to exceed the Performance Vesting End Date; provided, if the Performance Vesting End Date falls in the middle of a performance/vesting period applicable to an award, the total shares that shall vest in relation to such performance period shall be pro-rated based on the number of days between the first day of the performance/vesting period and the Performance Vesting End Date. Notwithstanding the foregoing, if any such awards are in the form of stock options, such stock options shall remain outstanding until such time as Executive or the Executive's estate, as the case may be, shall have twelve (12) months after the later of Executive's termination of employment, or the vesting of the applicable stock options, to exercise such stock options that were vested at the time of such termination of employment and such stock options that vest pursuant to this Section 6(a)(iv)(C) in connection with such termination (provided such stock options shall remain subject to the maximum original term and expiration of such stock options).

(b) **TERMINATION FOR CAUSE OR WITHOUT GOOD REASON.** If the Executive's employment is terminated (i) by the Company for Cause, or (ii) by the Executive without Good Reason, the Company shall pay to the Executive the Accrued Benefits, at such times as set forth in Section 6(a) above.

(c) **TERMINATION WITHOUT CAUSE OR FOR GOOD REASON.** If the Executive's employment by the Company is terminated (x) by the Company without Cause, or (y) by the Executive for Good Reason (each, a "Qualifying Termination"), then the Company will provide Executive with the Accrued Benefits at such times as set forth in Section 6(a) above and, provided Executive is in full compliance with his obligations under Exhibits A and B attached hereto and Executive executes, returns to the Company and does not revoke the Release and Waiver and the Release and Waiver becomes effective pursuant to its terms and conditions, all within sixty (60) days following termination of employment, then the Company shall also pay or provide the Executive with the following:

(i) *Termination in Connection with Change in Control*. In the event of a Qualifying Termination within eighteen (18) months after a Change in Control (as defined below), or within three (3) months before a Change in Control, the Company shall provide Executive:

A. Cash severance in an amount equal to two times the sum of (x) Annual Base Salary *plus* (y) Target Annual Cash Incentive, less all applicable withholdings and deductions, payable on the first regular payroll date of the Company that is sixty (60) days following the date of Executive's termination.

B. Continued participation through COBRA coverage or such other method determined by the Company (all costs, expenses and premiums to be paid by Company) on the same basis as the employee and/or executive benefit plans contemplated by Section 4(a) hereof in which the Executive is participating on the date of such termination of employment for 24 months following the month in which coverage would otherwise be lost as an employee of the Company; provided that the Executive is eligible and remains eligible for coverage under such plans by timely electing COBRA continuation, if applicable; and provided, further, that in the event that the Executive obtains other employment that offers Executive health benefits such that Executive is not eligible for COBRA continuation rights, such continuation of coverage by the Company under this Section (6)(c)(i)(B) shall immediately cease (such 24 month or shorter period, the "COBRA Payment Period"). Notwithstanding the foregoing, if at any time the Company determines that its payment of COBRA premiums on Executive's behalf or other method of continued participation would result in a violation of applicable law (including but not limited to the 2010 Patient Protection and Affordable Care Act, as amended by the 2010 Health Care and Education Reconciliation Act), then in lieu of paying COBRA premiums or providing such other method of continued participation pursuant to this Section, the Company shall pay Executive on the last day of each remaining month of the COBRA Payment Period, a fully taxable cash payment equal to the COBRA premium or such other payment for such month, subject to applicable tax withholding (such amount, the "Special Severance Payment"), such Special Severance Payment to be made without regard to Executive's payment of COBRA premiums and without regard to the expiration of the COBRA period prior to the end of the COBRA Payment Period. Nothing in this Agreement shall deprive Executive of his rights under COBRA or ERISA for benefits under plans and policies arising under his employment by the Company.

C. Full vesting of all outstanding unvested equity-based awards (including Annual Equity Incentive Awards) on the date of such termination or, if later, the consummation of the Change in Control, with any performance-based vesting conditions for performance periods that are not completed as of the date of termination deemed satisfied at the target level.

(ii) *Termination Not in Connection with Change in Control*. In the event of a Qualifying Termination that is not within eighteen (18) months after a Change in Control, and not within three (3) months before a Change in Control, the Company shall provide Executive:

A. Cash severance in an amount equal to two times the Executive's Annual Base Salary, less all applicable withholdings and deductions, payable on the first regular payroll date of the Company that is sixty (60) days following the date of Executive's termination.

B. An additional cash severance amount in an amount equal to the Annual Cash Incentive to which Executive would be entitled for the year of termination if Executive were employed by the Company on the last day of such year, based on actual performance against the applicable performance goals established for such bonus, pro-rated based on the number of days Executive was employed by the Company during such year, less all applicable withholdings and deductions, payable at the same time as bonuses are paid to active employees but no later than March 15 of the year after the year of termination.

C. Continued participation through COBRA coverage or such other method determined by the Company (all costs, expenses and premiums to be paid by Company) on the terms and conditions set forth in Section 6(c)(i)(B).

D. Pro rata vesting of all outstanding unvested equity-based awards (including the portions of Annual Equity Incentive Awards) that are solely subject to time-based vesting on the date of such termination based on the number of days Executive was employed by the Company during the vesting period during which the termination occurs.

E. Pro rata vesting of all outstanding unvested equity-based awards (including the portions of Annual Equity Incentive Awards) that are subject to performance-based vesting on the date of such termination, with such vesting determined based on actual performance against the applicable performance goals established for the applicable awards, as determined at the time and in the manner applicable to such awards pursuant to the applicable stock plans and award agreements, with such awards remaining outstanding through the date such vesting is determined, and pro-rated based on the number of days Executive was employed by the Company during the applicable performance/vesting periods.

(iii) "Change in Control" for purposes of this Section 6 will have the meaning set forth in the DraftKings Inc. 2020 Incentive Award Plan (or its successor as in effect at the time of a Qualifying Termination). For the avoidance of doubt, the Closing shall not constitute a Change in Control.

7. RETURN OF COMPANY PROPERTY. Within ten (10) days after Executive's termination of employment with the Company for any reason, the Executive shall return all property belonging to the Company or its affiliates (including, but not limited to, any Company-provided laptops, computers, cell phones, wireless electronic mail devices and other equipment, documents and property belonging to the Company).

8. REPRESENTATIONS AND WARRANTIES.

(a) **AUTHORIZATION.** All corporate action on the part of the Company and its directors necessary for the authorization, execution and delivery of this Agreement by the Company, and the performance of all of the Company's obligations under this Agreement has been taken.

(b) **ENFORCEABILITY.** This Agreement, when executed and delivered by the Company, will constitute valid and legally binding obligations of the Company, enforceable in accordance with its terms.

9. NO ASSIGNMENTS. This Agreement is personal to each of the parties hereto and no party may assign or delegate any rights or obligations hereunder without first obtaining the written consent of the other party hereto; provided, however, that the Company may assign this Agreement to any successor to all or substantially all of the business and/or assets of the Company; provided, further, that the Company shall require such successor to expressly assume and agree to perform this Agreement in the same manner and to the same extent that the Company would be required to perform it if no such succession had taken place. As used in this Agreement, "Company" shall mean the Company and any successor to its business and/or assets, which assumes and agrees to perform the duties and obligations of the Company under this Agreement by operation of law or otherwise.

10. NOTICE. For purposes of this Agreement, notices and all other communications provided for in this Agreement shall be in writing and shall be deemed to have been duly given (a) on the date of delivery, if delivered by hand, (b) upon receipt of confirmation of successful transmission, if delivered by facsimile, (c) on the date of delivery, if delivered by overnight delivery service, or mailed by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

If to the Executive:

Jason Robins
Address on file with the Company

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

_____
_____
_____
_____
_____

If to the Company:

DraftKings Inc.
Attn: Chief Legal Officer
222 Berkley Street, 5th Floor
Boston, MA 02116
Fax: (617) 977-1727

or to such other address or fax number as either party may have furnished to the other in writing in accordance herewith.

11. SECTION HEADINGS; INCONSISTENCY. The section headings used in this Agreement are included solely for convenience and shall not affect, or be used in connection with, the interpretation of this Agreement.

12. SEVERABILITY. Each provision of this Agreement will be construed as separable and divisible from every other provision and the enforceability of any one (1) provision will not limit the enforceability, in whole or in part, of any other provision. In the event that a court or administrative body of competent jurisdiction holds any provision of this Agreement to be invalid, illegal, void or less than fully enforceable as to time, scope or otherwise, then such provision will be construed by limiting and reducing it so that such provision is valid, legal and fully enforceable while preserving to the greatest extent permissible the original intent of the parties; the remaining terms and conditions of this Agreement will not be affected by such alteration, and will remain in full force and effect.

13. COUNTERPARTS. This Agreement may be executed in several counterparts, each of which shall be deemed to be an original but all of which together will constitute one and the same instrument.

14. GOVERNING LAW; ARBITRATION. This Agreement, the rights and obligations of the parties hereto, and all claims or disputes relating thereto, shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, without regard to the choice of law provisions thereof. Except for disputes arising under Exhibit A, Exhibit B, Exhibit C or Exhibit D hereof, which shall be decided pursuant to the terms of those Exhibits, any dispute arising from this Agreement or Executive's employment with the Company, including but not limited to claims for wrongful termination; violation of Title VII of the Civil Rights Act of 1964 as amended; violations of the Americans with Disabilities Act of 1990; violations of Massachusetts law, including without limitation claims pursuant to Chapter 151B of the Massachusetts General Laws and the Massachusetts Wage Act and Overtime law; or claims for violations of any state law or rule or regulation regarding discrimination, harassment or other wrongful conduct (collectively, "Covered Claims"), shall be decided solely and exclusively in a final and binding arbitration administered by the JAMS in Boston, Massachusetts, in accordance with the JAMS Employment Arbitration Rules in effect at the time of the filing of the demand for arbitration (the "Rules"), a copy of which is available at http://www.jamsadr.com/rules-employment-arbitration/. The arbitrator shall be a single arbitrator with expertise in employment disputes, mutually selected by the parties, or, if the parties are unable to agree thereon, a single arbitrator with expertise in employment disputes designated by the Boston office of JAMS. The arbitrator shall have the authority to award all remedies available in a court of law. The Company shall pay the arbitrator's fees and all fees and costs to administer the arbitration. The parties acknowledge and agree that their obligations to arbitrate under this Section survive the termination of the Agreement and continue after the termination of the employment relationship between the Executive and the Company. By agreeing to arbitrate disputes arising out of Executive's employment, both the Executive and the Company voluntarily and irrevocably waive any and all rights to have any such dispute heard or resolved in any forum other than through arbitration as provided herein. This waiver specifically includes, but is not limited to, any right to trial by jury. Notwithstanding anything to the contrary set forth herein, this Section will not apply to claims for workers' compensation or unemployment benefits, any claim for injunctive or equitable relief, or any claim arising from Exhibit A, Exhibit B, Exhibit C or Exhibit D to this Agreement brought by the Company or the Executive, which shall be governed by the terms and conditions thereof. All arbitration proceedings hereunder shall be confidential, except: (a) to the extent the parties otherwise agree in writing; (b) as may be otherwise appropriate in response to a request from a government agency, subpoena, or legal process; (c) if the substantive law of the State of Massachusetts (without giving effect to choice of law principles) provides to the contrary; or (d) as is necessary in a court proceeding to enforce, correct, modify or vacate the arbitrator's award or decision (and in the case of this subpart (d), the parties agree to take all reasonable steps to ensure that the arbitrator's award, decision or findings and all other documents, pleadings and papers are filed and/or entered with the court under seal and/or in a manner that would maintain their confidentiality, including, without limitation, complying with all rules of procedure and local rules for filing documents, pleadings and papers under seal).

15. MISCELLANEOUS. No provision of this Agreement may be modified, waived or discharged unless such waiver, modification or discharge is agreed to in writing and signed by the Executive and an authorized representative of the Company. No waiver by either party hereto at any time of any breach by the other party hereto of, or compliance with, any condition or provision of this Agreement to be performed by such other party shall be deemed a waiver of similar or dissimilar provisions or conditions at the same or at any prior or subsequent time. This Agreement, the exhibits attached hereto, and the Transaction Performance Award Letter Agreement entered into between the Company and Executive contemporaneously herewith collectively set forth the entire agreement of the parties hereto in respect of the subject matter contained herein and supersede any and all prior agreements or understandings between the Executive and the Company with respect to the subject matter hereof. No agreements or representations, oral or otherwise, express or implied, with respect to the subject matter hereof have been made by either party which are not expressly set forth in this Agreement. In the event of any conflict or inconsistency between the terms and conditions of this Agreement and any offer letter, form, award, plan or policy of the Company, the terms of this Agreement shall govern and control. Notwithstanding the foregoing, in the event of any conflict or inconsistency between this Agreement (including the exhibits hereto) and the DraftKings Inc. 2017 Equity Incentive Plan or the DraftKings Inc. 2012 Stock Option & Restricted Stock Incentive Plan (or any award agreement under such plans to which Executive is a party) regarding (1) the definitions of "Cause" or "Disability", (2) the treatment of equity-based awards in connection with a termination of employment (whether before or after a Change in Control) or (3) the governing law and dispute resolution procedures, then such provisions in this Agreement (including the exhibits hereto) shall control. Notwithstanding the foregoing, the Executive shall remain bound by all covenants, duties and obligations relating to confidentiality, ownership of intellectual property, non-solicitation, non-competition and all other post-employment restrictive covenants, duties and obligations with respect to which the Executive agreed to be bound in connection with the Executive's employment with the Company, including without limitation such covenants, obligations and duties set forth in the Noncompetition, Nonsolicitation, Nondisclosure & Assignment of Inventions Agreement dated March 14, 2013; the Stock Option Grant Notice And Post Employment Noncompetition Covenant (2017 Equity Incentive Plan), dated June 4, 2019; and the Stock Option Grant Notice And Post Employment Noncompetition Covenant (2017 Equity Incentive Plan), dated June 4, 2019 (collectively, the "Restrictive Covenants"). The post-employment covenants, duties and obligations set forth in this Agreement are intended to supplement – not replace – the Restrictive Covenants.

16. TAX MATTERS.

(a) **WITHHOLDING.** The Company may withhold from any and all amounts payable under this Agreement or otherwise such federal, state and local taxes as may be required to be withheld pursuant to any applicable law or regulation.

(b) **SECTION 409A COMPLIANCE.**

(i) The intent of the parties is that payments and benefits under this Agreement are exempt from or comply with Internal Revenue Code Section 409A and the regulations and guidance promulgated thereunder (collectively "Code Section 409A") and, accordingly, to the maximum extent permitted, this Agreement shall be interpreted to be in compliance therewith. To the extent that any provision hereof is modified in order to comply with Code Section 409A, such modification shall be made in good faith and shall, to the maximum extent reasonably possible, maintain the original intent and economic benefit to the Executive and the Company of the applicable provision without violating the provisions of Code Section 409A.

(ii) To the extent required to prevent the imposition of taxes or penalties under Code Section 409A, a termination of employment shall not be deemed to have occurred for purposes of any provision of this Agreement providing for the payment of any amount or benefit upon or following a termination of employment unless such termination is also a "separation from service" within the meaning of Code Section 409A and, for purposes of any such provision of this Agreement, references to a "termination," "termination of employment" or like terms shall mean "separation from service." Notwithstanding anything to the contrary in this Agreement, if the Executive is deemed on the date of termination to be a "specified employee" within the meaning of that term under Code Section 409A(a)(2)(B), then with regard to any payment or the provision of any benefit that is considered "nonqualified deferred compensation" under Code Section 409A payable on account of a "separation from service," such payment or benefit shall not be made or provided until the date which is the earlier of (A) the expiration of the six (6)-month period measured from the date of such "separation from service" of the Executive, and (B) the date of the Executive's death, to the extent required under Code Section 409A. Upon the expiration of the foregoing delay period, all payments and benefits delayed pursuant to this Section 16(b)(ii) (whether they would have otherwise been payable in a single sum or in installments in the absence of such delay) shall be paid or reimbursed to the Executive in a lump sum, and all remaining payments and benefits due under this Agreement shall be paid or provided in accordance with the normal payment dates specified for them herein.

(iii) To the extent that reimbursements or other in-kind benefits under this Agreement constitute "nonqualified deferred compensation" for purposes of Code Section 409A, (A) all expenses or other reimbursements hereunder shall be made on or prior to the last day of the taxable year following the taxable year in which such expenses were incurred by the Executive, (B) any right to reimbursement or in-kind benefits shall not be subject to liquidation or exchange for another benefit, and (C) no such reimbursement, expenses eligible for reimbursement, or in-kind benefits provided in any taxable year shall in any way affect the expenses eligible for reimbursement, or in-kind benefits to be provided, in any other taxable year.

(iv) For purposes of Code Section 409A, the Executive's right to receive installment payments pursuant to this Agreement shall be treated as a right to receive a series of separate and distinct payments. Whenever a payment under this Agreement specifies a payment period with reference to a number of days, the actual date of payment within the specified period shall be within the sole discretion of the Company.

(v) Notwithstanding any other provision of this Agreement to the contrary, in no event shall any payment or benefit under this Agreement that constitutes "nonqualified deferred compensation" for purposes of Code Section 409A be subject to offset by any other amount unless otherwise permitted by Code Section 409A.

17. NONSOLICITATION, NONDISCLOSURE & ASSIGNMENT OF INVENTIONS AGREEMENT AND NONCOMPETITION COVENANT. As a condition of continuing employment and as a condition to be eligible to receive the severance compensation set forth herein, Executive agrees to execute and abide by the Nonsolicitation, Nondisclosure & Assignment of Inventions Agreement in the form attached as Exhibit A and the Noncompetition Covenant in the form attached as Exhibit B (together the "Covenants"). The execution of the Covenants by Executive is a condition precedent to this agreement becoming effective. The Covenants contain provisions that are intended by the parties to survive and do survive termination of this Agreement.

18. INDEMNIFICATION. Executive will be insured under the Company's Director's and Officer's Liability Insurance to the extent the Company maintains such a policy and will be entitled to indemnification by the Company pursuant to the terms and conditions of the Company's certification of incorporation and by-laws to the same extent as the Company's executive officers and directors pursuant to an Indemnification Agreement between the Company and the Executive substantially in the form attached hereto as Exhibit D.

19. GOLDEN PARACHUTE. Anything in this Agreement to the contrary notwithstanding, if any payment or benefit Executive would receive from the Company or otherwise (a "Payment") would (a) constitute a "parachute payment" within the meaning of Internal Revenue Code Section 280G ("Code Section 280G"); and (b) but for this Section 19, be subject to the excise tax imposed by Internal Revenue Code Section 4999 (the "Excise Tax"), then such Payment shall be equal to the Reduced Amount. For purposes of this Agreement, the "Reduced Amount" shall be either (x) the largest portion of the Payment that would result in no portion of the Payment being subject to the Excise Tax; or (y) the largest portion, up to and including the total, of the Payment, whichever amount, after taking into account all applicable federal, state and local employment taxes, income taxes, and the Excise Tax (all computed at the highest applicable marginal rate), results in Executive's receipt, on an after-tax basis, of the greater amount of the Payment. Any reduction made pursuant to this Section 19 shall be made in accordance with the following order of priority: (i) Full Credit Payments (as defined below) that are payable in cash, (ii) non-cash Full Credit Payments that are taxable, (iii) non-cash Full Credit Payments that are not taxable, (iv) Partial Credit Payments (as defined below), (v) non-cash employee welfare benefits and (vi) stock options whose exercise price exceeds the fair market value of the optioned stock. In each case, reductions shall be made in reverse chronological order such that the payment or benefit owed on the latest date following the occurrence of the event triggering the Excise Tax will be the first payment or benefit to be reduced (with reductions made pro-rata in the event payments or benefits are owed at the same time). For purposes of this Agreement, "Full Credit Payment" means a payment, distribution or benefit, whether paid or payable or distributed or distributable pursuant to the terms of this Agreement or otherwise, that if reduced in value by one dollar reduces the amount of the parachute payment (as defined in Code Section 280G) by one dollar, determined as if such payment, distribution or benefit had been paid or distributed on the date of the event triggering the excise tax. For purposes of this Agreement, "Partial Credit Payment" means any payment, distribution or benefit that is not a Full Credit Payment. In no event shall Executive has any discretion with respect to the ordering of payment reductions. Unless the Company and Executive otherwise agree in writing, any determination required under this Section 19 will be made in writing by a certified professional services firm selected by the Company, the Company's legal counsel or such other person or entity to which the parties mutually agree (the "Firm"), whose determination will be conclusive and binding upon Executive and the Company for all purposes. For purposes of making the calculations required by this Section 19, the Firm may make reasonable assumptions and approximations concerning applicable taxes and may rely on reasonable, good faith interpretations concerning the application of Code Section 280G and Internal Revenue Code Section 4999. The Company and Executive will furnish to the Firm such information and documents as the Firm may reasonably request in order to make a determination under this Section 19. The Company will bear all costs the Firm may reasonably incur in connection with any calculations contemplated by this Section 19.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

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

DRAFTKINGS INC., a Nevada corporation

By: /s/ R. Stanton Dodge

Name: R. Stanton Dodge

Title: Chief Legal Officer

EXECUTIVE

/s/ Jason Robins

Name: Jason Robins

EXHIBIT A

NONSOLICITATION, NONDISCLOSURE & ASSIGNMENT OF INVENTIONS AGREEMENT

The undersigned Employee (the "Employee"), executes this Nonsolicitation, Nondisclosure & Assignment of Inventions Agreement (the "Agreement") in consideration of, and a material inducement for, the Company's (as defined below) continuing relationship with Employee, whether by employment, contractor, or in advisory or consulting capacities, or otherwise, and in consideration of receiving any form of compensation or benefit from or in the Company, and the entering into of the Executive Employment Agreement (the "Employment Agreement"). Employee understands and agrees that this Agreement shall remain in effect and survive any and all changes in Employee's job duties, titles and compensation during Employee's relationship with Company.

Definitions

i. "Company" shall mean DraftKings Inc., a Nevada corporation, and any entity controlled by, controlling, or under common control with it, including affiliates and subsidiaries. "Control" for this purpose means the direct or indirect possession of the power to direct or cause the direction of the management and policies of an entity, whether through ownership, by contract or otherwise.

ii. "Competing Business" shall mean any person, firm, association, corporation or any other legal entity that is engaged in a business that is competitive with any aspect of the Business of the Company, including but not limited to: FanDuel, Paddy Power Betfair, William Hill, bet365, PointsBet, Penn National, Barstool Sports, SugarHouse, 888, MGM, TheScore, BetStars, Unibet, Caesars, Golden Nugget, Bet America, Borgata, Harrahs, Oceans, Resorts, Tropicana, Virgin, and Pala.

iii. "Business of the Company" shall mean the research, design, development, marketing, sales, operations, maintenance and commercial exploitation pertaining to the operation of, and providing products and services for: (1) fantasy sports contests ("FSC"); (2) Regulated Gaming (defined below); (3) all other products and services that exist, are in development, or are under consideration by the Company during Employee's relationship with the Company ("Other Products and Services"); and (4) all products and services incidentally related to, or which are an extension, development or expansion of, FSC, Regulated Gaming and/or Other Products and Services ("Incidental Products and Services").

iv. "Regulated Gaming" shall mean the operation of games of chance or skill or pari-mutuel or fixed odds games (including, but not limited to, lotteries, pari-mutuel betting, bingo, race tracks, jai alai, legalized bookmaking, off-track betting, casino games, racino, keno, and sports betting or any play for fun (non-wagering) versions of the foregoing) and any type of ancillary service or product related to or connected with the foregoing.

v. "Confidential Information" shall mean all information or a compilation of information, in any form (tangible or intangible or otherwise), that is not generally known to competitors or the public, which Company considers to be confidential and/or proprietary, including but not limited to: research and development; techniques; methodologies; strategies; product information, designs, prototypes and technical specifications; algorithms, source codes, object codes, trade secrets or technical data; training materials methods; internal policies and procedures; marketing plans and strategies; pricing and cost policies; customer, supplier, vendor and partner lists and accounts; customer and supplier preferences; contract terms and rates; financial data, information, reports, and forecasts; inventions, improvements and other intellectual property; product plans or proposed product plans; know-how; designs, processes or formulas; software and website applications; computer passwords; market or sales information, plans or strategies; business plans, prospects and opportunities (including, but not limited to, possible acquisitions or dispositions of businesses or facilities); information concerning existing or potential customers, partners or vendors. Confidential Information shall also mean information of or related to Company's current or potential customers, vendors or partners that is considered to be confidential or proprietary to the applicable customer, vendor or partner.

Confidential Information does not include: information in the public domain (other than as a result of disclosure directly or indirectly by Employee); information approved in writing for unrestricted release by Company; or information produced or disclosed pursuant to a valid court order, provided Employee has given Company written notice of such request such that Company has an actual, reasonable opportunity to defend, limit or protect such production or disclosure.

1. **Duty of Loyalty**. During the period of Employee's relationship with the Company, Employee will devote Employee's best efforts on behalf of the Company. Employee agrees not to provide any services to any Competing Business or engage in any conduct which may create an actual or appear to create a conflict of interest, without the expressed, written permission of the Company.

2. **Nonsolicitation of Customers, Clients or Vendors.** During the period of Employee's relationship with the Company and for a period of twelve (12) months after termination of such relationship (for any reason), Employee shall not directly or indirectly either for him/herself or for any other person, partnership, legal entity, or enterprise, solicit or transact business, or attempt to solicit or transact business with, any of the individuals or entities actually known to Employee to be the Company's customers, clients, vendors or partners, or prospective customers, clients, vendors or partners, in all cases, about which Employee learned Confidential Information (as defined above) or which Employee had some involvement or knowledge related to the Business of the Company.

3. **Nonsolicitation of Employees and Contractors.** During the period of Employee's relationship with the Company and for a period of twelve (12) months after termination of such relationship (for any reason), Employee will not directly or indirectly either for him/herself or for any other person, partnership, legal entity, or enterprise: (i) solicit, in person or through supervision or control of others, an employee, advisor, consultant or contractor of the Company for the purpose of inducing or encouraging the employee, advisor, consultant or contractor to leave his or her relationship with the Company or to change an existing business relationship with the Company or to change an existing business relationship to the detriment of the Company, (ii) hire away an employee, advisor, consultant or contractor of the Company; or (iii) help another person or entity hire away a Company employee, advisor, consultant or contractor. Notwithstanding the foregoing, the placement of general advertisements offering employment, other service relationships or activities that are not specifically targeted toward employees, advisors, consultants or contractors of the Company shall not be deemed to be a breach of this Section 3.

4. **Nondisclosure of Customer, Partner and Vendor Information**. Employee understands and agrees that it is essential to the Company's success that all nonpublic customer, partner, and vendor information is deemed and treated as Confidential Information and a confidential trade secret. Employee will not, directly or indirectly, either for him/herself or for any other person, partnership, legal entity, or enterprise, use or disclose any such customer, partner, or vendor information, except as may be necessary in the normal conduct of the Company's business for the specific customer, partner, or vendor. Employee agrees that at the end of Employee's relationship with the Company, or upon request by the Company, Employee will return to the Company any materials containing such information.

5. **Nondisclosure of Confidential Information**. All such Confidential Information is (and will be) the exclusive property of the Company, and Employee shall not, during or after Employee's employment: (i) use any Confidential Information for any purpose that is not authorized by the Company; (ii) disclose any Confidential Information to any person or entity, except as authorized by the Company in connection with Employee's job duties; or (iii) remove or transfer Confidential Information from the Company's premises or systems except as authorized by the Company.

Upon termination of Employee's relationship (for any reason), or upon the request of the Company, Employee will immediately surrender to the Company all Company property in Employee's possession, custody, or control, including any and all documents, electronic information, and materials of any nature containing any Confidential Information, without retaining any copies.

Employee understands that the Company is now and may hereafter be subject to non-disclosure or confidentiality agreements with third persons that require the Company to protect or refrain from use of Confidential Information. Employee agrees to respect and be bound by the terms of such agreements in the event Employee has access to such Confidential Information.

Employee understands that Confidential Information is never to be used or disclosed by Employee, as provided in this Section 5. If a temporal limitation on Employee's obligation not to use or disclose such information is required under applicable law, and the Agreement or its restriction(s) cannot otherwise be enforced, Employee agrees and the Company agrees that the two (2) year period after the date Employee's employment ends will be the temporal limitation relevant to the contested restriction; provided, however, that this sentence will not apply to trade secrets protected without temporal limitation under applicable law.

Notwithstanding the foregoing or anything to the contrary in this Agreement or any other agreement between the Company and the Employee, nothing in this Agreement shall limit the Employee's right to discuss Employee's employment or report possible violations of law or regulation with the Equal Employment Opportunity Commission, United States Department of Labor, the National Labor Relations Board, the Securities and Exchange Commission, or other federal government agency or similar state or local agency or to discuss the terms and conditions of his employment with others to the extent expressly permitted by Section 7 of the National Labor Relations Act or to the extent that such disclosure is protected under the applicable provisions of law or regulation, including but not limited to "whistleblower" statutes or other similar provisions that protect such disclosure. Employee agrees to take all reasonable steps to ensure that the Company's Confidential Information is not made public during any such disclosure. Pursuant to 18 U.S.C. Section 1833(b), the Employee shall not be held criminally or civilly liable under any Federal or State trade secret law for the disclosure of a trade secret that: (1) is made in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney, and solely for the purpose of reporting or investigating a suspected violation of law; or (2) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal.

6. **Assignment of Inventions**. Employee expressly understands and agrees that any and all right or interest Employee obtains in any designs, trade secrets, technical specifications and technical data, know-how and show-how, customer and vendor lists, marketing plans, pricing policies, inventions, concepts, ideas, expressions, discoveries, improvements and patent or patent rights which are authored, conceived, devised, developed, reduced to practice, or otherwise obtained by him during the term of this Agreement which relate to or arise out of his relationship with the Company and which relate to the business of the Company are expressly regarded as "*works for hire*" or works invented or authored within the scope of employment or engagement, whether as an adviser, consultant, officer, executive, director or other capacity (the "Inventions"). Employee hereby assigns to the Company the sole and exclusive right to such Inventions. Any assignment of Inventions (and all intellectual property rights with respect thereto) hereunder includes an assignment of all "Moral Rights" (which shall mean all paternity, integrity, disclosure, withdrawal, special and any other similar rights recognized by the laws of any jurisdiction or country). To the extent such Moral Rights cannot be assigned to the Company and to the extent the following is allowed by the laws in any country where Moral Rights exist, Employee hereby unconditionally and irrevocably waives the enforcement of such Moral Rights, and all claims and causes of action of any kind against the Company or related to the Company's customers, with respect to such rights. Employee further acknowledges and agrees that neither his successors-in-interest nor legal heirs retain any Moral Rights in any Inventions (and any intellectual property rights with respect thereto).

Employee agrees to disclose all Inventions fully and in writing to the Company promptly after development, conception, invention, creation or discovery of the same, and at any time upon request. Employee will provide all assistance that the Company reasonably requests to secure or enforce its rights throughout the world with respect to Inventions, including signing all necessary documents to memorialize those rights and take any other action which the Company shall deem necessary to assign to and vest completely in the Company, to perfect trademark, copyright and patent protection with respect to, or to otherwise protect the Company's trade secrets and proprietary interest in such Inventions. The obligations of this Section shall continue beyond the termination of Employee's relationship with respect to such Inventions conceived of, reduced to practice, or developed by the Employee during the term of this Agreement. The Company agrees to pay any and all copyright, trademark and patent fees and expenses or other costs incurred by Employee for any assistance rendered to the Company pursuant to this Section.

In the event the Company is unable, after reasonable effort, to secure Employee's signature on any patent application, copyright or trademark registration or other analogous protection relating to an Invention, the Employee hereby irrevocably designates and appoints the Company and its duly authorized officer and agent as his agent and attorney-in-fact, to act for and on his behalf and stead to execute and file any such application or applications and to do all other lawfully permitted acts to further the prosecution and issuance of letters patent, copyright or other analogous protection thereon with the same legal force and effect as if executed by the Employee.

In Attachment A to this Agreement, Employee has listed all Inventions that relate to the business of the Company that Employee (alone or jointly with others) made, conceived, or first reduced to practice by Employee prior to Employee's execution of this Agreement, and in which Employee has any property interest or claim of ownership. If no such Inventions are listed in said Attachment, Employee represents that Employee has no such Inventions.

To the extent Employee is a citizen of and subject to law of a state which provides a limitation on invention assignments, then this Agreement's assignment shall not include inventions excluded under such law.

Notwithstanding anything to the contrary in this Section 6, this Section 6 shall not apply to inventions that the Employee develops entirely on his own time without using the Company's equipment, supplies, facilities, or trade secret information, except to the extent such inventions (a) relate at the time of conception or reduction to practice of the invention to the Company's business, or actual or demonstrably anticipated research or development of the Company; or (b) result from any work performed by the Employee for the Company.

7. **Absence of Conflicting Agreements**. Employee understands that the Company does not desire to acquire from Employee any trade secrets, know-how or confidential business information that Employee may have acquired from others, and Employee agrees not to disclose any such information to the Company or otherwise utilize any such information in connection with Employee's performance of duties with the Company. Employee represents that Employee is not bound by any agreement or any other existing or previous business relationship which purports to conflict or impact the full performance of Employee's duties and obligations to the Company.

8. **Remedies Upon Breach**. Employee agrees that any action that violates this Agreement would cause the Company irreparable harm for which monetary damages are inadequate. Accordingly, in the event of a breach, or threatened breach, the Company shall be entitled to an injunction restraining such breach or threatened breach, or requiring specific performance, in addition to any and all rights and remedies at law and equity. The Company shall not be obligated to present additional evidence of irreparable harm or the insufficiency of monetary damages and, to the extent permitted by law or under applicable court rule, does not need to post a bond or other surety. Nothing herein shall be construed as prohibiting the Company from pursuing any other remedy available to the Company for such breach or threatened breach.

9. **Jurisdiction, Venue and Choice of Law** The parties hereby mutually agree to the exclusive jurisdiction of the Superior Court (inclusive of the Business Litigation Session) of the Commonwealth of Massachusetts or the United States District Court for the District of Massachusetts for any dispute arising hereunder. Accordingly, with respect to any such court action, Employee (a) submits to the personal jurisdiction of such courts; (b) consents to service of process by regular mail to his last known address; and (c) waives any other requirement (whether imposed by statute, rule of court, or otherwise) with respect to personal jurisdiction or service of process. If either party hereto commences a legal action or other proceeding against the other party concerning a dispute arising from or relating to this Agreement outside of Massachusetts, such commencing party shall reimburse such other party for its or his reasonable attorneys' fees, costs and expenses if such other party prevails in staying, transferring, dismissing or otherwise defending such action or proceeding based on the location of the action or proceeding, regardless of whether such fees, costs and expenses are incurred in the forum where such commencing party commenced the action or in a Massachusetts forum. This Agreement shall be governed by the internal substantive laws of Massachusetts, without regard to the doctrine of conflicts of law.

10. **Employment Relationship.** Employee agrees and acknowledges that Employee is an employee "at will" and nothing in this Agreement is intended to guarantee employment for any period of time. The parties enter this Agreement with the understanding that Employee's position, title, duties and responsibilities could change in a material way in the future and, in light of that understanding, the parties intend that this Agreement shall follow Employee throughout the entire course of Employee's employment with the Company, and such subsequent material change shall not affect the enforceability or validity of this Agreement.

11. **Return of Property**. Employee agrees that, at the time of termination of Employee's employment (for any reason), Employee will return immediately to the Company, in good condition, all property of the Company. This return of property includes, without limitation, a return of physical property (such as computer, phone or other mobile devices, credit card, promotional materials, etc.) and intangible property (such as computer passwords).

12. **Litigation and Regulatory Cooperation**. During and after the Employee's relationship with the Company, Employee shall cooperate fully with the Company in the defense or prosecution of any claims or actions now in existence or that may be brought in the future against or on behalf of the Company by/against third parties that relate to events or occurrences that transpired while the Employee was employed by the Company. Employee's full cooperation in connection with such claims or actions shall include, but not be limited to, being available to meet with counsel to prepare for discovery or trial and to act as a witness at mutually convenient times. During and after the Employee's employment, Employee also shall cooperate fully with the Company in connection with any investigation or review of any federal, state, or local regulatory authority as any such investigation or review relates to events or occurrences that transpired while the Employee was employed by the Company, unless such claim is brought by Employee. As consideration for the Employee's services under this Section 12, the Company shall remit to Employee, as agreed between the parties in advance, (a) reasonable expenses related to such cooperation, and (b) an hourly rate equal to Employee's last base salary divided by 2,000.

13. **Communication to Future Employers**. Employee agrees to communicate the contents of all post-relationship obligations in this Agreement to any Competing Business that Employee intends to be employed by, associated with, or represent. Employee understands and agrees that the Company may, in its discretion, also share any post-employment obligation set out in this Agreement with any future employer or potential employer of Employee, or any entity which seeks to be associated with Employee for Employee's services.

14. **Miscellaneous**. Any waiver by the Company of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach hereof. If a court determines that one or more of the provisions contained in this Agreement shall be invalid or unenforceable, such court shall construe, reform or otherwise revise such provision(s) so as to render it/them enforceable to the maximum extent allowed by law, without invalidating the remaining provisions of this Agreement. The obligations of each party hereto under this Agreement shall survive the termination of the Employee's relationship with the Company regardless of the manner of such termination to the extent expressly provided in, or logically would be expected under, this Agreement. All covenants and agreements hereunder shall inure to the benefit of and be enforceable by the successors of the Company. This Agreement amends, supplants and supersedes any agreement previously executed between the parties regarding the subject matter of this Agreement.

    Notwithstanding the foregoing, the Employee shall remain bound by all covenants, duties and obligations relating to confidentiality, ownership of intellectual property, non-solicitation, non-competition and all other post-employment restrictive covenants, duties and obligations with respect to which the Employee agreed to be bound in connection with the Employee's employment with the Company, including without limitation such covenants, obligations and duties set forth in the Noncompetition, Nonsolicitation, Nondisclosure & Assignment of Inventions Agreement dated March 14, 2013; the Stock Option Grant Notice And Post Employment Noncompetition Covenant (2017 Equity Incentive Plan), dated June 4, 2019; and the Stock Option Grant Notice And Post Employment Noncompetition Covenant (2017 Equity Incentive Plan), dated June 4, 2019 (collectively, the "Restrictive Covenants"). The post-employment covenants, duties and obligations set forth in this Agreement are intended to supplement – not replace – the Restrictive Covenants.

Employee recognizes and agrees that the enforcement of this Agreement is necessary, among other things, to ensure the preservation, protection and continuity of Confidential Information, trade secrets and goodwill of the Company. Employee agrees that, due to the proprietary nature of the Business of the Company and relationships with others, the post-employment restrictions set forth above are reasonable as to duration and scope.

Employee is advised to consult with an attorney before entering into this Agreement.

IN WITNESS WHEREOF, the undersigned Employee and the Company have executed this Nonsolicitation, Nondisclosure and Assignment of Inventions Agreement as an instrument under seal as of this 23rd day of April, 2020.

DraftKings Inc.

/s/ R. Stanton Dodge
By: R. Stanton Dodge
Title: Chief Legal Officer

Employee

/s/ Jason Robins
Name: Jason Robins

NONSOLICITATION, NONDISCLOSURE & ASSIGNMENT OF INVENTIONS AGREEMENT

Attachment A

List of all inventions or improvements (referred to in Section 6) made by Employee, alone or jointly with others, prior to joining the Company.

Right, Title or Interest (If none, please write "NONE".)	**Date Acquired**	**Identifying Number or Brief Description of Inventions or Improvements**

Name of Employee:

Jason Robins
Print

/s/ Jason Robins
Sign

April 23, 2020
Date

EXHIBIT B

NONCOMPETITION COVENANT

(a) During the period of your relationship with Company, you, Jason Robins (hereinafter "you") agree to not, anywhere within the Restricted Area (defined below), acting individually, or as an owner, shareholder, partner, employee, contractor, agent or otherwise (other than on behalf of Company): provide services to a Competing Business (defined below). For a period of twelve (12) months following termination of your relationship with Company (for any reason other than referenced below in section (b)), you agree to not, anywhere within the Restricted Area, acting individually, or as an owner, shareholder, partner, employee, contractor, agent or otherwise (other than on behalf of Company): provide services to a Competing Business that relate to any aspect of the Business of the Company (i.e., FSC, Regulated Gaming, Other Products and Services, and/or Incidental Products and Services) for which you performed services or received confidential information at any time during the twelve (12) month period prior to such termination. For example, if you performed services for the FSC aspect of the Business of the Company and received confidential information about the Regulated Gaming aspect of the Business of the Company during the twelve (12) month period prior to the termination of your relationship with the Company (for any reason other than referenced below in section (b)), then for twelve (12) months after such termination, you shall not, anywhere within the Restricted Area, acting individually, or as an owner, shareholder, partner, employee, contractor, agent or otherwise (other than on behalf of Company), provide services to a Competing Business that relate to FSC or Regulated Gaming. The foregoing shall not be construed to preclude you from (i) owning up to one percent (1%) of the outstanding stock of a publicly held corporation that constitutes or is affiliated with a Competing Business, or (ii) becoming a shareholder, partner, contractor, agent, member, employee or otherwise of a private equity, venture capital or other investment firm, and providing services in connection therewith. The foregoing shall, however, be construed to specifically prevent you from (x) acting individually, or as an owner, shareholder, partner, employee, contractor, agent or otherwise (other than on behalf of Company) anywhere within the Restricted Area, during the period of your relationship with the Company and for a period of twelve (12) months following termination of your relationship with Company (for any reason other than referenced below in section (b)), and (y) providing services that relate to any aspect of the Business of the Company for any private equity, venture capital or other investment firm that at any time during such twelve (12) month period, has investments in any Competing Business; provided that you may work for a division, entity or subgroup of any companies that engage in a Competing Business (a "Separate BU") so long as such Separate BU does not engage in any Competing Business and you do not provide any investment advice or consulting related to any Competing Business. To the extent that you act individually, or as an owner, shareholder, partner, employee, contractor, agent or otherwise and provide services unrelated to the Business of the Company for any Separate BU or private equity, venture capital or other investment firm at any time during such twelve (12) month period, you agree to institute an ethical screen that prevents your access to communications, information and participation in all services related to the Business of the Company.

As set out in the Massachusetts Noncompetition Agreement Act, you and the Company agree that the opportunity for post-employment benefits and compensation set forth in the Executive Employment Agreement dated April 23, 2020 (the "Employment Agreement") constitute mutually-agreed upon consideration for this Noncompetition Covenant, and is fair and reasonable consideration for this Noncompetition Covenant, independent of continued employment. Such consideration is specifically designated and you acknowledge the receipt and sufficiency of the consideration**.**

i. "Company" shall mean any entity controlled by, controlling, or under common control with DraftKings Inc., a Nevada corporation, including affiliates and subsidiaries. Control means the direct or indirect possession of the power to direct or cause the direction of the management and policies of an entity, whether through ownership, by contract or otherwise.

ii. "Restricted Area" shall mean the entire United States since the Business of the Company encompasses the entire United States, of which you acknowledge and agree. Additionally, the Restricted Area shall include any territory or country outside the United States in which the Company operates the Business of the Company.

iii. "Competing Business" shall mean any person, firm, association, corporation or any other legal entity that is engaged in a business that is competitive with any aspect of the Business of the Company, including but not limited to: FanDuel, Paddy Power Betfair, William Hill, bet365, PointsBet, Penn National, Barstool Sports, SugarHouse, 888, MGM, TheScore, BetStars, Unibet, Caesars, Golden Nugget, Bet America, Borgata, Harrahs, Oceans, and Resorts, Tropicana, Virgin, and Pala.

iv. "Business of the Company" shall mean the research, design, development, marketing, sales, operations, maintenance and commercial exploitation pertaining to the operation of, and providing products and services for: (1) fantasy sports contests ("FSC"); (2) Regulated Gaming (defined below); (3) all other products and services that exist, are in development, or are under consideration by the Company during your relationship with the Company ("Other Products and Services"); and (4) all products and services incidentally related to, or which are an extension, development or expansion of, FSC, Regulated Gaming and/or Other Products and Services ("Incidental Products and Services").

v. "Regulated Gaming" shall mean the operation of games of chance or skill or pari-mutuel or fixed odds games (including, but not limited to, lotteries, pari-mutuel betting, bingo, race tracks, jai alai, legalized bookmaking, off-track betting, casino games, racino, keno, and sports betting or any play for fun (non-wagering) versions of the foregoing) and any type of ancillary service or product related to or connected with the foregoing.

vi. "Confidential Information" shall mean all information or a compilation of information, in any form (tangible or intangible or otherwise), that is not generally known to competitors or the public, which Company considers to be confidential and/or proprietary, including but not limited to: research and development; techniques; methodologies; strategies; product information, designs, prototypes and technical specifications; algorithms, source codes, object codes, trade secrets or technical data; training materials methods; internal policies and procedures; marketing plans and strategies; pricing and cost policies; customer, supplier, vendor and partner lists and accounts; customer and supplier preferences; contract terms and rates; financial data, information, reports, and forecasts; inventions, improvements and other intellectual property; product plans or proposed product plans; know-how; designs, processes or formulas; software and website applications; computer passwords; market or sales information, plans or strategies; business plans, prospects and opportunities (including, but not limited to, possible acquisitions or dispositions of businesses or facilities); information concerning existing or potential customers, partners or vendors. Confidential Information shall also mean information of or related to Company's current or potential customers, vendors or partners that is considered to be confidential or proprietary to the applicable customer, vendor or partner.

Confidential Information does not include: information in the public domain (other than as a result of disclosure by you); approved in writing for unrestricted release by Company; or produced or disclosed pursuant to a valid court order, provided you have given Company written notice of such request such that Company has an actual, reasonable opportunity to defend, limit or protect such production or disclosure.

(b) You and the Company agree that the Noncompetition Covenant shall not be enforceable against you if the Company terminates your employment without cause or you are subject to a layoff as set forth in the Massachusetts Noncompetition Agreement Act. In the event of a termination without cause or a layoff as set forth in the Massachusetts Noncompetition Agreement Act, all other agreements with the Company shall remain in full force and effect to the extent expressly intended, or logically would be expected, to survive termination of your employment.

(c) You agree to communicate the contents of all post-relationship obligations in this Noncompetition Covenant to any Competing Business that you intend to be employed by, associated with, or represent. You understand and agree that the Company may, in its discretion, also share any post-relationship obligation in this Noncompetition Covenant with any future (or potential) employer or association that is a Competing Business that seeks to be associated with you or employ you for your services.

(d) You agree that the enforcement of the Noncompetition Covenant is necessary, among other things, to ensure the preservation, protection and continuity of the Company's Confidential Information, trade secrets and goodwill of the Company. You agree that, due to the proprietary nature of the Business of the Company and relationships with others, the post-employment restrictions set forth above are reasonable as to duration and scope. You further acknowledge that the Company's legitimate business interest cannot be adequately protected through an alternative restrictive covenant, including but not limited to a non-solicitation agreement or a non-disclosure or confidentiality agreement.

(e) You agree that any action that violates this Noncompetition Covenant would cause the Company irreparable harm for which monetary damages are inadequate. Accordingly, in the event of a breach, or threatened breach, of this Noncompetition Covenant, the Company shall be entitled to an injunction restraining such breach or threatened breach, or requiring specific performance, in addition to any and all rights and remedies at law and equity. The Company shall not be obligated to present additional evidence of irreparable harm or the insufficiency of monetary damages and, to the extent permitted by law or under applicable court rule, does not need to post a bond or other surety. Nothing herein shall be construed as prohibiting the Company from pursuing any other remedy available to the Company for such breach or threatened breach.

(f) You and the Company hereby mutually agree to the exclusive jurisdiction of the Superior Court (inclusive of the Business Litigation Session) of the Commonwealth of Massachusetts or the United States District Court for the District of Massachusetts for any dispute arising hereunder. Accordingly, with respect to any such court action, you (a) submit to the personal jurisdiction of such courts; (b) consent to service of process by regular mail to your last known address; and (c) waive any other requirement (whether imposed by statute, rule of court, or otherwise) with respect to personal jurisdiction or service of process. If either party hereto commences a legal action or other proceeding against the other party hereto concerning a dispute arising from or relating to this Noncompetition Covenant outside of Massachusetts, such commencing party shall reimburse such other party for its or his reasonable attorneys' fees, costs and expenses if such other party prevails in staying, transferring, dismissing or otherwise defending such action or proceeding based on the location of the action or proceeding, regardless of whether such fees, costs and expenses are incurred in the forum where such commencing party commenced the action or in a Massachusetts forum. This Noncompetition Covenant shall be governed by the internal substantive laws of Massachusetts, without regard to the doctrine of conflicts of law.

(g) The failure of you or Company to insist upon strict performance of this Noncompetition Covenant irrespective of the length of time for which such failure continues, shall not be a waiver of such party's rights herein. No term or provision of this Noncompetition Covenant may be waived unless such waiver is in writing.

(h) If a court determines that one or more of the provisions contained in this Noncompetition Covenant shall be invalid or unenforceable, such court shall construe, reform or otherwise revise such provision(s) so as to render it/them enforceable to the maximum extent allowed by law, without invalidating the remaining provisions of this Noncompetition Covenant.

(i) Except as described in Section (b) of this Noncompetition Covenant, your obligations under this Noncompetition Covenant shall survive the termination of your relationship with the Company regardless of the manner of such termination.

(j) The rights granted to the Company under the Noncompetition Covenant shall inure to the benefit of, and be enforceable by, the successors or assigns of Company.

(k) You acknowledge that the Company provided you with a copy of this Noncompetition Covenant at least ten (10) business days before it is to be effective. Provided it is executed by both parties, this Noncompetition Covenant shall become effective on the later of (i) the date it is fully executed, or (ii) ten (10) business days after you received a copy of it.

Before agreeing to this Noncompetition Covenant, you have the right to consult with counsel, and the Company advises you to do so.

Notwithstanding the foregoing, you shall remain bound by all covenants, duties and obligations relating to confidentiality, ownership of intellectual property, non-solicitation, non-competition and all other post-employment restrictive covenants, duties and obligations with respect to which you agreed to be bound in connection with your employment with the Company, including without limitation such covenants, obligations and duties set forth in the Noncompetition, Nonsolicitation, Nondisclosure & Assignment of Inventions Agreement dated March 14, 2013; the Stock Option Grant Notice And Post Employment Noncompetition Covenant (2017 Equity Incentive Plan), dated June 4, 2019; and the Stock Option Grant Notice And Post Employment Noncompetition Covenant (2017 Equity Incentive Plan), dated June 4, 2019 (collectively, the "Restrictive Covenants"). The post-employment covenants, duties and obligations set forth in this Agreement are intended to supplement – not replace – the Restrictive Covenants.

(l) The parties agree that you are employed "at will" and nothing in this Noncompetition Covenant is intended to guarantee employment for any period of time. The parties enter this Noncompetition Covenant with the understanding that your position, title, duties and responsibilities could change in a material way in the future and, in light of that understanding, the parties intend that this Noncompetition Covenant shall follow you throughout the entire course of your employment with the Company, and such subsequent material change shall not affect the enforceability or validity of this Noncompetition Covenant.

DraftKings Inc.	**Employee**
/s/ R. Stanton Dodge	/s/ Jason Robins
By: R. Stanton Dodge	Name: Jason Robins
Title: Chief Legal Officer	

EXHIBIT C

RELEASE AND WAIVER OF CLAIMS

In consideration for the end of employment / termination benefits set forth in the Executive Employment Agreement, to which this form is attached (the **"Employment Agreement"**), including without limitation the end of employment / termination benefits set forth in Section 6 thereof, among other things, Jason Robins (the **"Executive"** or **"I"**) and DraftKings, Inc. (the **"Company"**) hereby enter into the following release and waiver of claims (the **"Release"**). For the avoidance of doubt, nothing in this Release is intended or shall be construed to waive, release or limit in any manner the end of employment / termination benefits described in the Employment Agreement.

The Executive hereby generally and completely release the Company, its affiliates, and its and their current and former directors, officers, employees, shareholders, partners, agents, attorneys, predecessors, successors, parent and subsidiary entities, insurers, affiliates, family and assigns (collectively, the **"Released Parties"**) of and from any and all claims, liabilities and obligations, both known and unknown, that arise out of or are in any way related to events, acts, conduct, or omissions occurring prior to or on the date that Executive signs this Release (collectively, the **"Released Claims"**). The Released Claims include, but are not limited to: (i) all claims arising out of or in any way related to the Executive's employment with the Company, or the termination of that employment; (ii) all claims related to the Executive's compensation or benefits from the Company, including salary, bonuses, retention bonuses, commissions, vacation pay, expense reimbursements, severance pay, fringe benefits, stock, stock options, or any other ownership interests or equity-based awards in the Company; (iii) all claims for breach of contract, wrongful termination, and breach of the implied covenant of good faith and fair dealing; (iv) all tort claims, including claims for fraud, defamation, emotional distress, and discharge in violation of public policy; and (v) all federal, state, and local statutory claims, including claims for discrimination, harassment, retaliation, attorneys' fees, or other claims arising under the federal Civil Rights Act of 1964 (as amended), the federal Americans with Disabilities Act of 1990 (as amended), the federal Family and Medical Leave Act (as amended) (the **"FMLA"**), the federal Age Discrimination in Employment Act of 1967 (as amended) (the **"ADEA"**), the Employee Retirement Income Security Act of 1974 (as amended), the National Labor Relations Act of 1935 (as amended), Chapter 151B of the Massachusetts General Laws, and any similar applicable state laws, including those of the Commonwealth of Massachusetts and any other federal, state or local civil or human rights law or any other local, state or federal law, regulation or ordinance, and any public policy, contract, tort, or common law. Released Claims specifically includes, without limitation, claims pursuant to the Massachusetts Wage Act and State Overtime Law, M.G.L. c. 149 §§ 148, 150 et seq. and M.G.L. c 151, §1A et seq, as amended. Notwithstanding the foregoing, the following are not included in the Released Claims (the **"Excluded Claims"**): (i) any rights or claims for indemnification that Executive may have pursuant to any written indemnification agreement with the Company, the charter, bylaws, or operating agreements of the Company, or under applicable law; (ii) any rights which are not waivable as a matter of law; (iii) any claims arising from the breach of this Release; or (iv) any claims related to any Accrued Benefits or other vested benefits or any severance benefits payable or due to the Executive on account of the end of the Executive's employment or the Executive's termination under the terms of the Executive Employment Agreement. For the avoidance of doubt, nothing in this Release shall prevent Executive from challenging the validity of the Release in a legal or administrative proceeding. Nothing in this Release shall prevent the Executive from filing, cooperating with, or participating in any proceeding or investigation before the Equal Employment Opportunity Commission, United States Department of Labor, the National Labor Relations Board, the Occupational Safety and Health Administration, the Securities and Exchange Commission or any other federal government agency, or similar state or local agency ("**Government Agencies**"), or exercising any rights pursuant to Section 7 of the National Labor Relations Act. The Executive further understands that this Release does not limit the Executive's ability to voluntarily communicate with any Government Agencies or otherwise participate in any investigation or proceeding that may be conducted by any Government Agency, including providing documents or other information, without notice to the Company. While this Release does not limit the Executive's right to receive an award for information provided to the Securities and Exchange Commission, the Executive understands and agrees that the Executive is otherwise waiving, to the fullest extent permitted by law, any and all rights the Executive may have to individual relief based upon any claims arising out of any proceeding or investigation before one or more of the Government Agencies. If any such claim is not subject to release, to the extent permitted by law, the Executive waives any right or ability to be a class or collective action representative or to otherwise participate in any putative or certified class, collective or multi-party action or proceeding based on such a claim in which any of the Released Parties is a party. Notwithstanding anything to the contrary set forth herein, this Release does not abrogate the Executive's existing rights under any Company benefit plan, the Executive Employment Agreement or any plan or agreement related to equity ownership in the Company.

I acknowledge that I am knowingly and voluntarily waiving and releasing any rights I may have under the ADEA **("ADEA Waiver")**. I also acknowledge that (i) the consideration given for the ADEA Waiver is in addition to anything of value to which I was already entitled; and (ii) that, subject only to Company providing the end of employment / termination benefits described in the first paragraph of this Release, I have been paid for all time worked, has received all the leave, leaves of absence and leave benefits and protections for which I am eligible, and have not suffered any on-the-job injury for which I have not already filed a claim. I affirm that all of the decisions of the Released Parties regarding my pay and benefits through the date of my execution of this Release were not discriminatory based on age, disability, race, color, sex, religion, national origin or any other classification protected by law. I affirm that I have not filed or caused to be filed, and am not presently a party to, a claim against any of the Released Parties. I further affirm that I have no known workplace injuries or occupational diseases. I acknowledge and affirm that I have not been retaliated against for reporting any allegation of corporate fraud or other wrongdoing by any of the Released Parties, or for exercising any rights protected by law, including any rights protected by the Fair Labor Standards Act, the Family Medical Leave Act or any related statute or local leave or disability accommodation laws, or any applicable state workers' compensation law. I have been advised by this writing, as required by the ADEA, that: (a) my waiver and release do not apply to any claims that may arise after I sign this Release; (b) I should consult with an attorney prior to executing this release; (c) I have twenty-one (21) days within which to consider this release (although I may choose to voluntarily execute this release earlier); (d) I have seven (7) days following the execution of this release to revoke this Release (in a written revocation sent to the Board of Directors of the Company); and (e) this Release will not be effective until the eighth day after I sign this Release, provided that I have not earlier revoked this Release (the **"Effective Date"**). I will not be entitled to receive any of the benefits specified by this Release unless and until it becomes effective.

In granting the release herein, which includes claims that may be unknown to me at present, I acknowledge that I expressly waive and relinquish any and all rights and benefits under any applicable law or statute providing, in substance, that a general release does not extend to claims which a party does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her would have materially affected the terms of such release.

The Executive agrees that the Executive will not make any negative or disparaging statements or comments, either as fact or as opinion, about the Released Parties or their vendors, products or services, business, technologies, market position or performance. The Company (including its subsidiaries and affiliates) will not make, and agrees to use commercially reasonable efforts to cause the executive officers and board of directors of the Company to refrain from making, any negative or disparaging statements or comments, either as fact or as opinion, about the Executive (or authorizing any statements or comments to be reported as being attributed to the Company). Nothing in this paragraph shall prohibit the Executive or the Company from providing truthful information in response to a subpoena or other legal process. In addition, nothing in the Release shall apply to any legally protected whistleblower rights (including under Rule 21F under the Securities Exchange Act of 1934).

Noncompetition Covenant. For a period of twelve (12) months following the last day of my employment, I agree to not, anywhere within the Restricted Area acting individually, or as an owner, shareholder, partner, employee, contractor, agent or otherwise (other than on behalf of Company) provide services to a Competing Business that relate to any aspect of the Business of the Company (the "Noncompetition Covenant"). The foregoing shall not be construed to preclude me from (i) owning up to one percent (1%) of the outstanding stock of a publicly held corporation that constitutes or is affiliated with a Competing Business, or (ii) becoming a shareholder, partner, contractor, agent, member, employee or otherwise of a private equity, venture capital or other investment firm, and providing services in connection therewith. The foregoing shall, however, be construed to specifically prevent me from (x) acting individually, or as an owner, shareholder, partner, employee, contractor, agent or otherwise (other than on behalf of Company) anywhere within the Restricted Area, during the period of your relationship with the Company and for a period of twelve (12) months following termination of your relationship with Company (for any reason other than referenced below in section (b)), and (y) providing services that relate to any aspect of the Business of the Company for any private equity, venture capital or other investment firm that at any time during such twelve (12) month period, has investments in any Competing Business; provided that I may work for a division, entity or subgroup of any companies that engage in a Competing Business (a "Separate BU") so long as such Separate BU does not engage in any Competing Business and I do not provide any investment advice or consulting related to any Competing Business. To the extent that I act individually, or as an owner, shareholder, partner, employee, contractor, agent or otherwise and provide services unrelated to the Business of the Company for any Separate BU or private equity, venture capital or other investment firm at any time during such twelve (12) month period, I agree to institute an ethical screen that prevents my access to communications, information and participation in all services related to the Business of the Company. The following definitions apply to this Noncompetition Covenant:

i. "Company" shall mean any entity controlled by, controlling, or under common control with DraftKings Inc., including affiliates and subsidiaries. Control means the direct or indirect possession of the power to direct or cause the direction of the management and policies of an entity, whether through ownership, by contract or otherwise.

ii. "Restricted Area" shall mean the entire United States since the Business of the Company encompasses the entire United States, of which you acknowledge and agree.

iii. "Competing Business" shall mean any person, firm, association, corporation or any other legal entity that is engaged in a business that is competitive with any aspect of the Business of the Company, including but not limited to: FanDuel, Paddy Power Betfair, William Hill bet365, PointsBet, Penn National, Barstool Sports, SugarHouse, 888, MGM, TheScore, BetStars, Unibet, Caesars, Golden Nugget, Bet America, Borgata, Harrahs, Oceans, and Resorts, Tropicana, Virgin, and Pala.

iv. "Business of the Company" shall mean the research, design, development, marketing, sales, operations, maintenance and commercial exploitation pertaining to the operation of, and providing products and services for: (1) fantasy sports contests ("FSC"); (2) Regulated Gaming (defined below); (3) all other products and services that exist, are in development, or are under consideration by the Company during your relationship with the Company ("Other Products and Services"); and (4) all products and services incidentally related to, or which are an extension, development or expansion of, FSC, Regulated Gaming and/or Other Products and Services ("Incidental Products and Services").

v. "Regulated Gaming" shall mean the operation of games of chance or skill or pari-mutuel or fixed odds games (including, but not limited to, lotteries, pari-mutuel betting, bingo, race tracks, jai alai, legalized bookmaking, off-track betting, casino games, racino, keno, and sports betting or any play for fun (non-wagering) versions of the foregoing) and any type of ancillary service or product related to or connected with the foregoing.

I agree to communicate the contents of all post-relationship obligations to any Competing Business that I intend to be employed by, associated with, or represent. I understand and agree that the Company may, in its discretion, also share any post-relationship obligation with any future (or potential) employer or association that is a Competing Business that seeks to be associated with you or employ you for your services.

I agree that the enforcement of the Noncompetition Covenant is necessary, among other things, to ensure the preservation, protection and continuity of the Company's confidential information, trade secrets and goodwill of the Company. I agree that, due to the proprietary nature of the Business of the Company and relationships with others, the post-employment restrictions set forth above are reasonable as to duration and scope. I acknowledge that the Company's legitimate business interest cannot be adequately protected through an alternative restrictive covenant, including but not limited to a non-solicitation agreement or a non-disclosure or confidentiality agreement.

I agree that any action that violates this Noncompetition Covenant would cause the Company irreparable harm for which monetary damages are inadequate. Accordingly, in the event of a breach, or threatened breach, the Company shall be entitled to an injunction restraining such breach or threatened breach, or requiring specific performance, in addition to any and all rights and remedies at law and equity. The Company shall not be obligated to present additional evidence of irreparable harm or the insufficiency of monetary damages and, to the extent permitted by law or under applicable court rule, does not need to post a bond or other surety. Nothing herein shall be construed as prohibiting the Company from pursuing any other remedy available to the Company for such breach or threatened breach.

The parties hereby mutually agree to the exclusive jurisdiction of the Superior Court (inclusive of the Business Litigation Session) of the Commonwealth of Massachusetts or the United States District Court for the District of Massachusetts for any dispute arising hereunder. Accordingly, with respect to any such court action, I (a) submit to the personal jurisdiction of such courts; (b) consent to service of process by regular mail to my last known address; and (c) waive any other requirement (whether imposed by statute, rule of court, or otherwise) with respect to personal jurisdiction or service of process. If either party hereto commences a legal action or other proceeding against the other party hereto concerning a dispute arising from or relating to this Noncompetition Covenant outside of Massachusetts, such commencing party will reimburse such other party for its or my reasonable attorneys' fees, costs and expenses if such other party prevails in staying, transferring, dismissing or otherwise defending such action or proceeding based on the location of the action or proceeding, regardless of whether such fees, costs and expenses are incurred in the forum where such commencing party commenced the action or in a Massachusetts forum. This Noncompetition Covenant shall be governed by the internal substantive laws of Massachusetts, without regard to the doctrine of conflicts of law.

The failure of myself or the Company to insist upon strict performance of this Noncompetition Covenant irrespective of the length of time for which such failure continues, shall not be a waiver of such party's rights herein. No term or provision of this Noncompetition Covenant may be waived unless such waiver is in writing.

If a court determines that one or more of the provisions contained in the Noncompetition Covenant shall be invalid or unenforceable, such court shall construe, reform or otherwise revise such provision(s) so as to render it/them enforceable to the maximum extent allowed by law, without invalidating the remaining provisions of this Noncompetition Covenant.

The rights granted to the Company under the Noncompetition Covenant shall inure to the benefit of, and be enforceable by, the successors or assigns of Company. The Noncompetition Covenant is entered into in connection with my cessation of employment.

This Release constitutes the complete, final and exclusive embodiment of the entire agreement between the Company and me with regard to the subject matter hereof. Notwithstanding the above, the Noncompetition Covenant is intended to supplement, but not replace, any other post-employment obligations between me and the Company [to be listed at the time of separation], as such other post-employment obligations remain in full force and effect. By signing below, I am not relying on any promise or representation by the Company that is not expressly stated herein. This Release may only be modified by a writing signed by both me and a duly authorized officer of the Company.

The Company advises me to consult with legal counsel before entering into this Release.

THE EXECUTIVE:

Date: _____

_____
Name: Jason Robins

THE COMPANY:

Date: _____

_____

By: _____

Its: _____

EXHIBIT D

INDEMNIFICATION AGREEMENT

This **Indemnification Agreement** (the "***Agreement***") is made and entered into as of April 23, 2020 between **DraftKings Inc.**, a Nevada corporation (the "***Company***"), and Jason Robins ("***Indemnitee***").

WITNESSETH THAT:

WHEREAS, highly competent persons have become more reluctant to serve corporations as directors, officers or in other capacities unless they are provided with adequate protection through insurance or adequate indemnification against inordinate risks of claims and actions against them arising out of their service to and activities on behalf of the corporation;

WHEREAS, the Board of Directors of the Company (the "***Board***") has determined that, in order to attract and retain qualified individuals, the Company will attempt to maintain on an ongoing basis, at its sole expense, liability insurance to protect persons serving the Company and its subsidiaries from certain liabilities. Although the furnishing of such insurance has been a customary and widespread practice among United States-based corporations and other business enterprises, the Company believes that, given current market conditions and trends, such insurance may be available to it in the future only at higher premiums and with more exclusions. At the same time, directors, officers, and other persons in service to corporations or business enterprises are being increasingly subjected to expensive and time-consuming litigation relating to, among other things, matters that traditionally would have been brought only against the Company or business enterprise itself. Chapter 78 of the Nevada Revised Statutes (the "***NRS***") and the Amended and Restated Articles of Incorporation of the Company (the "***Articles***") authorize indemnification of the directors, officers, employees, fiduciaries and agents of the Company. The Amended and Restated Bylaws of the Company (the "***Bylaws***") provide that the Company will indemnify the directors and officers of the Company. The NRS expressly provides that the indemnification provisions set forth therein are not exclusive, and thereby contemplate that contracts may be entered into between the Company and persons acting on behalf of the Company with respect to indemnification;

WHEREAS, the uncertainties relating to such insurance and to indemnification have increased the difficulty of attracting and retaining such persons;

WHEREAS, the Board has determined that the increased difficulty in attracting and retaining such persons is detrimental to the best interests of the Company's stockholders and that the Company should act to assure such persons that there will be increased certainty of such protection in the future;

WHEREAS, it is reasonable, prudent and necessary for the Company contractually to obligate itself to indemnify, and to advance expenses on behalf of, such persons to the fullest extent permitted by applicable law so that they will serve or continue to serve the Company free from undue concern that they will not be so indemnified;

WHEREAS, this Agreement is a supplement to and in furtherance of any indemnification provisions in the Articles and/or the Bylaws of the Company and any resolutions adopted pursuant thereto, and shall not be deemed a substitute therefor, nor to diminish or abrogate any rights of Indemnitee thereunder; and

WHEREAS, Indemnitee does not regard the protection available under the NRS, the Bylaws and insurance as adequate in the present circumstances, and may not be willing to serve as an officer or a director without adequate protection, and the Company desires Indemnitee to serve in such capacity. Indemnitee is willing to serve, continue to serve and to take on additional service for or on behalf of the Company on the condition that he or she be so indemnified.

NOW, THEREFORE, in consideration of Indemnitee's agreement to serve as an officer and/or a director from and after the date of this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Indemnity of Indemnitee. The Company hereby agrees to hold harmless and indemnify Indemnitee to the fullest extent permitted by law, as such may be amended from time to time. In furtherance of the foregoing indemnification, and without limiting the generality thereof.

(a) Proceedings Other Than Proceedings by or in the Right of the Company. Indemnitee shall be entitled to the rights of indemnification provided in this Section 1(a) if, by reason of his or her Corporate Status (as hereinafter defined), Indemnitee was or is a party, or is threatened to be made a party, to any Proceeding (as hereinafter defined) other than a Proceeding by or in the right of the Company. Pursuant to this Section 1(a), the Company shall indemnify Indemnitee against all Expenses (as hereinafter defined), judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her, or on his or her behalf, in connection with such Proceeding or any claim, issue or matter therein, if Indemnitee either (i) is not liable pursuant to NRS 78.138 or (ii) acted in good faith and in a manner Indemnitee reasonably believed to be in or not opposed to the best interests of the Company, and with respect to any criminal Proceeding, had no reasonable cause to believe Indemnitee's conduct was unlawful.

(b) Proceedings by or in the Right of the Company. Indemnitee shall be entitled to the rights of indemnification provided in this Section 1(b) if, by reason of his or her Corporate Status, Indemnitee is, or is threatened to be made, a party to or participant in any Proceeding brought by or in the right of the Company to procure a judgment in its favor. Pursuant to this Section 1(b), the Company shall indemnify Indemnitee against all Expenses and amounts paid in settlement actually and reasonably incurred by Indemnitee, or on Indemnitee's behalf, in connection with such Proceeding or any claim, issue or matters therein, if Indemnitee either (i) is not liable pursuant to NRS 78.138 or (ii) acted in good faith and in a manner Indemnitee reasonably believed to be in or not opposed to the best interests of the Company; provided, however, if applicable law so provides, no indemnification against such Expenses or other amounts shall be made in respect of any claim, issue or matter as to which Indemnitee shall have been adjudged by a court of competent jurisdiction, after exhaustion of all appeals therefrom, to be liable to the Company or for amounts paid in settlement to the Company, unless and only to the extent that the court in which the Proceeding was brought or other court of competent jurisdiction shall determine that in view of all the circumstances in the case, Indemnitee is fairly and reasonably entitled to indemnity for such expenses as the court deems proper.

(c) Termination of Proceeding. The termination of any Proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent, shall not, of itself, adversely affect the right of Indemnitee to indemnification or create an inference or presumption either that Indemnitee is liable pursuant to NRS 78.138, that Indemnitee did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the corporation, or, with respect to any criminal action or proceeding, that Indemnitee had reasonable cause to believe that the conduct was unlawful. The Company acknowledges that such a resolution, short of final judgment, may be successful on the merits if it permits a party to avoid expense, delay, distraction, disruption and uncertainty. In the event that any Proceeding to which Indemnitee is a party is resolved in any manner other than by adverse judgment against Indemnitee (including, without limitation, settlement of such Proceeding with or without payment of money or other consideration) it shall be presumed that Indemnitee has been successful on the merits or otherwise in such Proceeding. Anyone seeking to overcome this presumption shall have the burden of proof and the burden of persuasion by clear and convincing evidence.

(d) Indemnification for Expenses of a Party Who is Wholly or Partly Successful. Notwithstanding any other provision of this Agreement, to the extent that Indemnitee is, by reason of his or her Corporate Status, a party to and is successful, on the merits or otherwise, in any Proceeding, the Company shall indemnify Indemnitee to the maximum extent permitted by law, as such may be amended from time to time, against all Expenses actually and reasonably incurred by him or her on his or her behalf in connection with the defense of the Proceeding. If Indemnitee is not wholly successful in such Proceeding but is successful, on the merits or otherwise, as to one or more but less than all claims, issues or matters in such Proceeding, the Company shall indemnify Indemnitee against all Expenses actually and reasonably incurred by him or her, or on his or her behalf, in connection with each successfully resolved claim, issue or matter. For purposes of this Section and without limitation, the termination of any claim, issue or matter in such a Proceeding by dismissal, with or without prejudice, shall be deemed to be a successful result as to such claim, issue or matter.

2. Additional Indemnity. In addition to, and without regard to any limitations on, the indemnification provided for in Section 1 of this Agreement, the Company shall and hereby does indemnify and hold harmless Indemnitee, to the fullest extent permitted by law, as may be amended from time to time, against all Expenses, judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her, or on his or her behalf, if, by reason of his or her Corporate Status, he or she was or is a party, or is threatened to be made a party, to any Proceeding (including a Proceeding by or in the right of the Company), including, without limitation, all liability arising out of the simple or gross negligence, recklessness, or active or passive wrongdoing of Indemnitee. The only limitation that shall exist upon the Company's obligations pursuant to this Agreement shall be that the Company shall not be obligated to make any payment to Indemnitee that is finally determined (under the procedures, and subject to the presumptions, set forth in Section 6 and Section 7 hereof) to be unlawful.

3. Contribution.

(a) Whether or not the indemnification provided in Section 1 and Section 2 hereof is available, in respect of any Proceeding in which the Company is jointly liable with Indemnitee (or would be if joined in such Proceeding), the Company shall pay the entire amount of any judgment or settlement of such Proceeding without requiring Indemnitee to contribute to such payment and the Company hereby waives and relinquishes any right of contribution it may have against Indemnitee. The Company shall not enter into any settlement of any Proceeding in which the Company is jointly liable with Indemnitee (or would be if joined in such Proceeding) unless such settlement provides for a full and final release of all claims asserted against Indemnitee.

(b) Without diminishing or impairing the obligations of the Company set forth in the preceding subparagraph, if, for any reason, Indemnitee shall elect or be required to pay all or any portion of any judgment or settlement in any Proceeding in which the Company is jointly liable with Indemnitee (or would be if joined in such Proceeding), the Company shall contribute to the amount of Expenses, judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Indemnitee in proportion to the relative benefits received by the Company and all officers, directors or employees of the Company, other than Indemnitee, who are jointly liable with Indemnitee (or would be if joined in such Proceeding), on the one hand, and Indemnitee, on the other hand, from the transaction from which such Proceeding arose; provided, however, that the proportion determined on the basis of relative benefit may, to the extent necessary to conform to law, be further adjusted by reference to the relative fault of the Company and all officers, directors or employees of the Company other than Indemnitee who are jointly liable with Indemnitee (or would be if joined in such Proceeding), on the one hand, and Indemnitee, on the other hand, in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other equitable considerations which applicable law may require to be considered. The relative fault of the Company and all officers, directors or employees of the Company, other than Indemnitee, who are jointly liable with Indemnitee (or would be if joined in such Proceeding), on the one hand, and Indemnitee, on the other hand, shall be determined by reference to, among other things, the degree to which their actions were motivated by intent to gain personal profit or advantage, the degree to which their liability is primary or secondary and the degree to which their conduct is active or passive.

(c) The Company hereby agrees to fully indemnify and hold Indemnitee harmless from any claims of contribution which may be brought by officers, directors, or employees of the Company, other than Indemnitee, who may be jointly liable with Indemnitee.

(d) To the fullest extent permissible under applicable law, if the indemnification provided for in this Agreement is unavailable to Indemnitee for any reason whatsoever, the Company, in lieu of indemnifying Indemnitee, shall contribute to the amount incurred by Indemnitee, whether for judgments, fines, amounts paid or to be paid in settlement and/or for Expenses, in connection with any claim relating to an indemnifiable event under this Agreement, in such proportion as is deemed fair and reasonable in light of all of the circumstances of such Proceeding in order to reflect (i) the relative benefits received by the Company and Indemnitee as a result of the event(s) and/or transaction(s) giving cause to such Proceeding and/or (ii) the relative fault of the Company (and its directors, officers, employees and agents) and Indemnitee in connection with such event(s) and/or transaction(s).

(e) The Company hereby acknowledges that Indemnitee may have rights to indemnification for payment of the judgment or settlement amount provided by another entity ("***Other Indemnitor(s)***"). The Company agrees with Indemnitee that the Company is the indemnitor of first resort of Indemnitee with respect to matters for which indemnification is provided under this Agreement and that the Company will be obligated to make all payments due to or for the benefit of Indemnitee under this agreement without regard to any rights that Indemnitee may have against the Other Indemnitor(s). The Company hereby waives any equitable rights to contribution or indemnification from the Other Indemnitor in respect of any amounts paid to Indemnitee hereunder until such time as the Indemnitee has been fully and finally indemnified. The Company further agrees that no payment of Expenses or losses by the Other Indemnitor(s) to or for the benefit of Indemnitee shall affect the obligations of the Company hereunder.

4. Indemnification for Expenses of a Witness. Notwithstanding any other provision of this Agreement, to the extent that Indemnitee, by reason of his or her Corporate Status, is a witness, or is made (or asked) to respond to discovery requests or otherwise asked to participate in any Proceeding to which Indemnitee is not a party, the Company shall indemnify Indemnitee against all Expenses actually and reasonably incurred by him or her, or on his or her behalf, in connection therewith.

5. Advancement of Expenses. Notwithstanding any other provision of this Agreement, the Company shall advance all Expenses incurred by or on behalf of Indemnitee in connection with defending any Proceeding within thirty (30) days after the receipt by the Company of a statement or statements from Indemnitee requesting such advance or advances from time to time, whether prior to or after final disposition of such Proceeding. Such statement or statements shall reasonably evidence the Expenses incurred by Indemnitee and Indemnitee shall also submit a written undertaking to repay any Expenses advanced if it shall ultimately be determined by a court of competent jurisdiction that Indemnitee is not entitled to be indemnified by the Company against such Expenses. Any advances and undertakings to repay pursuant to this Section 5 shall be unsecured and interest free. In furtherance of the foregoing, Indemnitee hereby undertakes to repay such amounts advanced if, and to the extent that, it shall ultimately be determined by a court of competent jurisdiction that Indemnitee is not entitled to be indemnified by the Company pursuant to the terms of this Agreement.

6. Procedures and Presumptions for Determination of Entitlement to Indemnification. It is the intent of this Agreement to secure for Indemnitee rights of indemnity that are as favorable as may be permitted under the NRS and public policy of the State of Nevada. Accordingly, the parties agree that the following procedures and presumptions shall apply in the event of any question as to whether Indemnitee is entitled to indemnification under this Agreement:

(a) To obtain indemnification under this Agreement, Indemnitee shall submit to the Company a written request, including therein or therewith such documentation and information as is reasonably available to Indemnitee and is reasonably necessary to determine whether and to what extent Indemnitee is entitled to indemnification. The Secretary of the Company shall, promptly upon receipt of such a request for indemnification, advise the Board in writing that Indemnitee has requested indemnification. Notwithstanding the foregoing, any failure of Indemnitee to provide such a request to the Company, or to provide such a request in a timely fashion, shall not relieve the Company of any liability that it may have to Indemnitee unless, and to the extent that, the Company is actually and materially prejudiced as a result of such failure.

(b) Upon written request by Indemnitee for indemnification pursuant to the first sentence of Section 6(a) hereof, a determination with respect to Indemnitee's entitlement thereto shall be made in the specific case by one of the following three methods, which shall be at the election of the Board (i) by a majority vote of a quorum consisting of Disinterested Directors (as defined below), (ii) if a majority vote of a quorum consisting of Disinterested Directors so orders, or if a quorum of Disinterested Directors cannot be obtained, by Independent Counsel (as defined below) in a written opinion to the Board, a copy of which shall be delivered to Indemnitee, or (iii) by the stockholders of the Company.

(c) Notwithstanding anything to the contrary set forth in this Agreement, if a request for indemnification is made after a Change in Control, at the election of Indemnitee made in writing to the Company, and if the Board by a majority vote of a quorum consisting of Disinterested Directors orders the determination of Indemnitee's entitlement to indemnification to be made by an Independent Counsel, or if a quorum of Disinterested Directors cannot be obtained, any determination required to be made pursuant to Section 6(b) above as to whether Indemnitee is entitled to indemnification shall be made by Independent Counsel selected as provided in this Section 6(c). The Independent Counsel shall be selected by Indemnitee, unless Indemnitee shall request that such selection be made by the Board. The party making the selection shall give written notice to the other party advising it of the identity of the Independent Counsel so selected. The party receiving such notice may, within seven (7) days after such written notice of selection shall have been given, deliver to the other party a written objection to such selection. Such objection may be asserted only on the ground that the Independent Counsel so selected does not meet the requirements of "Independent Counsel" as defined in Section 13 hereof, and the objection shall set forth with particularity the factual basis of such assertion. Absent a proper and timely objection, the person so selected shall act as Independent Counsel. If a written objection is made, the Independent Counsel so selected may not serve as Independent Counsel unless and until a court has determined that such objection is without merit. If, within twenty (20) days after submission by Indemnitee of a written request for indemnification pursuant to Section 6(a) hereof, no Independent Counsel shall have been selected (or, if selected, such selection shall have been objected to) in accordance with this paragraph, then either the Company or Indemnitee may petition the courts of the State of Nevada or other court of competent jurisdiction for resolution of any objection which shall have been made by the Company or Indemnitee to the other's selection of Independent Counsel and/or for the appointment as Independent Counsel of a person selected by the court or by such other person as the court shall designate, and the person with respect to whom an objection is favorably resolved or the person so appointed shall act as Independent Counsel under Section 6(c) hereof. The Company shall pay any and all reasonable fees and expenses of Independent Counsel incurred by such Independent Counsel in connection with acting pursuant to Section 6(b) hereof. The Company shall pay any and all reasonable and necessary fees and expenses incident to the procedures of this Section 6(c), regardless of the manner in which such Independent Counsel was selected or appointed.

(d) If the determination of entitlement to indemnification is to be made by Independent Counsel pursuant to Section 6(b) hereof, the Independent Counsel shall be selected as provided in this Section 6(d). The Independent Counsel shall be selected by the Board. Indemnitee may, within ten (10) days after such written notice of selection shall have been given, deliver to the Company a written objection to such selection; provided, however, that such objection may be asserted only on the ground that the Independent Counsel so selected does not meet the requirements of "***Independent Counsel***" as defined in Section 13 of this Agreement, and the objection shall set forth with particularity the factual basis of such assertion. Absent a proper and timely objection, the person so selected shall act as Independent Counsel. If a written objection is made and substantiated, the Independent Counsel selected may not serve as Independent Counsel unless and until such objection is withdrawn or a court has determined that such objection is without merit. If, within twenty (20) days after submission by Indemnitee of a written request for indemnification pursuant to Section 6(a) hereof, no Independent Counsel shall have been selected (or, if selected, such selection shall have been objected to) in accordance with this paragraph, then either the Company or Indemnitee may petition the appropriate courts of the State of Nevada or other court of competent jurisdiction for resolution of any objection which shall have been made by Indemnitee to the Company's selection of Independent Counsel and/or for the appointment as Independent Counsel of a person selected by the court or by such other person as the court shall designate, and the person with respect to whom an objection is favorably resolved or the person so appointed shall act as Independent Counsel under Section 6(b) hereof. The Company shall pay any and all reasonable fees and expenses of Independent Counsel in connection with acting pursuant to Section 6(b) hereof, and the Company shall pay any and all reasonable fees and expenses incident to the procedures of this Section 6(d), regardless of the manner in which such Independent Counsel was selected or appointed.

(e) In making a determination with respect to entitlement to indemnification hereunder, the person or persons or entity making such determination shall presume that Indemnitee is entitled to indemnification under this Agreement. Anyone seeking to overcome this presumption shall have the burden of proof and the burden of persuasion by clear and convincing evidence. Neither the failure of the Company (including by its directors or independent legal counsel) to have made a determination prior to the commencement of any action pursuant to this Agreement that indemnification is proper in the circumstances because Indemnitee has met the applicable standard of conduct, nor an actual determination by the Company (including by its directors or independent legal counsel) that Indemnitee has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that Indemnitee has not met the applicable standard of conduct.

(f) Indemnitee shall be deemed to have acted in good faith if Indemnitee's action is based on the records or books of account of the Enterprise (as hereinafter defined), including financial statements, or on information supplied to Indemnitee by the officers of the Enterprise in the course of their duties, or on the advice of legal counsel for the Enterprise or on information or records given or reports made to the Enterprise by an independent certified public accountant or by an appraiser or other expert selected with reasonable care by the Enterprise. In addition, the knowledge and/or actions, or failure to act, of any director, officer, agent or employee of the Enterprise shall not be imputed to Indemnitee for purposes of determining the right to indemnification under this Agreement. Whether or not the foregoing provisions of this Section 6(f) are satisfied, it shall in any event be presumed that Indemnitee has at all times acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Company. Anyone seeking to overcome this presumption shall have the burden of proof and the burden of persuasion by clear and convincing evidence. The Company will promptly advise Indemnitee in writing with respect to any determination that Indemnitee is or is not entitled to indemnification, including a description of any reason or basis for which indemnification has been denied.

(g) Notwithstanding anything to the contrary set forth in this Agreement, if the person, persons or entity empowered or selected under Section 6 to determine whether Indemnitee is entitled to indemnification shall not have been appointed or shall not have made a determination within sixty (60) days after receipt by the Company of the request therefor, the requisite determination of entitlement to indemnification shall be deemed to have been made and Indemnitee shall be entitled to such indemnification, unless the Company establishes by written opinion of Independent Counsel that (i) a misstatement by Indemnitee of a material fact, or an omission of a material fact necessary to make Indemnitee's statement not materially misleading, in connection with the request for indemnification, or (ii) a prohibition of such indemnification under applicable law; provided, however, that such sixty (60) day period may be extended for a reasonable time, not to exceed an additional thirty (30) days, if the person, persons or entity making such determination with respect to entitlement to indemnification in good faith requires such additional time to obtain or evaluate documentation and/or information relating thereto; and provided, further, that the foregoing provisions of this Section 6(g) shall not apply if the determination of entitlement to indemnification is to be made by the stockholders pursuant to Section 6(b) of this Agreement and if (A) within fifteen (15) days after receipt by the Company of the request for such determination, the Disinterested Directors resolve as required by Section 6(b)(iii) of this Agreement to submit such determination to the stockholders for their consideration at an annual meeting thereof to be held within seventy five (75) days after such receipt and such determination is made thereat, or (B) a special meeting of stockholders is called within fifteen (15) days after such receipt for the purpose of making such determination, such meeting is held for such purpose within sixty (60) days after having been so called and such determination is made thereat.

(h) Indemnitee shall cooperate with the person, persons or entity making such determination with respect to Indemnitee's entitlement to indemnification, including providing to such person, persons or entity upon reasonable advance request any documentation or information which is not privileged or otherwise protected from disclosure and which is reasonably available to Indemnitee and reasonably necessary to such determination. Any Independent Counsel or member of the Board or stockholder of the Company shall act reasonably and in good faith in making a determination regarding Indemnitee's entitlement to indemnification under this Agreement. Any costs or expenses (including attorneys' fees and disbursements) incurred by Indemnitee in so cooperating with the person, persons or entity making such determination shall be borne by the Company (irrespective of the determination as to Indemnitee's entitlement to indemnification) and the Company hereby indemnifies and agrees to hold Indemnitee harmless therefrom.

7. Remedies of Indemnitee.

(a) In the event that (i) a determination is made pursuant to Section 6 of this Agreement that Indemnitee is not entitled to indemnification under this Agreement, (ii) advancement of Expenses is not timely made pursuant to Section 5 of this Agreement, (iii) no determination of entitlement to indemnification is made pursuant to Section 6(b) or Section 6(c) of this Agreement within sixty (60) days after receipt by the Company of the request for indemnification, or such longer period, not to exceed an additional thirty (30) days, to which the period may be extended pursuant to Section 6(g), (iv) payment of indemnification is not made pursuant to this Agreement within ten (10) days after receipt by the Company of a written request therefor or (v) payment of indemnification is not made within ten (10) days after a determination has been made that Indemnitee is entitled to indemnification or such determination is deemed to have been made pursuant to Section 6 of this Agreement, Indemnitee shall be entitled to an adjudication of Indemnitee's entitlement to such indemnification or advancement of expenses either, at Indemnitee's sole option, in (1) an appropriate court of the State of Nevada, or any other court of competent jurisdiction or (2) an arbitration to be conducted by a single arbitrator, selected by mutual agreement of the Company and Indemnitee, pursuant to the rules of the American Arbitration Association. The Company shall not oppose Indemnitee's right to seek any such adjudication.

(b) In the event that a determination shall have been made pursuant to Section 6(b) or Section 6(c) of this Agreement that Indemnitee is not entitled to indemnification, (i) any judicial proceeding or arbitration commenced pursuant to this Section 7 shall be conducted in all respects de novo on the merits, and Indemnitee shall not be prejudiced by reason of any adverse determination under Section 6(b) or Section 6(c); and (ii) in any such judicial proceeding or arbitration, the Company shall have the burden of proving that Indemnitee is not entitled to indemnification under this Agreement.

(c) If a determination shall have been made pursuant to Section 6(b) or Section 6(c), or shall have been deemed to have been made pursuant to Section 6(g), of this Agreement that Indemnitee is entitled to indemnification, the Company shall be obligated to pay the amounts constituting such indemnification within five (5) days after such determination has been made or has been deemed to have been made and shall be conclusively bound by such determination in any judicial proceeding commenced pursuant to this Section 7, unless the Company establishes by written opinion of Independent Counsel that (i) a misstatement by Indemnitee of a material fact, or an omission of a material fact necessary to make Indemnitee's misstatement not materially misleading in connection with the request for indemnification or (ii) a prohibition of such indemnification under applicable law.

(d) In the event that Indemnitee, pursuant to this Section 7, seeks a judicial adjudication of, or an award in arbitration to enforce, his or her rights under, or to recover damages for breach of, this Agreement, or to recover under any directors' and officers' liability insurance policies maintained by the Company, the Company shall pay to him or her, or on his or her behalf, in advance, and shall indemnify him or her against, any and all expenses (of the types described in the definition of Expenses in Section 13 of this Agreement) actually and reasonably incurred by him or her in such judicial adjudication or arbitration, regardless of whether Indemnitee ultimately is determined to be entitled to such indemnification, advancement of expenses or insurance recovery.

(e) The Company shall be precluded from asserting in any judicial proceeding or arbitration commenced pursuant to this Section 7 that the procedures and presumptions of this Agreement are not valid, binding and enforceable and shall stipulate in any such court or before any such arbitrator that the Company is bound by all the provisions of this Agreement. The Company shall indemnify Indemnitee against any and all Expenses and, if requested by Indemnitee, shall (within ten (10) days after receipt by the Company of a written request therefore) advance, to the extent not prohibited by law, such expenses to Indemnitee, which are incurred by Indemnitee in connection with any action brought by Indemnitee for indemnification or advance of Expenses from the Company under this Agreement or under any directors' and officers' liability insurance policies maintained by the Company, regardless of whether Indemnitee ultimately is determined to be entitled to such indemnification, advancement of Expenses or insurance recovery, as the case may be.

8. Non-Exclusivity; Survival of Rights; Insurance; Subrogation.

(a) The rights of indemnification and advancement of expenses as provided by this Agreement shall not be deemed exclusive of, and shall be in addition to, any other rights to which Indemnitee may at any time be entitled under applicable law, the Articles or the Bylaws of the Company, any agreement, a vote of stockholders, a resolution of directors of the Company, or otherwise, and nothing in this Agreement shall diminish or otherwise restrict Indemnitee's rights to indemnification or advancement of expenses under any of the foregoing. No amendment, alteration or repeal of this Agreement or of any provision hereof shall limit or restrict any right of Indemnitee under this Agreement in respect of any action taken or omitted by such Indemnitee in his or her Corporate Status prior to such amendment, alteration or repeal. To the extent that a change in the NRS, whether by statute or judicial decision, permits greater indemnification than would be afforded currently under the Articles, the Bylaws and this Agreement, it is the intent of the parties hereto that Indemnitee shall enjoy by this Agreement the greater benefits so afforded by such change and Indemnitee shall be deemed to have such greater benefits hereunder. No right or remedy herein conferred is intended to be exclusive of any other right or remedy, and every other right and remedy shall be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other right or remedy. The Company shall not adopt any amendments to its Articles or Bylaws, the effect of which would be to deny, diminish or encumber Indemnitee's right to indemnification or advancement of expenses under this Agreement, any other agreement or otherwise, without the prior written consent of the Indemnitee.

(b) To the extent that the Company maintains an insurance policy or policies providing liability insurance for directors, officers, employees, or agents or fiduciaries of the Company or of any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise that such person serves at the request of the Company, Indemnitee shall be covered by such policy or policies in accordance with its or their terms to the maximum extent of the coverage available for any director, officer, employee, agent or fiduciary under such policy or policies. If, at the time of the receipt of a notice of a claim pursuant to the terms hereof, the Company has director and officer liability insurance in effect, the Company shall give prompt notice of the commencement of such Proceeding to the insurers in accordance with the procedures set forth in the respective policies. The Company shall thereafter take all necessary or desirable action to cause such insurers to pay, on behalf of Indemnitee, all amounts payable as a result of such Proceeding in accordance with the terms of such policies.

(c) In the event of any payment under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of Indemnitee, who shall execute all papers required and take all action necessary to secure such rights, including execution of such documents as are necessary to enable the Company to bring suit to enforce such rights (with all of Indemnitee's reasonable expenses, including, without limitation, attorneys' fees and charges, related thereto to be reimbursed by or, at the option of Indemnitee, advanced by the Company).

(d) The Company shall not be liable under this Agreement to make any payment of amounts otherwise indemnifiable hereunder if and to the extent that Indemnitee has otherwise actually received such payment under any insurance policy, contract, agreement or otherwise.

(e) The Company's obligation to indemnify or advance Expenses hereunder to Indemnitee who is or was serving at the request of the Company as a director, officer, employee or agent of any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise shall be reduced by any amount Indemnitee has actually received as indemnification or advancement of expenses from such other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise.

9. Exception to Right of Indemnification. Notwithstanding any provision in this Agreement, the Company shall not be obligated under this Agreement to make any indemnity in connection with any claim made against Indemnitee:

(a) for which payment has actually been made to or on behalf of Indemnitee under any insurance policy or other indemnity provision, except with respect to any excess beyond the amount paid under any insurance policy or other indemnity provision; or

(b) for an accounting of profits made from the purchase and sale (or sale and purchase) by Indemnitee of securities of the Company within the meaning of Section 16(b) of the Securities Exchange Act of 1934, as amended (the "***Exchange Act***"), or similar provisions of state statutory law or common law; or

(c) for any reimbursement of the Company by Indemnitee of any bonus or other incentive-based or equity-based compensation or of any profits realized by Indemnitee from the sale of securities of the Company, as required in each case under the Exchange Act (including any such reimbursements that arise from an accounting restatement of the Company pursuant to Section 304 of the Sarbanes-Oxley Act of 2002 (the "***Sarbanes-Oxley Act***"), or the payment to the Company of profits arising from the purchase and sale by Indemnitee of securities in violation of Section 306 of the Sarbanes-Oxley Act); or

(d) for any reimbursement of the Company by Indemnitee of any compensation pursuant to any compensation recoupment or clawback policy adopted by the Board or the compensation committee of the Board, including but not limited to any such policy adopted to comply with stock exchange listing requirements implementing Section 10D of the Exchange Act; or

(e) in connection with any Proceeding (or any part of any Proceeding) initiated by Indemnitee, including any Proceeding (or any part of any Proceeding) initiated by Indemnitee against the Company (other than to enforce Indemnitee's rights under this Agreement) or its directors, officers, employees or other indemnitees, unless (i) the Board of the Company authorized the Proceeding (or such part of the Proceeding) prior to its initiation, or (ii) the Company indemnifies Indemnitee, in its sole discretion, independently of this Agreement pursuant to the powers vested in the Company under applicable law.

10. Retroactive Effect; Duration of Agreement; Successors and Binding Agreement. All agreements and obligations of the Company contained herein shall be deemed to have become effective upon the date Indemnitee first had Corporate Status; shall continue during the period Indemnitee has Corporate Status; and shall continue thereafter so long as Indemnitee may be subject to any Proceeding (or any action commenced under Section 7 hereof) by reason of his or her Corporate Status, whether or not he or she is acting or serving in any such capacity at the time any liability or expense is incurred for which indemnification can be provided under this Agreement. This Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties hereto and their respective successors (including any direct or indirect successor by purchase, merger, consolidation, reorganization or otherwise to all or substantially all of the business or assets of the Company), assigns, spouses, heirs, executors and personal and legal representatives. The Company shall require any such successor to all or substantially all of the business or assets of the Company, by agreement in form and substance satisfactory to Indemnitee and his or her counsel, expressly to assume and agree to perform this Agreement in the same manner and to the same extent the Company would be required to perform if no such succession had taken place. Except as otherwise set forth in this Section 10, this Agreement shall not be assignable or delegable by the Company.

11. Security. To the extent requested by Indemnitee and approved by the Board of the Company, the Company may at any time and from time to time provide security to Indemnitee for the Company's obligations hereunder through an irrevocable bank line of credit, funded trust or other collateral. Any such security, once provided to Indemnitee, may not be revoked or released without the prior written consent of Indemnitee.

12. Enforcement.

(a) The Company expressly confirms and agrees that it has entered into this Agreement and assumes the obligations imposed on it hereby in order to induce Indemnitee to serve, or continue to serve, as an officer or a director of the Company, and the Company acknowledges that Indemnitee is relying upon this Agreement in serving or continuing to serve as an officer or a director of the Company.

(b) This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral, written and implied, between the parties hereto with respect to the subject matter hereof.

13. Definitions. For purposes of this Agreement:

(a) "***Change in Control***" means the occurrence of any one of the following events:

(i) any sale, lease, exchange or other transfer (in one or a series of related transactions) of all or substantially all of the assets of the Company;

(ii) any "Person" as such term is used in Section 13(d) and Section 14(d) of the Exchange Act becomes, directly or indirectly, the "beneficial owner" as defined in Rule 13d-3 under the Exchange Act of securities of the Company that represent more than 50% of the combined voting power of the Company's then outstanding voting securities (the "***Outstanding Company Voting Securities***"); provided, however, that for purposes of this Section 13(a)(ii), the following acquisitions shall not constitute a Change in Control: (I) any acquisition directly from the Company, (II) any acquisition by the Company, (III) any acquisition by any employee benefit plan (or related trust) sponsored or maintained by the Company or any person or entity that directly or indirectly controls, is controlled by or is under common control with the Company and/or to the extent provided by the Board, any person or entity in which the Company has a significant interest, (IV) any acquisition by any corporation pursuant to a transaction that complies with Sections 13(a)(iv)(A) and 13(a)(iv)(B), (V) any acquisition involving beneficial ownership of less than 50% of the then-outstanding shares of the Company's Class A common stock, par value $0.0001 per share (and any stock or other securities into which such ordinary shares may be converted or into which they may be exchanged) (the "***Outstanding Company Common Shares***") or the Outstanding Company Voting Securities that is determined by the Board, based on review of public disclosure by the acquiring Person with respect to its passive investment intent, not to have a purpose or effect of changing or influencing the control of the Company; provided, however, that for purposes of this clause (V), any such acquisition in connection with (x) an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consents or (y) any "Business Combination" (as defined below) shall be presumed to be for the purpose or with the effect of changing or influencing the control of the Company;

(iii) during any period of not more than two (2) consecutive years, individuals who constitute the Board as of the beginning of the period (the "***Incumbent Directors***") cease for any reason to constitute at least a majority of the Board, provided that any person becoming a director subsequent to the beginning of such period, whose election or nomination for election was approved by a vote of at least two-thirds of the Incumbent Directors then on the Board (either by a specific vote or by approval of the proxy statement of the Company in which such person is named as a nominee for director, without written objection to such nomination) will be an Incumbent Director; provided, however, that no individual initially elected or nominated as a director of the Company as a result of an actual or threatened election contest with respect to directors or as a result of any other actual or threatened solicitation of proxies by or on behalf of any person other than the Board will be deemed to be an Incumbent Director;

(iv) consummation of a merger, amalgamation or consolidation (a "***Business Combination***") of the Company with any other corporation, unless, following such Business Combination, (A) all or substantially all of the individuals and entities that were the beneficial owners of the Outstanding Company Common Shares and the Outstanding Company Voting Securities immediately prior to such Business Combination beneficially own, directly or indirectly, more than 50% of the then-outstanding shares of common stock (or, for a non-corporate entity, equivalent securities) and the combined voting power of the then-outstanding voting securities entitled to vote generally in the election of directors (or, for a non-corporate entity, equivalent governing body), as the case may be, of the entity resulting from such Business Combination (including, without limitation, an entity that, as a result of such transaction, owns the Company or all or substantially all of the Company's assets either directly or through one or more subsidiaries) in substantially the same proportions as their ownership immediately prior to such Business Combination of the Outstanding Company Common Shares and the Outstanding Company Voting Securities, as the case may be, and (B) at least a majority of the members of the board of directors (or, for a non-corporate entity, equivalent governing body) of the entity resulting from such Business Combination were Incumbent Directors at the time of the execution of the initial agreement or of the action of the Board providing for such Business Combination;

(v) the stockholders of the Company approve a plan of complete liquidation of the Company.

(b) "***Corporate Status***" means the fact that a person is or was a director, officer, employee, agent or fiduciary of the Company or is or was serving at the request of the Company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise.

(c) "***Disinterested Director***" means a director of the Company who is not and was not a party to the Proceeding in respect of which indemnification is sought by Indemnitee.

(d) "***Enterprise***" shall mean the Company and any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise that Indemnitee is or was serving at the express written request of the Company as a director, officer, trustee, partner, manager, managing member, employee, agent or fiduciary.

(e) "***Expenses***" shall include all reasonable attorneys' fees, retainers, court costs, transcript costs, fees of experts and other professionals, witness fees, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees, ERISA excise taxes and penalties, and all other disbursements or expenses of the types customarily incurred or actually incurred in connection with prosecuting, defending, preparing to prosecute or defend, investigating, participating, or being or preparing to be a witness in a Proceeding, or responding to, or objecting to, a request to provide discovery in a Proceeding. Expenses also shall include Expenses incurred in connection with any appeal resulting from any Proceeding, including, without limitation, the premium, security for, and other costs relating to any cost bond, supersede as bond, or other appeal bond or its equivalent. Should any payments by the Company to or for the account of Indemnitee under this Agreement be determined to be subject to any federal, state or local income or excise tax, Expenses shall also include such amounts as are necessary to place Indemnitee in the same after-tax position (after giving effect to all applicable taxes) Indemnitee would have been in had no such tax been determined to apply to those payments. The parties agree that for the purposes of any advancement of Expenses for which Indemnitee has made written demand to the Company in accordance with this Agreement, all Expenses included in such demand that are certified by affidavit of Indemnitee's counsel as being reasonable in the good faith judgment of such counsel shall be presumed conclusively to be reasonable. Expenses, however, shall not include amounts paid in settlement by Indemnitee or the amount of judgments or fines against Indemnitee.

(f) "***Independent Counsel***" means a law firm, or a member of a law firm, that is experienced in matters of corporation law and neither presently is, nor in the past five (5) years has been, retained to represent (i) the Company or Indemnitee in any matter material to either such party (other than with respect to matters concerning Indemnitee under this Agreement, or of other indemnitees under similar indemnification agreements), or (ii) any other party to the Proceeding giving rise to a claim for indemnification hereunder. Notwithstanding the foregoing, the term "Independent Counsel" shall not include any person who, under the applicable standards of professional conduct then prevailing, would have a conflict of interest in representing either the Company or Indemnitee in an action to determine Indemnitee's rights under this Agreement. The Company agrees to pay the reasonable fees of the Independent Counsel referred to above and to fully indemnify such counsel against any and all Expenses, claims, liabilities and damages arising out of or relating to this Agreement or its engagement pursuant hereto.

(g) "***Proceeding***" includes any threatened, pending or completed action, suit, claim, counterclaim, cross claim, arbitration, mediation, alternate dispute resolution mechanism, investigation, inquiry, administrative hearing or any other actual, threatened or completed proceeding, whether brought by or in the right of the Company or otherwise and whether civil, criminal, administrative, legislative or investigative (formal or informal); in each case whether or not Indemnitee's Corporate Status existed at the time any liability or expense is incurred for which indemnification can be provided under this Agreement; including one pending on or before the date of this Agreement, but excluding one initiated by an Indemnitee pursuant to Section 7 of this Agreement to enforce his or her rights under this Agreement.

14. Severability. The invalidity or unenforceability of any provision hereof shall in no way affect the validity or enforceability of any other provision. Without limiting the generality of the foregoing, this Agreement is intended to confer upon Indemnitee indemnification rights to the fullest extent permitted by applicable laws. In the event any provision hereof conflicts with any applicable law, such provision shall be deemed modified, consistent with the aforementioned intent, to the extent necessary to resolve such conflict.

15. Modification and Waiver. No supplement, modification, termination or amendment of this Agreement shall be binding unless executed in writing by both of the parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions hereof (whether or not similar) nor shall such waiver constitute a continuing waiver.

16. Notice by Indemnitee. Indemnitee agrees promptly to notify the Company in writing upon being served with or otherwise receiving any summons, citation, subpoena, complaint, indictment, information or other document relating to any Proceeding or matter which may be subject to indemnification covered hereunder. The failure to so notify the Company shall not relieve the Company of any obligation which it may have to Indemnitee under this Agreement unless, and only to the extent that, the Company is actually and materially prejudiced as a result of such delay or failure.

17. Notices. All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given (a) upon personal delivery to the party to be notified, (b) when sent by confirmed facsimile, or (c) upon delivery when sent by a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All communications shall be sent:

To Indemnitee at the address set forth below Indemnitee's signature hereto.

To the Company at:

DraftKings Inc.
222 Berkeley Street 5th Floor
Boston, Massachusetts 02116
Attention: Chief Legal Officer

or to such other address as may have been furnished to Indemnitee by the Company or to the Company by Indemnitee, as the case may be.

18. Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same the same instrument. Counterparts may be delivered via facsimile, electronic mail (including pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, *e.g.*, www.docusign.com) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

19. Headings. The headings of the paragraphs of this Agreement are inserted for convenience only and shall not be deemed to constitute part of this Agreement or to affect the construction thereof.

20. Successors and Assigns. The terms of this Agreement shall be binding upon the Company and its successors and assigns and shall inure to the benefit of Indemnitee and Indemnitee's spouse, assigns, heirs, devisees, executors, administrators and other legal representatives.

21. Governing Law and Consent to Jurisdiction. This Agreement and the legal relations among the parties shall be governed by, and construed and enforced in accordance with, the laws of the State of Nevada, without regard to its conflict of laws rules. The Company and Indemnitee hereby irrevocably and unconditionally (i) agree that any action or proceeding arising out of or in connection with this Agreement (other than an arbitration pursuant to Section 7 hereof) shall be brought only in the Eighth Judicial District Court of Clark County (the "***Nevada Court***"), and not in any other state or federal court in the United States of America or any court in any other country, (ii) consent to submit to the exclusive jurisdiction of the Nevada Court for purposes of such action or proceeding, (iii) waive any objection to the laying of venue of any such action or proceeding in the Nevada Court, and (iv) waive, and agree not to plead or to make, any claim that any such action or proceeding brought in the Nevada Court has been brought in an improper or inconvenient forum.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on and as of the day and year first above written.

COMPANY

DRAFTKINGS INC.

By: /s/ R. Stanton Dodge
Name: R. Stanton Dodge
Title: Chief Legal Officer

INDEMNITEE

/s/ Jason Robins
Name: Jason Robins

Address: Address on file with the Company

DRAFTKINGS INC.
EMPLOYEE STOCK PURCHASE PLAN

Adopted April 23, 2020

1. PURPOSE. The DraftKings Inc. Employee Stock Purchase Plan (the "Plan") is established to provide eligible employees of DraftKings Inc., a Nevada corporation, and any successor corporation thereto (collectively, "DraftKings"), and any current or future parent entity or subsidiary entities of DraftKings which the Board of Directors of DraftKings (the "Board") determines should be included in the Plan to the extent permitted by section 423 of the Code (collectively referred to as the "Company"), with an opportunity to acquire a proprietary interest in the Company by the purchase of Shares (as defined below) of DraftKings (NASDAQ trading symbol "DKNG"). DraftKings and any parent or subsidiary corporation designated by the Board as a corporation included in the Plan shall be individually referred to herein as a "Participating Company." The Board shall have the sole and absolute discretion to determine from time to time what parent corporations and/or subsidiary corporations shall be Participating Companies. For purposes of the Plan, a parent corporation and a subsidiary corporation shall be as defined in sections 424(e) and 424(f), respectively, of the Internal Revenue Code of 1986, as amended (the "Code").

The Company intends that the Plan shall qualify as an "employee stock purchase plan" under section 423 of the Code (including any amendments or replacements of such section), and the Plan shall be so construed. Any term not expressly defined in the Plan but defined for purposes of section 423 of the Code shall have the same definition herein.

2. ADMINISTRATION. The Plan shall be administered by the Board and/or by a duly appointed committee or representative of the Board having such powers as shall be specified by the Board. Any references to the Board shall also mean the committee or representative if a committee or representative has been appointed. All questions of interpretation of the Plan shall be determined by the Board and shall be final and binding upon all persons having an interest in the Plan. Subject to the provisions of the Plan, the Board shall determine all of the relevant terms and conditions of the Plan; provided, however, that all Participants shall have the same rights and privileges within the meaning of section 423(b)(5) of the Code, except that the Plan (or a sub-plan) or an Offering may provide different terms to citizens or residents of a foreign jurisdiction if necessary to comply with the laws of that jurisdiction. All expenses incurred in connection with administration of the Plan shall be paid by the Company.

3. SHARE RESERVE. The maximum number of shares which may be issued under the Plan shall be 5,840,000 shares of Class A common stock, which may be authorized but unissued shares or shares held in the treasury of the Company (the "Shares"); provided, that total number of Shares that will be reserved, and that may be issued, under the Plan will automatically increase on the first trading day of each calendar year, beginning with calendar year 2022, by a number of Shares equal to one percent (1%) of the total outstanding Shares on the last day of the prior calendar year (subject to a maximum annual increase of 6,600,000 Shares). Notwithstanding the automatic annual increase set forth in the preceding sentence, the Board may act prior to January 1st of a given year to provide that there will be no such increase in the share reserve for such year or that the increase in the share reserve for such year will be a lesser number of Shares than would otherwise occur pursuant to the stipulated percentage.

4. ELIGIBILITY. Any full-time employee of a Participating Company is eligible to participate in the Plan beginning on the first day of the first Purchase Period (as defined below) following the employee's start date, except employees who own or hold options to purchase or who, as a result of participation in the Plan, would own or hold options to purchase, stock of the Company possessing five percent (5%) or more of the total combined voting power or value of all classes of stock of the Company within the meaning of section 423(b)(3) of the Code. A full time employee is defined as one who is regularly scheduled to work more than 30 hours per week. Notwithstanding anything herein to the contrary, any individual performing services for a Participating Company solely through a leasing agency or employment agency shall not be deemed an "employee" of such Participating Company. In certain circumstances, eligibility may be restricted pursuant to a withdrawal under Section 10(d) of the Plan.

5. OFFERING DATES.

(a) OFFERING PERIODS. Except as otherwise set forth below, the Plan shall initially be implemented by offerings (individually, an "Offering") of three (3) months duration (an "Offering Period"). The first Offering will commence on January 1, 2021 and subsequent Offerings would commence every three months thereafter until the Plan terminates, unless earlier modified in the Board's discretion. The first day of an Offering Period shall be the "Offering Date" for such Offering Period. In the event the Offering Date would fall on a holiday or weekend, the Offering Date shall instead be the first business day after such day. Notwithstanding the foregoing, the Board may establish a different term for one or more Offerings and/or different commencing and/or ending dates for such Offerings. Eligible employees may not participate in more than one Offering at a time.

(b) PURCHASE PERIODS. Each Offering Period shall initially consist of one (1) purchase period of three (3) months duration (each, a "Purchase Period"). The "Purchase Date" for each Purchase Period shall be the last day of such Purchase Period. A Purchase Period commencing on January 1 shall end on March 31. A Purchase Period commencing on April 1 shall end on June 30. A Purchase Period commencing on July 1 shall end on September 30. A Purchase Period commencing on October 1 shall end on December 31. In the event the Purchase Date would fall on a holiday or weekend, the Purchase Date shall instead be the last business day prior to such day. Notwithstanding the foregoing, the Board may establish a different term for one or more Purchase Periods and/or different commencing dates and/or Purchase Dates for such Purchase Periods; provided that no Purchase Period may extend for more than 27 months. An employee who becomes eligible to participate in an Offering after the initial Purchase Period has commenced shall not be eligible to participate in such Purchase Period but may participate in any subsequent Purchase Period during that Offering Period provided such employee is still eligible to participate in the Plan as of the commencement of any such subsequent Purchase Period.

(c) GOVERNMENTAL APPROVAL; STOCKHOLDER APPROVAL. Notwithstanding any other provision of the Plan to the contrary, all transactions pursuant to the Plan shall be subject to (i) obtaining all necessary governmental approvals and/or qualifications of the sale and/or issuance of the Shares (including compliance with the Securities Act of 1933 and any applicable state securities laws) and (ii) obtaining stockholder approval of the Plan.

6. PARTICIPATION IN THE PLAN.

(a) INITIAL PARTICIPATION. An eligible employee shall become a Participant on the first Offering Date after satisfying the eligibility requirements and delivering to the Company's payroll office (at Company headquarters) not later than the close of business for such payroll office on the last business day before such Offering Date (the "Subscription Date") a subscription agreement indicating the employee's election to participate in the Plan and authorizing payroll deductions. An eligible employee who does not deliver a subscription agreement to the Company's payroll office on or before the Subscription Date shall not participate in the Plan for such Purchase Period. DraftKings may, from time to time, change the Subscription Date as deemed advisable by DraftKings in its sole discretion for proper administration of the Plan.

(b) CONTINUED PARTICIPATION. A Participant shall automatically participate in the Purchase Period commencing immediately after the first Purchase Date of the initial Offering Period in which the Participant participates, and all subsequent Purchase Periods within that Offering, until such time as such Participant (i) ceases to be eligible as provided in paragraph 4, (ii) withdraws from the Offering or Plan pursuant to paragraphs 10(a) or 10(b) or (iii) terminates employment as provided in paragraph 11. Similarly, except as provided in the preceding sentence, a Participant shall automatically participate in the Offering Period commencing immediately after the last Purchase Date of the prior Offering Period in which the Participant participates, and all subsequent Offering Periods pursuant to this Plan. However, a Participant may deliver a subscription agreement with respect to a subsequent Purchase or Offering Period if the Participant desires to change any of the Participant's elections contained in the Participant's then effective subscription agreement.

7. PURCHASE PRICE. The purchase price at which Shares may be acquired in a given Purchase Period pursuant to the Plan (the "Offering Exercise Price") shall be set by the Board; provided, however, that the per share Offering Exercise Price shall not be less than eighty-five percent (85%) of the lesser of (a) the per share fair market value of the Shares on the Offering Date of the Offering Period of which the Purchase Period is a part, or (b) the per share fair market value of the Shares on the Purchase Date for such Purchase Period (such 85% value, the "Minimum Price"). Unless otherwise provided by the Board prior to the commencement of an Offering Period, the Offering Exercise Price for each Purchase Period in that Offering Period shall be the Minimum Price. The fair market value ("Fair Market Value") of the Shares on the applicable dates shall be the closing price quoted on The NASDAQ Stock Market (or the average of the closing bid and asked prices), or as reported on such other stock exchange or market system if the Shares are traded on such other exchange or system instead, or as determined by the Board if the Shares are not so reported.

8. PAYMENT OF PURCHASE PRICE. Shares which are acquired pursuant to the Plan may be paid for only by means of payroll deductions from the Participant's Compensation accumulated during the Offering Period. For purposes of the Plan, a Participant's "Compensation" with respect to an Offering (a) shall include all wages, salaries, commissions and bonuses after deduction for any contributions to any plan maintained by a Participating Company and described in Section 401(k) or Section 125 of the Code, and (b) shall not include occasional awards such as equity-based compensation or any other payments not specifically referenced in (a). Except as set forth below, the deduction amount to be withheld from a Participant's Compensation during each pay period shall be determined by the Participant's subscription agreement, and the amount of such payroll deductions shall be given the lowest priority so that all other required and voluntary payroll deductions from a Participant's Compensation are withheld prior to subscription agreement amounts.

(a) LIMITATIONS ON PAYROLL WITHHOLDING. The amount of payroll withholding with respect to the Plan for any Participant during any Offering Period shall be elected by the Participant and shall be stated as a dollar amount, provided that the amount withheld (a) must be less than or equal to fifteen percent (15%) of such Participant's Compensation, subject to such rules and procedures established by the Company from time to time, and (b) shall not exceed $21,250 during any calendar year. Amounts withheld shall be reduced by any amounts contributed by the Participant and applied to the purchase of Shares pursuant to any other employee stock purchase plan qualifying under section 423 of the Code.

(b) PAYROLL WITHHOLDING. Payroll deductions shall commence on the first pay date beginning after the Offering Date, as designated by DraftKings, and shall continue to the last pay date before the end of the Offering Period, as designated by DraftKings, unless sooner altered or terminated as provided in the Plan.

(c) PARTICIPANT ACCOUNTS. Individual accounts shall be maintained for each Participant. All payroll deductions from a Participant's Compensation shall be credited to such account and shall be deposited with the general funds of the Company. All payroll deductions received or held by the Company may be used by the Company for any corporate purpose.

(d) NO INTEREST PAID. Interest shall not be paid on sums withheld from a Participant's Compensation.

(e) PURCHASE OF SHARES. On each Purchase Date of an Offering Period, each Participant whose participation in the Offering has not terminated on or before such Purchase Date shall automatically acquire the number of Shares (including fractional Shares subject to the last sentence of this paragraph 8(e)) determined by dividing the total amount of the Participant's accumulated payroll deductions for the Purchase Period by the Offering Exercise Price. No Shares shall be purchased on a Purchase Date on behalf of a Participant whose participation in the Offering or the Plan has terminated on or before such Purchase Date. If the Broker is unable to administer purchases of fractional Shares, only whole Shares shall be purchased, and any remaining cash in the Participant's account shall be carried over to the next Purchase Period, if the Participant is continuing to participate in the next Purchase Period.

(f) REMAINING CASH BALANCE. Any cash balance remaining in the Participant's account after a Purchase Date shall be carried over to the next Purchase Period if the Participant is continuing to participate in the next Purchase Period. Any cash balance remaining upon a Participant's withdrawal from or termination of participation in the Plan (including due to termination of employment) or termination of the Plan itself shall be refunded as soon as practicable after such event. Interest shall not be paid on sums returned to a Participant pursuant to this Section 8(f).

(g) TAX WITHHOLDING. At the time the Shares are purchased, in whole or in part, or at the time some or all of the Shares are disposed of, the Participant shall make adequate provision for the foreign, federal and state tax withholding obligations of the Company, if any, which arise upon the purchase of Shares and/or upon disposition of Shares, respectively. The Company may, but shall not be obligated to, withhold from the Participant's Compensation the amount necessary to meet such withholding obligations.

(h) COMPANY ESTABLISHED PROCEDURES. The Board may, from time to time, establish (i) a minimum required withholding amount for participation in an Offering, (ii) limitations on the frequency and/or number of changes in the amount withheld during an Offering, (iii) an exchange ratio applicable to amounts withheld in a currency other than U.S. dollars, (iv) payroll withholding in excess of or less than the amount designated by a Participant in order to adjust for delays or mistakes in the Company's processing of subscription agreements, and/or (v) such other limitations or procedures as deemed advisable by the Company in the Company's sole discretion which are consistent with the Plan and in accordance with the requirements of Section 423 of the Code. Notice of new or amended procedures pursuant to this section shall be communicated to all eligible participants in a manner reasonably determined by the Board to reach all participants in a cost efficient manner.

9. LIMITATIONS ON PURCHASE OF SHARES: RIGHTS AS A STOCKHOLDER.

(a) FAIR MARKET VALUE LIMITATION. Notwithstanding any other provision of the Plan, no Participant shall be entitled to purchase Shares under the Plan (or any other employee stock purchase plan which is intended to meet the requirements of section 423 of the Code sponsored by DraftKings or a parent or subsidiary corporation of DraftKings) in an amount which exceeds $25,000 in fair market value, which fair market value is determined for Shares purchased during a given Offering Period as of the Offering Date for such Offering Period (or such other limit as may be imposed by the Code), for any calendar year in which Participant participates in the Plan (or any other employee stock purchase plan described in this sentence).

(b) PRO RATA ALLOCATION. In the event the number of Shares which might be purchased by all Participants in the Plan exceeds the number of Shares available in the Plan, the Company shall make a pro rata allocation of the remaining Shares in as uniform a manner as shall be practicable and as the Company shall determine to be equitable. Any cash balance remaining after such allocation shall be refunded to Participants as soon as practicable.

(c) RIGHTS AS A STOCKHOLDER AND EMPLOYEE. A Participant shall have no rights as a stockholder by virtue of the Participant's participation in the Plan until the date of issuance of stock for the Shares being purchased pursuant to the Plan. Moreover, Shares shall not be issued and a Participant shall not be permitted to purchase Shares unless and until such Shares have been registered under the Securities Act of 1933 on an effective S-8 registration and any other applicable registration requirements are satisfied. Nothing herein shall confer upon a Participant any right to continue in the employ of the Company or interfere in any way with any right of the Company to terminate the Participant's employment at any time.

(d) USE OF A CAPTIVE STOCK BROKER. In order to reduce paperwork and properly track and report Participant's acquisition and disposition of Shares purchased pursuant to the Plan, the Company may, in its discretion, designate one or more stock brokers as a "captive" broker ("Broker") for receiving Participants' Shares and maintaining individual accounts for each Participant. The initial Broker shall be Morgan Stanley. The Company and the Broker may establish such account procedures and restrictions as are necessary to carry out their respective functions and properly administer the Plan (see, for example, Section 19).

(e) RIGHT TO ISSUANCE OF SHARE CERTIFICATE. Initially, Participants will not receive share certificates from DraftKings representing the Shares purchased pursuant to the Plan. Instead, the Company shall issue one share in the form of a stock certificate or by "DWAC" or similar electronic transfer to the Broker for all Shares purchased on a Purchase Date, followed by electronic allocation by the Broker among all Participants according to their respective contributions. A Participant may obtain a share certificate for his or her actual share amount only from the Broker according to such Broker's procedures. This limitation may be modified by the Board in its discretion at any time.

10. WITHDRAWAL.

(a) WITHDRAWAL FROM AN OFFERING. A Participant may withdraw from an Offering and stop payroll deductions one (1) time during a Purchase Period by providing a notice of withdrawal (on a form provided by the Company for such purpose) to DraftKings's payroll office at least 10 days before the Purchase Date for the Purchase Period. A cash refund of payroll deduction amounts from a Participant's account shall be made prior to the next scheduled Purchase Date in accordance with Section 8(f) of this Plan.

Withdrawals requested after the deadline in this paragraph 10(a) for a Purchase Period shall not affect Shares acquired by the Participant on such Purchase Date. A Participant who withdraws from an Offering for a Purchase Period may not resume participation in the Plan during the same Purchase Period, but may participate in any subsequent Offering, or in any subsequent Purchase Period within the same Offering, by again satisfying the requirements of paragraphs 4 and 6(a) above.

(b) WITHDRAWAL FROM THE PLAN. A Participant may voluntarily withdraw from the Plan by signing a written notice of withdrawal on a form provided by the Company for such purpose and delivering such notice to the Company's payroll office. The effect of withdrawal from the Plan shall be in accordance with Section 10(a) above.

(c) RETURN OF PAYROLL DEDUCTIONS. Upon withdrawal from an Offering or the Plan pursuant to paragraphs 10(a) or 10(b), respectively, the withdrawn Participant's accumulated payroll deductions shall be returned as soon as practicable after the withdrawal, in accordance with Section 8(f) of this Plan. Interest shall not be paid on sums returned to a Participant pursuant to this paragraph 10(c). The Participant's interest in the Offering and/or the Plan, as applicable, shall terminate.

(d) PARTICIPATION FOLLOWING WITHDRAWAL. An employee who is also an officer or director of the Company subject to Section 16 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and who is deemed to "cease participation" in the Plan within the meaning of Rule 16b-3 promulgated under the Exchange Act and amended from time to time or any successor rule or regulation ("Rule 16b-3") as a consequence of his or her withdrawal from an Offering pursuant to paragraph 10(a) above or withdrawal from the Plan pursuant to paragraph 10(b) above shall not again participate in the Plan for at least six months after the date of such withdrawal.

(e) REDUCTION RIGHTS. A Participant may elect to decrease future payroll deductions from his or her Compensation during a Purchase Period no more than one (1) time each Purchase Period. Such Participant must submit a signed written notice of reduction on a form provided by the Company for such purpose and delivering such notice to the Company's payroll office at least 10 days before the Purchase Date for the Purchase Period.

11. TERMINATION OF EMPLOYMENT. Termination of a Participant's employment with the Company for any reason, including retirement, disability or death or the failure of a Participant to remain an employee eligible to participate in the Plan, shall terminate the Participant's participation in the Plan immediately. In such event, the payroll deductions credited to the Participant's account since the last Purchase Date shall, as soon as practicable, be returned to the Participant or, in the case of the Participant's death, to the Participant's legal representative, and all of the Participant's rights under the Plan shall terminate. Interest shall not be paid on sums returned to a Participant pursuant to this paragraph 11. DraftKings may establish a date which is a reasonable number of days prior to the Purchase Date as a cutoff for return of a Participant's payroll deductions in the form of cash.

After the cutoff date, Shares will be purchased for the terminated employee in accordance with paragraph 10(c), above. A Participant whose participation has been so terminated may again become eligible to participate in the Plan by again satisfying the requirements of paragraphs 4 and 6(a) above.

12. CHANGE IN CONTROL. A "Change in Control" shall be deemed to have occurred in the event any of the following occurs with respect to DraftKings:

(a) Any sale, lease, exchange or other transfer (in one or a series of related transactions) of all or substantially all of the assets of the Company;

(b) Any "Person" as such term is used in Section 13(d) and Section 14(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act") becomes, directly or indirectly, the "beneficial owner" as defined in Rule 13d-3 under the Exchange Act of securities of the Company that represent more than 50% of the combined voting power of the Company's then outstanding voting securities (the "Outstanding Company Voting Securities"); provided, however, that for purposes of this Section 2(f)(ii), the following acquisitions shall not constitute a Change in Control: (I) any acquisition directly from the Company, (II) any acquisition by the Company, (III) any acquisition by any employee benefit plan (or related trust) sponsored or maintained by the Company or any Affiliate (as defined below), (IV) any acquisition by any corporation pursuant to a transaction that complies with Sections 2(f)(iv)(A) and 2(f)(iv)(B), (V) any acquisition involving beneficial ownership of less than fifty percent (50%) of the then-outstanding Shares (the "Outstanding Company Shares") or the Outstanding Company Voting Securities that is determined by the Board, based on review of public disclosure by the acquiring Person with respect to its passive investment intent, not to have a purpose or effect of changing or influencing the control of the Company; provided, however, that for purposes of this clause (V), any such acquisition in connection with (x) an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consents or (y) any "Business Combination" (as defined below) shall be presumed to be for the purpose or with the effect of changing or influencing the control of the Company;

(c) During any period of not more than two (2) consecutive years, individuals who constitute the Board as of the beginning of the period (the "Incumbent Directors") cease for any reason to constitute at least a majority of the Board, provided that any person becoming a director subsequent to the beginning of such period, whose election or nomination for election was approved by a vote of at least two-thirds of the Incumbent Directors then on the Board (either by a specific vote or by approval of the proxy statement of the Company in which such person is named as a nominee for director, without written objection to such nomination) will be an Incumbent Director; provided, however, that no individual initially elected or nominated as a director of the Company as a result of an actual or threatened election contest with respect to directors or as a result of any other actual or threatened solicitation of proxies by or on behalf of any person other than the Board will be deemed to be an Incumbent Director;

(d) Consummation of a merger, amalgamation or consolidation (a "Business Combination") of the Company with any other corporation, unless, following such Business Combination, (A) all or substantially all of the individuals and entities that were the beneficial owners of the Outstanding Company Shares and the Outstanding Company Voting Securities immediately prior to such Business Combination beneficially own, directly or indirectly, more than fifty percent (50%) of the then-outstanding shares of common stock (or, for a non-corporate entity, equivalent securities) and the combined voting power of the then-outstanding voting securities entitled to vote generally in the election of directors (or, for a non-corporate entity, equivalent governing body), as the case may be, of the entity resulting from such Business Combination (including, without limitation, an entity that, as a result of such transaction, owns the Company or all or substantially all of the Company's assets either directly or through one or more subsidiaries) in substantially the same proportions as their ownership immediately prior to such Business Combination of the Outstanding Company Shares and the Outstanding Company Voting Securities, as the case may be, and (B) at least a majority of the members of the board of directors (or, for a non-corporate entity, equivalent governing body) of the entity resulting from such Business Combination were Incumbent Directors at the time of the execution of the initial agreement or of the action of the Board providing for such Business Combination; or

(e) Shareholder approval of a plan of complete liquidation of the Company.

For purposes of this section 12, "Affiliate" means (i) any person or entity that directly or indirectly controls, is controlled by or is under common control with the Company and/or (ii) to the extent provided by the Board, any person or entity in which the Company has a significant interest. The term "control" (including, with correlative meaning, the terms "controlled by" and "under common control with"), as applied to any person or entity, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such person or entity, whether through the ownership of voting or other securities, by contract or otherwise.

In the event of a Change in Control, the Board may take any one or more of the following actions with respect to an Offering in progress as of the Change in Control on such terms as the Board determines: (i) provide that such Offering shall be assumed or continued by the acquiring or succeeding corporation (or an Affiliate thereof); (ii) upon written notice to Participants, provide that such Offering will be terminated immediately prior to the consummation of the Change in Control and that all Shares under such Offering will be purchased to the extent of accumulated payroll deductions as of a date specified by the Board in such notice, which date shall not be less than ten (10) days preceding the effective date of the Change in Control; (iii) upon written notice to Participants, provide that all Shares under such Offering will be cancelled as of a date prior to the effective date of the Change in Control and that all accumulated payroll deductions will be returned to Participants on such date; (iv) in the event of a Change in Control under the terms of which Participants will receive upon consummation thereof a cash payment for each Share surrendered in the Change in Control (the "Acquisition Price"), change the last day of the Offering Period to be the date of the consummation of the Change in Control and make or provide for a cash payment to each Participant equal to (A) (i) the Acquisition Price times (ii) the number of Shares that the Participant's accumulated payroll deductions as of immediately prior to the Change in Control could purchase at the Purchase Price, where the Acquisition Price is treated as the fair market value of the Shares on the last day of the applicable Offering Period for purposes of determining the Purchase Price under paragraph 7 above, and where the number of Shares that could be purchased is subject to the limitations set forth in paragraph 3 above, minus (B) the result of multiplying such number of Shares by such Purchase Price; (v) provide that, in connection with a liquidation or dissolution of the Company, Shares shall convert into the right to receive liquidation proceeds (net of the Purchase Price thereof); and (vi) any combination of the foregoing. For the avoidance of doubt, interest shall not be paid on sums returned to a Participant pursuant to this section 12.

13. CAPITAL CHANGES. In the event that the Board determines that any dividend or other distribution (whether in the form of cash, shares, other securities or other property), recapitalization, stock split, reverse stock split, reorganization, merger, consolidation, split-up, spin-off, combination, repurchase or exchange of shares or other securities of the Company, issuance of warrants or other rights to purchase shares or other securities of the Company or other similar corporate transaction or event affects the Shares such that an adjustment is determined by the Board to be appropriate in order to prevent dilution or enlargement of the benefits or potential benefits intended to be made available under the Plan, then the Board shall, in such manner as it may deem equitable, adjust any or all of (a) the Offering Exercise Price, (b) the number of Shares subject to purchase by Participants, and (c) the Plan's share reserve amount.

14. NON-TRANSFERABILITY. Prior to a Purchase Date, a Participant's rights under the Plan may not be transferred in any manner otherwise than by will or the laws of descent and distribution and shall be exercisable during the lifetime of the Participant only by the Participant. Subsequent to a Purchase Date, a Participant shall be allowed to sell or otherwise dispose of the Shares in any manner that he or she deems fit. However, the Company, in its absolute discretion, may impose such restrictions on the transferability of Shares purchased by a Participant pursuant to the Plan as it deems appropriate and any such restriction may be placed on the certificates evidencing such Shares (see also Sections 9(d) and 19).

15. REPORTS. Each Participant shall receive, within a reasonable period after the Purchase Date, a report of such Participant's account setting forth the total payroll deductions accumulated, the number of Shares purchased, the fair market value of such Shares, the date of purchase and the remaining cash balance to be refunded or retained in the Participant's account pursuant to paragraph 8(f) above, if any. Each Participant who acquires Shares pursuant to the Plan shall be provided information concerning the Company equivalent to that information generally made available to the Company's common stockholders.

16. PLAN TERM. This Plan shall continue until terminated by the Board or until all of the Shares reserved for issuance under the Plan have been issued, whichever shall first occur.

17. RESTRICTION ON ISSUANCE OF SHARES. The issuance of Shares under the Plan shall be subject to compliance with all applicable requirements of federal or state law with respect to such securities. A Purchase Right may not be exercised if the issuance of Shares upon such exercise would constitute a violation of any applicable federal or state securities laws or other law or regulations. In addition, no Purchase Right may be exercised unless (i) a registration statement under the Securities Act of 1933, as amended, shall at the time of exercise of the Purchase Right be in effect with respect to the Shares issuable upon exercise of the Purchase Right, or (ii) in the opinion of legal counsel to the Company, the Shares issuable upon exercise of the Purchase Right may be issued in accordance with the terms of an applicable exemption from the registration requirements of said Act. As a condition to the exercise of a Purchase Right, the Company may require the Participant to satisfy any qualifications that may be necessary or appropriate to evidence compliance with any applicable law or regulation, and to make any representation or warranty with respect thereto as may be requested by the Company.

18. LEGENDS. The Company may at any time place legends or other identifying symbols referencing any applicable federal and/or state securities restrictions or any provision(s) convenient in the administration of the Plan on some or all of the certificates representing Shares issued under the Plan. The Participant shall, at the request of the Company, promptly present to the Company any and all certificates representing Shares acquired pursuant to a Purchase Right in the possession of the Participant in order to carry out the provisions of this paragraph. Unless otherwise specified by the Company, legends placed on such certificates may include but shall not be limited to any legend required to be placed thereon by applicable law.

19. NOTIFICATION OF SALE OF SHARES. The Company may require the Participant to give the Company prompt notice of any disposition of Shares acquired under the Plan within two years from the date of commencement of an Offering Period or one year from the Purchase Date. The Company may direct that the certificates evidencing Shares acquired by the Participant refer to such requirement to give prompt notice of disposition. Additionally, the Company and the Broker may impose such restrictions or procedures related to transfer of Shares acquired under the Plan as are necessary for the Company to obtain sufficient notice of disposition, in order to comply with governmental requirements related to Form W-2 reporting, payroll tax withholding, employment tax liability and corporate income taxes.

20. AMENDMENT OR TERMINATION OF THE PLAN. The Board may at any time amend or terminate the Plan, except that such amendment or termination shall not affect Shares purchased under the Plan, (except as may be necessary to qualify the Plan as an employee stock purchase plan pursuant to section 423 of the Code or to obtain qualification or registration of the Shares under applicable federal or state securities laws). In addition, an amendment to the Plan must be approved by the stockholders of the Company within twelve (12) months of the adoption of such amendment if such amendment would authorize the sale of more Shares than are authorized for issuance under the Plan or would change the definition of the entities that may be designated by the Board as Participating Companies.

Furthermore, the approval of the Company's stockholders shall be sought for any amendment to the Plan for which the Board deems stockholder approval necessary in order to comply with Rule 16b-3 promulgated under Section 16 of the Exchange Act.

Exhibit 10.7

FORM OF INDEMNIFICATION AGREEMENT

This **Indemnification Agreement** (the "***Agreement***") is made and entered into as of _____, 2020 between **DraftKings Inc.**, a Nevada corporation (the "***Company***"), and _____ ("***Indemnitee***").

WITNESSETH THAT:

WHEREAS, highly competent persons have become more reluctant to serve corporations as directors, officers or in other capacities unless they are provided with adequate protection through insurance or adequate indemnification against inordinate risks of claims and actions against them arising out of their service to and activities on behalf of the corporation;

WHEREAS, the Board of Directors of the Company (the "***Board***") has determined that, in order to attract and retain qualified individuals, the Company will attempt to maintain on an ongoing basis, at its sole expense, liability insurance to protect persons serving the Company and its subsidiaries from certain liabilities. Although the furnishing of such insurance has been a customary and widespread practice among United States-based corporations and other business enterprises, the Company believes that, given current market conditions and trends, such insurance may be available to it in the future only at higher premiums and with more exclusions. At the same time, directors, officers, and other persons in service to corporations or business enterprises are being increasingly subjected to expensive and time-consuming litigation relating to, among other things, matters that traditionally would have been brought only against the Company or business enterprise itself. Chapter 78 of the Nevada Revised Statutes (the "***NRS***") and the Amended and Restated Articles of Incorporation of the Company (the "***Articles***") authorize indemnification of the directors, officers, employees, fiduciaries and agents of the Company. The Amended and Restated Bylaws of the Company (the "***Bylaws***") provide that the Company will indemnify the directors and officers of the Company. The NRS expressly provides that the indemnification provisions set forth therein are not exclusive, and thereby contemplate that contracts may be entered into between the Company and persons acting on behalf of the Company with respect to indemnification;

WHEREAS, the uncertainties relating to such insurance and to indemnification have increased the difficulty of attracting and retaining such persons;

WHEREAS, the Board has determined that the increased difficulty in attracting and retaining such persons is detrimental to the best interests of the Company's stockholders and that the Company should act to assure such persons that there will be increased certainty of such protection in the future;

WHEREAS, it is reasonable, prudent and necessary for the Company contractually to obligate itself to indemnify, and to advance expenses on behalf of, such persons to the fullest extent permitted by applicable law so that they will serve or continue to serve the Company free from undue concern that they will not be so indemnified;

WHEREAS, this Agreement is a supplement to and in furtherance of any indemnification provisions in the Articles and/or the Bylaws of the Company and any resolutions adopted pursuant thereto, and shall not be deemed a substitute therefor, nor to diminish or abrogate any rights of Indemnitee thereunder; and

WHEREAS, Indemnitee does not regard the protection available under the NRS, the Bylaws and insurance as adequate in the present circumstances, and may not be willing to serve as an officer or a director without adequate protection, and the Company desires Indemnitee to serve in such capacity. Indemnitee is willing to serve, continue to serve and to take on additional service for or on behalf of the Company on the condition that he or she be so indemnified.

NOW, THEREFORE, in consideration of Indemnitee's agreement to serve as an officer and/or a director from and after the date of this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Indemnity of Indemnitee. The Company hereby agrees to hold harmless and indemnify Indemnitee to the fullest extent permitted by law, as such may be amended from time to time. In furtherance of the foregoing indemnification, and without limiting the generality thereof.

(a) Proceedings Other Than Proceedings by or in the Right of the Company. Indemnitee shall be entitled to the rights of indemnification provided in this Section l(a) if, by reason of his or her Corporate Status (as hereinafter defined), Indemnitee was or is a party, or is threatened to be made a party, to any Proceeding (as hereinafter defined) other than a Proceeding by or in the right of the Company. Pursuant to this Section 1(a), the Company shall indemnify Indemnitee against all Expenses (as hereinafter defined), judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her, or on his or her behalf, in connection with such Proceeding or any claim, issue or matter therein, if Indemnitee either (i) is not liable pursuant to NRS 78.138 or (ii) acted in good faith and in a manner Indemnitee reasonably believed to be in or not opposed to the best interests of the Company, and with respect to any criminal Proceeding, had no reasonable cause to believe Indemnitee's conduct was unlawful.

(b) Proceedings by or in the Right of the Company. Indemnitee shall be entitled to the rights of indemnification provided in this Section 1(b) if, by reason of his or her Corporate Status, Indemnitee is, or is threatened to be made, a party to or participant in any Proceeding brought by or in the right of the Company to procure a judgment in its favor. Pursuant to this Section 1(b), the Company shall indemnify Indemnitee against all Expenses and amounts paid in settlement actually and reasonably incurred by Indemnitee, or on Indemnitee's behalf, in connection with such Proceeding or any claim, issue or matters therein, if Indemnitee either (i) is not liable pursuant to NRS 78.138 or (ii) acted in good faith and in a manner Indemnitee reasonably believed to be in or not opposed to the best interests of the Company; provided, however, if applicable law so provides, no indemnification against such Expenses or other amounts shall be made in respect of any claim, issue or matter as to which Indemnitee shall have been adjudged by a court of competent jurisdiction, after exhaustion of all appeals therefrom, to be liable to the Company or for amounts paid in settlement to the Company, unless and only to the extent that the court in which the Proceeding was brought or other court of competent jurisdiction shall determine that in view of all the circumstances in the case, Indemnitee is fairly and reasonably entitled to indemnity for such expenses as the court deems proper.

(c) Termination of Proceeding. The termination of any Proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent, shall not, of itself, adversely affect the right of Indemnitee to indemnification or create an inference or presumption either that Indemnitee is liable pursuant to NRS 78.138, that Indemnitee did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the corporation, or, with respect to any criminal action or proceeding, that Indemnitee had reasonable cause to believe that the conduct was unlawful. The Company acknowledges that such a resolution, short of final judgment, may be successful on the merits if it permits a party to avoid expense, delay, distraction, disruption and uncertainty. In the event that any Proceeding to which Indemnitee is a party is resolved in any manner other than by adverse judgment against Indemnitee (including, without limitation, settlement of such Proceeding with or without payment of money or other consideration) it shall be presumed that Indemnitee has been successful on the merits or otherwise in such Proceeding. Anyone seeking to overcome this presumption shall have the burden of proof and the burden of persuasion by clear and convincing evidence.

(d) Indemnification for Expenses of a Party Who is Wholly or Partly Successful. Notwithstanding any other provision of this Agreement, to the extent that Indemnitee is, by reason of his or her Corporate Status, a party to and is successful, on the merits or otherwise, in any Proceeding, the Company shall indemnify Indemnitee to the maximum extent permitted by law, as such may be amended from time to time, against all Expenses actually and reasonably incurred by him or her on his or her behalf in connection with the defense of the Proceeding. If Indemnitee is not wholly successful in such Proceeding but is successful, on the merits or otherwise, as to one or more but less than all claims, issues or matters in such Proceeding, the Company shall indemnify Indemnitee against all Expenses actually and reasonably incurred by him or her, or on his or her behalf, in connection with each successfully resolved claim, issue or matter. For purposes of this Section and without limitation, the termination of any claim, issue or matter in such a Proceeding by dismissal, with or without prejudice, shall be deemed to be a successful result as to such claim, issue or matter.

2. Additional Indemnity. In addition to, and without regard to any limitations on, the indemnification provided for in Section 1 of this Agreement, the Company shall and hereby does indemnify and hold harmless Indemnitee, to the fullest extent permitted by law, as may be amended from time to time, against all Expenses, judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her, or on his or her behalf, if, by reason of his or her Corporate Status, he or she was or is a party, or is threatened to be made a party, to any Proceeding (including a Proceeding by or in the right of the Company), including, without limitation, all liability arising out of the simple or gross negligence, recklessness, or active or passive wrongdoing of Indemnitee. The only limitation that shall exist upon the Company's obligations pursuant to this Agreement shall be that the Company shall not be obligated to make any payment to Indemnitee that is finally determined (under the procedures, and subject to the presumptions, set forth in Section 6 and Section 7 hereof) to be unlawful.

3. Contribution.

(a) Whether or not the indemnification provided in Section 1 and Section 2 hereof is available, in respect of any Proceeding in which the Company is jointly liable with Indemnitee (or would be if joined in such Proceeding), the Company shall pay the entire amount of any judgment or settlement of such Proceeding without requiring Indemnitee to contribute to such payment and the Company hereby waives and relinquishes any right of contribution it may have against Indemnitee. The Company shall not enter into any settlement of any Proceeding in which the Company is jointly liable with Indemnitee (or would be if joined in such Proceeding) unless such settlement provides for a full and final release of all claims asserted against Indemnitee.

(b) Without diminishing or impairing the obligations of the Company set forth in the preceding subparagraph, if, for any reason, Indemnitee shall elect or be required to pay all or any portion of any judgment or settlement in any Proceeding in which the Company is jointly liable with Indemnitee (or would be if joined in such Proceeding), the Company shall contribute to the amount of Expenses, judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Indemnitee in proportion to the relative benefits received by the Company and all officers, directors or employees of the Company, other than Indemnitee, who are jointly liable with Indemnitee (or would be if joined in such Proceeding), on the one hand, and Indemnitee, on the other hand, from the transaction from which such Proceeding arose; provided, however, that the proportion determined on the basis of relative benefit may, to the extent necessary to conform to law, be further adjusted by reference to the relative fault of the Company and all officers, directors or employees of the Company other than Indemnitee who are jointly liable with Indemnitee (or would be if joined in such Proceeding), on the one hand, and Indemnitee, on the other hand, in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other equitable considerations which applicable law may require to be considered. The relative fault of the Company and all officers, directors or employees of the Company, other than Indemnitee, who are jointly liable with Indemnitee (or would be if joined in such Proceeding), on the one hand, and Indemnitee, on the other hand, shall be determined by reference to, among other things, the degree to which their actions were motivated by intent to gain personal profit or advantage, the degree to which their liability is primary or secondary and the degree to which their conduct is active or passive.

(c) The Company hereby agrees to fully indemnify and hold Indemnitee harmless from any claims of contribution which may be brought by officers, directors, or employees of the Company, other than Indemnitee, who may be jointly liable with Indemnitee.

(d) To the fullest extent permissible under applicable law, if the indemnification provided for in this Agreement is unavailable to Indemnitee for any reason whatsoever, the Company, in lieu of indemnifying Indemnitee, shall contribute to the amount incurred by Indemnitee, whether for judgments, fines, amounts paid or to be paid in settlement and/or for Expenses, in connection with any claim relating to an indemnifiable event under this Agreement, in such proportion as is deemed fair and reasonable in light of all of the circumstances of such Proceeding in order to reflect (i) the relative benefits received by the Company and Indemnitee as a result of the event(s) and/or transaction(s) giving cause to such Proceeding and/or (ii) the relative fault of the Company (and its directors, officers, employees and agents) and Indemnitee in connection with such event(s) and/or transaction(s).

(e) The Company hereby acknowledges that Indemnitee may have rights to indemnification for payment of the judgment or settlement amount provided by another entity ("***Other Indemnitor(s)***"). The Company agrees with Indemnitee that the Company is the indemnitor of first resort of Indemnitee with respect to matters for which indemnification is provided under this Agreement and that the Company will be obligated to make all payments due to or for the benefit of Indemnitee under this agreement without regard to any rights that Indemnitee may have against the Other Indemnitor(s). The Company hereby waives any equitable rights to contribution or indemnification from the Other Indemnitor in respect of any amounts paid to Indemnitee hereunder until such time as the Indemnitee has been fully and finally indemnified. The Company further agrees that no payment of Expenses or losses by the Other Indemnitor(s) to or for the benefit of Indemnitee shall affect the obligations of the Company hereunder.

4. Indemnification for Expenses of a Witness. Notwithstanding any other provision of this Agreement, to the extent that Indemnitee, by reason of his or her Corporate Status, is a witness, or is made (or asked) to respond to discovery requests or otherwise asked to participate in any Proceeding to which Indemnitee is not a party, the Company shall indemnify Indemnitee against all Expenses actually and reasonably incurred by him or her, or on his or her behalf, in connection therewith.

5. Advancement of Expenses. Notwithstanding any other provision of this Agreement, the Company shall advance all Expenses incurred by or on behalf of Indemnitee in connection with defending any Proceeding within thirty (30) days after the receipt by the Company of a statement or statements from Indemnitee requesting such advance or advances from time to time, whether prior to or after final disposition of such Proceeding. Such statement or statements shall reasonably evidence the Expenses incurred by Indemnitee and Indemnitee shall also submit a written undertaking to repay any Expenses advanced if it shall ultimately be determined by a court of competent jurisdiction that Indemnitee is not entitled to be indemnified by the Company against such Expenses. Any advances and undertakings to repay pursuant to this Section 5 shall be unsecured and interest free. In furtherance of the foregoing, Indemnitee hereby undertakes to repay such amounts advanced if, and to the extent that, it shall ultimately be determined by a court of competent jurisdiction that Indemnitee is not entitled to be indemnified by the Company pursuant to the terms of this Agreement.

6. Procedures and Presumptions for Determination of Entitlement to Indemnification. It is the intent of this Agreement to secure for Indemnitee rights of indemnity that are as favorable as may be permitted under the NRS and public policy of the State of Nevada. Accordingly, the parties agree that the following procedures and presumptions shall apply in the event of any question as to whether Indemnitee is entitled to indemnification under this Agreement:

(a) To obtain indemnification under this Agreement, Indemnitee shall submit to the Company a written request, including therein or therewith such documentation and information as is reasonably available to Indemnitee and is reasonably necessary to determine whether and to what extent Indemnitee is entitled to indemnification. The Secretary of the Company shall, promptly upon receipt of such a request for indemnification, advise the Board in writing that Indemnitee has requested indemnification. Notwithstanding the foregoing, any failure of Indemnitee to provide such a request to the Company, or to provide such a request in a timely fashion, shall not relieve the Company of any liability that it may have to Indemnitee unless, and to the extent that, the Company is actually and materially prejudiced as a result of such failure.

(b) Upon written request by Indemnitee for indemnification pursuant to the first sentence of Section 6(a) hereof, a determination with respect to Indemnitee's entitlement thereto shall be made in the specific case by one of the following three methods, which shall be at the election of the Board (i) by a majority vote of a quorum consisting of Disinterested Directors (as defined below), (ii) if a majority vote of a quorum consisting of Disinterested Directors so orders, or if a quorum of Disinterested Directors cannot be obtained, by Independent Counsel (as defined below) in a written opinion to the Board, a copy of which shall be delivered to Indemnitee, or (iii) by the stockholders of the Company.

(c) Notwithstanding anything to the contrary set forth in this Agreement, if a request for indemnification is made after a Change in Control, at the election of Indemnitee made in writing to the Company, and if the Board by a majority vote of a quorum consisting of Disinterested Directors orders the determination of Indemnitee's entitlement to indemnification to be made by an Independent Counsel, or if a quorum of Disinterested Directors cannot be obtained, any determination required to be made pursuant to Section 6(b) above as to whether Indemnitee is entitled to indemnification shall be made by Independent Counsel selected as provided in this Section 6(c). The Independent Counsel shall be selected by Indemnitee, unless Indemnitee shall request that such selection be made by the Board. The party making the selection shall give written notice to the other party advising it of the identity of the Independent Counsel so selected. The party receiving such notice may, within seven (7) days after such written notice of selection shall have been given, deliver to the other party a written objection to such selection. Such objection may be asserted only on the ground that the Independent Counsel so selected does not meet the requirements of "Independent Counsel" as defined in Section 13 hereof, and the objection shall set forth with particularity the factual basis of such assertion. Absent a proper and timely objection, the person so selected shall act as Independent Counsel. If a written objection is made, the Independent Counsel so selected may not serve as Independent Counsel unless and until a court has determined that such objection is without merit. If, within twenty (20) days after submission by Indemnitee of a written request for indemnification pursuant to Section 6(a) hereof, no Independent Counsel shall have been selected (or, if selected, such selection shall have been objected to) in accordance with this paragraph, then either the Company or Indemnitee may petition the courts of the State of Nevada or other court of competent jurisdiction for resolution of any objection which shall have been made by the Company or Indemnitee to the other's selection of Independent Counsel and/or for the appointment as Independent Counsel of a person selected by the court or by such other person as the court shall designate, and the person with respect to whom an objection is favorably resolved or the person so appointed shall act as Independent Counsel under Section 6(c) hereof. The Company shall pay any and all reasonable fees and expenses of Independent Counsel incurred by such Independent Counsel in connection with acting pursuant to Section 6(b) hereof. The Company shall pay any and all reasonable and necessary fees and expenses incident to the procedures of this Section 6(c), regardless of the manner in which such Independent Counsel was selected or appointed.

(d) If the determination of entitlement to indemnification is to be made by Independent Counsel pursuant to Section 6(b) hereof, the Independent Counsel shall be selected as provided in this Section 6(d). The Independent Counsel shall be selected by the Board. Indemnitee may, within ten (10) days after such written notice of selection shall have been given, deliver to the Company a written objection to such selection; provided, however, that such objection may be asserted only on the ground that the Independent Counsel so selected does not meet the requirements of "***Independent Counsel***" as defined in Section 13 of this Agreement, and the objection shall set forth with particularity the factual basis of such assertion. Absent a proper and timely objection, the person so selected shall act as Independent Counsel. If a written objection is made and substantiated, the Independent Counsel selected may not serve as Independent Counsel unless and until such objection is withdrawn or a court has determined that such objection is without merit. If, within twenty (20) days after submission by Indemnitee of a written request for indemnification pursuant to Section 6(a) hereof, no Independent Counsel shall have been selected (or, if selected, such selection shall have been objected to) in accordance with this paragraph, then either the Company or Indemnitee may petition the appropriate courts of the State of Nevada or other court of competent jurisdiction for resolution of any objection which shall have been made by Indemnitee to the Company's selection of Independent Counsel and/or for the appointment as Independent Counsel of a person selected by the court or by such other person as the court shall designate, and the person with respect to whom an objection is favorably resolved or the person so appointed shall act as Independent Counsel under Section 6(b) hereof. The Company shall pay any and all reasonable fees and expenses of Independent Counsel in connection with acting pursuant to Section 6(b) hereof, and the Company shall pay any and all reasonable fees and expenses incident to the procedures of this Section 6(d), regardless of the manner in which such Independent Counsel was selected or appointed.

(e) In making a determination with respect to entitlement to indemnification hereunder, the person or persons or entity making such determination shall presume that Indemnitee is entitled to indemnification under this Agreement. Anyone seeking to overcome this presumption shall have the burden of proof and the burden of persuasion by clear and convincing evidence. Neither the failure of the Company (including by its directors or independent legal counsel) to have made a determination prior to the commencement of any action pursuant to this Agreement that indemnification is proper in the circumstances because Indemnitee has met the applicable standard of conduct, nor an actual determination by the Company (including by its directors or independent legal counsel) that Indemnitee has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that Indemnitee has not met the applicable standard of conduct.

(f) Indemnitee shall be deemed to have acted in good faith if Indemnitee's action is based on the records or books of account of the Enterprise (as hereinafter defined), including financial statements, or on information supplied to Indemnitee by the officers of the Enterprise in the course of their duties, or on the advice of legal counsel for the Enterprise or on information or records given or reports made to the Enterprise by an independent certified public accountant or by an appraiser or other expert selected with reasonable care by the Enterprise. In addition, the knowledge and/or actions, or failure to act, of any director, officer, agent or employee of the Enterprise shall not be imputed to Indemnitee for purposes of determining the right to indemnification under this Agreement. Whether or not the foregoing provisions of this Section 6(f) are satisfied, it shall in any event be presumed that Indemnitee has at all times acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Company. Anyone seeking to overcome this presumption shall have the burden of proof and the burden of persuasion by clear and convincing evidence. The Company will promptly advise Indemnitee in writing with respect to any determination that Indemnitee is or is not entitled to indemnification, including a description of any reason or basis for which indemnification has been denied.

(g) Notwithstanding anything to the contrary set forth in this Agreement, if the person, persons or entity empowered or selected under Section 6 to determine whether Indemnitee is entitled to indemnification shall not have been appointed or shall not have made a determination within sixty (60) days after receipt by the Company of the request therefor, the requisite determination of entitlement to indemnification shall be deemed to have been made and Indemnitee shall be entitled to such indemnification, unless the Company establishes by written opinion of Independent Counsel that (i) a misstatement by Indemnitee of a material fact, or an omission of a material fact necessary to make Indemnitee's statement not materially misleading, in connection with the request for indemnification, or (ii) a prohibition of such indemnification under applicable law; provided, however, that such sixty (60) day period may be extended for a reasonable time, not to exceed an additional thirty (30) days, if the person, persons or entity making such determination with respect to entitlement to indemnification in good faith requires such additional time to obtain or evaluate documentation and/or information relating thereto; and provided, further, that the foregoing provisions of this Section 6(g) shall not apply if the determination of entitlement to indemnification is to be made by the stockholders pursuant to Section 6(b) of this Agreement and if (A) within fifteen (15) days after receipt by the Company of the request for such determination, the Disinterested Directors resolve as required by Section 6(b)(iii) of this Agreement to submit such determination to the stockholders for their consideration at an annual meeting thereof to be held within seventy five (75) days after such receipt and such determination is made thereat, or (B) a special meeting of stockholders is called within fifteen (15) days after such receipt for the purpose of making such determination, such meeting is held for such purpose within sixty (60) days after having been so called and such determination is made thereat.

(h) Indemnitee shall cooperate with the person, persons or entity making such determination with respect to Indemnitee's entitlement to indemnification, including providing to such person, persons or entity upon reasonable advance request any documentation or information which is not privileged or otherwise protected from disclosure and which is reasonably available to Indemnitee and reasonably necessary to such determination. Any Independent Counsel or member of the Board or stockholder of the Company shall act reasonably and in good faith in making a determination regarding Indemnitee's entitlement to indemnification under this Agreement. Any costs or expenses (including attorneys' fees and disbursements) incurred by Indemnitee in so cooperating with the person, persons or entity making such determination shall be borne by the Company (irrespective of the determination as to Indemnitee's entitlement to indemnification) and the Company hereby indemnifies and agrees to hold Indemnitee harmless therefrom.

7. Remedies of Indemnitee.

(a) In the event that (i) a determination is made pursuant to Section 6 of this Agreement that Indemnitee is not entitled to indemnification under this Agreement, (ii) advancement of Expenses is not timely made pursuant to Section 5 of this Agreement, (iii) no determination of entitlement to indemnification is made pursuant to Section 6(b) or Section 6(c) of this Agreement within sixty (60) days after receipt by the Company of the request for indemnification, or such longer period, not to exceed an additional thirty (30) days, to which the period may be extended pursuant to Section 6(g), (iv) payment of indemnification is not made pursuant to this Agreement within ten (10) days after receipt by the Company of a written request therefor or (v) payment of indemnification is not made within ten (10) days after a determination has been made that Indemnitee is entitled to indemnification or such determination is deemed to have been made pursuant to Section 6 of this Agreement, Indemnitee shall be entitled to an adjudication of Indemnitee's entitlement to such indemnification or advancement of expenses either, at Indemnitee's sole option, in (1) an appropriate court of the State of Nevada, or any other court of competent jurisdiction or (2) an arbitration to be conducted by a single arbitrator, selected by mutual agreement of the Company and Indemnitee, pursuant to the rules of the American Arbitration Association. The Company shall not oppose Indemnitee's right to seek any such adjudication.

(b) In the event that a determination shall have been made pursuant to Section 6(b) or Section 6(c) of this Agreement that Indemnitee is not entitled to indemnification, (i) any judicial proceeding or arbitration commenced pursuant to this Section 7 shall be conducted in all respects de novo on the merits, and Indemnitee shall not be prejudiced by reason of any adverse determination under Section 6(b) or Section 6(c); and (ii) in any such judicial proceeding or arbitration, the Company shall have the burden of proving that Indemnitee is not entitled to indemnification under this Agreement.

(c) If a determination shall have been made pursuant to Section 6(b) or Section 6(c), or shall have been deemed to have been made pursuant to Section 6(g), of this Agreement that Indemnitee is entitled to indemnification, the Company shall be obligated to pay the amounts constituting such indemnification within five (5) days after such determination has been made or has been deemed to have been made and shall be conclusively bound by such determination in any judicial proceeding commenced pursuant to this Section 7, unless the Company establishes by written opinion of Independent Counsel that (i) a misstatement by Indemnitee of a material fact, or an omission of a material fact necessary to make Indemnitee's misstatement not materially misleading in connection with the request for indemnification or (ii) a prohibition of such indemnification under applicable law.

(d) In the event that Indemnitee, pursuant to this Section 7, seeks a judicial adjudication of, or an award in arbitration to enforce, his or her rights under, or to recover damages for breach of, this Agreement, or to recover under any directors' and officers' liability insurance policies maintained by the Company, the Company shall pay to him or her, or on his or her behalf, in advance, and shall indemnify him or her against, any and all expenses (of the types described in the definition of Expenses in Section 13 of this Agreement) actually and reasonably incurred by him or her in such judicial adjudication or arbitration, regardless of whether Indemnitee ultimately is determined to be entitled to such indemnification, advancement of expenses or insurance recovery.

(e) The Company shall be precluded from asserting in any judicial proceeding or arbitration commenced pursuant to this Section 7 that the procedures and presumptions of this Agreement are not valid, binding and enforceable and shall stipulate in any such court or before any such arbitrator that the Company is bound by all the provisions of this Agreement. The Company shall indemnify Indemnitee against any and all Expenses and, if requested by Indemnitee, shall (within ten (10) days after receipt by the Company of a written request therefore) advance, to the extent not prohibited by law, such expenses to Indemnitee, which are incurred by Indemnitee in connection with any action brought by Indemnitee for indemnification or advance of Expenses from the Company under this Agreement or under any directors' and officers' liability insurance policies maintained by the Company, regardless of whether Indemnitee ultimately is determined to be entitled to such indemnification, advancement of Expenses or insurance recovery, as the case may be.

8. Non-Exclusivity; Survival of Rights; Insurance; Subrogation.

(a) The rights of indemnification and advancement of expenses as provided by this Agreement shall not be deemed exclusive of, and shall be in addition to, any other rights to which Indemnitee may at any time be entitled under applicable law, the Articles or the Bylaws of the Company, any agreement, a vote of stockholders, a resolution of directors of the Company, or otherwise, and nothing in this Agreement shall diminish or otherwise restrict Indemnitee's rights to indemnification or advancement of expenses under any of the foregoing. No amendment, alteration or repeal of this Agreement or of any provision hereof shall limit or restrict any right of Indemnitee under this Agreement in respect of any action taken or omitted by such Indemnitee in his or her Corporate Status prior to such amendment, alteration or repeal. To the extent that a change in the NRS, whether by statute or judicial decision, permits greater indemnification than would be afforded currently under the Articles, the Bylaws and this Agreement, it is the intent of the parties hereto that Indemnitee shall enjoy by this Agreement the greater benefits so afforded by such change and Indemnitee shall be deemed to have such greater benefits hereunder. No right or remedy herein conferred is intended to be exclusive of any other right or remedy, and every other right and remedy shall be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other right or remedy. The Company shall not adopt any amendments to its Articles or Bylaws, the effect of which would be to deny, diminish or encumber Indemnitee's right to indemnification or advancement of expenses under this Agreement, any other agreement or otherwise, without the prior written consent of the Indemnitee.

(b) To the extent that the Company maintains an insurance policy or policies providing liability insurance for directors, officers, employees, or agents or fiduciaries of the Company or of any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise that such person serves at the request of the Company, Indemnitee shall be covered by such policy or policies in accordance with its or their terms to the maximum extent of the coverage available for any director, officer, employee, agent or fiduciary under such policy or policies. If, at the time of the receipt of a notice of a claim pursuant to the terms hereof, the Company has director and officer liability insurance in effect, the Company shall give prompt notice of the commencement of such Proceeding to the insurers in accordance with the procedures set forth in the respective policies. The Company shall thereafter take all necessary or desirable action to cause such insurers to pay, on behalf of Indemnitee, all amounts payable as a result of such Proceeding in accordance with the terms of such policies.

(c) In the event of any payment under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of Indemnitee, who shall execute all papers required and take all action necessary to secure such rights, including execution of such documents as are necessary to enable the Company to bring suit to enforce such rights (with all of Indemnitee's reasonable expenses, including, without limitation, attorneys' fees and charges, related thereto to be reimbursed by or, at the option of Indemnitee, advanced by the Company).

(d) The Company shall not be liable under this Agreement to make any payment of amounts otherwise indemnifiable hereunder if and to the extent that Indemnitee has otherwise actually received such payment under any insurance policy, contract, agreement or otherwise.

(e) The Company's obligation to indemnify or advance Expenses hereunder to Indemnitee who is or was serving at the request of the Company as a director, officer, employee or agent of any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise shall be reduced by any amount Indemnitee has actually received as indemnification or advancement of expenses from such other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise.

9. Exception to Right of Indemnification. Notwithstanding any provision in this Agreement, the Company shall not be obligated under this Agreement to make any indemnity in connection with any claim made against Indemnitee:

(a) for which payment has actually been made to or on behalf of Indemnitee under any insurance policy or other indemnity provision, except with respect to any excess beyond the amount paid under any insurance policy or other indemnity provision; or

(b) for an accounting of profits made from the purchase and sale (or sale and purchase) by Indemnitee of securities of the Company within the meaning of Section 16(b) of the Securities Exchange Act of 1934, as amended (the "***Exchange Act***"), or similar provisions of state statutory law or common law; or

(c) for any reimbursement of the Company by Indemnitee of any bonus or other incentive-based or equity-based compensation or of any profits realized by Indemnitee from the sale of securities of the Company, as required in each case under the Exchange Act (including any such reimbursements that arise from an accounting restatement of the Company pursuant to Section 304 of the Sarbanes-Oxley Act of 2002 (the "***Sarbanes-Oxley Act***"), or the payment to the Company of profits arising from the purchase and sale by Indemnitee of securities in violation of Section 306 of the Sarbanes-Oxley Act); or

(d) for any reimbursement of the Company by Indemnitee of any compensation pursuant to any compensation recoupment or clawback policy adopted by the Board or the compensation committee of the Board, including but not limited to any such policy adopted to comply with stock exchange listing requirements implementing Section 10D of the Exchange Act; or

(e) in connection with any Proceeding (or any part of any Proceeding) initiated by Indemnitee, including any Proceeding (or any part of any Proceeding) initiated by Indemnitee against the Company (other than to enforce Indemnitee's rights under this Agreement) or its directors, officers, employees or other indemnitees, unless (i) the Board of the Company authorized the Proceeding (or such part of the Proceeding) prior to its initiation, or (ii) the Company indemnifies Indemnitee, in its sole discretion, independently of this Agreement pursuant to the powers vested in the Company under applicable law.

10. Retroactive Effect; Duration of Agreement; Successors and Binding Agreement. All agreements and obligations of the Company contained herein shall be deemed to have become effective upon the date Indemnitee first had Corporate Status; shall continue during the period Indemnitee has Corporate Status; and shall continue thereafter so long as Indemnitee may be subject to any Proceeding (or any action commenced under Section 7 hereof) by reason of his or her Corporate Status, whether or not he or she is acting or serving in any such capacity at the time any liability or expense is incurred for which indemnification can be provided under this Agreement. This Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties hereto and their respective successors (including any direct or indirect successor by purchase, merger, consolidation, reorganization or otherwise to all or substantially all of the business or assets of the Company), assigns, spouses, heirs, executors and personal and legal representatives. The Company shall require any such successor to all or substantially all of the business or assets of the Company, by agreement in form and substance satisfactory to Indemnitee and his or her counsel, expressly to assume and agree to perform this Agreement in the same manner and to the same extent the Company would be required to perform if no such succession had taken place. Except as otherwise set forth in this Section 10, this Agreement shall not be assignable or delegable by the Company.

11. Security. To the extent requested by Indemnitee and approved by the Board of the Company, the Company may at any time and from time to time provide security to Indemnitee for the Company's obligations hereunder through an irrevocable bank line of credit, funded trust or other collateral. Any such security, once provided to Indemnitee, may not be revoked or released without the prior written consent of Indemnitee.

12. Enforcement.

(a) The Company expressly confirms and agrees that it has entered into this Agreement and assumes the obligations imposed on it hereby in order to induce Indemnitee to serve, or continue to serve, as an officer or a director of the Company, and the Company acknowledges that Indemnitee is relying upon this Agreement in serving or continuing to serve as an officer or a director of the Company.

(b) This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral, written and implied, between the parties hereto with respect to the subject matter hereof.

13. Definitions. For purposes of this Agreement:

(a) "***Change in Control***" means the occurrence of any one of the following events:

(i) any sale, lease, exchange or other transfer (in one or a series of related transactions) of all or substantially all of the assets of the Company;

(ii) any "Person" as such term is used in Section 13(d) and Section 14(d) of the Exchange Act becomes, directly or indirectly, the "beneficial owner" as defined in Rule 13d-3 under the Exchange Act of securities of the Company that represent more than 50% of the combined voting power of the Company's then outstanding voting securities (the "***Outstanding Company Voting Securities***"); provided, however, that for purposes of this Section 13(a)(ii), the following acquisitions shall not constitute a Change in Control: (I) any acquisition directly from the Company, (II) any acquisition by the Company, (III) any acquisition by any employee benefit plan (or related trust) sponsored or maintained by the Company or any person or entity that directly or indirectly controls, is controlled by or is under common control with the Company and/or to the extent provided by the Board, any person or entity in which the Company has a significant interest, (IV) any acquisition by any corporation pursuant to a transaction that complies with Sections 13(a)(iv)(A) and 13(a)(iv)(B), (V) any acquisition involving beneficial ownership of less than 50% of the then-outstanding shares of the Company's Class A common stock, par value $0.0001 per share (and any stock or other securities into which such ordinary shares may be converted or into which they may be exchanged) (the "***Outstanding Company Common Shares***") or the Outstanding Company Voting Securities that is determined by the Board, based on review of public disclosure by the acquiring Person with respect to its passive investment intent, not to have a purpose or effect of changing or influencing the control of the Company; provided, however, that for purposes of this clause (V), any such acquisition in connection with (x) an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consents or (y) any "Business Combination" (as defined below) shall be presumed to be for the purpose or with the effect of changing or influencing the control of the Company;

(iii) during any period of not more than two (2) consecutive years, individuals who constitute the Board as of the beginning of the period (the "***Incumbent Directors***") cease for any reason to constitute at least a majority of the Board, provided that any person becoming a director subsequent to the beginning of such period, whose election or nomination for election was approved by a vote of at least two-thirds of the Incumbent Directors then on the Board (either by a specific vote or by approval of the proxy statement of the Company in which such person is named as a nominee for director, without written objection to such nomination) will be an Incumbent Director; provided, however, that no individual initially elected or nominated as a director of the Company as a result of an actual or threatened election contest with respect to directors or as a result of any other actual or threatened solicitation of proxies by or on behalf of any person other than the Board will be deemed to be an Incumbent Director;

(iv) consummation of a merger, amalgamation or consolidation (a "***Business Combination***") of the Company with any other corporation, unless, following such Business Combination, (A) all or substantially all of the individuals and entities that were the beneficial owners of the Outstanding Company Common Shares and the Outstanding Company Voting Securities immediately prior to such Business Combination beneficially own, directly or indirectly, more than 50% of the then-outstanding shares of common stock (or, for a non-corporate entity, equivalent securities) and the combined voting power of the then-outstanding voting securities entitled to vote generally in the election of directors (or, for a non-corporate entity, equivalent governing body), as the case may be, of the entity resulting from such Business Combination (including, without limitation, an entity that, as a result of such transaction, owns the Company or all or substantially all of the Company's assets either directly or through one or more subsidiaries) in substantially the same proportions as their ownership immediately prior to such Business Combination of the Outstanding Company Common Shares and the Outstanding Company Voting Securities, as the case may be, and (B) at least a majority of the members of the board of directors (or, for a non-corporate entity, equivalent governing body) of the entity resulting from such Business Combination were Incumbent Directors at the time of the execution of the initial agreement or of the action of the Board providing for such Business Combination;

(v) the stockholders of the Company approve a plan of complete liquidation of the Company.

(b) "***Corporate Status***" means the fact that a person is or was a director, officer, employee, agent or fiduciary of the Company or is or was serving at the request of the Company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise.

(c) "***Disinterested Director***" means a director of the Company who is not and was not a party to the Proceeding in respect of which indemnification is sought by Indemnitee.

(d) "***Enterprise***" shall mean the Company and any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise that Indemnitee is or was serving at the express written request of the Company as a director, officer, trustee, partner, manager, managing member, employee, agent or fiduciary.

(e) "***Expenses***" shall include all reasonable attorneys' fees, retainers, court costs, transcript costs, fees of experts and other professionals, witness fees, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees, ERISA excise taxes and penalties, and all other disbursements or expenses of the types customarily incurred or actually incurred in connection with prosecuting, defending, preparing to prosecute or defend, investigating, participating, or being or preparing to be a witness in a Proceeding, or responding to, or objecting to, a request to provide discovery in a Proceeding. Expenses also shall include Expenses incurred in connection with any appeal resulting from any Proceeding, including, without limitation, the premium, security for, and other costs relating to any cost bond, supersede as bond, or other appeal bond or its equivalent. Should any payments by the Company to or for the account of Indemnitee under this Agreement be determined to be subject to any federal, state or local income or excise tax, Expenses shall also include such amounts as are necessary to place Indemnitee in the same after-tax position (after giving effect to all applicable taxes) Indemnitee would have been in had no such tax been determined to apply to those payments. The parties agree that for the purposes of any advancement of Expenses for which Indemnitee has made written demand to the Company in accordance with this Agreement, all Expenses included in such demand that are certified by affidavit of Indemnitee's counsel as being reasonable in the good faith judgment of such counsel shall be presumed conclusively to be reasonable. Expenses, however, shall not include amounts paid in settlement by Indemnitee or the amount of judgments or fines against Indemnitee.

(f) "***Independent Counsel***" means a law firm, or a member of a law firm, that is experienced in matters of corporation law and neither presently is, nor in the past five (5) years has been, retained to represent (i) the Company or Indemnitee in any matter material to either such party (other than with respect to matters concerning Indemnitee under this Agreement, or of other indemnitees under similar indemnification agreements), or (ii) any other party to the Proceeding giving rise to a claim for indemnification hereunder. Notwithstanding the foregoing, the term "Independent Counsel" shall not include any person who, under the applicable standards of professional conduct then prevailing, would have a conflict of interest in representing either the Company or Indemnitee in an action to determine Indemnitee's rights under this Agreement. The Company agrees to pay the reasonable fees of the Independent Counsel referred to above and to fully indemnify such counsel against any and all Expenses, claims, liabilities and damages arising out of or relating to this Agreement or its engagement pursuant hereto.

(g) "***Proceeding***" includes any threatened, pending or completed action, suit, claim, counterclaim, cross claim, arbitration, mediation, alternate dispute resolution mechanism, investigation, inquiry, administrative hearing or any other actual, threatened or completed proceeding, whether brought by or in the right of the Company or otherwise and whether civil, criminal, administrative, legislative or investigative (formal or informal); in each case whether or not Indemnitee's Corporate Status existed at the time any liability or expense is incurred for which indemnification can be provided under this Agreement; including one pending on or before the date of this Agreement, but excluding one initiated by an Indemnitee pursuant to Section 7 of this Agreement to enforce his or her rights under this Agreement.

14. Severability. The invalidity or unenforceability of any provision hereof shall in no way affect the validity or enforceability of any other provision. Without limiting the generality of the foregoing, this Agreement is intended to confer upon Indemnitee indemnification rights to the fullest extent permitted by applicable laws. In the event any provision hereof conflicts with any applicable law, such provision shall be deemed modified, consistent with the aforementioned intent, to the extent necessary to resolve such conflict.

15. Modification and Waiver. No supplement, modification, termination or amendment of this Agreement shall be binding unless executed in writing by both of the parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions hereof (whether or not similar) nor shall such waiver constitute a continuing waiver.

16. Notice by Indemnitee. Indemnitee agrees promptly to notify the Company in writing upon being served with or otherwise receiving any summons, citation, subpoena, complaint, indictment, information or other document relating to any Proceeding or matter which may be subject to indemnification covered hereunder. The failure to so notify the Company shall not relieve the Company of any obligation which it may have to Indemnitee under this Agreement unless, and only to the extent that, the Company is actually and materially prejudiced as a result of such delay or failure.

17. Notices. All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given (a) upon personal delivery to the party to be notified, (b) when sent by confirmed facsimile, or (c) upon delivery when sent by a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All communications shall be sent:

(a) To Indemnitee at the address set forth below Indemnitee's signature hereto.

(b) To the Company at:

DraftKings Inc.
222 Berkeley Street 5th Floor
Boston, Massachusetts 02116
Attention: Chief Legal Officer
Fax: (617) 249-1722

or to such other address as may have been furnished to Indemnitee by the Company or to the Company by Indemnitee, as the case may be.

18. Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same the same instrument. Counterparts may be delivered via facsimile, electronic mail (including pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, *e.g.*, www.docusign.com) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

19. Headings. The headings of the paragraphs of this Agreement are inserted for convenience only and shall not be deemed to constitute part of this Agreement or to affect the construction thereof.

20. Successors and Assigns. The terms of this Agreement shall be binding upon the Company and its successors and assigns and shall inure to the benefit of Indemnitee and Indemnitee's spouse, assigns, heirs, devisees, executors, administrators and other legal representatives.

21. Governing Law and Consent to Jurisdiction. This Agreement and the legal relations among the parties shall be governed by, and construed and enforced in accordance with, the laws of the State of Nevada, without regard to its conflict of laws rules. The Company and Indemnitee hereby irrevocably and unconditionally (i) agree that any action or proceeding arising out of or in connection with this Agreement (other than an arbitration pursuant to Section 7 hereof) shall be brought only in the Eighth Judicial District Court of Clark County (the "***Nevada Court***"), and not in any other state or federal court in the United States of America or any court in any other country, (ii) consent to submit to the exclusive jurisdiction of the Nevada Court for purposes of such action or proceeding, (iii) waive any objection to the laying of venue of any such action or proceeding in the Nevada Court, and (iv) waive, and agree not to plead or to make, any claim that any such action or proceeding brought in the Nevada Court has been brought in an improper or inconvenient forum.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on and as of the day and year first above written.

COMPANY

DRAFTKINGS INC.

By: _____
Name:
Title:

INDEMNITEE

_____
Name:

Address: _____
_____
_____

[*Signature Page to Indemnification Agreement*]

Exhibit 10.8

EARNOUT ESCROW AGREEMENT

This EARNOUT ESCROW AGREEMENT (this "Agreement") is made and entered into as of April 23, 2020, by and among DraftKings Inc., a Nevada corporation ("DraftKings"), Shalom Meckenzie ("SM") in his capacity as the SBT Sellers' Representative (acting on behalf of the SBT Sellers and not in his personal capacity) (the "Representative"), Eagle Equity Partners LLC, Jeff Sagansky, Eli Baker and Harry E. Sloan (collectively, the "DEAC Founder Group", and together with DraftKings and the Representative, sometimes referred to individually as a "Party" or collectively as the "Parties"), I.B.I. Trust Management, a trust company organized under the laws of the State of Israel (the "104H Trustee") and Computershare Trust Company, N.A. (the "Escrow Agent"). Capitalized terms used but not defined herein shall have the respective meanings ascribed to them in the BCA (as defined herein).

WHEREAS, DraftKings, the Representative, Diamond Eagle Acquisition Corp., a Delaware corporation ("DEAC"), and certain other parties have entered into that certain Business Combination Agreement, dated as of December 22, 2019, as amended by Amendment No.1, dated as of April 7, 2020 (together with all exhibits, schedules and annexes thereto, as amended, modified or supplemented from time to time in accordance with its terms, the "BCA"), pursuant to which the parties thereto have agreed to establish an escrow arrangement for the purposes set forth therein;

WHEREAS, in accordance with Section 1.8 of the BCA: (i) the DEAC Founder Group shall (a) deliver, or cause to be delivered, electronically through the Depository Trust Company ("DTC") using DTC's Deposit/Withdrawal At Custodian System to the Escrow Agent 5,280,000 shares of DraftKings Class A common stock that formerly constituted shares of DEAC common stock ("Founder Shares"), of which (x) 3,000,000 Founder Shares (the "DEAC Earnout Shares") shall be allocated on a Pro Rata Basis among the DEAC Founder Group and (y) 2,280,000 Founder Shares (the "DK Earnout Shares") shall be allocated on a Pro Rata Basis among the DK Earnout Group (as such term is defined in the BCA), and (b) forfeit and deliver to DraftKings for cancellation 720,000 Founder Shares; and (ii) DraftKings shall issue 720,000 shares of DraftKings Class A Common Stock (the "SBT Earnout Shares", together with the DEAC Earnout Shares and the DK Earnout Shares, the "Earnout Shares"), which shall be allocated on a Pro Rata Basis among the SBT Sellers (the "SBT Earnout Group") and of which (x) 612,000 SBT Earnout Shares (the "104H Earnout Shares") shall be held in escrow with the 104H Trustee in trust for the benefit of SM (the "104H Trust") and (y) 108,000 SBT Earnout Shares (the "Escrowed SBT Earnout Shares", together with the 5,280,000 Founder Shares (constituting the DEAC Earnout Shares and the DK Earnout Shares), the "Escrowed Earnout Shares") shall be delivered, electronically through the DTC's Deposit/Withdrawal At Custodian System to the Escrow Agent in respect of the other SBT Sellers, in each case described in clauses (i) and (ii) as such number of Escrowed Earnout Shares may be adjusted for any stock split, reverse stock split, recapitalization, reclassification, reorganization, exchange, subdivision or combination;

WHEREAS, the 104H Trustee and SM have entered into that certain Trust Agreement, dated as of the date hereof (the "Trust Agreement"), pursuant to which SM has appointed the 104H Trustee to serve as, and the 104H Trustee has agreed to act as, trustee for the benefit of SM in accordance with the terms and conditions of the 104H Tax Ruling with respect to the SBT Share Consideration and Earnout Shares to which SM is or may be entitled under the BCA;

WHEREAS, the (i) Escrowed Earnout Shares shall be held in escrow by the Escrow Agent pursuant to the terms of this Agreement (the "Escrow Account") and (ii) the 104H Earnout Shares shall be deposited with and held in trust by the 104H Trustee pursuant to the terms of this Agreement and the Trust Agreement, and in either case, shall be released by the Escrow Agent or the 104H Trustee, as applicable, only upon the occurrence of certain triggering events as specifically set forth in this Agreement and pursuant to Section 1.8 of the BCA;

WHEREAS, pursuant to Section 9.12 of the BCA, the Representative is appointed as the representative, true and lawful attorney in fact and agent for all of SBT Sellers for all purposes set forth therein; and

WHEREAS, the Parties desire to constitute and appoint the Escrow Agent as escrow agent hereunder, and the Escrow Agent is willing to assume and perform the duties and obligations of the escrow agent pursuant to the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

1. **Appointment**. DraftKings, the DEAC Founder Group and the Representative (acting on behalf of the SBT Sellers) hereby appoint the Escrow Agent as their escrow agent to hold the Escrowed Earnout Shares and any Dividends (as defined herein) received by the Escrow Agent pursuant to Section 2(f) (collectively, "Escrowed Dividends") in escrow for DraftKings, the DEAC Founder Group and the SBT Sellers (other than SM, who has appointed the 104H Trustee to act as trustee for the benefit of SM and hold the 104H Earnout Shares and any Dividends received by the 104H Trustee pursuant to Section 2(f) (collectively, "Trust Dividends") as set forth in the BCA and in accordance with the terms and conditions of this Agreement and the Trust Agreement), to administer and disburse the Escrowed Earnout Shares and the Escrow Dividends and otherwise for the purposes set forth herein, and the Escrow Agent hereby accepts such appointment under the express terms and conditions set forth herein.

2. **Deposit, Delivery and Receipt of Earnout Shares; Other Actions.**

   (a) At the Closing, the DEAC Founder Group will deliver, or cause to be delivered, 5,280,000 Founder Shares (constituting the DEAC Earnout Shares and the DK Earnout Shares) to the Escrow Agent on the date hereof electronically through the DTC's Deposit/Withdrawal At Custodian system to an account designated by the Escrow Agent.

   (b) At the Closing, DraftKings will issue and deliver, or cause to be delivered, the Escrowed SBT Earnout Shares to the Escrow Agent on the date hereof electronically through the DTC's Deposit/Withdrawal At Custodian system to an account designated by the Escrow Agent.

   (c) At the Closing, DraftKings will issue and deliver, or cause to be delivered, the 104H Earnout Shares to the 104H Trustee on the date hereof to an account designated by the 104H Trustee, or if so elected by the 104H Trustee, in book-entry form under the name of the 104H Trustee (for the benefit of SM).

   (d) The Escrow Agent will hold the Escrowed Earnout Shares as a book-entry position registered in the name of "CTCNA, as Escrow Agent for DK Earnout Escrow Agreement, dated April 23, 2020", and the 104H Trustee will hold the 104H Earnout Shares as a book-entry position registered in its name (for the benefit of SM) (or in any of its broker accounts designated by the 104H Trustee from time to time), until any such Earnout Shares are to be released to the members of the DK Earnout Group, DEAC Founder Group and SBT Earnout Group (or, in respect of SM, the 104H Trustee solely for the benefit of SM) in accordance with the terms of this Agreement and the BCA. The Parties shall provide (i) joint written instructions delivered to the Escrow Agent in accordance with the security procedures set forth in Section 11 and executed by each of (x) any member of the DEAC Founder Group, (y) DraftKings, and (z) the Representative (a "Escrow Joint Written Instruction") specifying the pro rata allocation of Escrowed Earnout Shares amongst the members of the DK Earnout Group, DEAC Founder Group and SBT Earnout Group other than SM) (each, an "Earnout Recipient") released from the Escrow Account in accordance with the terms of Section 1.8 of the BCA, and (ii) joint written instructions delivered to the 104H Trustee and executed by each of (x) any member of the DEAC Founder Group, (y) DraftKings, and (z) the Representative to the 104H Trustee (a "Trust Joint Written Instruction") specifying the number of 104H Earnout Shares to be released by the 104H Trustee in accordance with the terms of Section 1.8 of the BCA. The Parties agree that the Earnout Shares shall not be subject to attachment by any creditor of any party to the BCA.

(e) The Escrow Agent does not own or have any interest in the Escrowed Earnout Shares or any Escrowed Dividends, but is serving as escrow holder, having only possession thereof and agreeing to hold and distribute the Escrowed Earnout Shares and any Escrowed Dividends in accordance with the terms and conditions set forth herein. The 104H Trustee does not own or have any interest in the 104H Earnout Shares or any Trust Dividends, but is serving as escrow holder, having only possession thereof and agreeing to hold and distribute the 104H Earnout Shares and any Trust Dividends in accordance with the terms and conditions set forth herein.

(f) The Parties agree that all voting rights and other shareholder rights with respect to the Earnout Shares (except the right to receive any dividends or other distributions paid in respect of such Earnout Shares following the Closing and prior to the release of such Earnout Shares) shall be suspended until such shares are released from the Escrow Account or released by the 104H Trustee, as applicable, in accordance with the terms of this Agreement, the Trust Agreement and the BCA. Any dividend or other distributions distributed on any Earnout Shares (collectively "Dividends") shall be distributed to and held by the Escrow Agent or the 104H Trustee, as applicable, and shall continue to be held by the Escrow Agent or the 104H Trustee, as applicable, and shall be disbursed by them together with and when the Earnout Shares on which such dividend was distributed are released, to the same person or entity to whom such Earnout Shares are released in accordance with the terms of this Agreement. For the avoidance of doubt, any release or distribution of Escrowed Earnout Shares and 104H Earnout Shares in accordance with this Agreement shall also be understood to include a distribution of the Escrowed Dividends and the Trust Dividends, respectively, if any, with respect to such released or distributed Escrowed Earnout Shares and 104H Earnout Shares.

(g) Any cash Escrowed Dividends shall be delivered to the Escrow Agent to be held in a bank account and be deposited in one or more interest-bearing accounts to be maintained by the Escrow Agent in the name of the Escrow Agent at one or more of the banks listed in Schedule 3 hereto (the "Approved Banks"). The deposit of such Escrowed Dividends in any of the Approved Banks shall be deemed to be at the direction of the Parties. At any time and from time to time, the Parties may direct Escrow Agent by Escrow Joint Written Instruction (i) to deposit such dividends with a specific Approved Bank, (ii) not to deposit any new dividend amount in any Approved Bank as specified in the notice and/or (iii) to withdraw all or any of such dividends that may then be deposited with any Approved Bank specified in the notice. With respect to any such withdrawal notice, the Escrow Agent will withdraw such amount specified in the notice as soon as reasonably practicable and the Parties acknowledge and agree that such specified amount remains at the sole risk of the Parties prior to and after such withdrawal. Any amount so withdrawn may be reinvested or deposited with any other Approved Bank or any Approved Bank instructed by the Parties in the notice. So long as the Escrow Agent is holding any amount of the cash Escrowed Dividends in accordance with this Agreement and absent investment instructions from the Parties in accordance with this Section 2(g) (such amount in respect of which no investment instructions have been received, a "Non-Invested Amount"), the Escrow Agent shall deposit the Non-Invested Amount in an interest-bearing account with an Approved Bank and such deposit of the Escrowed Dividend in any of the Approved Banks shall be deemed to be at the direction of the Parties.

(h) The Escrow Agent shall pay interest on the cash Escrowed Dividends at a rate equal to the highest rate within the published range of the then current Federal Funds target rate minus 50 basis points (and in all events not less than 0%). Such interest shall accrue and be added to the amount of Escrowed Dividends within three (3) Business Days of each month end. There shall be no penalty on withdrawing a deposit at any time before month end. Escrow Agent shall be entitled to retain for its own benefit, as partial compensation or benefit for its services hereunder, including reduced bank charges, any amount of interest earned on the cash Escrowed Dividends that is not payable pursuant to this Section 2(h) or herein (if any). The Escrow Agent shall have no duty, responsibility or obligation to invest any cash Escrowed Dividends or other funds or cash held by it hereunder other than in accordance with this Section 2. For purposes of this Section 2(h), "Business Day" shall mean any day other than a Saturday, Sunday or any other day on which commercial banks in New York, New York or the Escrow Agent's address located above are authorized or required by law to close.

(i) The amounts held in custody by the Escrow Agent pursuant to this Agreement are at the sole risk of the Parties and, without limiting the generality of the foregoing, the Escrow Agent shall have no responsibility or liability for any diminution of the cash Escrowed Dividends which may result from any deposits made pursuant to this Agreement, including any losses resulting from a default by an Approved Bank or any other credit losses (whether or not resulting from such default) or other losses on any deposit required to be liquidated in order to make a payment required hereunder. The Parties acknowledge and agree that the Escrow Agent is acting prudently and at their direction when depositing the cash Escrowed Dividends at any Approved Bank, and the Escrow Agent is not required to make any further inquiries in respect of any Approved Bank.

(j) Any cash Trust Dividend shall be delivered to the 104H Trustee and shall be held and deposited or invested by it for the benefit of SM in the manner set out in the Trust Agreement or as otherwise may be agreed between SM and the 104H Trustee, subject to the terms of the 104H Tax Ruling and applicable law.

3. **Release Notices.**

(a) The Escrow Agent shall disburse the Escrowed Earnout Shares only in accordance with the Release Notice (as defined in the BCA) contemplated by the BCA and each such Release Notice delivered to the Escrow Agent hereunder shall satisfy the requirements of an Escrow Joint Written Instruction. The 104H Trustee shall disburse the 104H Earnout Shares only in accordance the Release Notice (as defined in the BCA) contemplated by the BCA and each such Release Notice delivered hereunder to the 104H Trustee shall satisfy the requirements of a Trust Joint Written Instruction. Each such Release Notice shall set forth in reasonable detail the triggering event giving rise to the requested release and the specific release instructions with respect thereto (including the number of Earnout Shares to be released and the identity of the person to whom they should be released). For the avoidance of the doubt, (i) the DEAC Earnout Shares that are to be released from the Escrow Account and distributed to the DEAC Founder Group shall be distributed to each member of the DEAC Founder Group on a Pro Rata Basis, (ii) the DK Earnout Shares that are to be released from the Escrow Account and distributed to the DK Earnout Group shall be distributed to each member of the DK Earnout Group on a Pro Rata Basis, and (iii) the SBT Earnout Shares that are to be released from the Escrow Account and the 104H Trust and distributed to the SBT Earnout Group (and in case of SM to the 104H Trustee to be held solely pursuant to the Trust Agreement for his benefit), shall be distributed to each such member of the SBT Earnout Group (or in case of SM, the 104 Trustee to be held solely pursuant to the Trust Agreement) on a Pro Rata Basis. All "Pro Rata Basis" calculations shall be set forth in the applicable Release Notice and neither the Escrow Agent nor the 104H Trust shall have any duty to make such "Pro Rata Basis" calculations and shall have no liability for the accuracy of, or compliance with terms of the BCA or any other document, of any such calculations provided to it.

(b) During the period from the date of this Agreement until the date upon which all of the Earnout Shares have been distributed, DraftKings, the DEAC Founder Group and the Representative agree to promptly and jointly issue all applicable Release Notices upon the occurrence of each triggering event, as such events are described in Section 4 of this Agreement. In the event that DraftKings, the DEAC Founder Group and the Representative are unable to reach mutual agreement with each other with respect to the preparation of a Release Notice, all unresolved disputed items shall be promptly referred to and Independent Accountant and the provisions of Section 1.8(b)(ii) of the BCA shall apply as between DraftKings, the DEAC Founder Group and the Representative.

(c) Within two (2) Business Days following the receipt of any Release Notice and subject to the receipt of required documentation for compliance with applicable anti-money laundering requirements, the Escrow Agent and 104H Trustee shall release and deliver to the person or persons designated in the applicable Release Notice the number of Earnout Shares set forth in such Release Notice, by transfer of the relevant Escrowed Earnout Shares into the securities accounts designated in such Release Notice or the release of the 104H Earnout Shares from escrow to the 104H Trustee for the benefit of SM.

(d) Each of the Escrow Agent and the 104H Trustee shall be entitled to rely upon, and be held harmless for such reliance, on any Release Notice or any Escrow Joint Written Instruction (with respect to the Escrow Agent) or any Trust Joint Written Instruction (with respect to the 104H Trustee) for any action taken, suffered or omitted to be taken in good faith by it. The Escrow Agent and the 104H Trustee shall have no obligation to determine whether a triggering event has occurred or is contemplated to occur under this Agreement (including, without limitation, under Section 4), the BCA or any other document.

(e) For purposes of this Agreement, "Business Day" shall mean (i) with respect to the Escrow Agent, any day other than a Friday, Saturday, Sunday or any other day on which commercial banks in New York, New York or the location of the Escrow Agent's offices in Section 10 hereto are authorized or required by law to close, and (ii) with respect to the 104H Trustee, any day other than a Friday, Saturday, Sunday or any other day on which commercial banks in New York, New York or Israel are authorized or required by law to close.

4. **Disbursement and Termination.**

(a) Release of Escrowed Earnout Shares.

(i) One-third of the Escrowed Earnout Shares of each Earnout Recipient (other than SM), and one-third of the 104H Earnout Shares of SM, will be released from escrow and distributed to such Earnout Recipient (and in case of SM, to the 104H Trustee solely for the benefit of SM to be held solely pursuant to the Trust Agreement and not subject to this Agreement) upon receipt by the Escrow Agent or 104H Trustee, as applicable, of, and in accordance with, the applicable Release Notice delivered by the Parties in connection with the occurrence of one of the following events: (A) the volume-weighted average share price of DraftKings Class A Common Stock as displayed on DraftKings' page on Bloomberg (or any successor service) in respect of the period from 9:30 a.m. to 4:00 p.m., New York City time, on such trading day (the "Volume Weighted Average Share Price") equaling or exceeding $12.50 per share for twenty (20) of any thirty (30) consecutive trading days commencing after the Closing Date on the NASDAQ or any other national securities exchange; or (B) DraftKings consummating a transaction which results in the stockholders of DraftKings having the right to exchange their shares for cash, securities or other property having a value equaling or exceeding $12.50 per share (for any non-cash proceeds, as determined based on the agreed valuation set forth in the applicable definitive agreements for such transaction or, in the absence of such valuation, as determined in good faith by the DraftKings board of directors);

(ii) One-third of the Escrowed Earnout Shares of each Earnout Recipient (other than SM), and one-third of the 104H Earnout Shares of SM, will be released from escrow and distributed to such Earnout Recipient (and in case of SM, to the 104H Trustee solely for the benefit of SM to be held soley pursuant to the Trust Agreement) upon receipt by the Escrow Agent or 104H Trustee, as applicable, of, and in accordance with, the applicable Release Notice delivered by the Parties in connection with the occurrence of one of the following events: (A) the Volume Weighted Average Share Price equaling or exceeding $14.00 per share for twenty (20) of any thirty (30) consecutive trading days commencing after the Closing Date on the NASDAQ or any other national securities exchange; or (B) DraftKings consummating a transaction which results in the stockholders of DraftKings having the right to exchange their shares for cash, securities or other property having a value equaling or exceeding $14.00 per share (for any non-cash proceeds, as determined based on the agreed valuation set forth in the applicable definitive agreements for such transaction or, in the absence of such valuation, as determined in good faith by the DraftKings board of directors); and

(iii) One-third of the Escrowed Earnout Shares of each Earnout Recipient (other than SM), and one-third of the 104H Earnout Shares of SM, will be released from escrow and distributed to such Earnout Recipient (and in case of SM, to the 104H Trustee solely for the benefit of SM to be held soley pursuant to the Trust Agreement) upon receipt by the Escrow Agent or 104H Trustee, as applicable, of, and in accordance with, the applicable Release Notice delivered by the Parties in connection with the occurrence of one of the following events: (A) the Volume Weighted Average Share Price equaling or exceeding $16.00 per share for twenty (20) of any thirty (30) consecutive trading days commencing after the Closing Date on the NASDAQ or any other national securities exchange; or (B) DraftKings consummating a transaction which results in the stockholders of DraftKings having the right to exchange their shares for cash, securities or other property having a value equaling or exceeding $16.00 per share (for any non-cash proceeds, as determined based on the agreed valuation set forth in the applicable definitive agreements for such transaction or, in the absence of such valuation, as determined in good faith by the DraftKings board of directors).

(iv) For the avoidance of doubt, if the condition for more than one triggering event is met pursuant to this Section 4, the Parties shall deliver to each of the Escrow Agent and the 104H Trustee a Release Notice instructing all of the Escrowed Earnout Shares or 104H Earnout Shares, as applicable, to be released and distributed in connection with each such triggering event to be released and delivered to the Earnout Recipients in accordance with this Section 4 and Section 1.8 of the BCA.

(v) Upon receipt of an Escrow Joint Written Instruction (by the Escrow Agent) and a Trust Joint Written Instruction (by 104H Trustee) following the four (4)-year anniversary of the Closing Date, any Escrowed Earnout Shares remaining in the Escrow Account and any 104H Earnout Shares held in the 104H Trust following the four (4)-year anniversary of the Closing Date and not eligible to be released to the Earnout Recipients pursuant to Section 1.8 of the BCA shall thereafter be delivered by the Escrow Agent and the 104H Trustee to DraftKings for cancellation, and no Earnout Recipient shall have any rights with respect thereto. Any Dividends amounts actually received by the Escrow Agent and the 104H Trustee in respect of the Escrowed Earnout Shares and the 104H Eanout Shares that are cancelled pursuant to the foregoing (together with any net interest or earnings accumulated thereon) shall be returned to DraftKings.

(vi) For the avoidance of doubt, the release of the 104H Earnout Shares or any part of them to SM pursuant to this Agreement and Section 1.8 of the BCA, shall mean the release of such shares to the 104H Trustee for the sole benefit of SM pursuant to the terms of the Trust Agreement, and upon such release this Agreement, Section 1.8 of the BCA and all restrictions set out herein and therein shall not apply to such released 104H Earnout Shares, and such 104H Earnout Shares held by the 104H Trustee from the date of such release shall be regarded as shares beneficially owned by SM for all intents and purposes.

(b) Escrow Termination Date. Subject to the provisions of Section 8, this Agreement shall terminate after all of the Earnout Shares have been disbursed from the Escrow Account, whether to the Earnout Recipients and/or to DraftKings for cancellation (as applicable) in accordance with Section 3 and Section 4 of this Agreement.

(c) Records. The Escrow Agent and the 104H Trustee shall keep proper books of record and account in which full and correct entries shall be made of all release activity in the Escrow Account or the 104H Trust, as applicable.

5. **Escrow Agent and 104H Trustee.**

(a) Each of the Escrow Agent and the 104H Trustee (in its capacity as a trustee pursuant to this Agreement) shall have only those duties as are specifically and expressly provided herein, which shall be deemed purely ministerial in nature, and no other duties shall be implied. The Escrow Agent shall not have any fiduciary, partnership or joint venture relationship with the 104H Trustee, any Party, or any other person or entity arising out of or in connection with this Agreement. The Escrow Agent shall have no duty to supervise, and shall in no event be liable for the acts, errors or omissions of the 104H Trustee. The 104H Trustee shall not have any fiduciary, partnership or joint venture relationship with the Escrow Agent, any Party (other than any fiduciary duties vis-à-vis SM pursuant to this Agreement, the Trust Agreement or any other agreement between them, if any), or any other person or entity arising out of or in connection with this Agreement. The 104H Trustee shall have no duty to supervise, and shall in no event be liable for the acts, errors or omissions of the Escrow Agent.

(b) Neither the Escrow Agent nor the 104H Trustee (in its capacity as a trustee pursuant to this Agreement) shall be responsible for, nor chargeable with, knowledge of, nor have any requirements to comply with, the terms and conditions of any other agreement, instrument or document among the Parties, in connection herewith, if any, including without limitation the BCA, nor shall the Escrow Agent or the 104H Trustee be required to determine if any person or entity has complied with any such agreements, nor shall any additional obligations of the Escrow Agent or the 104H Trustee be inferred from the terms of such agreements, even though reference thereto may be made in this Agreement. For the avoidance of doubt, the Escrow Agent shall not be responsible for, nor chargeable with, knowledge of, nor have any requirements to comply with, the terms and conditions of the Trust Agreement or to determine if any person or entity has complied with the Trust Agreement. In the event of any conflict between the terms and provisions of this Agreement, those of the BCA, any schedule or exhibit attached to this Agreement, the Trust Agreement (solely with respect to the Escrow Agent) or any other agreement among the Parties, the terms and conditions of this Agreement shall govern and control in all respects relating to the Escrow Agent and the 104H Trustee (in its capacity as a trustee pursuant to this Agreement), but in every other respect involving the parties and beneficiaries of any such other agreement, the other agreement shall control. For the avoidance of doubt, and as between the 104H Trustee and SM, nothing herein shall derogate from the provisions of the Trust Agreement (as may be amended in accordance with its terms).

(c) Each of the Escrow Agent and the 104H Trustee may rely upon and, shall not be liable for acting or refraining from acting upon any written notice, document, instruction or request furnished to it hereunder and reasonably believed by it to be genuine and to have been signed or presented by the proper Party or Parties without inquiry and without requiring substantiating evidence of any kind. The Escrow Agent shall not be liable to any Party, the 104H Trustee, any beneficiary or other person or entity for refraining from acting upon any instruction setting forth, claiming, containing, objecting to, or related to the transfer or distribution of the Escrowed Earnout Shares, or any portion thereof, unless such instruction shall have been delivered to the Escrow Agent in accordance with Section 11 below and the Escrow Agent has been able to satisfy any applicable security procedures as may be required hereunder and as set forth in Section 11. Neither the Escrow Agent nor the 104H Trustee shall be under any duty to inquire into or investigate the validity, accuracy or content of any such document, notice, instruction or request. Each of the Escrow Agent and the 104H Trustee shall have no duty to solicit any receipt of Earnout Shares which may be due to it or the Escrow Account or 104H Trust, as applicable, nor shall the Escrow Agent or the 104H Trustee have any duty or obligation to confirm or verify the accuracy or correctness of any number or class of Earnout Shares deposited with it hereunder.

(d) Neither the Escrow Agent nor the 104H Trustee shall be liable for any action taken, suffered or omitted to be taken by it except to the extent that a final adjudication of a court of competent jurisdiction determines that the Escrow Agent's or 104H Trustee's, as applicable, gross negligence or willful misconduct was the primary cause of any loss to either Party. The Escrow Agent may execute any of its powers and perform any of its duties hereunder directly or through affiliates or agents and the Escrow Agent shall not be liable for any action taken, suffered or omitted to be taken by any such attorney or agent absent gross negligence, bad faith or willful misconduct (each as determined by a final, nonappealable judgment of a court of competent jurisdiction) in the selection and continued employment thereof. Each of the Escrow Agent and the 104H Trustee may consult with counsel, accountants and other skilled persons to be selected and retained by it. Neither the Escrow Agent nor the 104H Trustee shall be liable for any action taken, suffered or omitted to be taken by it in accordance with, or in reasonable reliance upon, the advice or opinion of any such counsel, accountants or other skilled persons. In the event that the Escrow Agent or the 104H Trustee, as applicable, shall be uncertain or believe there is some ambiguity as to its duties or rights hereunder or shall receive instructions, claims or demands from any party hereto which, in its opinion, conflict with any of the provisions of this Agreement, it shall be entitled to refrain from taking any action and its sole obligation shall be to keep safely all property held in escrow until it shall be given a direction in writing by the Parties which eliminates such ambiguity or uncertainty to the satisfaction of Escrow Agent or the 104H Trustee, as applicable, or by a final and non-appealable order or judgment of a court of competent jurisdiction. The Parties agree to pursue any redress or recourse in connection with any dispute arising under the BCA without making the Escrow Agent or the 104H Trustee a party to the same. Anything in this Agreement to the contrary notwithstanding, in no event shall either the Escrow Agent or the 104H Trustee be liable for special, incidental, punitive, indirect or consequential loss or damage of any kind whatsoever (including but not limited to lost profits), even if the Escrow Agent or the 104H Trustee, as applicable, has been advised of the likelihood of such loss or damage and regardless of the form of action.

6. **Succession.**

(a) The Escrow Agent may resign and be discharged from its duties or obligations hereunder by giving thirty (30) days advance notice (pursuant to Section 10) in writing of such resignation to the Parties specifying a date when such resignation shall take effect. By delivery of a Joint Written Instruction, the Parties shall have the right to terminate their appointment of the Escrow Agent, or successor escrow agent, as Escrow Agent, upon thirty (30) days' notice to the Escrow Agent. If the Escrow Agent shall resign, be removed or otherwise become incapable of acting, the Parties shall appoint a successor to be the Escrow Agent. If the Parties have failed to appoint a successor escrow agent prior to the expiration of thirty (30) days after giving notice of such removal or following the receipt of the notice of resignation or incapacity, the Escrow Agent may petition any court of competent jurisdiction for the appointment of a successor escrow agent within the relevant jurisdiction or for other appropriate relief, and any such resulting appointment shall be binding upon all of the parties hereto. Escrow Agent's sole responsibility after such thirty (30) day notice period expires shall be to hold the Escrowed Earnout Shares (without any obligation to reinvest the same) and to deliver the same to a designated substitute escrow agent as jointly instructed in writing by the Parties, if any, or in accordance with the directions of a final order or judgment of a court of competent jurisdiction, at which time of delivery Escrow Agent's obligations hereunder shall cease and terminate, subject to the provisions of Section 8 hereunder. The Escrow Agent shall have the right to withhold monies or property in an amount equal to any amount due and then owing to the Escrow Agent, plus any costs and expenses the Escrow Agent shall reasonably believe may be incurred by the Escrow Agent that the Parties are obligated to indemnify or reimburse the Escrow Agent for pursuant to this Agreement in connection with the termination of this Agreement, so long as the Escrow Agent has previously submitted a written invoice in respect thereof to the Parties that the Parties have not paid within 30 days of receipt of such invoice.

(b) Any entity into which the Escrow Agent may be merged or converted or with which it may be consolidated, or any entity to which all or substantially all the escrow business may be transferred, shall be the Escrow Agent under this Agreement without further action on the part of any party hereto. The Escrow Agent shall promptly notify the Parties in the event this occurs.

(c) Every successor escrow agent appointed hereunder shall execute, acknowledge and deliver to its predecessor, and also to the Parties, an instrument in writing accepting such appointment hereunder, and thereupon such successor escrow agent, without any further action, shall become fully vested with all the rights, immunities and powers and shall be subject to all of the duties and obligations, of its predecessor; and every predecessor escrow agent shall deliver all property and moneys held by it hereunder to such successor escrow agent, at which time of delivery the Escrow Agent's obligations hereunder shall cease and terminate, subject to the provisions of Section 8.

(d) The 104H Trustee may be replaced in respect of his role in this Agreement by SM in the same manner set out in the Trust Agreement and by the same person that replaces the 104H Trustee under the Trust Agreement, and any trustee replacing the 104H Trustee under the 104H Trust Agreement, shall be deemed the 104H Trustee for all purposes of this Agreement after having received the then applicable number of the 104H Earnout Shares from such 104H Trustee. The provisions of Section 6(c) shall apply mutatis mutandis to the successor 104H Trustee.

7. **Compensation and Reimbursement.** DraftKings agrees to (a) pay the Escrow Agent upon execution of this Agreement and from time to time thereafter all reasonable compensation for the services to be rendered hereunder as described in Schedule 2 attached hereto, and (b) pay or reimburse the Escrow Agent upon request for all expenses, disbursements and advances, including, without limitation reasonable attorney's fees and expenses, incurred or made by it in connection with the performance, modification and termination of this Agreement. For the avoidance of doubt, all matters relating to compensation and reimbursement of expenses of the 104H Trustee are as addressed in the Trust Agreement.

8. **Indemnity.**

(a) Subject to Section 8(c) below, each of the Escrow Agent and the 104H Trustee (severally in respect of itself and its actions) shall be liable for any and all losses, damages, claims, costs, charges, penalties and related interest, counsel fees and expenses, payments, expenses and liability (collectively, "Losses"), only to the extent such Losses are determined by a court of competent jurisdiction to be a result of its own gross negligence, bad faith or willful misconduct; provided, however, that any liability of the Escrow Agent will be limited in the aggregate to the aggregate value of the Escrowed Earnout Shares deposited with the Escrow Agent and any liability of the 104H Trustee will be limited in the aggregate to the aggregate value of the 104H Earnout Shares deposited with the 104H Trustee.

(b) The Parties shall jointly and severally indemnify and hold the Escrow Agent harmless from and against, and the Escrow Agent shall not be responsible for, any and all Losses arising out of or attributable to the Escrow Agent's duties under this Agreement or this appointment, including the reasonable costs and expenses of defending itself against any Losses or enforcing this Agreement (collectively, "Agent Claims"), except to the extent that such Losses are determined by a court of competent jurisdiction to be a result of the Escrow Agent's own gross negligence, bad faith or willful misconduct (as determined by final adjudication of a court of competent jurisdiction). Notwithstanding the foregoing, and except as provided in Section 7, as between themselves, the Parties agree that any Agent Claims payable hereunder shall be paid (or reimbursed, as applicable): (a) in the case that the Agent Claim is not attributable to actions or inactions of any particular Party, one-third by each of the DEAC Founder Group, DraftKings and the SBT Earnout Group (and each such Party shall reimburse any of the other Parties that has paid more than its one-third share, so that the each of them bears one-third of any such cost); and (b) in the event that the Agent Claim is attributable to the actions or inactions of a certain Party, by such Party (and such Party shall reimburse the other Parties, in the event that such other Party(ies) has made indemnification payments under this Section 8(b) in respect of such Agent Claim).

(c) Notwithstanding anything in this Agreement to the contrary, none of the Parties, the Escrow Agent or the 104H Trustee shall be liable for any incidental, indirect, special or consequential damages of any nature whatsoever, including, but not limited to, loss of anticipated profits, occasioned by a breach of any provision of this Agreement even if apprised of the possibility of such damages.

(d) In order that the indemnification provisions contained in this Section 8 shall apply, upon the assertion of a claim for which one party may be required to indemnify the other, the party seeking indemnification shall promptly notify the other party of such assertion in writing after it becomes aware, and shall keep the other party advised with respect to all developments concerning such claim; provided, that failure to give prompt notice shall not relieve the indemnifying party of any liability to the indemnified party, except to the extent that the indemnifying party demonstrates that the defense of such action has been materially prejudiced by the indemnified party's failure to timely give such notice. The indemnifying party shall have the option to participate with the indemnified party in the defense of such claim or to defend against said claim in its own name or the name of the indemnified party unless such claim is (i) brought by the indemnifed party or (ii) the indemnified party reasonably determines that there may be a conflict of interest between the indemnified party and the indemnifying party in the defense of such claim and the indemnified party does in fact assume the defense. The indemnified party shall in no case confess any claim, make any compromise or take any action adverse to the indemnifying party in any case in which the indemnifying party may be required to indemnify it, except with the indemnifying party's prior written consent, which shall not be unreasonably withheld or delayed.

(e) For the avoidance of doubt, this Section 8 shall survive termination of this Agreement or the resignation, replacement or removal of the Escrow Agent and/or the 104H Trustee for any reason.

9. **Patriot Act Disclosure/Taxpayer Identification Numbers/Tax Reporting.**

(a) **Patriot Act Disclosure.** Section 326 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 ("USA PATRIOT Act") requires the Escrow Agent to implement reasonable procedures to verify the identity of any person that opens a new account with it. Accordingly, the Parties acknowledge that Section 326 of the USA PATRIOT Act and the Escrow Agent's identity verification procedures require the Escrow Agent to obtain applicable information which is required to confirm the Parties' identity including without limitation name, address and organizational documents ("identifying information"). The Parties agree to provide the Escrow Agent with and consent to the Escrow Agent obtaining from third parties any such identifying information required as a condition of opening an account with or using any service provided by the Escrow Agent.

(b) **Certification and Tax Reporting.** The Parties have provided the Escrow Agent with their respective fully executed Internal Revenue Service ("IRS") Form W-8, or W-9. The Escrow Agent shall make such reports to the applicable tax authorities as directed jointly by DraftKings and the Representative and shall have no obligation under this Agreement to make any other reports with respect to taxes. If required by law, the Escrow Agent shall withhold any taxes it deems appropriate in the absence of proper tax documentation or as required by law, and shall remit such taxes to the appropriate authorities. Notwithstanding anything to the contrary set out herein, the provisions of this Agreement shall not apply to any tax reporting and withholding requirement applying to the 104H Earnout Shares and any Trust Dividends, and any tax reporting and withholding in respect of the 104H Earnout Shares and the Trust Dividends shall only be made pursuant to the Trust Agreement.

10. **Notices.** All notices, demands and other communications given pursuant to the terms and provisions hereof shall be in writing, except for communications from the Parties setting forth, claiming, containing, objecting to, or in any way related to the transfer or distribution of funds, including but not limited to funds transfer instructions (all of which shall be specifically governed by Section 11 below), shall be deemed effective on the date of receipt, and may be sent by:
(a) by facsimile or other electronic submission (including e-mail);
(b) by overnight courier or delivery service; or
(c) by certified or registered mail, return receipt requested;

to the appropriate notice address set forth below or at such other address as any party hereto may have furnished to the other parties in writing by registered mail, return receipt requested.

If to DraftKings:	DraftKings Inc. 222 Berkeley St Boston, MA 02116 Attention: Stanton Dodge Email: sdodge@draftkings.com
With a copy to:	Sullivan & Cromwell LLP 125 Broad Street New York, NY 10004 Attention: Scott D. Miller Facsimile No.: (212) 291-9101 Email: millersc@sullcrom.com
If to Representative:	Shalom Meckenzie [Address on file with Company]
With a copy to:	Herzog Fox & Neeman Asia House, 4 Weizmann St. Tel Aviv 6423904, Israel Attention: Gil White; Ran Hai Facsimile No.: +972-3-6966464 Email: white@hfn.co.il; ranh@hfn.co.il
If to 104H Trustee:	I.B.I. Trust Management 9 Ehad Ha'am St., Shalom Tower, Tel-Aviv 6525101 Attention: Mr. Tzvika Bernstein. Telephone No.: +972 506 209 410 Facsimile No.: +972 3 519 0341 (att: Tzvika) E- Mail: Tzvika@102trust.com
If to DEAC Founder Group:	Diamond Eagle Acquisition Corp. 2121 Avenue of the Stars, Suite 2300 Los Angeles, CA 90067 Attention: Eli Baker Facsimile No.: (310) 552-4508 E-mail: elibaker@geacq.com
With a copy to:	Winston & Strawn LLP 333 South Grand Avenue, 38th Floor Los Angeles, CA 90071 Attention: Joel L. Rubinstein Facsimile No.: (212) 294-4700 Email: JRubinstein@winston.com
If to the Escrow Agent:	Computershare Trust Company, N.A. 8742 Lucent Boulevard, Suite 225 Highlands Ranch, CO 80129 Attention: Rose Stroud and/or Jay Ramos Facsimile No.: (303) 262-0608 Email: corporate.trust@computershare.com and rose.stroud@computershare.com; jay.ramos@computershare.com

With a copy to: Computershare Trust Company, N.A.
480 Washington Boulevard
Jersey City, NJ 07310
Attention: General Counsel
Facsimile No.: (201) 680-4610

11. **Security Procedures.**

(a) Notwithstanding anything to the contrary as set forth in this Agreement, any instructions setting forth, claiming, containing, objecting to, or in any way related to the transfer or distribution of the Escrowed Earnout Shares, including but not limited to any such instructions that may otherwise be set forth in a written instruction permitted pursuant to Section 4 of this Agreement, may be given to the Escrow Agent only by confirmed facsimile or other electronic transmission (including e-mail) and no instruction for or related to the transfer or distribution of the Escrowed Earnout Shares, or any portion thereof, shall be deemed delivered and effective unless the Escrow Agent actually shall have received such instruction by facsimile or other electronic transmission (including e-mail) at the number or e-mail address provided to the Parties by the Escrow Agent in accordance with Section 10 and as further evidenced by a confirmed transmittal to that number or e-mail address.

(b) In the event transfer instructions are so received by the Escrow Agent by facsimile or other electronic submission (including e-mail), the Escrow Agent is authorized to seek confirmation of such instructions by telephone call-back to the person or persons designated on Schedule 1 hereto, and the Escrow Agent may rely upon the confirmation of anyone purporting to be the person or persons so designated. The persons and telephone numbers for call-backs may be changed only in a writing actually received and acknowledged by the Escrow Agent. If the Escrow Agent is unable to contact any of the authorized representatives of DraftKings identified in Schedule 1 after a reasonable amount of time, the Escrow Agent is hereby authorized both to receive written instructions from and seek written confirmation of such instructions to any one or more of DraftKings' executive officers ("Executive Officers"), as the case may be, which shall include the titles of Chief Legal Officer and Chief Financial Officer, as the Escrow Agent may select. Such Executive Officer shall deliver to the Escrow Agent a fully executed incumbency certificate, and the Escrow Agent may rely upon the confirmation of anyone purporting to be any such officer as confirmation on behalf of DraftKings.

(c) The Escrow Agent shall only deliver or distribute the Escrowed Earnout Shares upon receipt of and in accordance with the delivery instructions set forth in the applicable Escrow Joint Written Instructions or Release Notice.

(d) The Parties acknowledge that the security procedures set forth in this Section 11 are commercially reasonable.

(e) For the avoidance of doubt, the procedures in this Section 11 shall not apply to the 104H Trustee and the 104H Earnout Shares.

(f) For all purposes and intents of this Agreement, any instruction, agreement, consent, waiver, notice to or notice by any of Harry Sloan, Jeff Sagansky or Eli Baker, shall deemed to be as an instruction, agreement, consent, waiver, notice to or notice by all of the DEAC Founder Group (and all members of the DEAC Founder Group hereby irrevocably and unconditionally agree to be bound by the same), and in case of conflicting instructions, agreement, consent, waiver or notice by two or more of Harry Sloan, Jeff Sagansky and/or Eli Baker, the other parties hereto shall be fully protected and shall not incur any liability in relying on the first of which to be delivered to the Escrow Agent or the 104H Trustee in accordance with the terms hereof and ignore all others.

12. **Compliance with Court Orders.** In the event that any escrow or trust property shall be attached, garnished or levied upon by any court order, or the delivery thereof shall be stayed or enjoined by an order of a court, or any order, judgment or decree shall be made or entered by any court affecting the property deposited under this Agreement, each of the Escrow Agent and the 104H Trustee is hereby expressly authorized, in its sole discretion, to obey and comply with all writs, orders, judgments or decrees so entered or issued, which it is advised by legal counsel of its own choosing is binding upon it, whether with or without jurisdiction, and in the event that the Escrow Agent or the 104H Trustee, as applicable, obeys or complies with any such writ, order, judgment or decree it shall not be liable to any of the parties hereto or to any other person, entity, firm or corporation, by reason of such compliance notwithstanding such writ, order or decree be subsequently reversed, modified, annulled, set aside or vacated.

13. **Miscellaneous.**

(a) Amendment. Except for transfer instructions as provided in Section 11, the provisions of this Agreement may be waived, altered, amended or supplemented, in whole or in part, only by a writing signed by the parties hereto.

(b) Assignment. Neither this Agreement nor any right, obligation or interest hereunder may be assigned in whole or in part by any party hereto, except as provided in Section 6, without the prior written consent of all of the other parties hereto.

(c) Governing Law; Jurisdiction. This Agreement shall be governed by and construed under the laws of the State of New York, without regard to principles of law (including conflicts of law) that will require the application of the laws of any other jurisdiction. Each party to this Agreement irrevocably waives any objection on the grounds of venue, forum non-conveniens, lack of jurisdiction or any similar grounds and irrevocably consents to service of process by mail or in any other manner permitted by applicable law and consents to the jurisdiction of any court of the State of New York or United States federal court, in each case, sitting in New York County, New York. The parties to this Agreement further hereby waive any right to a trial by jury with respect to any lawsuit or judicial proceeding arising or relating to this Agreement. Subject to the foregoing, as between the 104H Trustee and SM, the provisions of the Trust Agreement shall apply and prevail.

(d) Force Majeure. No party to this Agreement is liable to any other party for losses due to, or if it is unable to perform its obligations under the terms of this Agreement because of acts reasonably beyond its control including, without limitation, acts of God, fire, terrorism, disease, pandemic, floods, strikes, shortage of supply, breakdowns or malfunctions, interruptions or malfunction of computer facilities, or loss of data due to power failures or mechanical difficulties with information storage or retrieval systems, labor difficulties, war, or civil unrest; provided, that each of the Escrow Agent and the 104H Trustee shall use commercially reasonable efforts to resume performance as soon as practicable. If any such act occurs, then the Escrow Agent or the 104H Trustee, as applicable, shall give, as promptly as practicable, written notice to the Parties, stating the nature of such act and any action being taken to avoid or minimize its effect.

(e) Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. All signatures of the parties to this Agreement may be transmitted by facsimile or pdf (including via e-mail). A signature to this Agreement transmitted electronically shall have the same authority, effect, and enforceability as an original signature, and will be binding and effective upon such party when a counterpart shall have been signed by each of the parties and delivered to the other parties.

(f) Severability. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction or other authority to be invalid, void or unenforceable by reason of any applicable law of a jurisdiction, then the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

(g) Interpretation. When a reference is made in this Agreement to Sections, such reference shall be to a Section of this Agreement unless otherwise indicated. Whenever the words “include,” “includes” or “including” are used in this Agreement they shall be deemed to be followed by the words “without limitation.” The table of contents and headings set forth in this Agreement are for convenience of reference purposes only and shall not affect or be deemed to affect in any way the meaning or interpretation of this Agreement or any term or provision hereof. All references to currency, monetary values and dollars set forth herein shall mean U.S. dollars. The Parties agree that they have been represented by counsel during the negotiation and execution of this Agreement and, therefore, waive the application of any Law, regulation, holding or rule of construction providing that ambiguities in an agreement or other document will be construed against the party drafting such agreement or document.

(h) Enforcement, Remedies and Compliance. A person or entity who is not a party to this Agreement shall have no right to enforce any term of this Agreement. Each Party represents, warrants and covenants that each document, notice, instruction or request provided by such Party to the Escrow Agent or the 104H Trustee shall comply with applicable laws and regulations. Where, however, the conflicting provisions of any such applicable law may be waived, they are hereby irrevocably waived by the parties hereto to the fullest extent permitted by law, to the end that this Agreement shall be enforced as written. Except as expressly provided in Section 8 above, nothing in this Agreement, whether express or implied, shall be construed to give to any person or entity other than the Escrow Agent, the 104H Trustee and the Parties any legal or equitable right, remedy, interest or claim under or in respect of this Agreement or any funds escrowed hereunder. Except as otherwise expressly provided herein or as between the applicable Parties, in the BCA (and as between the 104H Trustee and SM only, in the Trust Agreement), any and all remedies herein expressly conferred upon a party hereto will be deemed cumulative with and not exclusive of any other remedy conferred hereby, or by law or equity upon such party, and the exercise by a party hereto of any one remedy will not preclude the exercise of any other remedy.

(i) Waiver of Jury Trial. EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT AND THE TRANSACTIONS CONTEMPLATED HEREBY OR IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES IN RESPECT OF THIS AGREEMENT OR ANY OF THE TRANSACTIONS RELATED HERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER IN CONTRACT, TORT, EQUITY OR OTHERWISE. EACH PARTY HERETO HEREBY FURTHER AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY AND THAT THE PARTIES HERETO MAY FILE AN ORIGINAL COUNTERPART OF A COPY OF THIS AGREEMENT WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY. EACH PARTY HERETO CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HERETO HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY HERETO WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE SUCH WAIVER, (B) IT UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF SUCH WAIVER, (C) IT MAKES SUCH WAIVER VOLUNTARILY, AND (D) IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 13(i).

(j) Publicity. Except as may be required by applicable law (including securities laws), court order, regulatory authority (including a securities authority) or as shall be required or desirable to be presented by a party to any tax authority of such party, none of the parties hereto shall disclose, issue a news release, public announcement, advertisement, or other form of publicity concerning the existence of this Agreement or the services to be provided hereunder without obtaining the prior written approval of the other parties hereto, which may be withheld in the other party's sole discretion; provided that the Escrow Agent and the 104H Trustee may use DraftKings' name in its customer lists or otherwise as required by applicable law or regulation.

(k) Successors. All the covenants and provisions of this Agreement by or for the benefit of the parties hereto shall bind and inure to the benefit of their respective permitted successors and assigns hereunder.

(l) Third Party Beneficiaries. The provisions of this Agreement are intended to benefit only the parties hereto (and in respect of the Representative, while acknowledging that he is acting for the benefit of the SBT Sellers) and their respective permitted successors and assigns. No rights shall be granted to any other person or entity by virtue of this Agreement, and there are no third party beneficiaries hereof.

(m) Survival. Notwithstanding anything to the contrary, all provisions regarding indemnification, liability and limits thereon, compensation and expenses (with respect to any fees or expenses payable in respect of the period preceding the termination or expiry of this Agreement) and confidentiality shall survive the termination or expiration of this Agreement. For the avoidance of doubt, Section 8, Section 6, Section 7 (with respect to any fees or expenses payable in respect of the period preceding the termination or expiry of this Agreement) and Section 13 shall survive termination of this Agreement or the resignation, replacement or removal of the Escrow Agent and/or the 104H Trustee for any reason.

(n) Merger of Agreement. This Agreement constitutes the entire agreement between the parties hereto and supersedes any prior agreement with respect to the subject matter hereof, whether oral or written (except that as between SM and the 104H Trustee, the Trust Agreement shall also govern in respect of the 104H Earnout Shares, in accordance with the terms thereof).

(o) No Strict Construction. The parties hereto have participated jointly in the negotiation and drafting of this Agreement. In the event any ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by all parties hereto, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provision of this Agreement.

* * * * *

IN WITNESS WHEREOF, the parties hereto have executed this Escrow Agreement as of the date set forth above.

DRAFTKINGS INC.

By: /s/ Faisal Hasan

Name: Faisal Hasan

Title: Vice President, Associate General Counsel

SBT SELLERS' REPRESENTATIVE

By: /s/ Shalom Meckenzie

Name: Shalom Meckenzie

I.B.I. TRUST MANAGEMENT
as 104H Trustee

By: /s/ Tzvika Bernstein

Name: Tzvika Bernstein

Title: CFO

EAGLE EQUITY PARTNERS LLC

By: /s/ Eli Baker

Name: Eli Baker

Title: Member

JEFF SAGANSKY

/s/ Jeff Sagansky

ELI BAKER

/s/ Eli Baker

HARRY E. SLOAN

/s/ Harry E. Sloan

COMPUTERSHARE TRUST COMPANY, N.A.
as Escrow Agent

By: /s/ Jaddiel Ramos

Name: Jaddiel Ramos

Title: Corporate Trust Officer

Exhibit 10.9

STOCKHOLDERS AGREEMENT

This **STOCKHOLDERS AGREEMENT** (this "Agreement"), dated as of April 23, 2020, is entered into by and among DraftKings Inc., a Nevada corporation (the "Company"), DK Stockholder Group, DEAC Stockholder Group, SBT Stockholder Group and each other Person who after the date hereof acquires Common Stock of the Company and becomes party to this Agreement by executing a Joinder Agreement (such Persons, collectively with the DK Stockholder Group, DEAC Stockholder Group and SBT Stockholder Group, the "Stockholders").

WHEREAS, pursuant to that certain Business Combination Agreement, dated as of December 22, 2019 (as the same may be further amended, modified or otherwise supplemented from time to time, the "BCA"), by and among Diamond Eagle Acquisition Corp., a Delaware corporation ("DEAC"), DK, SB Tech, the SBT Sellers (as defined in the BCA), DEAC NV Merger Corp. ("DEAC Newco"), a Nevada corporation, and Merger Sub (as defined in the BCA), DEAC merged with and into DEAC Newco, with DEAC Newco surviving such merger and changing its name to DraftKings Inc. ("New DK");

WHEREAS, as of immediately prior to the consummation of the transactions contemplated by the BCA (the "Transactions"), DEAC had 40,000,000 shares of Class A common stock issued and outstanding and 10,000,000 shares of Class B common stock issued and outstanding, of which an aggregate of 80,000 shares of such Class B common stock were transferred to DEAC's independent directors (the "DEAC Independent Directors") and the remaining 9,020,000 shares of such Class B common stock (the "DEAC Founder Shares") were held by the DEAC Founder Group;

WHEREAS, concurrently with the consummation of the Transactions, the Class B common stock of DEAC (including the DEAC Founder Shares) automatically converted into shares of Class A common stock of DEAC on a one-for-one basis pursuant to the Amended and Restated Certificate of Incorporation of DEAC, dated as of May 10, 2019;

WHEREAS, in connection with consummation of the Transactions, (i) the Company adopted the A&R Charter (as defined herein) and became the new publicly-traded parent company of DK and SB Tech, and (ii) the DK Stockholder Group and SBT Stockholders Group received shares of Class A Common Stock and Class B Common Stock (as such terms are defined herein) as consideration in the Transactions in respect of their equity interests held in DK and SB Tech, respectively, as of immediately prior to the consummation of the Transactions;

WHEREAS, as part of the Transactions, the stockholders of DK received stock of the Company in a transaction that was intended to be treated as a tax-free reorganization under Section 368 of the Internal Revenue Code of 1986, as amended; and

WHEREAS, the parties hereto desire to enter into this Agreement to provide for certain rights and obligations associated with the ownership of shares of Common Stock.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, intending to be legally bound, the parties hereto agree as follows:

ARTICLE I.
DEFINITIONS

Section 1.01 Definitions.

The following definitions shall apply to this Agreement:

"A&R Bylaws" means the amended and restated bylaws of the Company adopted on the date of this Agreement, as the same may be amended, modified, supplemented or restated from time to time.

"A&R Charter" means the articles of incorporation of the Company, as filed on the date of this Agreement with the Secretary of the State of Nevada and as the same may be amended, modified, supplemented or restated from time to time.

"Adverse Disclosure" means any public disclosure of material non-public information, which disclosure, in the good faith judgment of the Chief Executive Officer or Chief Financial Officer of the Company, after consultation with counsel to the Company, (i) would be required to be made in any Registration Statement or Prospectus in order for the applicable Registration Statement or Prospectus not to contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements contained therein (in the case of any prospectus and any preliminary prospectus, in the light of the circumstances under which they were made) not misleading, (ii) would not be required to be made at such time if the Registration Statement were not being filed, and (iii) the Company has a bona fide business purpose for not making such information public.

"Affiliate" with respect to any Person, has the meaning ascribed to such term under Rule 12b-2 promulgated by the SEC under the Exchange Act.

"Agreement" has the meaning set forth in the preamble.

"Applicable Law" means all applicable provisions of constitutions, treaties, statutes, laws (including the common law), rules, regulations, decrees, ordinances, codes, proclamations, declarations or orders of any Governmental Authority.

"BCA" has the meaning set forth in the recitals.

"Board" has the meaning set forth in Section 2.01(a).

"Business Day" means any day except a Saturday, Sunday or other day on which commercial banks in the City of New York are authorized or required by law to close.

"CEO" means Jason Robins, the chief executive officer of the Company, or any entities wholly-owned by him.

"Class A Common Stock" means the shares of class A common stock, with a par value of $.0001 per share, of the Company.

"Class B Common Stock" means the shares of class B common stock, with a par value of $.0001 per share, of the Company.

"Closing" means the closing of the Transactions.

"Commission" means the Securities and Exchange Commission.

"Common Stock" means the Class A Common Stock, Class B Common Stock and any other shares of common stock of the Company issued or issuable with respect thereto (whether by way of a stock dividend or stock split or in exchange for or upon conversion of such shares or otherwise in connection with a combination of shares, distribution, recapitalization, merger, consolidation, other corporate reorganization or other similar event); provided, that shares of Class A Common Stock acquired in the Equity Offering or pursuant to the Promissory Notes (as such terms are defined in the BCA) shall not constitute shares of Common Stock for purposes of this Agreement.

"Company" has the meaning set forth in the preamble.

"Company Equity Interest" means Common Stock or any other equity securities of the Company, or securities exchangeable or exercisable for, or convertible into, such other equity securities of the Company.

"Company Material Adverse Effect" has the meaning set forth in Section 4.03(d).

"control" (i) with respect to any Person, has the meaning ascribed to such term under Rule 12b-2 promulgated by the SEC under the Exchange Act, (ii) with respect to any Interest, means the possession, directly or indirectly, of the power to direct, whether by agreement, contract, agency or otherwise, the voting rights or disposition of such Interest, and (iii) as applicable, the meaning ascribed to the term "control" (and derivatives of such term) under the Gaming Laws of any applicable Gaming Jurisdictions.

"DEAC Founder Group" means Eagle Equity Partners LLC, Jeff Sagansky, Eli Baker and Harry E. Sloan.

"DEAC Founder Group Representative" means Eli Baker.

"DEAC Founder Shares" has the meaning set forth in the recitals.

"DEAC Independent Directors" has the meaning set forth in the recitals.

"DEAC Lock-up Period" has the meaning set forth in Section 3.01(b).

"DEAC Stockholder" means any Person who is a member of the DEAC Stockholder Group.

"DEAC Stockholder Group" means the DEAC Founder Group and the DEAC Independent Directors.

"Demanding Holders" has the meaning set forth in Section 6.02(a).

"Director" has the meaning set forth in Section 2.01(a).

"DK" means DraftKings Inc., a Delaware corporation and, upon the Closing, a wholly-owned subsidiary of the Company.

"DK Stockholder" means any Person who is a member of the DK Stockholder Group.

"DK Stockholder Group" means the Persons set forth on Schedule 1 hereto.

"DK Stockholder Group Representative" means Jason Robins.

"DK/SBT Lock-up Period" has the meaning set forth in Section 3.01(a).

"Encumbrances" has the meaning set forth in the BCA.

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Family Group" means, with respect to a Person who is an individual, (i) such individual's spouse and descendants (whether natural or adopted), parents and such parent's descendants (whether natural or adopted) (collectively, for purposes of this definition, "relatives"), (ii) such individual's executor or personal representative, (iii) any trust, the trustee of which is such individual or such individual's executor or personal representative and which at all times is and remains solely for the benefit of such individual and/or such individual's relatives or (iv) an endowed trust or other charitable foundation, but only if such individual or such individual's executor or personal representative maintains control over all voting and disposition decisions.

"Government Approval" means any authorization, consent, approval, waiver, exception, variance, order, exemption, publication, filing, declaration, concession, grant, franchise, agreement, permission, permit, or license of, from or with any Governmental Authority, the giving notice to, or registration with, any Governmental Authority or any other action in respect of any Governmental Authority.

"Governmental Authority" means any government, court, regulatory or administrative agency, commission or authority or other governmental instrumentality, federal, state or local, domestic, foreign or multinational, including any Gaming Authority and any contractor acting on behalf of such agency, commission, authority or governmental instrumentality.

"Independent Accountant" has the meaning set forth in Section 6.02(b).

"Interest" means the capital stock or other securities of the Company or any Affiliated Company or any other interest or financial or other stake therein, including, without limitation, the Company Equity Interests.

"Issuance" has the meaning set forth in Section 4.01(a).

"Issuance Notice" has the meaning set forth in Section 4.01(b).

"Joinder Agreement" means the joinder agreement in form and substance of Exhibit A attached hereto.

"Maximum Number of Securities" has the meaning set forth in Section 6.02(c).

"Minimum Amount" has the amount set forth in Section 6.02(a).

"Misstatement" means an untrue statement of a material fact or an omission to state a material fact required to be stated in a Registration Statement or Prospectus, or necessary to make the statements in a Registration Statement or Prospectus (in the light of the circumstances under which they were made) not misleading.

"Organizational Documents" means the A&R Bylaws and the A&R Charter.

"own" or "ownership" (and derivatives of such terms) means (i) ownership of record, (ii) "beneficial ownership" as defined in Rule 13d-3 or Rule 16a-1(a)(2) promulgated by the SEC under the Exchange Act (but without regard to any requirement for a security or other interest to be registered under Section 12 of the Securities Act of 1933, as amended), and (iii) as applicable, the meaning ascribed to the terms "own" or "ownership" (and derivatives of such terms) under the Gaming Laws of any applicable Gaming Jurisdictions.

"Person" means an individual, corporation, limited liability company, partnership, association, trust or other entity or organization, including a government or political subdivision or an agency or instrumentality thereof.

"Piggyback Registration" has the meaning set forth in Section 6.03(a).

"Private Placement Warrants" means the 6,333,334 warrants purchased by the DEAC Founder Group pursuant to that certain Private Placement Warrants Purchase Agreement, dated as of May 10, 2019, by and among DEAC, Eagle Equity Partners, LLC and Harry E. Sloan.

"Prospectus" means the prospectus included in any Registration Statement, as supplemented by any and all prospectus supplements and as amended by any and all post-effective amendments and including all material incorporated by reference in such prospectus.

"Registrable Securities" shall mean (i) Common Stock and the shares of Common Stock issued or issuable upon the conversion of Common Stock; (ii) the Private Placement Warrants, including the shares of Common Stock issued or issuable upon the exercise of any Private Placement Warrants; (iii) any outstanding shares of Common Stock or any other equity security (including the shares of Common Stock issued or issuable upon the exercise of any other equity security) of the Company held by a Stockholder as of the date hereof, including the Earnout Shares, and (iv) any other equity security of the Company issued or issuable with respect to any such share of Common Stock by way of a stock dividend or stock split or in connection with a combination of shares, recapitalization, merger, consolidation or reorganization; provided, however, that as to any particular Registrable Security, such securities shall cease to be Registrable Securities when: (A) a Registration Statement with respect to the sale of such securities shall have become effective under the Securities Act and such securities shall have been sold, transferred, disposed of or exchanged in accordance with such Registration Statement; (B) such securities shall have been otherwise transferred, new certificates for such securities not bearing a legend restricting further transfer shall have been delivered by the Company and subsequent public distribution of such securities shall not require registration under the Securities Act; (C) such securities shall have ceased to be outstanding; (D) such securities may be sold without registration pursuant to Rule 144 promulgated under the Securities Act (or any successor rule promulgated thereafter by the Commission) ("Rule 144") (but with no volume, current public information or other restrictions or limitations); or (E) such securities have been sold to, or through, a broker, dealer or underwriter in a public distribution or other public securities transaction.

"Registration" means a registration effected by preparing and filing a registration statement or similar document in compliance with the requirements of the Securities Act, and the applicable rules and regulations promulgated thereunder, and such registration statement becoming effective.

"Registration Expenses" shall mean the out-of-pocket expenses of a Registration, including, without limitation, the following:

(A) all registration and filing fees (including fees with respect to filings required to be made with the Financial Industry Regulatory Authority, Inc.) and any securities exchange on which the Common Stock is then listed;

(B) fees and expenses of compliance with securities or blue sky laws;

(C) printing, messenger, telephone and delivery expenses;

(D) reasonable fees and disbursements of counsel for the Company;

(E) reasonable fees and disbursements of all independent registered public accountants of the Company incurred specifically in connection with such Registration (including the expenses of any "comfort letters" required by or incident to such performance); and

(F) reasonable fees and expenses of one (1) legal counsel selected by the Demanding Holders in connection with an Underwritten Offering, not to exceed $75,000.

"Registration Statement" means any registration statement that covers the Registrable Securities pursuant to the provisions of this Agreement, including the Prospectus included in such registration statement, amendments (including post-effective amendments) and supplements to such registration statement, and all exhibits to and all material incorporated by reference in such registration statement.

"Representative" means, with respect to any Person, any director, officer, employee, consultant, financial advisor, counsel, accountant or other agent of such Person.

"SB Tech" means SB Tech (Global) Limited, a company limited by shares, incorporated in Gibraltar, continued as a company under the Isle of Man Companies Act 2006, with registration number 014119V and, upon the Closing, a wholly-owned subsidiary of the Company.

"SBT Stockholder" means any Person who is a member of the SBT Stockholder Group.

"SBT Stockholder Group" means the SBT Sellers (as such term is defined in the BCA).

"SEC" means the U.S. Securities and Exchange Commission.

"Securities Act" means the Securities Act of 1933, as amended.

"Stockholder Groups" means the DK Stockholder Group, the SBT Stockholder Group and the DEAC Stockholder Group.

"Stockholders" means the DK Stockholders, the SBT Stockholders and the DEAC Stockholders.

"Subsidiary" means, with respect to any Person, any entity of which securities or other ownership interests having ordinary voting power to elect a majority of the board of directors or other persons performing similar functions are at the time directly or indirectly owned by such Person.

"Third Party Purchaser" means any Person who, immediately prior to the contemplated transaction, does not directly or indirectly own or have the right to acquire any outstanding Common Stock.

"Transactions" has the meaning set forth in the recitals.

"Transaction Documents" means this Agreement, the BCA, the Escrow Agreement and any other agreements related to the Transactions.

"Transfer" means to, directly or indirectly, sell, transfer, assign, pledge, encumber, hypothecate or similarly dispose of, either voluntarily or involuntarily, or to enter into any contract, option or other arrangement or understanding with respect to the sale, transfer, assignment, pledge, Encumbrance, hypothecation or similar disposition of, any Interest owned by a Person or any interest (including a beneficial interest) in, or the ownership, control or possession of, any Interest owned by a Person; provided, that any pledge of Interests (but not any other Transfer upon foreclosure under any such pledge) made in connection with a margin loan that has been approved under or in accordance with the Company's Insider Trading Policy shall not constitute a "Transfer" for purposes of Section 3.01 of this Agreement.

"Underwriter" or "Underwriters" means a securities dealer who purchases any Registrable Securities as principal in an Underwritten Offering and not as part of such dealer's market-making activities.

"Underwritten Offering" means a Registration in which securities of the Company are sold to an Underwriter in a firm commitment underwriting for distribution to the public.

"Underwritten Offerings Cap" has the meaning set forth in Section 6.02(a).

"Volume Weighted Average Share Price" means the volume-weighted average share price of the Class A Common Stock as displayed on the Company's page on Bloomberg (or any successor service) in respect of the period from 9:30 a.m. to 4:00 p.m., New York City time, on such trading day.

ARTICLE II.
CORPORATE GOVERNANCE

Section 2.01 Board of Directors.

(a) Board Composition. Upon the Closing, the total number of directors constituting the full board of directors of the Company (the "Board") shall be thirteen (13) directors (each a "Director").

(b) Director Nomination Rights.

i. Upon the Closing, the Board shall be comprised of:

(A) Ten (10) Directors, initially nominated by the DK Stockholder Group, which nominees shall include the Chief Executive Officer of the Company and at least five (5) of whom qualify as "independent" directors under NASDAQ listing rules;

(B) Two (2) Directors, initially nominated by SM (as defined below) at his sole discretion, which nominees shall include at least one (1) individual who qualifies as an "independent" director under NASDAQ listing rules; and

(C) One (1) Director, initially nominated by the DEAC Stockholder Group, and subject to approval by the DK Stockholder Group, such approval not to be unreasonably withheld, who shall qualify as an "independent" director under NASDAQ listing rules; provided, however, that any of Harry E. Sloan, Jeff Sagansky and Eli Baker shall be deemed approved by the DK Stockholder Group to the extent that such Person would otherwise qualify as an "independent" director under NASDAQ listing rules.

ii. As promptly as reasonably practicable following the Closing, the Company shall enter into an indemnification agreement with each Director, each on substantially the same terms entered into with, and based on the same customary and reasonable form provided to, the other Directors. The Company shall pay the reasonable, documented out-of-pocket expenses incurred by a Director in connection with his or her services provided to or on behalf of the Company, including attending meetings or events attended explicitly on behalf of the Company at the Company's request in his or her capacity as a Director. The Company shall not amend, alter or repeal any right to indemnification or exculpation benefiting any Director nominated pursuant to this Agreement, as and to the extent consistent with applicable law, contained in the Company's Organizational Documents (except to the extent such amendment or alteration permits the Company to provide broader indemnification or exculpation rights on a retroactive basis than permitted prior thereto).

iii. The Company shall (A) purchase directors' and officers' liability insurance in an amount determined by the Board to be reasonable and customary and (B) for so long as a Director nominated pursuant to this Section 2.01 serves as a Director of the Company, maintain such coverage with respect to such Director and shall use commercially reasonable efforts to extend such coverage for a period of not less than six years from any removal or resignation of such Director, in respect of any act or omission occurring at or prior to such event.

iv. Each Director nominated pursuant to this Section 2.01(b) shall serve until the earlier of (A) his or her death, disability, retirement, resignation or removal from the Board and (B) the first annual meeting of stockholders of the Company following the date of appointment of such Director.

v. In connection with the first annual meeting of stockholders of the Company following the date of this Agreement and for each annual meeting of stockholders thereafter, the person who served as the SBT Sellers' Representative (as such term is defined in the BCA) as of the date of the BCA ("SM") shall have the right to nominate one (1) Director to serve on the Board (which person does not need to qualify as an "independent" director under NASDAQ listing rules), whose identity shall be subject to the Board's approval not to be unreasonably withheld, conditioned or delayed, so long as SM holds, together with his wholly-owned Affiliates and immediate family members (and any of their wholly-owned Affiliates) and any trust whose sole beneficiaries are SM and/or his immediate family members (together, the "SM Group"), at the time of such annual meeting at least nine percent (9%) of the issued and outstanding shares of Class A Common Stock in the aggregate.

vi. If the term of a Director appointed by SM pursuant to Section 2.01(b)(v) terminates due to his or her death, disability, retirement, resignation or removal from the Board before the next annual meeting of the stockholders of the Company, then at the request of SM, and provided that SM holds, together with the SM Group, at such time at least nine percent (9%) of the issued and outstanding shares of Class A Common Stock in the aggregate, such Director shall be replaced by another Director nominated by SM, whose identity shall be subject to the Board's approval not to be unreasonably withheld, conditioned or delayed (and who does not need to qualify as an "independent" director under NASDAQ listing rules). Subject to Board approval, the appointment of such replacement Director shall be effected as promptly as reasonably practicable following the nomination of such replacement Director by SM.

vii. Subject to applicable law, the CEO undertakes to attend, whether in person or by proxy, the annual stockholders meeting(s) at which the appointment of any Director nominated by SM pursuant to Section 2.01(b)(v) is on the agenda, and to vote his shares in favor of the election of such Director.

viii. As of immediately following the Company's 2021 annual meeting of stockholders (the "2021 Annual Meeting"), the total number of Directors constituting the full Board shall be eleven (11) Directors. The nominating and corporate governance committee of the Board shall nominate for election to the Company's Board of Directors at the 2021 Annual Meeting, eleven (11) candidates, of which no more than eight (8) shall be any of the ten (10) Directors initially nominated to serve on the Board by the DK Stockholder Group pursuant to Section 2.01(b)(i)(A). Nothing in this Section 2.01(b)(viii) shall derogate from provisions contained in Section 2.01(b)(v) or Section 2.01(b)(vii).

(c) Committee Composition. The composition of each committee of the Board shall be in compliance with applicable NASDAQ independence requirements.

ARTICLE III.
RESTRICTIONS ON TRANSFER

Section 3.01 General Restrictions on Transfer.

(a) Except as permitted by Section 3.02, for a period of 180 days from the date hereof (the "DK/SBT Lock-up Period"), no DK Stockholder nor SBT Stockholder shall Transfer any shares of Common Stock beneficially owned or owned of record by such Stockholder.

(b) Except as permitted by Section 3.02, no DEAC Stockholder shall Transfer any shares of Common Stock beneficially owned or owned of record by such DEAC Stockholder until the earliest of: (i) the date that is one (1) year from the Closing; (ii) the last consecutive trading day where the Volume Weighted Average Share Price equals or exceeds $15.00 per share for at least twenty (20) out of thirty (30) consecutive trading days, commencing not earlier than 180 days after the date hereof or (iii) at the time the Company consummates a transaction after the Transactions which results in the Stockholders having the right to exchange their shares of Common Stock for cash, securities or other property (the "DEAC Lock-up Period").

(c) Except as permitted by Section 3.02, the CEO shall not Transfer any shares of Common Stock beneficially owned or owned of record by the CEO until the date that is two (2) years from the Closing (the "CEO Lock-up Period").

(d) Following the expiration of the DK/SBT Lock-up Period, DEAC Lock-up Period or CEO Lock-up Period, as applicable, the shares of Common Stock beneficially owned or owned of record by such Stockholder may be sold without restriction under this Agreement, other than the restriction set forth in Section 3.03(c) below.

Section 3.02 Permitted Transfers

(a) Transfer to Third Party Purchaser. The provisions of Section 3.01 shall not apply to any Transfer by any Stockholder pursuant to a merger, stock sale, consolidation or other business combination of the Company with a Third Party Purchaser that results in a change in control of the Company.

(b) Transfers for Estate Planning. Notwithstanding Section 3.01, any Stockholder who is a natural Person, so long as the applicable transferee executes a counterpart signature page to this Agreement agreeing to be bound by the terms of this Agreement applicable to such Stockholder, shall be permitted to make the following Transfers:

i. any Transfer of shares of Common Stock by such Stockholder to its Family Group without consideration (it being understood that any such Transfer shall be conditioned on the receipt of an undertaking by such transferee to Transfer such shares of Company Stock to the transferor if such transferee ceases to be a member of the transferor's Family Group); provided, that no further Transfer by such member of such Stockholder's Family Group may occur without compliance with the provisions of this Agreement or to a charitable organization; and

ii. upon the death of any Stockholder who is a natural Person, any distribution of any such shares of Common Stock owned by such Stockholder by the will or other instrument taking effect at death of such Stockholder or by applicable laws of descent and distribution to such Stockholder's estate, executors, administrators and personal representatives, and then to such Stockholder's heirs, legatees or distributees; provided, that a Transfer by such transferor pursuant to this Section 3.02(b)(ii) shall only be permitted if a Transfer to such transferee would have been permitted if the original Stockholder had been the transferor.

(c) Transfers to Affiliates. Notwithstanding Section 3.01, each Stockholder shall be permitted to Transfer from time to time any or all of the Common Stock or Earnout Shares owned by such Stockholder to any of its wholly-owned Affiliates or to a person or entity wholly owning such Stockholder.

Section 3.03 Miscellaneous Provisions Relating to Transfers

(a) Legend. In addition to any legends required by Applicable Law, each certificate representing Common Stock shall bear a legend substantially in the following form:

> "THE SECURITIES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO A STOCKHOLDERS AGREEMENT (A COPY OF WHICH IS ON FILE WITH THE SECRETARY OF THE COMPANY). NO TRANSFER, SALE, ASSIGNMENT, PLEDGE, HYPOTHECATION OR OTHER DISPOSITION OF THE SECURITIES REPRESENTED BY THIS CERTIFICATE MAY BE MADE EXCEPT IN ACCORDANCE WITH THE PROVISIONS OF SUCH STOCKHOLDERS AGREEMENT."

(b) Prior Notice. Prior notice shall be given during the DK/SBT Lock-up Period or the DEAC Lock-up Period, as applicable, to the Company by the transferor of any Transfer of any Common Stock permitted by Section 3.02(b) or Section 3.02(c). Prior to consummation of any such Transfer during the DK/SBT Lock-up Period or the DEAC Lock-up Period, as applicable, or prior to any Transfer pursuant to which rights and obligations of the transferor under the Agreement are assigned in accordance with the terms of this Agreement, the transferring Stockholder shall cause the transferee to execute and deliver to the Company a Joinder Agreement and agree to be bound by the terms and conditions of this Agreement. Upon any Transfer by any Stockholder of any of its Common Stock, in accordance with the terms of this Agreement and which is made in conjunction with the assignment of such Stockholder's rights and obligations hereunder, the transferee thereof shall be substituted for, and shall assume all the rights and obligations (as a Stockholder and as a member of the Stockholder Group of the transferor) under this Agreement, of the transferor thereof.

(c) Compliance with Laws. Notwithstanding any other provision of this Agreement, each Stockholder agrees that it will not, directly or indirectly, Transfer any of its Common Stock (including any Earnout Shares) except as permitted under the Securities Act and other applicable federal or state securities laws.

(d) Null and Void. Any attempt to Transfer any Common Stock (including any Earnout Shares) that is not in compliance with this Agreement shall be null and void, and the Company shall not, and shall cause any transfer agent not to, give any effect in the Company's stock records to such attempted Transfer and the purported transferee in any such purported Transfer shall not be treated as the owner of such Common Stock for any purposes of this Agreement.

(e) Removal of Legends. In connection with the written request of a Stockholder, following the expiration of the DK/SBT Lock-up Period or DEAC Lock-up Period, as applicable to such Stockholder, the Company shall remove any restrictive legend included on the certificates (or, in the case of book-entry shares, any other instrument or record) representing such Stockholder's and/or its Affiliates' or permitted transferee's ownership of Common Stock, and the Company shall issue a certificate (or evidence of the issuance of securities in book-entry form) without such restrictive legend or any other restrictive legend to the holder of the applicable shares of Common Stock upon which it is stamped, if (i) such shares of Common Stock are registered for resale under the Securities Act and the registration statement for such Company Equity Interests has not been suspended pursuant to Section 6.04 hereof or as otherwise required by the Securities Act, the Exchange Act or the rules and regulations of the SEC promulgated thereunder, (ii) such shares of Common Stock are sold or transferred pursuant to Rule 144, or (iii) such shares of Common Stock are eligible for sale pursuant to Section 4(a)(1) of the Securities Act or Rule 144 without volume or manner-of-sale restrictions. Following the earlier of (A) the effective date of a Registration Statement registering such shares of Common Stock or (B) Rule 144 becoming available for the resale of such shares of Common Stock without volume or manner-of-sale restrictions, the Company, upon the written request of the Stockholder or its permitted transferee and the provision by such person of an opinion of reputable counsel reasonably satisfactory to the Company and the Company's transfer agent, shall instruct the Company's transfer agent to remove the legend from such shares of Common Stock (in whatever form) and shall cause Company counsel to issue any legend removal opinion required by the transfer agent. Any fees (with respect to the transfer agent, Company counsel, or otherwise) associated with the removal of such legend (except for the provision of the legal opinion by the Stockholder or its permitted transferee to the transfer agent referred to above) shall be borne by the Company. If a legend is no longer required pursuant to the foregoing, the Company will no later than five (5) Business Days following the delivery by any Stockholder or its permitted transferee to the Company or the transfer agent (with notice to the Company) of a legended certificate (if applicable) representing such shares of Common Stock and, to the extent required, a seller representation letter representing that such shares of Common Stock may be sold pursuant to Rule 144, and a legal opinion of reputable counsel reasonably satisfactory to the Company and the transfer agent, deliver or cause to be delivered to the holder of such Company Equity Interests a certificate representing such shares of Common Stock (or evidence of the issuance of such shares of Common Stock in book-entry form) that is free from all restrictive legends.

ARTICLE IV.
REPRESENTATIONS AND WARRANTIES

Section 4.01 Representations and Warranties of the Stockholders. Each Stockholder hereby, severally and not jointly, represents and warrants to the Company and each other Stockholder as of the date of this Agreement that:

(a) if such Stockholder is not a natural Person, such Stockholder is an entity duly organized and validly existing and in good standing under the laws of the jurisdiction of organization and has all requisite power and authority to execute and deliver this Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereby;

(b) the execution and delivery of this Agreement, the performance of by such Stockholder of its obligations hereunder and the consummation of the transactions contemplated hereby have been duly authorized by all requisite corporate or other action of such Stockholder, and that such Stockholder has duly executed and delivered this Agreement;

(c) this Agreement constitutes the legal, valid and binding obligation of such Stockholder, enforceable against such Stockholder in accordance with its terms except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law);

(d) the execution, delivery and performance of this Agreement by such Stockholder and the consummation of the transactions contemplated hereby, require no action by or in respect of, or filing with, any Governmental Authority, except as set out in the BCA or any Ancillary Agreement (as defined in the BCA);

(e) the execution, delivery and performance by such Stockholder of this Agreement and the consummation of the transactions contemplated hereby do not (i) if such Stockholder is not a natural Person, conflict with or result in any violation or breach of any provision of any of the organizational documents of such Stockholder, (ii) conflict with or result in any violation or breach of any provision of any Applicable Law applicable to such Stockholder, or (iii) require any consent or other action by any Person under any provision of any material agreement or other instrument to which the Stockholder is a party and which has not been obtained prior to or on the date of this Agreement;

(f) except for this Agreement, the BCA or any Ancillary Agreement (as defined in the BCA), such Stockholder has not entered into or agreed to be bound by any other agreements or arrangements of any kind with any other party with respect to any Company Equity Interests, including agreements or arrangements with respect to the acquisition or disposition of the Common Stock or any interest therein or the voting of the Common Stock (whether or not such agreements and arrangements are with the Company or any other Stockholder); and

(g) such Stockholder has not entered into, and agrees that it will not enter into, any agreement with respect to its securities that violates or subordinates or is otherwise inconsistent with the rights granted to the Stockholders under this Agreement.

Section 4.02 Representations and Warranties of the Company. The Company hereby represents and warrants to each Stockholder that as of the date of this Agreement:

(a) the Company is duly organized and validly existing and in good standing under the laws of the jurisdiction of organization and has all requisite power and authority to execute and deliver this Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereby;

(b) the execution and delivery of this Agreement, the performance of by the Company of its obligations hereunder and the consummation of the transactions contemplated hereby have been duly authorized by all requisite corporate or other action of the Company, and the Company has duly executed and delivered this Agreement;

(c) this Agreement constitutes the legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law);

(d) the execution, delivery and performance of this Agreement by the Company and the consummation of the transactions contemplated hereby, require no action by or in respect of, or filing with, any Governmental Authority, except as set out in the BCA or any Ancillary Agreement (as defined in the BCA);

(e) the execution, delivery and performance by the Company of this Agreement and the consummation of the transactions contemplated hereby do not (i) conflict with or result in any violation or breach of any provision of any of the organizational documents of the Company, (ii) conflict with or result in any violation or breach of any provision of any Applicable Law or (iii) require any consent or other action by any Person under any provision of any material agreement or other instrument to which the Company is a party;

(f) except for this Agreement, the BCA or any Ancillary Agreement (as defined in the BCA), the Company has not entered into or agreed to be bound by any other agreements or arrangements of any kind with any other party with respect to the Common Stock, including agreements or arrangements with respect to the acquisition or disposition of the Common Stock or any interest therein or the voting of the Common Stock (whether or not such agreements and arrangements are with any Stockholder); and

(g) the Company has not entered into, and agrees that it will not enter into, any agreement with respect to its securities that violates or subordinates or is otherwise inconsistent with the rights granted to the Stockholders under this Agreement.

ARTICLE V.
TERM AND TERMINATION

Section 5.01 Termination.

This Agreement shall terminate upon the earliest of:

(a) the date on which none of the DEAC Stockholders nor the SBT Stockholders hold any Common Stock;

(b) the dissolution, liquidation, or winding up of the Company; or

(c) upon the unanimous agreement of the Stockholders.

Section 5.02 Effect of Termination.

(a) The termination of this Agreement shall terminate all further rights and obligations of the Stockholders under this Agreement except that such termination shall not affect:

i. the existence of the Company;

ii. the obligation of any party to pay any amounts arising on or prior to the date of termination, or as a result of or in connection with such termination;

iii. the rights which any Stockholder may have by operation of law as a stockholder of the Company; or

iv. the rights contained herein which are intended to survive termination of this Agreement.

(b) The following provisions shall survive the termination of this Agreement: this Section 5.02, Section 6.05, Section 8.01, Section 8.02, Section 8.03, Section 8.04, Section 8.05, Section 8.09, Section 8.10, Section 8.13, Section 8.14 and Section 8.15.

ARTICLE VI.

REGISTRATION RIGHTS

Section 6.01 Registration Statement.

The Company shall, as soon as practicable after the Closing, but in any event within thirty (30) days following the date of this Agreement, file a Registration Statement under the Securities Act to permit the public resale of all the Registrable Securities held by the Stockholders from time to time as permitted by Rule 415 under the Securities Act (or any successor or similar provision adopted by the Commission then in effect) on the terms and conditions specified in this Section 6.01 and shall use its reasonable best efforts to cause such Registration Statement to be declared effective as soon as practicable after the filing thereof, but in any event no later than the earlier of (i) sixty (60) days (or one hundred twenty (120) days if the Commission notifies the Company that it will "review" the Registration Statement) after the date of this Agreement and (ii) the tenth (10th) Business Day after the date 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 (such earlier date, the "Effectiveness Deadline"). The Registration Statement filed with the Commission pursuant to this Section 6.01 shall be on Form S-1 or such other form of registration statement as is then available to effect a registration for resale of such Registrable Securities, covering such Registrable Securities, and shall contain a Prospectus in such form as to permit any Stockholder to sell such Registrable Securities pursuant to Rule 415 under the Securities Act (or any successor or similar provision adopted by the Commission then in effect) at any time beginning on the effective date for such Registration Statement. A Registration Statement filed pursuant to this Section 6.01 shall provide for the resale pursuant to any method or combination of methods legally available to, and requested by, the Stockholders. The Company shall use its reasonable best efforts to cause a Registration Statement filed pursuant to this Section 6.01 to remain effective, and to be supplemented and amended to the extent necessary to ensure that such Registration Statement is available or, if not available, that another registration statement is available, for the resale of all the Registrable Securities held by the Stockholders until all such Registrable Securities have ceased to be Registrable Securities. As soon as practicable following the effective date of a Registration Statement filed pursuant to this Section 6.01, but in any event within three (3) Business Days of such date, the Company shall notify the Stockholders of the effectiveness of such Registration Statement. When effective, a Registration Statement filed pursuant to this Section 6.01 (including any documents incorporated therein by reference) will comply as to form in all material respects with all applicable requirements of the Securities Act and the Exchange Act and will not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading (in the case of any Prospectus contained in such Registration Statement, in the light of the circumstances under which such statement is made).

Section 6.02 Underwritten Offering.

(a) In the event that (i) following the expiration of the DK/SBT Lockup Period, any DK Stockholder or any SBT Stockholder and/or (ii) following the expiration of the DEAC Lockup Period, any DEAC Stockholder elects to dispose of Registrable Securities under a Registration Statement pursuant to an Underwritten Offering of all or part of such Registrable Securities that are registered by such Registration Statement and reasonably expect aggregate gross proceeds in excess of $75,000,000 (the "Minimum Amount") from such Underwritten Offering, then the Company shall, upon the written demand of such Stockholders (any such Stockholder a "Demanding Holder" and, collectively, the "Demanding Holders"), enter into an underwriting agreement in a form as is customary in Underwritten Offerings of equity securities with the managing Underwriter or Underwriters selected by the Company after consultation with the Demanding Holders and shall take all such other reasonable actions as are requested by the managing Underwriter or Underwriters in order to expedite or facilitate the disposition of such Registrable Securities; provided, however, that the Company shall have no obligation to facilitate or participate in more than two (2) Underwritten Offerings pursuant to this Section 6.02 for each of the DK Stockholders Group, the SBT Stockholder Group and the DEAC Stockholder Group (and not more than six (6) Underwritten Offerings for all Stockholders in the aggregate) (the "Underwritten Offerings Cap"); provided further that if an Underwritten Offering is commenced but terminated prior to the pricing thereof for any reason, such Underwritten Offering will not be counted as an Underwritten Offering pursuant to this Section 6.02.

(b) Notice. In addition, the Company shall give prompt written notice to each other Stockholder regarding such proposed Underwritten Offering, and such notice shall offer such Stockholder the opportunity to include in the Underwritten Offering such number of Registrable Securities as each such Stockholder may request. Each such Stockholder shall make such request in writing to the Company within five (5) Business Days after the receipt of any such notice from the Company, which request shall specify the number of Registrable Securities intended to be disposed of by such Stockholder. In connection with any Underwritten Offering contemplated by this Section 6.02, the underwriting agreement into which each Demanding Holder and the Company shall enter shall contain such representations, covenants, indemnities (subject to Section 6.05) and other rights and obligations as are customary in underwritten offerings of equity securities. No Demanding Holder shall be required to make any representations or warranties to or agreements with the Company or the Underwriters other than representations, warranties or agreements regarding such Demanding Holder's authority to enter into such underwriting agreement and to sell, and its ownership of, the securities being registered on its behalf, its intended method of distribution and any other representation required by law.

(c) Reduction of Underwritten Offering. If the managing Underwriter or Underwriters in an Underwritten Offering, in good faith, advises the Company and the Demanding Holders that the dollar amount or number of Registrable Securities that the Demanding Holders desire to sell, taken together with all Common Stock or other equity securities that the Company or any other Stockholder desires to sell and the shares of Common Stock, if any, as to which a Registration has been requested pursuant to separate written contractual piggy-back registration rights held by any other stockholders who desire to sell, exceeds the maximum dollar amount or maximum number of equity securities that can be sold in the Underwritten Offering without adversely affecting the proposed offering price, the timing, the distribution method, or the probability of success of such offering (such maximum dollar amount or maximum number of such securities, as applicable, the "Maximum Number of Securities"), then the Company shall include in such Underwritten Offering, as follows:

i. *first*, the Registrable Securities of the Demanding Holders pro rata based on the respective number of Registrable Securities that each Demanding Holder has requested be included in such Underwritten Offering and the aggregate number of Registrable Securities that the Demanding Holders have requested be included in such Underwritten Offering that can be sold without exceeding the Maximum Number of Securities;

ii. *second*, to the extent that the Maximum Number of Securities has not been reached under the foregoing clause (i), Common Stock or other equity securities that the Company desires to sell, which can be sold without exceeding the Maximum Number of Securities; and

iii. *third*, to the extent that the Maximum Number of Securities has not been reached under the foregoing clause (i) and clause (ii), Common Stock or other equity securities of (x) other Stockholders who have elected to participate in the Underwritten Offering pursuant to Section 6.02(a) or (y) persons or entities that the Company is obligated to register in a Registration pursuant to separate written contractual arrangements with such persons, pro rata, which can be sold without exceeding the Maximum Number of Securities.

(d) A Demanding Holder shall have the right to withdraw all or any portion of its Registrable Securities included in an Underwritten Offering pursuant to this Section 6.02 for any or no reason whatsoever upon written notification to the Company and the Underwriter or Underwriters of its intention to withdraw from such Underwritten Offering prior to the pricing of such Underwritten Offering and such withdrawn amount shall no longer be considered an Underwritten Offering (including, without limitation, for purposes of the Underwritten Offerings Cap); provided, however, that upon the withdrawal of an amount of Registrable Securities that results in the remaining amount of Registrable Securities included by the Demanding Holders in such Underwritten Offering being less than the Minimum Amount, the Company shall cease all efforts to complete the Underwritten Offering and, for the avoidance of doubt, such Underwritten Offering shall not count against the Underwritten Offerings Cap. Notwithstanding anything to the contrary in this Agreement, the Company shall be responsible for the Registration Expenses incurred in connection with an Underwritten Offering prior to its withdrawal under this Section 6.02(d).

Section 6.03 Piggyback Registration Rights.

(a) If at any time the Company proposes to file a Registration Statement under the Securities Act with respect to an Underwritten Offering of equity securities, or securities or other obligations exercisable or exchangeable for, or convertible into equity securities, for its own account or for the account of stockholders of the Company (or by the Company and by the stockholders of the Company including, without limitation, pursuant to Section 6.02 hereof) on a form that would permit registration of Registrable Securities, other than a Registration Statement (i) filed in connection with any employee stock option or other benefit plan, (ii) for an exchange offer or offering of securities solely to the Stockholders, (iii) for an offering of debt that is convertible into equity securities of the Company, (iv) for a dividend reinvestment plan or (v) on Form S-4, then the Company shall give written notice of such proposed filing to all of the Stockholders as soon as practicable but not less than ten (10) days before the anticipated filing date of such Registration Statement, which notice shall (A) describe the amount and type of securities to be included in such offering, the intended method(s) of distribution, and the name of the proposed managing Underwriter or Underwriters, if any, in such offering, and (B) offer to all of the Stockholders the opportunity to register the sale of such number of Registrable Securities as such Stockholders may request in writing within five (5) days after receipt of such written notice (in the case of an "overnight" or "bought" offering, such requests must be made by the Stockholders within one (1) Business Day after the delivery of any such notice by the Company) (such Registration a "Piggyback Registration"); provided, however, that if the Company has been advised by the managing Underwriter(s) that the inclusion of Registrable Securities for sale for the benefit of the Stockholders will have an adverse effect on the price, timing or distribution of the Common Stock in the Underwritten Offering, then (A) if no Registrable Securities can be included in the Underwritten Offering in the opinion of the managing Underwriter(s), the Company shall not be required to offer such opportunity to the Stockholders or (B) if any Registrable Securities can be included in the Underwritten Offering in the opinion of the managing Underwriter(s), then the amount of Registrable Securities to be offered for the accounts of Stockholders shall be determined based on the provisions of Section 6.03(b).

(b) Subject to Section 6.03(a), the Company shall, in good faith, cause such Registrable Securities to be included in such Piggyback Registration and shall use its commercially reasonable efforts to cause the managing Underwriter or Underwriters of a proposed Underwritten Offering to permit the Registrable Securities requested by the Stockholders pursuant to this Section 6.03 to be included in a Piggyback Registration on the same terms and conditions as any similar securities of the Company included in such Registration and to permit the sale or other disposition of such Registrable Securities in accordance with the intended method(s) of distribution thereof. If no written request for inclusion from a Stockholder is received within the specified time, each such Stockholder shall have no further right to participate in such Underwritten Offering. All such Stockholders proposing to distribute their Registrable Securities through an Underwritten Offering under this Section 6.03 shall enter into an underwriting agreement in customary form with the Underwriter(s) selected for such Underwritten Offering by the Company.

(c) If the managing Underwriter or Underwriters in an Underwritten Offering that is to be a Piggyback Registration, in good faith, advises the Company and the Stockholders participating in the Piggyback Registration that the dollar amount or number of shares of Common Stock that the Company desires to sell, taken together with (i) the shares of Common Stock, if any, as to which Registration has been demanded pursuant to separate written contractual arrangements with persons or entities other than the Stockholders hereunder, (ii) the Registrable Securities as to which registration has been requested pursuant to Sections 6.01 and 6.02, and (iii) the shares of Common Stock, if any, as to which Registration has been requested pursuant to separate written contractual piggy-back registration rights of other stockholders of the Company, exceeds the Maximum Number of Securities, then:

i. If the Registration is undertaken for the Company's account, the Company shall include in any such Registration:

(A) *first*, shares of Common Stock or other equity securities that the Company desires to sell, which can be sold without exceeding the Maximum Number of Securities;

(B) *second*, to the extent that the Maximum Number of Securities has not been reached under the foregoing clause (A), pro rata to the Registrable Securities of Stockholders exercising their rights to register their Registrable Securities pursuant to Sections 6.02 and 6.03 hereof; and

(C) *third*, to the extent that the Maximum Number of Securities has not been reached under the foregoing clauses (A) and (B), shares of Common Stock, if any, as to which Registration has been requested pursuant to written contractual piggy-back registration rights of other stockholders of the Company, which can be sold without exceeding the Maximum Number of Securities;

ii. If the Registration is pursuant to a request by persons or entities other than the Stockholders, then the Company shall include in any such Registration

(A) *first*, shares of Common Stock or other equity securities, if any, of such requesting persons or entities, other than the Stockholders, which can be sold without exceeding the Maximum Number of Securities;

(B) *second*, to the extent that the Maximum Number of Securities has not been reached under the foregoing clause (A), pro rata to the Registrable Securities of Stockholders exercising their rights to register their Registrable Securities pursuant to Sections 6.02 and 6.03 hereof;

(C) *third*, to the extent that the Maximum Number of Securities has not been reached under the foregoing clauses (A) and (B), shares of Common Stock or other equity securities that the Company desires to sell, which can be sold without exceeding the Maximum Number of Securities; and

(D) *fourth*, to the extent that the Maximum Number of Securities has not been reached under the foregoing clauses (A), (B) and (C), shares of Common Stock or other equity securities for the account of other persons or entities that the Company is obligated to register pursuant to separate written contractual arrangements with such persons or entities, which can be sold without exceeding the Maximum Number of Securities.

iii. Any Stockholder shall have the right to withdraw from a Piggyback Registration for any or no reason whatsoever upon written notification to the Company and the Underwriter or Underwriters (if any) of its intention to withdraw from such Piggyback Registration prior to the pricing of such Underwritten Offering. The Company (whether on its own good faith determination or as the result of a request for withdrawal by persons pursuant to separate written contractual obligations) may withdraw a Registration Statement filed with the Commission in connection with a Piggyback Registration at any time prior to the effectiveness of such Registration Statement. Notwithstanding anything to the contrary in this Agreement, the Company shall be responsible for the Registration Expenses incurred in connection with the Piggyback Registration prior to its withdrawal under this Section 6.03.

(d) For purposes of clarity, any Registration effected pursuant to Section 6.03 hereof shall not be counted as a Registration effected under Section 6.02 hereof.

Section 6.04 Company Procedures.

(a) General Procedures. The Company shall use its commercially reasonable efforts to effect the Registration of Registrable Securities in accordance with the intended plan of distribution thereof, and pursuant thereto the Company shall, as expeditiously as practicable:

i. prepare and file with the Commission such amendments and post-effective amendments to the Registration Statement, and such supplements to the Prospectus, as may be required by the rules, regulations or instructions applicable to the registration form used by the Company or by the Securities Act or rules and regulations thereunder to keep the Registration Statement effective until all of such Registrable Shares have been disposed of (if earlier) in accordance with the intended plan of distribution set forth in such Registration Statement or supplement to the Prospectus;

ii. prior to filing a Registration Statement or Prospectus, or any amendment or supplement thereto, furnish without charge to the Underwriters, if any, and the Stockholders included in such Registration, and to one legal counsel selected by such Stockholders, copies of such Registration Statement as proposed to be filed, each amendment and supplement to such Registration Statement (in each case including all exhibits thereto and documents incorporated by reference therein), the Prospectus included in such Registration (including each preliminary Prospectus), and such other documents as the Underwriters and the Stockholders included in such Registration or the legal counsel for any such Stockholders may request in order to facilitate the disposition of the Registrable Securities owned by such Stockholders.

iii. prior to any public offering of Registrable Securities, use its best efforts to (i) register or qualify the Registrable Securities covered by the Registration Statement under such securities or "blue sky" laws of such jurisdictions in the United States as the Stockholders included in such Registration Statement (in light of their intended plan of distribution) may request and (ii) take such action necessary to cause such Registrable Securities covered by the Registration Statement to be registered with or approved by such other Governmental Authorities as may be necessary by virtue of the business and operations of the Company and do any and all other acts and things that may be necessary or advisable to enable the Stockholders included in such Registration Statement to consummate the disposition of such Registrable Securities in such jurisdictions; provided, however, that the Company shall not be required to qualify generally to do business in any jurisdiction where it would not otherwise be required to qualify or take any action to which it would be subject to general service of process or taxation in any such jurisdiction where it is not then otherwise so subject;

iv. cause all such Registrable Securities to be listed on each securities exchange or automated quotation system on which similar securities issued by the Company are then listed;

v. provide a transfer agent or warrant agent, as applicable, and registrar for all such Registrable Securities no later than the effective date of such Registration Statement;

vi. advise each seller of such Registrable Securities, promptly after it shall receive notice or obtain knowledge thereof, of the issuance of any stop order by the Commission suspending the effectiveness of such Registration Statement or the initiation or threatening of any proceeding for such purpose and promptly use its reasonable best efforts to prevent the issuance of any stop order or to obtain its withdrawal if such stop order should be issued;

vii. at least five (5) days prior to the filing of any Registration Statement or Prospectus or any amendment or supplement to such Registration Statement furnish a copy thereof to each seller of such Registrable Securities and its counsel, including, without limitation, providing copies promptly upon receipt of any comment letters received with respect to any such Registration Statement or Prospectus;

viii. notify the Stockholders at any time when a Prospectus relating to such Registration Statement is required to be delivered under the Securities Act, of the happening of any event as a result of which the Prospectus included in such Registration Statement, as then in effect, includes a Misstatement, and then to correct such Misstatement as set forth in Section 6.04(c) hereof;

ix. permit a representative of the Stockholders (such representative to be selected by a majority of the participating Stockholders), the Underwriters, if any, and any attorney or accountant retained by such Stockholders or Underwriter to participate, at each such person's own expense, in the preparation of the Registration Statement, and cause the Company's officers, directors and employees to supply all information reasonably requested by any such representative, Underwriter, attorney or accountant in connection with the Registration; provided, however, that such representatives or Underwriters enter into a confidentiality agreement, in form and substance reasonably satisfactory to the Company, prior to the release or disclosure of any such information; and provided further, the Company may not include the name of any Stockholder or Underwriter or any information regarding any Stockholder or Underwriter in any Registration Statement or Prospectus, any amendment or supplement to such Registration Statement or Prospectus, any document that is to be incorporated by reference into such Registration Statement or Prospectus, or any response to any comment letter, without the prior written consent of such Stockholder or Underwriter and providing each such Stockholder or Underwriter a reasonable amount of time to review and comment on such applicable document, which comments the Company shall include unless contrary to applicable law;

x. obtain a "cold comfort" letter from the Company's independent registered public accountants in the event of an Underwritten Registration which the participating Stockholders may rely on, in customary form and covering such matters of the type customarily covered by "cold comfort" letters as the managing Underwriter may reasonably request, and reasonably satisfactory to a majority-in-interest of the participating Stockholders;

xi. on the date the Registrable Securities are delivered for sale pursuant to such Registration, obtain an opinion, dated such date, of counsel representing the Company for the purposes of such Registration, addressed to the Stockholders, the placement agent or sales agent, if any, and the Underwriters, if any, covering such legal matters with respect to the Registration in respect of which such opinion is being given as the Stockholders, placement agent, sales agent, or Underwriter may reasonably request and as are customarily included in such opinions and negative assurance letters, and reasonably satisfactory to a majority in interest of the participating Stockholders;

xii. in the event of any Underwritten Offering, enter into and perform its obligations under an underwriting agreement, in usual and customary form, with the managing Underwriter of such offering;

xiii. make available to its security holders, as soon as reasonably practicable, an earnings statement covering the period of at least twelve (12) months beginning with the first day of the Company's first full calendar quarter after the effective date of the Registration Statement which satisfies the provisions of Section 11(a) of the Securities Act and Rule 158 thereunder (or any successor rule promulgated thereafter by the Commission);

xiv. if the Registration involves the Registration of Registrable Securities involving gross proceeds in excess of $25,000,000, use its reasonable efforts to make available senior executives of the Company to participate in customary "road show" presentations that may be reasonably requested by the Underwriter in any Underwritten Offering; and

xv. otherwise, in good faith, cooperate reasonably with, and take such customary actions as may reasonably be requested by the Stockholders, in connection with such Registration.

(b) Registration Expenses. The Registration Expenses of all Registrations shall be borne by the Company. It is acknowledged by the Stockholders that the Stockholders shall bear all incremental selling expenses relating to the sale of Registrable Securities, such as Underwriters' commissions and discounts, brokerage fees, Underwriter marketing costs and, other than as set forth in the definition of "Registration Expenses," all reasonable fees and expenses of any legal counsel representing the Stockholders.

(c) Requirements for Participation in Underwritten Offerings. No person may participate in any Underwritten Offering for equity securities of the Company pursuant to a Registration initiated by the Company hereunder unless such person (i) agrees to sell such person's securities on the basis provided in any underwriting arrangements approved by the Company and (ii) completes and executes all customary questionnaires, powers of attorney, indemnities, lock-up agreements, underwriting agreements and other customary documents as may be reasonably required under the terms of such underwriting arrangements.

(d) Suspension of Sales; Adverse Disclosure. Upon receipt of written notice from the Company that a Registration Statement or Prospectus contains a Misstatement, each of the Stockholders shall forthwith discontinue disposition of Registrable Securities until he, she or it has received copies of a supplemented or amended Prospectus correcting the Misstatement (it being understood that the Company hereby covenants to prepare and file such supplement or amendment as soon as practicable after the time of such notice), or until he, she or it is advised in writing by the Company that the use of the Prospectus may be resumed (any such period, a "Suspension Period"). If the filing, initial effectiveness or continued use of a Registration Statement in respect of any Registration at any time would require the Company to make an Adverse Disclosure or would require the inclusion in such Registration Statement of financial statements that are unavailable to the Company for reasons beyond the Company's control, the Company may, upon giving prompt written notice of such action to the Holders, delay the filing or initial effectiveness of, or suspend use of, such Registration Statement for the shortest period of time, but in no event more than thirty (30) days, determined in good faith by the Company to be necessary for such purpose (any such period, a "Blackout Period". In the event the Company exercises its rights under the preceding sentence, the Stockholders agree to suspend, immediately upon their receipt of the notice referred to above, their use of the Prospectus relating to any Registration in connection with any sale or offer to sell Registrable Securities. The Company shall immediately notify the Stockholders of the expiration of any period during which it exercised its rights under this Section 6.04(d). Notwithstanding anything to the contrary in this Section 6.04, in no event shall any Suspension Period or any Blackout Period continue for more than ninety (90) days in the aggregate during any 365-day period.

(e) Reporting Obligations. As long as any Stockholder shall own Registrable Securities, the Company, at all times while it shall be a reporting company under the Exchange Act, covenants to file timely (or obtain extensions in respect thereof and file within the applicable grace period) all reports required to be filed by the Company after the date hereof pursuant to Sections 13(a) or 15(d) of the Exchange Act and to promptly furnish the Stockholders with true and complete copies of all such filings. The Company further covenants that it shall take such further action as any Stockholder may reasonably request, all to the extent required from time to time to enable such Stockholder to sell shares of Common Stock held by such Stockholder without registration under the Securities Act within the limitation of the exemptions provided by Rule 144 promulgated under the Securities Act (or any successor rule promulgated thereafter by the Commission), including providing any legal opinions. Upon the request of any Stockholder, the Company shall deliver to such Stockholder a written certification of a duly authorized officer as to whether it has complied with such requirements.

Section 6.05 Indemnification and Contribution

(a) The Company agrees to indemnify, to the extent permitted by law, each Stockholder, its officers and directors and each person who controls such Stockholder (within the meaning of the Securities Act) against all losses, claims, damages, liabilities and expenses (including attorneys' fees) caused by any untrue or alleged untrue statement of material fact contained in any Registration Statement, Prospectus or preliminary Prospectus or any amendment thereof or supplement thereto or any omission or alleged omission of a material fact required to be stated therein or necessary to make the statements therein not misleading, except insofar as the same are caused by or contained in any information furnished in writing to the Company by such Stockholder expressly for use therein. The Company shall indemnify the Underwriters, their officers and directors and each person who controls such Underwriters (within the meaning of the Securities Act) to the same extent as provided in the foregoing with respect to the indemnification of the Stockholder.

(b) In connection with any Registration Statement in which a Stockholder is participating, such Stockholder shall furnish to the Company in writing such information and affidavits as the Company reasonably requests for use in connection with any such Registration Statement or Prospectus and, to the extent permitted by law, shall indemnify the Company, its directors and officers and agents and each person who controls the Company (within the meaning of the Securities Act) against any losses, claims, damages, liabilities and expenses (including without limitation reasonable attorneys' fees) resulting from any untrue statement of material fact contained in the Registration Statement, Prospectus or preliminary Prospectus or any amendment thereof or supplement thereto or any omission of a material fact required to be stated therein or necessary to make the statements therein not misleading, but only to the extent that such untrue statement or omission is contained in any information or affidavit so furnished in writing by such Stockholder expressly for use therein; provided, however, that the obligation to indemnify shall be several, not joint and several, among such Stockholders of Registrable Securities, and the liability of each such Stockholder of Registrable Securities shall be in proportion to and limited to the net proceeds received by such Stockholder from the sale of Registrable Securities pursuant to such Registration Statement. The Stockholders shall indemnify the Underwriters, their officers, directors and each person who controls such Underwriters (within the meaning of the Securities Act) to the same extent as provided in the foregoing with respect to indemnification of the Company.

(c) Any person entitled to indemnification herein shall (i) give prompt written notice to the indemnifying party of any claim with respect to which it seeks indemnification (provided that the failure to give prompt notice shall not impair any person's right to indemnification hereunder to the extent such failure has not materially prejudiced the indemnifying party) and (ii) unless in such indemnified party's reasonable judgment a conflict of interest between such indemnified and indemnifying parties may exist with respect to such claim, permit such indemnifying party to assume the defense of such claim with counsel reasonably satisfactory to the indemnified party. If such defense is assumed, the indemnifying party shall not be subject to any liability for any settlement made by the indemnified party without its consent (but such consent shall not be unreasonably withheld). An indemnifying party who is not entitled to, or elects not to, assume the defense of a claim shall not be obligated to pay the fees and expenses of more than one counsel (plus local counsel) for all parties indemnified by such indemnifying party with respect to such claim, unless in the reasonable judgment of any indemnified party a conflict of interest may exist between such indemnified party and any other of such indemnified parties with respect to such claim. No indemnifying party shall, without the consent of the indemnified party, consent to the entry of any judgment or enter into any settlement which cannot be settled in all respects by the payment of money (and such money is so paid by the indemnifying party pursuant to the terms of such settlement) or which settlement does not include as an unconditional term thereof the giving by the claimant or plaintiff to such indemnified party of a release from all liability in respect to such claim or litigation.

(d) The indemnification provided for under this Article VI shall remain in full force and effect regardless of any investigation made by or on behalf of the indemnified party or any officer, director or controlling person of such indemnified party and shall survive the transfer of securities. The Company and each Stockholder participating in an offering also agrees to make such provisions as are reasonably requested by any indemnified party for contribution to such party in the event the Company's or such Stockholder's indemnification is unavailable for any reason.

(e) If the indemnification provided under Section 6.05 hereof from the indemnifying party is unavailable or insufficient to hold harmless an indemnified party in respect of any losses, claims, damages, liabilities and expenses referred to herein, then the indemnifying party, in lieu of indemnifying the indemnified party, shall contribute to the amount paid or payable by the indemnified party as a result of such losses, claims, damages, liabilities and expenses in such proportion as is appropriate to reflect the relative fault of the indemnifying party and the indemnified party, as well as any other relevant equitable considerations. The relative fault of the 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 to state a material fact, was made by, or relates to information supplied by, such indemnifying party or indemnified party, and the indemnifying party's and indemnified party's relative intent, knowledge, access to information and opportunity to correct or prevent such action; provided, however, that the liability of any Stockholder under this Section 6.05(e) shall be limited to the amount of the net proceeds received by such Stockholder in such offering giving rise to such liability. The amount paid or payable by a party as a result of the losses or other liabilities referred to above shall be deemed to include, subject to the limitations set forth in Sections 6.05(a), (b) and (c) above, any legal or other fees, charges or expenses reasonably incurred by such party in connection with any investigation or proceeding. The parties hereto agree that it would not be just and equitable if contribution pursuant to this subsection Section 6.05(e) were determined by pro rata allocation or by any other method of allocation, which does not take account of the equitable considerations referred to in this Section 6.05(e). No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution pursuant to this Section 6.05(e) from any person who was not guilty of such fraudulent misrepresentation.

Section 6.06 Miscellaneous Registration Rights Provisions

(a) Prior to the expiration of the DEAC Lock-up Period or the DK/SBT Lock-up Period, as applicable to a Stockholder, such Stockholder may not assign or delegate such Stockholder's rights, duties or obligations under this Agreement, in whole or in part, except in connection with such Transfer of Registrable Securities pursuant to Section 3.02.

(b) Other Registration Rights. The Company represents and warrants that no Person, other than a Stockholder, has any right to require the Company to register any securities of the Company for sale or to include such securities of the Company in any Registration filed by the Company for the sale of securities for its own account or for the account of any other person. Further, the Company represents and warrants that this Agreement supersedes any other registration rights agreement or agreement with similar terms and conditions and in the event of a conflict between any such agreement or agreements and this Agreement, the terms of this Agreement shall prevail.

ARTICLE VII.

UNSUITABLE PERSONS; COMPLIANCE WITH GAMING LAWS

Section 7.01 Each Stockholder hereby acknowledges and agrees that it is bound by and that it shall comply with the terms of Article XII (Unsuitable Persons) of the A&R Charter.

ARTICLE VIII.
MISCELLANEOUS

Section 8.01 Release of Liability.

In the event any Stockholder shall Transfer all of the Common Stock (together with the transfer or surrender of all Earnout Shares, if any) held by such Stockholder in compliance with the provisions of this Agreement (including, without limitation, if accompanied with the assignment of rights and obligations hereunder, the execution and delivery by the transferee of a Joinder Agreement) without retaining any interest therein, then such Stockholder shall cease to be a party to this Agreement and shall be relieved and have no further liability arising hereunder for events occurring from and after the date of such Transfer, except in the case of fraud or intentional misconduct.

Section 8.02 Notices.

All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been duly given or made as follows: (a) when delivered in person or by a nationally recognized overnight courier (with written confirmation of receipt), (b) upon receipt of confirmation of successful transmission if sent by facsimile or (c) upon receipt if sent by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section 8.02):

If to any of the DK Stockholder Group:

DraftKings Inc.
222 Berkeley Street
Boston, MA 02116
Attention: Stanton Dodge

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

Sullivan & Cromwell LLP
125 Broad Street
New York, NY 10004
Attention: Scott D. Miller

If to any of the SBT Stockholder Group:

SBT Sellers' Representative (per his address in the BCA)

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

Herzog Fox & Neeman
Asia House
4 Weizmann St.
Tel Aviv 6423904, Israel
Attention: Gil White; Ran Hai

If to the Company to:

DraftKings Inc.
222 Berkeley Street
Boston, MA 02116
Attention: Stanton Dodge

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

Sullivan & Cromwell LLP
125 Broad Street
New York, NY 10004
Attention: Scott D. Miller

If to any of the DEAC Stockholder Group to:

c/o Diamond Eagle Acquisition Corp.
2121 Avenue of the Stars, Suite 2300
Los Angeles, CA 90067
Attention: Jeff Sagansky

with a copy to (which shall not constitute notice)

Winston & Strawn LLP
333 South Grand Avenue, 38th Floor
Los Angeles, CA 90071
Attention: Joel L. Rubinstein

Section 8.03 Interpretation.

For purposes of this Agreement, (a) the words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation"; (b) the word "or" is not exclusive; and (c) the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this Agreement as a whole. The definitions given for any defined terms in this Agreement shall apply equally to both the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. Unless the context otherwise requires, references herein: (x) to Articles, Sections, Exhibits and Schedules mean the Articles and Sections of, and Exhibits and Schedules attached to, this Agreement; (y) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The Exhibits and Schedules referred to herein shall be construed with, and as an integral part of, this Agreement to the same extent as if they were set forth verbatim herein.

Section 8.04 Headings.

The headings and other captions in this Agreement are for convenience and reference only and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

Section 8.05 Severability.

If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction or other authority to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated. Upon such a determination, the parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner so that the transactions contemplated hereby are consummated as originally contemplated to the fullest extent possible.

Section 8.06 Entire Agreement.

This Agreement and the Organizational Documents constitute the sole and entire agreement of the parties with respect to the subject matter contained herein and therein, and supersede all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. In the event of any inconsistency or conflict between this Agreement and any Organizational Document, the Stockholders and the Company shall, to the extent permitted by Applicable Law, amend such Organizational Document to comply with the terms of this Agreement.

Section 8.07 Amendment and Modification; Waiver.

This Agreement may be amended only by a written instrument signed by (a) the Company, (b) the DK Stockholder Group Representative (for so long as the DK Stockholder Group continues to own Common Stock), (c) the DEAC Founder Group Representative (for so long as the DEAC Stockholder Group continues to own Common Stock) and (d) the SBT Sellers' Representative (for so long as the SBT Stockholder Group continues to own Common Stock); provided, however, that no such amendment shall materially adversely change the rights or obligations of any Stockholder disproportionately generally vis a vis other Stockholders party to this Agreement without the written approval of such disproportionately affected Stockholder. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The Company shall not waive any provision of this Agreement without the written consent of (x) the DK Stockholder Group Representative (for so long as the DK Stockholder Group continues to own Common Stock), (y) the DEAC Founder Group Representative (for so long as the DEAC Stockholder Group continues to own Common Stock) and (z) the SBT Sellers' Representative (for so long as the SBT Stockholder Group continues to own Common Stock).

Section 8.08 Appointment of Representatives

(a) DK Stockholder Group Representative. Each DK Stockholder hereby irrevocably and unconditionally authorizes and appoints the DK Stockholder Group Representative as representative of the DK Stockholder Group for all purposes of Section 8.07. Any action taken or any exercise of powers under Section 8.07 by the DK Stockholder Group Representative shall be binding on each DK Stockholder for purposes thereof, shall be deemed to be taken or exercised by each DK Stockholder, and the Company and other Stockholders shall be entitled to assume that any action taken by the DK Stockholder Group Representative for purposes of Section 8.07 is binding on all of DK Stockholders, and the parties shall be entitled to rely on the same without being required to make further enquiries in respect thereof. None of the Company or any of the Stockholders shall have any obligation to monitor or supervise the DK Stockholder Group Representative. None of the Company or the Stockholders shall be liable to any DK Stockholder for any action taken or omitted to be taken by the DK Stockholder Group Representative. Each DK Stockholder hereby irrevocably and unconditionally releases and waives any and all claims and demands of any kind whatsoever (whether existing now or in the future, including with respect to contingent liabilities), such Stockholder may have against the DK Stockholder Group Representative in relation to the performance (or non-performance) of any of the rights and duties of the DK Stockholder Group Representative pursuant to Section 8.07, except in the case of fraud or willful misconduct by the DK Stockholder Group Representative.

(b) DEAC Founder Group Representative. Each member of the DEAC Founder Group hereby irrevocably and unconditionally authorizes and appoints the DEAC Founder Group Representative as representative of the DEAC Founder Group for all purposes of Section 8.07. Any action taken or any exercise of powers under Section 8.07 by the DEAC Founder Group Representative shall be binding on each member of the DEAC Founder Group for purposes thereof, shall be deemed to be taken or exercised by each member of the DEAC Founder Group, and the Company and other Stockholders shall be entitled to assume that any action taken by the DEAC Founder Group Representative for purposes of Section 8.07 is binding on all of members of the DEAC Founder Group, and the parties shall be entitled to rely on the same without being required to make further enquiries in respect thereof. None of the Company or any of the Stockholders shall have any obligation to monitor or supervise the DEAC Founder Group Representative. None of the Company or the Stockholders shall be liable to any member of the DEAC Founder Group for any action taken or omitted to be taken by the DEAC Founder Group Representative. Each member of the DEAC Founder Group hereby irrevocably and unconditionally releases and waives any and all claims and demands of any kind whatsoever (whether existing now or in the future, including with respect to contingent liabilities), such Stockholder may have against the DEAC Founder Group Representative in relation to the performance (or non-performance) of any of the rights and duties of the DEAC Founder Group Representative pursuant to Section 8.07, except in the case of fraud or willful misconduct by the DEAC Founder Group Representative

(c) SBT Sellers' Representative. Without derogating from the provisions of Section 9.12 of the BCA, each SBT Stockholder hereby irrevocably and unconditionally authorizes and appoints the SBT Sellers' Representative as representative of the SBT Stockholder Group for all purposes of Section 8.07. Any action taken or any exercise of powers Section 8.07 by the SBT Sellers' Representative shall be binding on each SBT Stockholder for purposes thereof, shall be deemed to be taken or exercised by each SBT Stockholder, and the Company and other Stockholders shall be entitled to assume that any action taken by the SBT Sellers' Representative for purposes of Section 8.07 is binding on all of SBT Stockholders, and the parties shall be entitled to rely on the same without being required to make further enquiries in respect thereof. None of the Company or any of the Stockholders shall have any obligation to monitor or supervise the SBT Sellers' Representative. None of the Company or the Stockholders shall be liable to any SBT Stockholder for any action taken or omitted to be taken by the SBT Sellers' Representative. Each SBT Stockholder hereby irrevocably and unconditionally releases and waives any and all claims and demands of any kind whatsoever (whether existing now or in the future, including with respect to contingent liabilities), such Stockholder may have against the SBT Sellers' Representative in relation to the performance (or non-performance) of any of the rights and duties of the SBT Sellers' Representative pursuant to Section 8.07, except in the case of fraud or willful misconduct by the SBT Sellers' Representative.

Section 8.09 Successors and Assigns.

This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns and transferees. Neither this Agreement nor any right, benefit, remedy, obligation or liability arising hereunder may be assigned by any party without the prior written consent of the other parties, and any attempted assignment without such consent shall be null and void and of no effect; provided that a Stockholder may assign any and all of its rights under this Agreement (whether his personal rights or his rights as a member of the applicable Group (i.e. a member of the DK Stockholder Group, SBT Stockholder Group or DEAC Stockholder Group), together with its Common Stock, to a permitted assignee or transferee in compliance with Article III hereof (and such transferee or assignee shall be deemed to be a member of the any of the above mentioned groups to which the transferor belonged).

Section 8.10 No Third-Party Beneficiaries.

This Agreement is for the sole benefit of the parties hereto and their respective successors and assigns and transferees and nothing herein, express or implied, is intended to or shall confer upon any other Person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

Section 8.11 Governing Law.

This Agreement shall be governed by and construed in accordance with the internal laws of the State of Nevada without giving effect to any choice or conflict of law provision or rule (whether of the State of Nevada or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of Nevada.

Section 8.12 Equitable Remedies.

Each party hereto acknowledges that the other parties hereto would be irreparably damaged in the event of a breach or threatened breach by such party of any of its obligations under this Agreement and hereby agrees that in the event of a breach or a threatened breach by such party of any such obligations, each of the other parties hereto shall, in addition to any and all other rights and remedies that may be available to them in respect of such breach, be entitled to an injunction from a court of competent jurisdiction (without any requirement to post bond) granting such parties specific performance by such party of its obligations under this Agreement.

Section 8.13 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

Section 8.14 Jurisdiction and Venue; Waiver of Jury Trial.

Each party hereto hereby irrevocably consents to the exclusive jurisdiction of the courts of the State of Nevada and the United States District Court therein in connection with any action or proceeding arising out of or relating to this Agreement or any of the transactions contemplated by this Agreement. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHTS TO, AND AGREES NOT TO REQUEST, TRIAL BY JURY IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 8.15 Termination of DK Stockholders Arrangements

Each DK Stockholder hereby agrees and agrees to cause its applicable Affiliates to, and the Company hereby agrees to cause DK, to take all reasonable actions necessary to terminate, effective as of the Closing, each of the agreements set forth on Schedule 2 hereto to which such DK Stockholder or any of its Affiliates is a party and any other agreement with DK to which such DK Stockholder or any of its Affiliates is a party and, by its terms, terminates upon a public offering of DK securities. Each DK Stockholder hereby acknowledges and agrees, and agrees to cause its applicable affiliates to acknowledge and agree, that for the purposes of each of the agreements (if any) to which such Stockholder is a party with the Company that, by its terms, is to automatically terminate upon a public offering of any securities of DK, the consummation of the Transactions shall be deemed to constitute such a public offering and that such agreements shall terminate in accordance with such terms, effective as of the Closing.

Section 8.16 Additional Securities Subject to Agreement

Each Stockholder agrees that any other Company Equity Interests which it shall hereafter acquire by means of a stock split, stock dividend, distribution, exercise of warrants or options, purchase or otherwise shall be subject to the provisions of this Agreement to the same extent as if held on the date hereof.

Section 8.17 Further Assurances

Each party to this Agreement shall cooperate and take such action as may be reasonably requested by another party to this Agreement in order to carry out the provisions and purposes of this Agreement and the transactions contemplated hereby.

[*Signature Page Immediately Follows*]

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

Company:

DraftKings Inc., a Nevada corporation

By: /s/ R. Stanton Dodge
Name: R. Stanton Dodge
Title: Chief Legal Officer

Stockholders:

DK Stockholders Group Representative

/s/ Jason Robins

Name: Jason Robins

DK Stockholder Group

By: /s/ Timothy Dent
Name: Timothy Dent

By: /s/ R. Stanton Dodge
Name: R. Stanton Dodge

By: /s/ Travis Dunn
Name: Travis Dunn

By: /s/ Thomas Goedde
Name: Thomas Goedde

By: /s/ Matthew Kalish
Name: Matthew Kalish

By: /s/ Ezra Kucharz
Name: Ezra Kucharz

By: /s/ David Lebow
Name: David Lebow

By: /s/ Paul Liberman
Name: Paul Liberman

By: /s/ Jason Park
Name: Jason Park

By: /s/ Jason Robins
Name: Jason Robins

By: /s/ Graham Walters
Name: Graham Walters

By: /s/ Andrew Yang
Name: Andrew Yang

By: /s/ Woodrow H. Levin
Name: Woodrow H. Levin

By: /s/ Ryan R. Moore
Name: Ryan R. Moore

By: /s/ Steven J. Murray
Name: Steven J. Murray

By: /s/ Hany M. Nada
Name: Hany M. Nada

By: /s/ Richard R. Rosenblatt
Name: Richard R. Rosenblatt

By: /s/ John S. Salter
Name: John S. Salter

By: /s/ Marni M. Walden
Name: Marni M. Walden

JASON ROBINS REVOCABLE TRUST U/D/T
JANUARY 8, 2014

By: /s/ Jason Robins
Name: Jason Robins
Title: Trustee

ROBINS FAMILY TRUST LLC

By: /s/ Jason Robins
Name: Jason Robins
Title: Trustee

DK INVESTMENT HOLDINGS, LP

By: /s/ Cole Van Nice
Name: Cole Van Nice
Title: Authorized Signatory

SGTV FUND, L.P.
By: SGT VF GP, LLC
Its: General Partner

By: /s/ Robert Ott
Name: Robert Ott
Title: Manager

PARK WEST INVESTORS MASTER FUND, LIMITED
By: Park West Asset Management LLC, its Investment Manager

By: /s/ Grace Jimenez
Name: Grace Jimenez
Title: Chief Financial Officer

PARK WEST PARTNERS INTERNATIONAL, LIMITED
By: Park West Asset Management LLC, its Investment Manager

By: /s/ Grace Jimenez
Name: Grace Jimenez
Title: Chief Financial Officer

ACCOMPLICE FUND II L.P.
By: Accomplice Associates II, LLC, its General Partner

By: /s/ Frank Castellucci
Name: Frank Castellucci
Title: General Counsel and Secretary

ACCOMPLICE FUND I, L.P.
By: Accomplice Fund I Associates I, LLC, its General Counsel

By: /s/ Frank Castellucci
Name: Frank Castellucci
Title: Secretary

ACCOMPLICE MANAGEMENT HOLDINGS, LLC

By: /s/ Frank Castellucci
Name: Frank Castellucci
Title: Secretary

ATLAS VENTURE FUND VIII, L.P

By: /s/ Frank Castellucci
Name: Frank Castellucci
Title: Secretary

SCHECHTER PRIVATE CAPITAL FUND 1, LLC – GTP SERIES J
By: Schechter Private Capital, LLC Its Manager

By: /s/ Aaron Hodari
Name: Aaron Hodari
Title: Manager

MVP ALL-STAR MASTER FUND LLC

By: /s/ Eric Branchfeld
Name: Eric Branchfeld
Title: Manager

MVP OPPORTUNITY FUND V LLC

By: /s/ Eric Branchfeld
Name: Eric Branchfeld
Title: Manager

MVP ALL-STAR FUND III LLC

By: /s/ Eric Branchfeld
Name: Eric Branchfeld
Title: Manager

MVP ALL-STAR FUND IIIC LLC

By: /s/ Eric Branchfeld
Name: Eric Branchfeld
Title: Manager

MVP OPPORTUNITY FUND VI LLC, SERIES VI-D1

By: /s/ Eric Branchfeld
Name: Eric Branchfeld
Title: Manager

SCHECHTER PRIVATE CAPITAL FUND 1, LLC – GTP SERIES J
By: Schechter Private Capital, LLC Its Manager

By: /s/ Aaron Hodari
Name: Aaron Hodari
Title: Manager

MVP ALL-STAR MASTER FUND LLC

By: /s/ Eric Branchfeld
Name: Eric Branchfeld
Title: Manager

MVP OPPORTUNITY FUND V LLC

By: /s/ Eric Branchfeld
Name: Eric Branchfeld
Title: Manager

MVP ALL-STAR FUND III LLC

By: /s/ Eric Branchfeld
Name: Eric Branchfeld
Title: Manager

MVP ALL-STAR FUND IIIC LLC

By: /s/ Eric Branchfeld
Name: Eric Branchfeld
Title: Manager

MVP OPPORTUNITY FUND VI LLC, SERIES VI-D1

By: /s/ Eric Branchfeld
Name: Eric Branchfeld
Title: Manager

REVOLUTION GROWTH III, LP
By: Revolution Growth GP III, LP Its General Partner
By: Revolution Growth UGP III, LLC
Its General Partner

By: /s/ Steven J. Murray
Name: Steven J. Murray
Title: Operating Manager

MERIDIAN GROWTH FUND
By: ArrowMark Colorado Holdings, LLC its Investment Adviser

By: /s/ David Corkins
Name: David Corkins
Title: Managing Member

MERIDIAN SMALL CAP GROWTH FUND
By: ArrowMark Colorado Holdings, LLC its Investment Adviser

By: /s/ David Corkins
Name: David Corkins
Title: Managing Member

ROBERT K. KRAFT LLC

By: /s/ Robert K. Kraft
Name: Robert K. Kraft
Title: Sole Director of its Manager

JAK II LLC

By: /s/ Jonathan A. Kraft
Name: Jonathan A. Kraft
Title: Managing Member

DK EDGAR LLC

By: /s/ Jonathan A. Kraft
Name: Jonathan A. Kraft
Title: Manager

DK WINTER LLC

By: /s/ Daniel A. Kraft
Name: Daniel A. Kraft
Title: Manager

TWO R LLC

By: /s/ Robert K. Kraft
Name: Robert K. Kraft
Title: Sole Director of its Manager

KPC VENTURE CAPITAL LLC

By: /s/ Robert K. Kraft
Name: Robert K. Kraft
Title: Sole Director of its Manager

APOLETTO INVESTMENTS IV, L.P.

By: /s/ Despoina Zinonos
Name: Despoina Zinonos
Title: President

APOLETTO LIMITED

By: /s/ David Muir
Name: David Muir
Title: President

DST GLOBAL IV, L.P.

By: /s/ Despoina Zinonos
Name: Despoina Zinonos
Title: President

MOUSSEFIXE L.P.

By: /s/ Charles Heilbronn
Name: Charles Heilbronn
Title: President of Moussesand Limited, General Partner of Moussefixe L.P.

MOUSSERENA, L.P.

By: /s/ Charles Heilbronn
Name: Charles Heilbronn
Title: President of Serena Limited, General Partner of Mousserena, L.P.

MOUSSESCALE

By: /s/ Charles Heilbronn
Name: Charles Heilbronn
Title: President

QUANTUM PARTNERS LP

By: /s/ Thomas L. O'Grady
Name: Thomas L. O'Grady
Title: Attorney In Fact

TFCF Sports Enterprises, LLC

By: /s/ Michael Heimbach
Name: Michael Heimbach
Title: Manager

GGV Capital Select L.P.

By: /s/ Stephen Hyndman
Name: Stephen Hyndman
Title: Attorney-in-Fact

Redpoint Omega II, L.P.
By: Redpoint Omega II, LLC
Its General Partner

By: /s/ R. Thomas Dyal
Name: R. Thomas Dyal
Title: Managing Director

Redpoint Associates II, LLC

By: /s/ R. Thomas Dyal
Name: R. Thomas Dyal
Title: Managing Director

FRANKLIN STRATEGIC SERIES –
FRANKLIN SMALL CAP GROWTH FUND
s/b HARE AND CO FBO Franklin Strategic Series –
Franklin Small Cap Growth Fund

By: /s/ Michael McCarthy
Name: Michael McCarthy
Title: Executive Vice President and Chief Investment Officer

FRANKLIN STRATEGIC SERIES –
FRANKLIN SMALL-MID CAP GROWTH FUND
s/b HARE AND CO FBO Franklin Strategic Series –
Franklin Small-Mid Cap Growth Fund

By: /s/ Michael McCarthy
Name: Michael McCarthy
Title: Executive Vice President and Chief Investment Officer

FRANKLIN TEMPLETON VARIABLE INSURANCE PRODUCTS TRUST –
FRANKLIN SMALL-MID CAP GROWTH VIP FUND
s/b HARE AND CO FBO Franklin Templeton Variable Insurance Products Trust –
Franklin Small-Mid Cap Growth VIP Fund

By: /s/ Michael McCarthy
Name: Michael McCarthy
Title: Executive Vice President and Chief Investment Officer

FRANKLIN TEMPLETON INVESTMENT FUNDS –
FRANKLIN US OPPORTUNITIES FUND
s/b EGGER & CO. FBO Franklin Templeton Investment Funds – Franklin US Opportunities Fund

By: /s/ Michael McCarthy
Name: Michael McCarthy
Title: Executive Vice President and Chief Investment Officer

FRANKLIN TEMPLETON INVESTMENT FUNDS –
FRANKLIN TECHNOLOGY FUND
s/b EGGER & CO. FBO Franklin Templeton Investment Funds – Franklin US Small Mid Cap Growth Fund

By: /s/ Michael McCarthy
Name: Michael McCarthy
Title: Executive Vice President and Chief Investment Officer

ACME SPV DK, LLC

By: /s/ Hany M. Nada
Name: Hany M. Nada
Title: Manager

TOP TIER VENTURE CAPITAL VIII HOLDINGS

By: Top Tier Venture Capital VIII, LP
Its: Authorized Partner

By: Top Tier Venture Capital VIII Management, LLC
Its: General Partner

By: Top Tier Capital Partners, LLC
Its: Manager

By: /s/ Garth Timoll, Sr.
Name: Garth Timoll, Sr.
Title: Authorized Signatory

TOP TIER VENTURE VELOCITY FUND 2, LP

By: Top Tier Venture Velocity 2 Management, LLC
Its: General Partners

By: Top Tier Capital Partners, LLC
Its: Manager

By: /s/ Garth Timoll, Sr.
Name: Garth Timoll, Sr.
Title: Authorized Signatory

UIT GROWTH EQUITY SERIES DK LIMITED PARTNERSHIP

By: /s/ Caroline Frain
Name: Caroline Frain
Title: Managing Partner, Co-Founder

JOHN HANCOCK FUNDS II SMALL CAP STOCK FUND
By: Wellington Management Company LLP,
its investment adviser

By: /s/ Greg Konzal
Name: Greg Konzal
Title: Managing Director and Counsel

JOHN HANCOCK PENSION PLAN
By: Wellington Management Company LLP,
its investment adviser

By: /s/ Greg Konzal
Name: Greg Konzal
Title: Managing Director and Counsel

HARTFORD CAPITAL APPRECIATION HLS FUND
By: Wellington Management Company LLP,
its investment adviser

By: /s/ Greg Konzal
Name: Greg Konzal
Title: Managing Director and Counsel

THE HARTFORD SMALL COMPANY FUND
By; Wellington management Company LLP,
its investment adviser

By: /s/ Greg Konzal
Name: Greg Konzal
Title: Managing Director and Counsel

HARTFORD GLOBAL CAPITAL APPRECIATION FUND
By: Wellington Management Company LLP,
its investment adviser

By: /s/ Greg Konzal
Name: Greg Konzal
Title: Managing Director and Counsel

JOHN HANCOCK VARIABLE INSURANCE TRUST SMALL CAP STOCK TRUST
By: Wellington Management Company LLP,
its investment adviser

By:/s/ Greg Konzal
Name: Greg Konzal
Title: Managing Director and Counsel

HARTFORD SMALL COMPANY HLS FUND
By: Wellington Management Company LLP,
its investment adviser

By:/s/ Greg Konzal
Name: Greg Konzal
Title: Managing Director and Counsel

THE HARTFORD CAPITAL APPRECIATION FUND
By: Wellington Management Company LLP,
its investment adviser

By:/s/ Greg Konzal
Name: Greg Konzal
Title: Managing Director and Counsel

MML SMALL CAP GROWTH EQUITY FUND
By: Wellington Management Company LLP,
its investment adviser

By:/s/ Greg Konzal
Name: Greg Konzal
Title: Managing Director and Counsel

HADLEY HARBOR MASTER INVESTORS (CAYMAN) L.P.
By: Wellington Management Company LLP,
its investment adviser

By:/s/ Greg Konzal
Name: Greg Konzal
Title: Managing Director and Counsel

THE HARTFORD GROWTH OPPORTUNITIES FUND
By: Wellington Management Company LLP,
its investment adviser

By: /s/ Greg Konzal
Name: Greg Konzal
Title: Managing Director and Counsel

HARTFORD GROWTH OPPORTUNITIES HLS FUND
By: Wellington Management Company LLP,
its investment adviser

By: /s/ Greg Konzal
Name: Greg Konzal
Title: Managing Director and Counsel

MASS MUTUAL SELECT SMALL CAP GROWTH EQUITY FUND
By: Wellington Management Company LLP,
its investment adviser

By: /s/ Greg Konzal
Name: Greg Konzal
Title: Managing Director and Counsel

MID CAP STOCK TRUST
By: Wellington Management Company LLP,
its investment adviser

By: /s/ Greg Konzal
Name: Greg Konzal
Title: Managing Director and Counsel

HARTFORD INTERNATIONAL EQUITY FUND
By: Wellington Management Company LLP,
its investment adviser

By: /s/ Greg Konzal
Name: Greg Konzal
Title: Managing Director and Counsel

EVERSOURCE RETIREMENT PLAN MASTER FUND
By: Wellington Management Company LLP,
its investment adviser

By: /s/ Greg Konzal
Name: Greg Konzal
Title: Managing Director and Counsel

GLOBAL MULTI-STRATEGY FUND
By: Wellington Management Company LLP,
its investment adviser

By: /s/ Greg Konzal
Name: Greg Konzal
Title: Managing Director and Counsel

MID CAP STOCK FUND
By: Wellington Management Company LLP,
its investment adviser

By: /s/ Greg Konzal
Name: Greg Konzal
Title: Managing Director and Counsel

SMALLCAP WORLD FUND, INC.

By: Capital Research and Management Company, for and on behalf of SMALLCAP World Fund, Inc.

By: /s/ Walter R. Burkley
Name: Walter R. Burkley
Title: Senior Counsel

RPII DK LLC

By: /s/ Alfred Chianese
Name: Alfred Chianese
Title: Vice President

JS CAPITAL LLC

By: /s/ Richard Holahan
Name: Richard Holahan
Title: Vice President

SBT Stockholder Group

Shalom Meckenzie

/s/ Shalom Meckenzie
By: Shalom Meckenzie

Randolph John Anderson

/s/ Randolph John Anderson
By: Randolph John Anderson

J. Gleek Properties Ltd.

By: /s/ Julian Gleek
Name: Julian Gleek
Title: Mr. Julian Gleek

SBT Sellers' Representative

/s/ Shalom Meckenzie
By: Shalom Meckenzie

DEAC Stockholder Group
the Independent Directors

By: /s/ Scott Delman
Name: Scott M. Delman
Title: Director

By: /s/ Joshua Kazam
Name: Joshua Kazam
Title: Director

By: /s/ Frederic Rosen
Name: Fredric D. Rosen
Title: Director

By: /s/ Scott I. Ross
Name: Scott I. Ross
Title: Director

Eagle Equity Partners LLC

By: /s/ Eli Baker
Name: Eli Baker
Title: Member

HARRY E. SLOAN

/s/ Harry E. Sloan

DEAC Founder Group Representative

/s/ Eli Baker
Name: Eli Baker

Exhibit 10.10

SHARE EXCHANGE AGREEMENT

by and among

DRAFTKINGS INC.

and

DEAC NV Merger Corp.

and

JASON ROBINS

Dated as of April 23, 2020

THIS SHARE EXCHANGE AGREEMENT (this "Agreement"), dated as of April 23, 2020, is entered into by and among DraftKings Inc., a Delaware corporation ("DraftKings"), Jason Robins (the "CEO") and DEAC NV Merger Corp., a Nevada corporation ("Newco"). Capitalized terms used but not defined herein shall have the meanings ascribed to them in the BCA (as defined below). Following the NV Merger, Newco as the surviving entity will change its name to DraftKings Inc.

RECITALS

WHEREAS, DraftKings, SBTech (Global) Limited, a company limited by shares, incorporated in Gibraltar and continued as a company under the Isle of Man Companies Act 2006, with registration number 014119V ("SBT"), the SBT shareholders, Shalom Meckenzie, in his capacity as the SBT Sellers' Representative, Diamond Eagle Acquisition Corp., a Delaware corporation ("DEAC"), Newco, a wholly-owned Subsidiary of DEAC, and DEAC Merger Sub Inc., a Delaware corporation and a wholly-owned subsidiary of DEAC ("Merger Sub") entered into a Business Combination Agreement, dated as of December 22, 2019, as amended by Amendment No. 1 thereto, dated as of April 7, 2020 (the "BCA"), pursuant to which (i) DEAC will change its jurisdiction of incorporation to Nevada by merging with and into Newco, with Newco surviving the merger and changing its name to DraftKings Inc., (ii) following the reincorporation, Merger Sub will merge with and into DraftKings, with DraftKings surviving the merger (the "DK Merger") and (iii) immediately following the DK Merger, Newco will acquire all of the issued and outstanding share capital of SBT, such that upon consummation of the foregoing transactions (the "Transactions"), DraftKings and SBT will be wholly-owned subsidiaries of Newco.

WHEREAS, pursuant to the BCA, DraftKings is required to (i) effect the DK Preferred Stock Conversion as of immediately prior to the DK Merger Effective Time and (ii) immediately following the DK Preferred Stock Conversion and immediately prior to the DK Merger Effective Time, amend and restate the DK Charter to implement the Dual Class Structure as set forth in Article IV of the Amended and Restated New DK Charter (such amended and restated DK Charter, the "A&R DK Charter"), and in connection therewith, all shares of common stock of DraftKings, par value $0.001 per share ("DK Common Stock"), will convert into the right to receive (i) in the case of all stockholders of DraftKings (including the CEO), the same number of shares of Class A common stock, par value $0.001 per share, of DraftKings ("DK Class A Common Stock"), and (ii) in the case of the CEO, pursuant to the Share Exchange (as defined below) such additional number of shares of Class B common stock, par value $0.001 per share, of DraftKings ("DK Class B Common Stock") such that as of immediately following the completion of the Transactions, the CEO shall have ninety percent (90%) of the voting power of the capital stock of Newco on a fully-diluted basis at such time.

WHEREAS, in accordance with the BCA, immediately following the adoption of the A&R DK Charter and immediately prior to the DK Merger Effective Time, DraftKings shall issue to the CEO (i) 1,659,078 shares of DK Class A Common Stock (the "CEO Class A Shares", which, for the avoidance of doubt, do not include any shares of DK Class A Common Stock to which the CEO may be entitled to as a result of the vesting of any DraftKings options, restricted stock units or warrants) and (ii) 393,013,951 shares of DK Class B Common Stock (the "CEO Class B Shares", and together with the CEO Class A Shares, the "Shares"), in exchange for 1,659,078 shares of DK Common Stock held by the CEO (the "Old DK Shares"), on the terms and subject to the conditions set forth herein (the "Share Exchange").

WHEREAS, in accordance with the BCA, pursuant to the DK Merger, the CEO Class A Shares will be converted into the right to receive shares of New DK Class A Common Stock, and the CEO Class B Shares will be converted into the right to receive shares of New DK Class B Common Stock (and together with the exchange of such Shares in accordance with the DK Merger, the "Merger Share Exchange").

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the parties hereby agree as follows:

ARTICLE I

THE SHARE EXCHANGE

Section 1.1 Share Exchange. Upon the terms and subject to the conditions of this Agreement, at the Share Exchange Closing (as defined below), DraftKings agrees to issue the Shares to the CEO, and in exchange therefor, the CEO shall deliver to DraftKings the certificates representing the Old DK Shares.

Section 1.2 Share Exchange Closing.

(a) DraftKings will deliver to the CEO evidence of the issuance of the Shares registered in the name of the CEO, and the CEO will deliver to DraftKings the certificates representing the Old DK Shares. Subject to the satisfaction of the conditions set forth in Article V, such deliveries shall occur on the Closing Date (the "Share Exchange Closing"). For the avoidance of doubt, the Share Exchange Closing shall occur immediately following the adoption of the A&R DK Charter and immediately prior to the DK Merger Effective Time on the Closing Date.

(b) The documents to be delivered at the Share Exchange Closing by or on behalf of the parties hereto pursuant to this Article I shall be delivered by electronic transfer of documents (including any stock certificates) and signature pages to avoid the necessity of a physical Share Exchange Closing.

Section 1.3 Share Exchange and Merger Share Exchange Tax Reporting. Newco and DraftKings each agree to treat and report for applicable income tax purposes (i) the Share Exchange with respect to the CEO Class A Shares as a tax-free "reorganization" within the meaning of Section 368(a)(1)(E) of the Code (and corresponding provisions of applicable state and local law), and (ii) the Merger Share Exchange as a tax-free "reorganization" within the meaning of Section 368(a)(1)(A) of the Code (and corresponding provisions of applicable state and local law). Neither Newco nor DraftKings shall report any income to or with respect to the CEO in respect of the Share Exchange or the issuance of the CEO Class B Shares or the New DK Class B Common Stock for tax purposes. None of Newco, DraftKings or the CEO shall take any position inconsistent with the foregoing two sentences, including on any financial statement, tax return or in any administrative or judicial action or proceeding, unless otherwise required pursuant to a determination as defined in Section 1313 of the Code. The parties hereto adopt this Agreement as a "plan of reorganization" within the meaning of Sections 1.368-2(g) and 1.368-3(a) of the United States Treasury Regulations. The CEO shall not make an election pursuant to Section 83(b) of the Code with respect to the CEO Class B Shares or the New DK Class B Common Stock.

Section 1.4 Indemnification for Taxes. Newco and DraftKings shall jointly and severally indemnify and hold harmless the CEO, on an after-tax basis and determined on a with or without basis, from and against any federal, state and local taxes resulting from the Share Exchange itself with respect to, or as a result of, the receipt of the CEO Class B Shares or any income recognized by the CEO with respect to the CEO Class B Shares received by the CEO in connection with the Share Exchange or the New DK Class B Common Stock received by the CEO in exchange for the CEO Class B Shares (including interest and penalties, and costs and expenses incurred in connection with any audit, examination, inquiry or other action or proceeding with respect to the foregoing (including the documented fees and disbursements of the CEO's counsel related thereto)). Without limiting the foregoing, such taxes shall include income, net investment, withholding, payroll, employment, social security, and unemployment taxes. Any indemnity payable by Newco and DraftKings pursuant to this Section 1.4 shall not take into account as a reduction of the indemnity payment any tax basis or other tax attribute created by the income that produced the tax, and shall be paid within 5 days of the CEO's written request, and such request may be made as the CEO incurs the indemnification costs and expenses or as the CEO becomes liable for the tax (or interest and penalties). This Section 1.4 will provide the exclusive remedy against Newco and DraftKings for any breach of any representation, warranty, covenant or other claims arising out of or relating to Section 1.3 and Section 1.4 of this Agreement.

ARTICLE II

REPRESENTATIONS AND WARRANTIES OF DRAFTKINGS

DraftKings represents and warrants to the CEO and Newco as of the date hereof that:

Section 2.1 Existence and Power. DraftKings is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Delaware. DraftKings has the requisite corporate power and authority to own or lease all of its properties and assets and to carry on its business as it is now being conducted, and is duly licensed or qualified to do business in each jurisdiction in which the nature of the business conducted by it or the character or location of the properties and assets owned or leased by it makes such licensing or qualification necessary.

Section 2.2 Authorization. The execution, delivery and performance of this Agreement has been duly authorized by all necessary action on the part of DraftKings, and this Agreement is a valid and binding obligation of DraftKings, enforceable against it in accordance with its terms.

Section 2.3 . Approvals. The transactions contemplated by this Agreement, including without limitation the issuance of the Shares and the compliance with the terms of this Agreement, have been duly and validly authorized by all necessary corporate consent and authorizations on the part of DraftKings, and no other corporate actions on the part of DraftKings are necessary to authorize the execution and delivery by DraftKings of this Agreement.

Section 2.4 Valid Issuance. Upon their issuance, the Shares will have been duly authorized by all necessary corporate action and will be validly issued, fully paid and non-assessable, will not subject the holders thereof to personal liability and will not be subject to any preemptive or similar rights. The voting rights provided for in the terms of the Shares are validly authorized and shall not be subject to restriction or limitation in any respect.

Section 2.5 Non-Contravention. The execution, delivery and performance of this Agreement, and the consummation by DraftKings of the transactions contemplated hereby, will not (i) violate or result in a breach of any provision of law to which DraftKings is subject; (ii) conflict with, violate or result in a breach of any provision of, or constitute a default (or an event which, with notice or lapse of time or both would constitute a default) under, any provision of the A&R DK Charter or the bylaws of DraftKings; or (iii) violate or result in a violation of, conflict with or constitute or result in a default (whether after the giving of notice, lapse of time or both) under, accelerate any obligation under, or give rise to a right of termination of, the BCA.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF THE CEO

The CEO represents and warrants to DraftKings and Newco as of the date hereof that:

Section 3.1 Authorization. The CEO has all requisite power and authority to enter into, deliver and perform its obligations under this Agreement. The execution, delivery and performance of this Agreement has been duly authorized by all necessary action on the part of the CEO, and this Agreement is a valid and binding obligation of the CEO, enforceable against the CEO in accordance with its terms.

Section 3.2 Non-Contravention.Section 3.3

Section 3.4 Section 3.5The execution, delivery and performance of this Agreement, and the consummation by the CEO of the transactions contemplated hereby, will not (i) violate or result in a breach of any provision of law to which the CEO is subject; (ii) violate or result in a violation of, conflict with or constitute or result in a default (whether after the giving of notice, lapse of time or both) under, accelerate any obligation under, or give rise to a right of termination of, any contract, permit, license, authorization, agreement or any other instrument to which the CEO is a party or by which the CEO is bound; or (iii) result in the creation or imposition of any liens on any of the Old DK Shares.

Section 3.3 Title to InterestsSection 3.4. The CEO is the sole beneficial owner of the Old DK Shares and has good title to the Old DK Shares, free and clear of any liens, other than restrictions under applicable securities laws or as set forth under the A&R DK Charter. The CEO is not a party to any option, warrant, purchase right or other contract or commitment that could require the CEO to sell, transfer, or otherwise dispose of any Old DK Shares (other than this Agreement and the BCA).

Section 3.4 . Acquisition for Own Account. The CEO is acquiring the Shares for his own account and not with a view to the distribution thereof in violation of the Securities Act of 1933, as amended, and the rules and regulations of the Securities and Exchange Commission promulgated thereunder (the "Securities Act").

Section 3.5 No Registration.(a) The CEO understands that (i) the Shares have not been registered under the Securities Act or any state securities laws, and are being issued in a transaction exempt from the registration requirements thereof and (ii) the Shares may not be sold unless such disposition is registered under the Securities Act and applicable state securities laws or is exempt from registration thereunder.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF NEWCO

Newco represents and warrants to DraftKings and the CEO as of the date hereof that:

Section 4.1 Existence and Power. Newco is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Nevada. Newco has the requisite corporate power and authority to own or lease all of its properties and assets and to carry on its business as it is now being conducted, and is duly licensed or qualified to do business in each jurisdiction in which the nature of the business conducted by it or the character or location of the properties and assets owned or leased by it makes such licensing or qualification necessary.

Section 4.2 Authorization. The execution, delivery and performance of this Agreement has been duly authorized by all necessary action on the part of Newco, and this Agreement is a valid and binding obligation of Newco, enforceable against it in accordance with its terms.

Section 4.3. Approvals. The transactions contemplated by this Agreement, and the compliance with the terms of this Agreement, have been duly and validly authorized by all necessary corporate consent and authorizations on the part of Newco, and no other corporate actions on the part of Newco are necessary to authorize the execution and delivery by Newco of this Agreement.

Section 4.4 Valid Issuance. Upon their issuance, the shares of New DK Class A Common Stock and New DK Class B Common Stock issued to the CEO in respect of the Shares in the Merger Share Exchange will have been duly authorized by all necessary corporate action and will be validly issued, fully paid and non-assessable, will not subject the holders thereof to personal liability and will not be subject to any preemptive or similar rights. The voting rights provided for in the terms of such shares of New DK Class A Common Stock and New DK Class B Common Stock shall be validly authorized and shall not be subject to restriction or limitation in any respect.

Section 4.5 Non-Contravention. The execution, delivery and performance of this Agreement, and the consummation by Newco of the transactions contemplated hereby, will not (i) violate or result in a breach of any provision of law to which Newco is subject; (ii) conflict with, violate or result in a breach of any provision of, or constitute a default (or an event which, with notice or lapse of time or both would constitute a default) under, any provision of the articles of incorporation or bylaws of Newco; or (iii) violate or result in a violation of, conflict with or constitute or result in a default (whether after the giving of notice, lapse of time or both) under, accelerate any obligation under, or give rise to a right of termination of, the BCA.

ARTICLE V

CONDITIONS TO SHARE EXCHANGE CLOSING

Section 5.1 Conditions to Each Party's Obligation To Effect the Share Exchange. The respective obligations of the parties hereunder to effect the Share Exchange shall be subject to the following conditions:

(a) No Injunctions or Restraints; Illegality. No order, injunction or decree issued by any court or agency of competent jurisdiction or other law preventing or making illegal the consummation of the Share Exchange shall be in effect.

(b) Satisfaction of BCA Closing Conditions. The conditions set forth in Article XI of the BCA shall have been satisfied or irrevocably waived in accordance with the terms and conditions thereunder (other than those conditions that by their nature are to be satisfied at the Closing, but subject to the satisfaction or waiver of those conditions), and the parties to the BCA shall stand ready, willing and able to complete the Transactions.

ARTICLE VI

MISCELLANEOUS

Section 6.1 Notices. All notices, requests, claims, demands and other communications hereunder shall be in writing and shall be deemed given, delivered and/or provided (a) when delivered personally, (b) when sent by facsimile (which is confirmed by a printed confirmation produced by the sending machine) or (c) when delivered when dispatched for overnight delivery by Federal Express or a similar courier, in either case, to the parties at the following addresses (or at such other address for a party as shall be specified by like notice):

(a) if to DraftKings, to:

DraftKings Inc.
222 Berkeley St
Boston, MA 02116
Attention: Stanton Dodge

with a copy to:

Sullivan & Cromwell LLP
125 Broad Street
New York, NY 10004
Attention: Scott D. Miller
Fax: (212) 291-9101

(b) if to the CEO, to:

Jason Robins
c/o DraftKings Inc.
222 Berkeley St
Boston, MA 02116

with a copy to:

Orrick, Herrington & Sutcliffe, LLP
1000 Marsh Road
Menlo Park, CA 94025
Attention: Bill Hughes; Christine McCarthy

(c) if to Newco, to:

DEAC NV Merger Corp.
2121 Avenue of the Stars, Suite 2300
Los Angeles, CA 90067
Attention: Eli Baker

with a copy to (which shall not constitute a notice):
Winston & Strawn LLP
333 South Grand Avenue, 38th Floor
Los Angeles, CA 90071
Attention: Joel L. Rubinstein
Fax: (212) 294-4700

Section 6.2 Further Assurances. Each party hereto shall do and perform or cause to be done and performed all further acts and shall execute and deliver all other agreements, certificates, instruments and documents as any other party hereto reasonably may request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

Section 6.3 Amendments and Waivers. Any provision of this Agreement may be amended or waived if, but only if, such amendment or waiver is in writing and is duly executed and delivered by DraftKings, Newco and the CEO. No failure or delay by any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

Section 6.4 Fees and Expenses. Each party hereto shall pay all of its own fees and expenses (including attorneys' fees) incurred in connection with this Agreement and the transactions contemplated hereby.

Section 6.5 Successors and Assigns. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, provided that neither party may assign, delegate or otherwise transfer any of its rights or obligations under this Agreement without the consent of the other party hereto, such consent not to be unreasonably withheld or delayed.

Section 6.6 Governing Law. This Agreement shall be governed by, and construed in accordance with, the Laws of the State of Nevada, regardless of the laws that might otherwise govern under applicable principles of conflicts of laws thereof. The parties hereto agree that any suit, action or proceeding brought by either party to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement or the transactions contemplated hereby shall be brought in the Clark County Business Court, or if such court lacks jurisdiction, any other federal or state court located in the State of Nevada. Each of the parties hereto submits to the jurisdiction of any such court in any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of, or in connection with, this Agreement or the transactions contemplated hereby and hereby irrevocably waives the benefit of jurisdiction derived from present or future domicile or otherwise in such action or proceeding. Each party hereto irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum.

Section 6.7 Waiver Of Jury Trial. EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS. EACH PARTY TO THIS AGREEMENT CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF A LEGAL ACTION, (B) SUCH PARTY HAS CONSIDERED AND UNDERSTANDS THE IMPLICATIONS OF THIS WAIVER, (C) SUCH PARTY MAKES THIS WAIVER VOLUNTARILY AND (D) SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 6.7.

Section 6.8 Entire Agreement. This Agreement and the BCA constitute the entire agreement between the parties with respect to the subject matter of this Agreement (i.e., the Share Exchange), and this Agreement and the BCA supersede all prior agreements and understandings, both oral and written, between the parties and/or their affiliates with respect to the subject matter of this Agreement (i.e., the Share Exchange).

Section 6.9 Severability. If one or more provisions of this Agreement are held to be unenforceable under applicable law, such provision shall be enforced to the maximum extent permissible and the balance of this Agreement shall be enforced in accordance with its terms.

Section 6.10 Counterparts; Third Party Beneficiaries. This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures were upon the same instrument. No provision of this Agreement shall confer upon any person other than the parties hereto any rights or remedies hereunder.

Section 6.11 Specific Performance. The parties agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms. It is accordingly agreed that the parties shall be entitled to specific performance of the terms hereof, this being in addition to any other remedies to which they are entitled at law or equity.

[Remainder of page intentionally left blank]

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

DRAFTKINGS INC., a Delaware corporation

By: /s/ R. Stanton Dodge
Name: R. Stanton Dodge
Title: Chief Legal Officer

JASON ROBINS

By: /s/ Jason Robins

DEAC NV MERGER CORP., a Nevada corporation

By: /s/ Eli Baker
Name: Eli Baker
Title: President and Secretary

Exhibit 10.20

SEVENTH AMENDMENT AND JOINDER
TO
AMENDED AND RESTATED LOAN AND SECURITY AGREEMENT

This Seventh Amendment and Joinder to Amended and Restated Loan and Security Agreement (this "**Seventh Amendment and Joinder**"), dated as of April 23, 2020, is executed and delivered by **DRAFTKINGS INC.**, a Nevada corporation ("**New Borrower**"), **DRAFTKINGS INC.**, a Delaware corporation, **CROWN GAMING INC.**, a Delaware corporation, and **CROWN DFS INC.**, a Delaware corporation (individually, each a "**Borrower**" and collectively, "**Borrowers**"), and **PACIFIC WESTERN BANK**, a California state-chartered bank ("**Bank**"). Capitalized terms used herein but not otherwise defined herein shall have the meanings ascribed to those terms in the Loan Agreement (as defined below).

RECITALS

a. Borrower and Bank are parties to that certain Amended and Restated Loan and Security Agreement dated as of October 21, 2016 (as amended from time to time, the "**Original Loan Agreement**").

b. From and after the date hereof (the "**Effective Date**"), New Borrower, Borrowers, and Bank desire to amend and supplement the terms and provisions of the Original Loan Agreement as provided herein, and the Original Loan Agreement, as amended and supplemented by this Seventh Amendment and Joinder, and as may be hereafter further supplemented, amended, modified or restated from time to time, shall be referred to collectively as the "**Loan Agreement**."

c. Bank desires that New Borrower execute this Seventh Amendment and Joinder for the purpose of acknowledging that it is and shall be a "Borrower" under the Loan Agreement and the other Loan Documents.

d. New Borrower has read and approved the Loan Documents and has asked Bank to agree to allow New Borrower to become a party to the Loan Documents in order to facilitate its ability to continue to operate its business by achieving a stronger financial base for itself and its affiliated companies.

NOW, THEREFORE, in consideration of the premises herein contained, and for other good and valuable consideration (the receipt, sufficiency and adequacy of which are hereby acknowledged), the parties hereto (intending to be legally bound) hereby agree as follows:

1. Incorporation. The foregoing preamble and recitals are incorporated herein by this reference.

2. Joinder and Assumption. From and after the Effective Date, New Borrower hereby absolutely and unconditionally:

(a) (i) joins as and becomes a party to the Loan Agreement as a "Borrower" thereunder, (ii) assumes, as a joint and several obligor thereunder, all of the obligations, liabilities and indemnities of a "Borrower" under the Loan Agreement and all other Loan Documents, and (iii) covenants and agrees to be bound by and adhere to all of the terms, covenants, waivers, releases, agreements and conditions of or respecting a "Borrower" with respect to the Loan Agreement and the other Loan Documents and all of the representations and warranties contained in the Loan Agreement (in the manner set forth in Section 5 of this Seventh Amendment and Joinder) and the other Loan Documents with respect to New Borrower; and

(b) collaterally assigns and transfers to Bank, and hereby grants to Bank, a continuing security interest in all of New Borrower's now owned and existing and hereafter acquired and arising assets constituting Collateral, as collateral security for the prompt and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of all of the Obligations. New Borrower hereby authorizes Bank to file at any time Uniform Commercial Code financing statements in such jurisdictions and offices as Bank deems necessary in connection with the perfection of a security interest in all of New Borrower's now owned or hereafter arising or acquired assets and property, including, without limitation, accounts receivable, deposit accounts, equipment, general intangibles, inventory, and any and all other personal property of New Borrower, and all products, substitutions, replacements, and proceeds of such property and assets. New Borrower has read the Loan Agreement and affirmatively grants to Bank all rights to New Borrower's Collateral as set forth in the Loan Agreement and the Loan Documents.

From and after the Effective Date, any reference to the term "Borrower" in the Loan Agreement shall also include New Borrower. Except as expressly provided herein, the Loan Agreement remains in full force and effect and is hereby ratified and confirmed in all respects.

3. Amendments to Loan Agreement.

(a) Borrowers hereby agree that an Event of Default will immediately result if Borrowers do not execute, on or before May 1, 2020, an amendment to the Loan Agreement that establishes monthly minimum cumulative Revenue covenant levels for the 2020 calendar year.

(b) The following defined term in Exhibit A to the Loan Agreement is hereby amended and restated, as follows:

"Parent" means DraftKings Inc., a Delaware corporation.

(c) Exhibit B to the Loan Agreement is hereby replaced with Exhibit B in the form attached hereto as Appendix I.

4. Consent to Acquisition. Borrower has informed Bank that Parent has entered into that certain Business Combination Agreement, dated as of December 22, 2019, by and among Diamond Eagle Acquisition Corp., a Delaware corporation ("**DEAC**"), Parent, SBTech (Global) Limited, a company limited by shares, originally incorporated in Gibraltar and continued as a company under the Isle of Man Companies Act 2006, with registration number 014119V ("**SBT**"), DEAC NV Merger Corp., a Nevada corporation and a wholly-owned subsidiary of DEAC ("**New Borrower**"), DEAC Merger Sub Inc., a Delaware corporation and a wholly-owned subsidiary of DEAC ("**Merger Sub**"), the shareholders of SBT who are party thereto (the "**SBT Sellers**"), and Shalom Meckenzie in his capacity as the SBT Sellers' Representative (the "**Business Combination Agreement**"). Pursuant to the Business Combination Agreement:

(a) DEAC will merge with and into New Borrower, with New Borrower surviving that merger, and New Borrower will change its name to DraftKings Inc. (the "**NV Merger**");

(b) Merger Sub will merge with and into Parent, with Parent surviving that merger as a wholly owned subsidiary of New Borrower (the "**DK Merger**"); and

(c) concurrently with the DK Merger, New Borrower will acquire all of the issued and outstanding share capital of SBT from the SBT Sellers (the "**SBT Acquisition**");

all as more particularly described in the Business Combination Agreement (the NV Merger, the DK Merger, and the SBT Acquisition, collectively, the "**Business Combination Transactions**"). In consideration for the DK Merger and the SBT Acquisition, Parent's stockholders will receive shares of common stock of New Borrower, and the SBT Sellers will receive a combination of cash and shares of common stock of New Borrower, as described more fully in the Business Combination Agreement. In addition, immediately prior to the closing of the Business Combination Transactions, DEAC will sell equity securities to certain institutional investors and receive proceeds of approximately $304.7 million from those sales (the "**Private Placement**").

Bank hereby consents to the Business Combination Transactions.

5. Representations and Warranties. Each Borrower and New Borrower hereby represents and warrants to Bank, which representations and warranties shall survive the execution and delivery hereof, that: (a) this Seventh Amendment and Joinder is the legally valid and binding obligation of each Borrower and New Borrower, enforceable against each Borrower and New Borrower in accordance with its terms, and (b) each of the representations and warranties contained in the Original Loan Agreement is true and correct in all respects as of the date of this Seventh Amendment and Joinder.

6. Successors and Assigns. This Seventh Amendment and Joinder shall be binding upon New Borrower, Borrowers, Bank, and Bank's successors and assigns, and shall inure to the benefit of New Borrower, Borrowers, Bank, and Bank's successors and assigns. No other person or entity shall be a direct or indirect legal beneficiary of, or have any direct or indirect cause of action or claim in connection with, this Seventh Amendment and Joinder. New Borrower may not assign or transfer any of its rights or obligations under this Seventh Amendment and Joinder without the prior written consent of Bank.

7. Severability; Construction. Wherever possible, each provision of this Seventh Amendment and Joinder shall be interpreted in such a manner so as to be effective and valid under applicable law, but if any provision of this Seventh Amendment and Joinder shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such provision or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Seventh Amendment and Joinder. All obligations of Borrowers and New Borrower and rights of Bank expressed herein shall be in addition to and not in limitation of those provided by applicable law.

8. Counterparts; Facsimile and other Electronic Transmission. This Seventh Amendment and Joinder may be executed in any number of counterparts and by the different parties hereto on separate counterparts, and each such counterpart shall be deemed to be an original, but all such counterparts shall together constitute but one and the same Seventh Amendment and Joinder. Receipt of an executed signature page to this Seventh Amendment and Joinder by facsimile or other electronic transmission shall constitute for all purposes effective delivery thereof. Electronic records of this executed Seventh Amendment and Joinder maintained by Bank shall be deemed to be originals.

9. GOVERNING LAW. THIS SEVENTH AMENDMENT AND JOINDER SHALL BE A CONTRACT MADE UNDER AND BE CONSTRUED, ENFORCED AND GOVERNED BY THE LAWS OF THE STATE OF NORTH CAROLINA APPLICABLE TO CONTRACTS MADE AND TO BE PERFORMED ENTIRELY WITHIN SUCH STATE, WITHOUT REGARD TO CONFLICT OF LAW PRINCIPLES.

10. <u>WAIVER OF JURY TRIAL</u>. BANK, NEW BORROWER, AND BORROWERS EACH WAIVE ANY RIGHT TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS SEVENTH AMENDMENT AND JOINDER OR ANY TRANSACTION CONTEMPLATED HEREIN, INCLUDING CLAIMS BASED ON CONTRACT, TORT, BREACH OF DUTY AND ALL OTHER COMMON LAW OR STATUTORY BASES. ALL DISPUTES, CONTROVERSIES, CLAIMS, ACTIONS AND SIMILAR PROCEEDINGS ARISING WITH RESPECT TO THIS SEVENTH AMENDMENT AND JOINDER OR ANY RELATED AGREEMENT OR TRANSACTION SHALL BE BROUGHT IN THE GENERAL COURT OF JUSTICE OF NORTH CAROLINA SITTING IN DURHAM COUNTY, NORTH CAROLINA OR THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF NORTH CAROLINA, EXCEPT AS PROVIDED BELOW WITH RESPECT TO ARBITRATION OF SUCH MATTERS. IF THE JURY WAIVER SET FORTH IN THIS SECTION IS NOT ENFORCEABLE, THEN ANY DISPUTE, CONTROVERSY OR CLAIM ARISING OUT OF OR RELATING TO THIS SEVENTH AMENDMENT AND JOINDER OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREIN WILL BE FINALLY SETTLED BY BINDING ARBITRATION IN DURHAM COUNTY, NORTH CAROLINA IN ACCORDANCE WITH THE THEN-CURRENT COMMERCIAL ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION BY ONE ARBITRATOR APPOINTED IN ACCORDANCE WITH SAID RULES. THE ARBITRATOR SHALL APPLY NORTH CAROLINA LAW TO THE RESOLUTION OF ANY DISPUTE, WITHOUT REFERENCE TO RULES OF CONFLICTS OF LAW OR RULES OF STATUTORY ARBITRATION. JUDGMENT ON THE AWARD RENDERED BY THE ARBITRATOR MAY BE ENTERED IN ANY COURT HAVING JURISDICTION THEREOF. NOTWITHSTANDING THE FOREGOING, THE PARTIES MAY APPLY TO ANY COURT OF COMPETENT JURISDICTION FOR PRELIMINARY OR INTERIM EQUITABLE RELIEF, OR TO COMPEL ARBITRATION IN ACCORDANCE WITH THIS PARAGRAPH. THE EXPENSES OF THE ARBITRATION, INCLUDING THE ARBITRATOR'S FEES, REASONABLE ATTORNEYS' FEES AND EXPERT WITNESS FEES, INCURRED BY THE PARTIES TO THE ARBITRATION, MAY BE AWARDED TO THE PREVAILING PARTY, IN THE DISCRETION OF THE ARBITRATOR, OR MAY BE APPORTIONED BETWEEN THE PARTIES IN ANY MANNER DEEMED APPROPRIATE BY THE ARBITRATOR. UNLESS AND UNTIL THE ARBITRATOR DECIDES THAT ONE PARTY IS TO PAY FOR ALL (OR A SHARE) OF SUCH EXPENSES, THE PARTIES SHALL SHARE EQUALLY IN THE PAYMENT OF THE ARBITRATOR'S FEES AS AND WHEN BILLED BY THE ARBITRATOR.

11. <u>Conditions Precedent to Effectiveness of Seventh Amendment and Joinder</u>. The agreement of Bank to enter into this Seventh Amendment and Joinder on the date hereof is subject to the condition precedent that Bank shall have received, in form and substance satisfactory to Bank, each of the following items and completed each of the following requirements:

(a) this Seventh Amendment and Joinder, duly executed by New Borrower and each Borrower;

(b) all conditions precedent to the consummation of the Business Combination Transactions, each as specified in the Business Combination Agreement, and the Private Placement have been satisfied or will be satisfied simultaneously with the effectiveness of this Seventh Amendment and Joinder, in each case as determined by Bank in Bank's sole discretion;

(c) a fully executed copy of the Business Combination Agreement, along with all accompanying exhibits and schedules and all related documents;

(d) an officer's certificate of New Borrower with respect to incumbency and resolutions authorizing the execution and delivery of this Seventh Amendment and Joinder;

(e) a financing statement (Form UCC-1) with respect to New Borrower;

(f) payment of the fees and Bank Expenses incurred in connection with the documentation of this Seventh Amendment and Joinder and any other related documentation, which may be debited from any of a Borrower's or New Borrower's accounts with Bank;

(g) current SOS Reports indicating that, as to New Borrower, except for Permitted Liens, there are no security interests or Liens of record in the Collateral;

(h) a Borrower Information Certificate from New Borrower; and

(i) such other documents or certificates, and completion of such other matters, as Bank may reasonably deem necessary or appropriate.

12. Payment of Success Fee. Borrowers hereby agree that, upon consummation of the Business Combination Transactions, Borrowers will pay to Bank a fee of $650,000 in full satisfaction of the success fee described in Section 2.5(c) of the Loan Agreement.

13. Notices. The address for notices to be sent to New Borrower is:

DraftKings Inc., on behalf of each Borrower
222 Berkeley Street, 5th Floor
Boston, MA 02116
Attn: Jason Park, Chief Financial Officer

14. New Borrower Deemed Execution. Bank, Borrowers, and New Borrower hereby agree that New Borrower shall be deemed to have executed this Seventh Amendment and Joinder immediately after consummation of the Business Combination Transactions.

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned have caused this Seventh Amendment and Joinder to Amended and Restated Loan and Security Agreement to be duly executed and delivered as of the date first above written.

NEW BORROWER:

DRAFTKINGS INC., a Nevada corporation

By: /s/ Jason Park
Name: Jason Park
Title: CFO

BANK:

PACIFIC WESTERN BANK

By: /s/ Joel Marquis
Name: Joel Marquis
Title: SVP

BORROWERS:

DRAFTKINGS INC., a Delaware corporation

By: /s/ Jason Park
Name: Jason Park
Title: CFO

CROWN GAMING INC.

By: /s/ Tim Dent
Name: Tim Dent
Title: Treasurer

CROWN DFS INC.

By: /s/ Tim Dent
Name: Tim Dent
Title: Treasurer

APPENDIX I

EXHIBIT B

DEBTORS: **DRAFTKINGS INC., a Nevada corporation**
DRAFTKINGS INC., a Delaware corporation
CROWN GAMING INC., a Delaware corporation
CROWN DFS INC., a Delaware corporation

SECURED PARTY: **PACIFIC WESTERN BANK**

COLLATERAL DESCRIPTION ATTACHMENT TO LOAN AND SECURITY AGREEMENT

All personal property of each Borrower (each herein referred to as "Borrower" or "Debtor") whether presently existing or hereafter created or acquired, and wherever located, including, but not limited to:

(a) all accounts (including health-care-insurance receivables), chattel paper (including tangible and electronic chattel paper), deposit accounts, documents (including negotiable documents), equipment (including all accessions and additions thereto), financial assets, general intangibles (including patents, trademarks, copyrights, goodwill, payment intangibles, domain names, and software), goods (including fixtures), instruments (including promissory notes), inventory (including all goods held for sale or lease or to be furnished under a contract of service, and including returns and repossessions), investment property (including securities and securities entitlements), letter of credit rights, money, and all of each Debtor's books and records with respect to any of the foregoing, and the computers and equipment containing said books and records;

(b) any and all cash proceeds and/or noncash proceeds of any of the foregoing, including, without limitation, insurance proceeds, and all supporting obligations and the security therefor or for any right to payment.

All terms above have the meanings given to them in the North Carolina Uniform Commercial Code, as amended or supplemented from time to time, including revised Article 9 of the Uniform Commercial Code-Secured Transactions.

Exhibit 16.1

April 28, 2020

Office of the Chief Accountant
Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549

Ladies and Gentlemen:

We have read the statements of DraftKings Inc. included under Item 4.01 of its Form 8-K dated April 28, 2020. We agree with the statements concerning our Firm under Item 4.01, in which we were informed of our dismissal on April 23, 2020, following completion of the Company's review of the quarter ended March 31, 2020, which consists only of the accounts of the pre-Business Combination special purpose acquisition company (Diamond Eagle Acquisition Corp.). We are not in a position to agree or disagree with other statements contained therein.

Very truly yours,

/s/ WithumSmith+Brown, PC

New York, New York

Exhibit 21.1

DRAFTKINGS INC.

LIST OF SUBSIDIARIES

(as of April 23, 2020)

Name of Subsidiary	Country (State)	Percent Ownership
DraftKings Inc.	United States (Delaware)	100%
Crown Europe Malta Limited	Malta	100%
Crown DFS Malta Limited	Malta	100%
Crown Gaming Malta Limited	Malta	100%
DKUK Services Ltd	England and Wales	100%
DraftKings Australia Pty Limited	Australia	100%
DK-FH Inc.	United States (Delaware)	100%
DK Player Reserve LLC	United States (Delaware)	100%
Crown Gaming Inc.	United States (Delaware)	100%
Crown Gaming Ireland Limited	Ireland	100%
Crown MS Gaming Inc.	United States (Delaware)	100%
Crown NJ Gaming Inc.	United States (Delaware)	100%
Crown NV Gaming Inc.	United States (Delaware)	100%
Crown NY Gaming Inc.	United States (Delaware)	100%
Crown PA Gaming Inc.	United States (Delaware)	100%
Crown WV Gaming Inc.	United States (Delaware)	100%
Crown IA Gaming LLC	United States (Delaware)	100%
Crown IN Gaming LLC	United States (Delaware)	100%
Crown MA Gaming LLC	United States (Delaware)	100%
Crown MI Gaming LLC	United States (Delaware)	100%
Crown IL Gaming LLC	United States (Delaware)	100%
Crown NH Gaming LLC	United States (Delaware)	100%
Crown TN Gaming LLC	United States (Delaware)	100%
Crown CO Gaming LLC	United States (Delaware)	100%
Crown DFS Inc.	United States (Delaware)	100%
Crown PA DFS Inc.	United States (Delaware)	100%
SBTech (Global) Limited	Isle of Man	100%
Gaming Tech Ltd	Israel	100%

SBTech (Global) Limited — Subsidiary Bulgaria (Branch)	Bulgaria	100%
SBTech (Gibraltar) Limited	Gibraltar	100%
SBTech Malta Limited	Malta	100%
SBTech US Inc.	United States (Delaware)	100%
Lucrative Green Leaf Limited	Ireland	100%
Sky Star Eight Limited	England and Wales	100%
Software Co-Work Cyprus Limited	Cyprus	100%
LLC “Software Co-Work”	Ukraine	100%

Exhibit 99.1

UNAUDITED PRO FORMA CONDENSED COMBINED FINANCIAL INFORMATION

Defined terms included below have the same meaning as terms defined and included elsewhere in this Form 8-K. Unless the context otherwise requires, the "Company" refers to DraftKings Inc. and its subsidiaries after the Closing, and DEAC prior to the Closing.

Introduction

The unaudited pro forma condensed combined financial information is prepared in accordance with Article 11 of Regulation S-X. The unaudited pro forma condensed combined financial information presents the pro forma effects of the following transactions (collectively the "Business Combination"):

- The Reverse Recapitalization between Merger Sub and DraftKings Inc., a Delaware corporation ("Old DK");
- The SBTech Acquisition;
- The Private Placement; and
- The issuance of Convertible Notes, which converted into shares of DEAC Class A common stock immediately prior to the consummation of the Business Combination.

DEAC was incorporated as a Delaware corporation on March 27, 2019, and completed its initial public offering on May 14, 2019. DEAC is a blank check company whose purpose is to acquire, through a merger, share exchange, asset acquisition, stock purchase, reorganization or other similar business combination with one or more businesses. Upon the closing of the IPO, $400.0 million from the net proceeds thereof was placed in a trust account and invested in U.S. "government securities" within the meaning of Section 2(a)(16) of the Investment Company Act having a maturity of 185 days or in money market funds meeting certain conditions under Rule 2a-7 promulgated under the Investment Company Act which invest only in direct U.S. government treasury obligations. As of December 31, 2019, DEAC had approximately $404.0 million held in the trust account.

The following describes the two operating entities:

- Old DK was organized on December 29, 2011, as a Delaware corporation. It was founded with the initial mission of leveraging unique technology, analytics and marketing capabilities to deliver a daily fantasy sports offering. Within a few years, DraftKings became one of the largest and most recognized DFS platforms in the United States.
- SBTech was incorporated on July 24, 2007, under the laws of Gibraltar. It was originally named Jamtech Limited, subsequently renamed Networkpot Limited and thereafter renamed SBTech (Global) Limited on August 16, 2010.

The following unaudited pro forma condensed combined balance sheet as of December 31, 2019 assumes that the Business Combination occurred on December 31, 2019. The unaudited pro forma condensed combined statement of operations for the year ended December 31, 2019 present the pro forma effect of the Business Combination as if it had been completed on January 1, 2019.

The pro forma combined financial statements do not necessarily reflect what DraftKings' financial condition or results of operations would have been had the Business Combination occurred on the dates indicated. The pro forma combined financial information also may not be useful in predicting the future financial condition and results of operations of the post-combination company. The actual financial position and results of operations may differ significantly from the pro forma amounts reflected herein due to a variety of factors.

The historical financial information of DEAC was derived from the audited consolidated financial statements of Diamond Eagle Acquisition Corp. as of December 31, 2019 and for the period between March 27, 2019 and December 31, 2019, which is incorporated by reference. The historical financial information of Old DK was derived from Old DK's audited consolidated financial statements for the year ended December 31, 2019, which is incorporated by reference. The historical financial information of SBTech was derived from SBTech's audited consolidated financial statements for the year ended December 31, 2019, which is incorporated by reference.

This information should be read together with DEAC's, Old DK's, and SBTech's audited financial statements and related notes, as well as "DEAC's Management's Discussion and Analysis of Financial Condition and Results of Operations", "DraftKings' Management's Discussion and Analysis of Financial Condition and Results of Operations" and "SBT's Management's Discussion and Analysis of Financial Condition and Results of Operations" contained in the Proxy, and other financial information, each of which is incorporated by reference.

The Reverse Recapitalization was accounted for as a reverse merger for which DraftKings was determined to be the accounting acquirer based on the following predominate factors:

- Old DK has the largest voting interest in DraftKings;
- The board of directors of DraftKings (the "Board") has 13 members, and DraftKings has nominated ten members of the Board;
- Old DK's former management makes up the vast majority of the management of DraftKings;
- Old DK is the largest entity by revenue and net income/loss;
- DraftKings Class B common stock issued to one DraftKings stockholder allows for incremental voting rights;
- The post-combination company assumed Old DK's name.

Other factors were considered but they would not change the preponderance of factors indicating that Old DK was the accounting acquirer.

The merger between Old DK and Merger Sub was accounted for as a reverse recapitalization, with no goodwill or other intangible assets recorded, in accordance with U.S. GAAP. Under this method of accounting, DEAC was treated as the "acquired" company for financial reporting purposes. Accordingly, for accounting purposes, the Reverse Recapitalization was treated as the equivalent of Old DK issuing stock for the net assets of DEAC, accompanied by a recapitalization. The net assets of DEAC are stated at historical cost, with no goodwill or other intangible assets recorded. Operations prior to the Reverse Recapitalization are those of Old DK. The SBTech Acquisition was treated as a business combination under Financial Accounting Standards Board's ASC 805, and was accounted for using the acquisition method of accounting. DraftKings recorded the fair value of assets acquired and liabilities assumed from SBTech.

Description of the Business Combination

Pursuant to the Business Combination Agreement, DEAC acquired all of the issued and outstanding equity interests of Old DK and SBTech in exchange for cash and equity. The initial purchase price was based on a combined pre-money enterprise value of Old DK and SBTech, which consists of $195.9 million of cash being transferred to SBTech shareholders (subject to adjustments as defined in the Business Combination Agreement), and the remaining value was in the form of shares of DraftKings' Class A common stock, options, restricted stock units and warrants of DraftKings and, in the case of Mr. Robins, shares of Class B common stock of DraftKings.

The following summarizes the consideration issued at closing in the Reverse Recapitalization and SBTech Acquisition at a $17.53 share price (as of April 23, 2020):

Total Consideration (in 000s)	**Amounts**	**Shares**
Share consideration - DraftKings[(2)]	$ 3,621,038	206,562
Cash consideration - SBTech[(1)]	195,948	-
Share consideration - SBTech[(2)]	771,044	43,984
Total Merger Consideration	$ 4,588,030	250,546

(1) Amount is subject to adjustment for the Net Debt Amount and Working Capital Amount, as specified in the Business Combination Agreement. Per the Business Combination Agreement, the cash consideration amount is EUR 180.0 million. Amount was converted using the average EUR to USD rate for the seven consecutive business day period ending on the fifth day prior to the Closing as per the terms of the Business Combination Agreement.

(2) Represents the estimated fair value of DraftKings common stock issued to Old DK/SBTech stockholders pursuant to the Business Combination Agreement. The estimate is based on shares that were outstanding and options and warrants that vested by the Closing. Amount is subject to adjustment based on an earnout clause included in the BCA. Per the terms of the BCA, a total of six million shares are held in escrow, three million of which will be for the benefit of Old DK/SBTech stockholders. The earnout shares will be paid out in thirds upon the share price of the post-combination company reaching $12.50, $14.00 and $16.00.

The equity share capitalization of DraftKings at close is as follows (including shares issuable pursuant to vested options and warrants that rolled over at the Closing):

Total Capitalization (in 000s)	**Shares**	**%**
Old DK rollover equity - DraftKings Class A	206,562	61.5
SBTech rollover equity	43,984	13.1
DEAC public shareholders	39,991	11.9
DEAC Founders Shares	3,659	1.1
DEAC shares issued upon conversion of Convertible Notes	11,256	3.3
DEAC shares issued in PIPE Offering	30,471	9.1
Total Class A Shares	335,923	100.0
DraftKings Class B Shares*	393,014	

* DraftKings' Class B shares were issued to Jason Robins, such shares carry 10 votes per share and allow Jason Robins to have 90% of the voting power of the capital stock of DraftKings on a fully-diluted basis. As these shares have no economic or participating rights, they have been excluded from the calculation of earnings per share.

The following unaudited pro forma condensed combined balance sheet as of December 31, 2019 and the unaudited pro forma condensed combined statements of operations for the year ended December 31, 2019 are based on the historical financial statements of DEAC, Old DK, and SBTech. The unaudited pro forma adjustments are based on information currently available, and assumptions and estimates underlying the unaudited pro forma adjustments are described in the accompanying notes. Actual results may differ materially from the assumptions used to present the accompanying unaudited pro forma condensed combined financial information.

Unaudited Pro Forma Condensed Combined Balance Sheet
as of December 31, 2019
(Amounts in thousands)

	As of December 31, 2019									December 31, 2019
	DraftKings (Historical)	DEAC (Historical)	SBTech (As Adjusted) (Note 3)	Accounting Policies and Reclassification Adjustments (Note 2)	Pro Forma Adjustments (Note 4 - PF)		Purchase Accounting Adjustments (Note 4 - PPA)		Pro Forma Combined
ASSETS									
Current assets:									
Cash and cash equivalents	$ 76,533	$ 491	$ 9,143	$ -	$ 403,961	**A**	$ (212,284)	**A**	$ 592,187
					(14,000)	**B**			
					(41,599)	**C**			
					40,042	**D**			
					304,714	**E**			
					(10,000)	**L**			
					(90)	**K**			
					(7,732)	**M**			
					(1,492)	**N**			
					44,500	**O**			
Cash reserved for customers	144,000	-	-	-	-		-		144,000
Receivables reserved for customers	19,828	-	-	-	-		-		19,828
Trade receivables, net	-	-	27,781	-	-		-		27,781
Prepaid expenses	-	319	-	(319)	-		-		-
Prepaid expenses and other current assets	20,787	-	-	4,045	-		-		24,832
Other current assets	-	-	3,726	(3,726)	-		-		-
Total current assets	261,148	810	40,650	-	718,304		(212,284)		808,628
Cash and investments held in Trust Account	-	403,961	-	-	(403,961)	**A**	-		-
Property and equipment, net	25,945	-	11,148	209	-		-		37,302
Intangible assets, net	33,939	-	29,296	(209)	-		240,152	**B**	303,178
Goodwill	4,738	-	-	-	-		695,235	**A**	699,973
Equity method investment	2,521	-	-	-	-		-		2,521
Deposits	2,434	-	-	-	-		-		2,434
Deferred tax assets	-	-	520	(520)	-		-		-
Other non-current assets	-	-	344	520	-		-		864
Total Assets	**330,725**	**404,771**	**81,958**	-	**314,343**		**723,103**		**1,854,900**

	As of December 31, 2019								December 31, 2019
	DraftKings (Historical)	DEAC (Historical)	SBTech (As Adjusted) (Note 3)	Accounting Policies and Reclassification Adjustments (Note 2)	Pro Forma Adjustments (Note 4 - PF)		Purchase Accounting Adjustments (Note 4 - PPA)		Pro Forma Combined
LIABILITIES AND STOCKHOLDERS' EQUITY									
Current liabilities:									
Accounts payable	-	1,492	-	(1,492)	-		-		-
Accounts payable and accrued expenses	85,295	-	-	22,364	(6,449)	**C**	-		99,718
					(1,492)	**N**			
Liabilities to customers	163,035	-	-	799	-		-		163,834
Term note, current portion	6,750	-	-	-	44,500	**O**	-		51,250
Settlement liability, current portion	-	-	-	-	-		-		-
Trade payables	-	-	9,124	(9,124)	-		-		-
Other accounts payable	-	-	12,547	(12,547)	-		-		-
Total current liabilities	255,080	1,492	21,671	-	36,559		-		314,802
Deferred underwriting commissions	-	14,000	-	-	(14,000)	**B**	-		-
Other long-term liabilities	56,862	-	-	458	(11,000)	**P**	2,648	**C**	48,968
Convertible promissory notes	68,363	-	-	-	(68,363)	**D**	-		-
Accrued severance pay, net	-	-	458	(458)	-		-		-
Total liabilities	380,305	15,492	22,129	-	(56,804)		2,648		363,770
Class A common stock subject to possible redemption	-	384,279	-	-	(384,279)	**F**	-		-
Series E-1 Redeemable Convertible Preferred Stock	119,752	-	-	-	(119,752)	**H**	-		-
Series F Redeemable Convertible Preferred Stock	138,619	-	-	-	(138,619)	**H**	-		-
Stockholders' Equity:									
Class A common stock	-	-	-	-	1	**D**	4	**A**	34
					3	**E**			
					4	**F**			
					1	**G**			
					-	**M**			
					21	**H**			
					-	**P**			
					-	**K**			
Class B common stock	-	1	-	-	(1)	**G**	-		39
					-	**H**			
					39	**Q**			
Common stock	390	-	-	-	(390)	**H**	-		-
Share capital	-	-	3	-	-		(3)	**D**	-
Actuarial reserve	-	-	(156)	-	-		156	**D**	-

	As of December 31, 2019								December 31, 2019
	DraftKings (Historical)	DEAC (Historical)	SBTech (As Adjusted) (Note 3)	Accounting Policies and Reclassification Adjustments (Note 2)	Pro Forma Adjustments (Note 4 - PF)		Purchase Accounting Adjustments (Note 4 - PPA)		Pro Forma Combined
Additional paid-in capital	690,443	2,689	-	-	(6,000)	C	780,280	A	2,544,091
					112,544	D			
					304,711	E			
					384,275	F			
					2,310	I			
					258,740	H			
					3,010	J			
					(90)	K			
					(7,732)	M			
					11,000	P			
					7,911	Q			
Retained earnings	-	2,310	58,795	(61,105)	-		-		-
Accumulated deficit	(998,784)	-	-	61,105	(29,150)	C	(58,795)	D	(1,053,034)
					(4,140)	D			
					(2,310)	I			
					(3,010)	J			
					(10,000)	L			
					(7,950)	Q			
Total parent stockholders' equity	(307,951)	5,000	58,642	-	1,013,797		721,642		1,491,130
Non-controlling interest	-	-	1,187	-	-		(1,187)	D	-
Total stockholders' equity	(307,951)	5,000	59,829	-	1,013,797		720,455		1,491,130
Total Liabilities and Stockholders' Equity	**330,725**	**404,771**	**81,958**	**-**	**314,343**		**723,103**		**1,854,900**

Unaudited Pro Forma Condensed Combined Statement of Operations
for the year ended December 31, 2019
(Amounts in thousands, except per share data)

	For the Year ended December 31, 2019	March 27, 2019 (inception) to December 31, 2019	For the Year ended December 31, 2019						For the Year ended December 31, 2019
	DraftKings (Historical)	DEAC (Historical)	SBTech (As Adjusted) (Note 3)	Accounting Policies and Reclassification Adjustments (Note 2)	Pro Forma Adjustments (Note 4 - PF)		Purchase Accounting Adjustments (Note 4 - PPA)		Pro Forma Combined
Revenue	$ 323,410	$ -	$ 108,424	$ -	$ -		$ -		$ 431,834
Cost of revenue	103,889	-	60,649	-	-		14,692	AA	179,230
Gross Profit	219,521	-	47,775	-	-		(14,692)		252,604
Operating Expenses:									
Sales and marketing	185,269	-	7,592	-	48	DD	-		192,909
General and administrative	124,868	1,857	13,230	-	(10,548)	AA	104	BB	131,524
					1,513	DD			
					500	EE			
Product and technology	55,929	-	-	20,408	82	DD	-		76,419
Research and development expenses			20,408	(20,408)					
Total Operating Expenses	366,066	1,857	41,230	-	(8,405)		104		400,852
(Loss) / Income from Operations	(146,545)	(1,857)	6,545	-	8,405		(14,796)		(148,248)
Interest income (expense)	1,348	-	-	(164)	-		-		1,184
Other income - interest on Trust Account	-	5,111	-	-	(5,111)	BB	-		-
Gain on initial equity method investment	3,000	-	-	-	-		-		3,000
Financial Income	-	-	26	(26)	-		-		-
Financial Expenses	-	-	(190)	190	-		-		-
(Loss)/Income before Income Tax Expense	(142,197)	3,254	6,381	-	3,294		(14,796)		(144,064)
Income Tax Expense/(Benefit)	58	944	796	-	(2,002)	CC	(4,084)	CC	(4,288)
Loss from equity method investment	479	-	-	-	-		-		479
Net (Loss)/Income	(142,734)	2,310	5,585	-	5,296		(10,712)		(140,255)
Earnings per Share									
Weighted average Class A shares outstanding									335,922,741
Loss per share (Basic and Diluted) attributable to Class A common stockholders									$ (0.42)

NOTES TO THE UNAUDITED PRO FORMA COMBINED FINANCIAL STATEMENTS

1. Basis of Presentation

The merger between a subsidiary of DEAC and Old DK was accounted for as a reverse recapitalization in accordance with U.S. GAAP. Under this method of accounting, DEAC was treated as the "acquired" company for financial reporting purposes. Accordingly, for accounting purposes, the Reverse Recapitalization was treated as the equivalent of Old DK issuing stock for the net assets of DEAC, accompanied by a recapitalization. The net assets of DEAC are stated at historical cost, with no goodwill or other intangible assets recorded. Operations prior to the Reverse Recapitalization are those of Old DK.

As Old DK was determined to be the accounting acquirer in the SBTech Acquisition, the acquisition is considered a business combination under ASC 805, and was accounted for using the acquisition method of accounting. DraftKings recorded the fair value of assets acquired and liabilities assumed from SBTech.

The unaudited pro forma condensed combined balance sheet as of December 31, 2019 assumes that the Business Combination occurred on December 31, 2019. The unaudited pro forma condensed combined statements of operations for the year ended December 31, 2019 present pro forma effect to the Business Combination as if it had been completed on January 1, 2019. These periods are presented on the basis of Old DK being the accounting acquirer.

The unaudited pro forma condensed combined balance sheet as of December 31, 2019 and the unaudited pro forma condensed combined statement of operations for the year ended December 31, 2019 have been prepared using, and should be read in conjunction with, the following:

- DEAC's audited consolidated balance sheet as of December 31, 2019 and the related notes for the period ended December 31, 2019, which is incorporated by reference;
- DraftKings' audited consolidated balance sheet as of December 31, 2019 and the related notes for the period ended December 31, 2019, which is incorporated by reference; and
- SBTech's audited consolidated balance sheet as of December 31, 2019 and the related notes for the period ended December 31, 2019, which is incorporated by reference.*

The unaudited pro forma condensed combined statement of operations for the year ended December 31, 2019 has been prepared using, and should be read in conjunction with, the following:

- DraftKings' audited statement of operations for the twelve months ended December 31, 2019 and the related notes, which is incorporated by reference s; and
- SBTech's audited statement of operations for the twelve months ended December 31, 2019 and the related notes, which is incorporated by reference.*

Management has made significant estimates and assumptions in its determination of the pro forma adjustments. As the unaudited pro forma condensed combined financial information has been prepared based on these preliminary estimates, the final amounts recorded may differ materially from the information presented.

The unaudited pro forma condensed combined financial information does not give effect to any anticipated synergies, operating efficiencies, tax savings or cost savings that may be associated with the Business Combination.

The pro forma adjustments reflecting the completion of the Business Combination are based on certain currently available information and certain assumptions and methodologies that DraftKings believes are reasonable under the circumstances. The unaudited condensed pro forma adjustments, which are described in the accompanying notes, may be revised as additional information becomes available and is evaluated.

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* The historical financial information for SBTech was prepared under IFRS as issued by the IASB. Refer to Footnote 3 for additional details regarding impact of conversion to U.S. GAAP for unaudited pro forma financial information.

Therefore, it is likely that the actual adjustments will differ from the pro forma adjustments and it is possible the difference may be material. DraftKings believes that its assumptions and methodologies provide a reasonable basis for presenting all of the significant effects of the Business Combination based on information available to management at this time and that the pro forma adjustments give appropriate effect to those assumptions and are properly applied in the unaudited pro forma condensed combined financial information.

The unaudited pro forma condensed combined financial information is not necessarily indicative of what the actual results of operations and financial position would have been had the Business Combination taken place on the dates indicated, nor are they indicative of the future consolidated results of operations or financial position of the post-combination company. They should be read in conjunction with the historical financial statements and notes thereto of DEAC, Old DK, and SBTech.

2. Accounting Policies and Reclassifications

As part of the preparation of these unaudited pro forma condensed combined financial statements, certain reclassifications were made to align DEAC's, Old DK's and SBTech's financial statement presentation. Management will perform a comprehensive review of DEAC's, Old DK's, and SBTech's accounting policies. As a result of the review, management may identify differences between the accounting policies of the three entities which, when conformed, could have a material impact on the financial statements of the post-combination company. Based on its initial analysis, DEAC had identified differences that would have an impact on the unaudited pro forma condensed combined financial information and recorded the necessary adjustments.

3. Adjustments to Historical SBTech Financial Information

The historical financial information of SBTech was prepared in accordance with IFRS and presented in Euros. The historical financial information was translated from Euros to U.S. dollars using the following historical exchange rates:

	$ / €
Period end exchange rate as of December 31, 2019	1.12
Average exchange rate for twelve months ended December 31, 2019	1.12

In addition, adjustments were made to convert SBTech's financial information from IFRS to U.S. GAAP, to align SBTech's accounting policies to those applied by Old DK. Refer to tables below for impacted line items and adjustment amounts in the pro forma condensed combined balance sheet and statements of operations.

Impact on pro forma balance sheet as of December 31, 2019:

	As of December 31, 2019 IFRS SBTech (in EUR)	Total Adjustments (in EUR)		As of December 31, 2019 US GAAP SBTech (in EUR)	As of December 31, 2019 US GAAP SBTech (in USD)
ASSETS					
CURRENT ASSETS:					
Cash and cash equivalents	€ 8,144	€ -		€ 8,144	$ 9,143
Trade receivables, net	24,745	-		24,745	27,781
Other current assets	3,258	61	A	3,319	3,726
Total current assets	36,147	61		36,208	40,650
NON-CURRENT ASSETS:					
Intangible assets, net	26,094	-		26,094	29,296
Right-of-use assets	25,779	(25,779)	B	-	-
Property, plant and equipment, net	9,930	-		9,930	11,148
Deferred tax assets	597	(134)	A	463	520
Other non-current assets	306	-	B	306	344
Total assets	98,853	(25,852)		73,001	81,958
LIABILITIES AND EQUITY					
CURRENT LIABILITIES:					
Trade payables	8,127	-		8,127	9,124
Lease liabilities	3,516	(3,516)	B	-	-
Other accounts payable	11,176	-		11,176	12,547
Total current liabilities	**22,819**	**(3,516)**		**19,303**	**21,671**
NON-CURRENT LIABILITIES					
Lease liabilities	22,749	(22,749)	B	-	-
Accrued severance pay, net	408	-		408	458
Total non-current liabilities	**23,157**	**(22,749)**		**408**	**458**
SHARHOLDERS' EQUITY					
Share capital	3	-		3	3
Actuarial reserve	(139)	-		(139)	(156)
Retained earnings	51,956	413	B	52,369	58,795
Equity attributable to owners of the parent	51,820	413		52,233	58,642
Non-controlling interest	1,057	-		1,057	1,187
Total equity	52,877	413		53,290	59,829
TOTAL LIABILITIES AND EQUITY	**98,853**	**(25,852)**		**73,001**	**81,958**

Impact on pro forma income statement for the year ended December 31, 2019:

	For the Year ended December 31, 2019 IFRS SBTech (in EUR)	Total Adjustments (in EUR)		For the Year ended December 31, 2019 US GAAP SBTech (in EUR)	For the Year ended December 31, 2019 US GAAP SBTech (in USD)
Revenue	€ 96,857	€ -		€ 96,857	$ 108,424
Cost of revenue	54,173	6		54,179	60,649
Gross Profit	42,684	(6)		42,678	47,775
Operating Expenses:					
Selling and marketing expenses	6,772	10		6,782	7,592
General and administrative expenses	11,772	47	**B**	11,819	13,230
Research and development expenses	18,103	128		18,231	20,408
Total operating costs and expenses	36,647	185		36,832	41,230
Operating income	6,037	(191)		5,846	6,545
Financial Income	23	-		23	26
Financial Expenses	846	(676)	**B**	170	190
Profit before tax	5,214	485		5,699	6,381
Tax expenses	638	73		711	796
Net Profit	4,576	412		4,988	5,585

A. Reflects the reclassification of deferred taxes associated with current assets or liabilities to other current assets related to IFRS to U.S. GAAP differences on the classification of deferred taxes. In the historical SBTech consolidated balance sheet, all deferred tax assets were classified as non-current.

B. Reflects the reversal of the impact of the adoption and ongoing effects of the accounting treatment of IFRS 16, Leases, recognized by SBTech in their financial statements as of and for the nine months ended December 31, 2019, as Old DK, the accounting acquirer, has not yet adopted the similar U.S. GAAP standard under ASC 842, Leases, and operates under ASC 840, Leases, as of and for the year ended December 31, 2019.

4. Adjustments to Unaudited Pro Forma Condensed Combined Financial Information

The historical consolidated financial statements have been adjusted in the unaudited pro forma condensed combined financial information to give effect to pro forma events that are (1) directly attributable to the Business Combination, (2) factually supportable and (3) with respect to the statement of operations, expected to have a continuing impact on the results of DraftKings.

There were no intercompany balances or transactions between DEAC, Old DK and SBTech as of the dates and for the periods of these unaudited pro forma combined financial statements.

The pro forma combined consolidated provision for income taxes does not necessarily reflect the amounts that would have resulted had the Companies filed consolidated income tax returns during the periods presented.

The pro forma basic and diluted earnings per share amounts presented in the unaudited pro forma condensed combined consolidated statements of operations are based upon the number of DEAC's shares outstanding, assuming the Business Combination occurred on January 1, 2019.

Adjustments to Unaudited Pro Forma Condensed Combined Balance Sheet

The pro forma adjustments included in the unaudited pro forma condensed combined balance sheet as of December 31, 2019 are as follows:

Pro Forma Adjustments (PF)

A. Reflects the reclassification of $403.9 million of cash and cash equivalents held in the DEAC trust account that became available for transaction consideration, transaction expenses, redemption of public shares and the operating activities of DEAC following the Business Combination. At Business Combination close, total amount in trust available for transaction consideration, net of cash used for redemptions, was $404.9.

B. Reflects the settlement of $14.0 million of deferred underwriters' fees.

C. Represents transaction costs in consummating the Business Combination (excluding approximately $3.3 million in transaction-related costs, including a tail liability insurance for SBTech's current directors and officers, incurred by SBTech and to be borne by DraftKings under the Business Combination Agreement, which was allocated to purchase price). Of the total amount shown, approximately $6.4 million was previously incurred and accrued for on the balance sheet as of December 31, 2019.

D. Represents proceeds of $109.2 million received from the issuance of the Convertible Notes, of which $69.1 million was already received and reflected in DraftKings' historical consolidated balance sheet as of December 31, 2019. Upon the Closing, the mandatory conversion feature upon a business combination was triggered, causing a conversion of the outstanding principal amount of these Notes and any unpaid accrued interest into equity securities at a specified price. The Convertible Notes were outstanding from December 2019 through April 2020. For purposes of this pro forma presentation, interest of $3.4 million was accrued and converted in addition to the principal balance. The remaining adjustment reflects the net income statement impact captured in retained earnings that is associated with the conversion of the notes.

E. Represents proceeds of $304.7 million from the issuance of 30.5 million shares in the Private Placement.

F. Reflects the reclassification of approximately $384.3 million of DEAC Class A common stock subject to possible redemption to permanent equity.

G. Reflects the conversion of DEAC Class B common stock to DEAC Class A common stock. In connection with the Closing, all shares of DEAC Class B common stock converted into shares of DEAC Class A common stock.

H. Represents recapitalization of Old DK equity and issuance of 206.6 million of DraftKings Class A common stock to Old DK Equity holders as consideration for the Reverse Recapitalization.

I. Reflects the reclassification of DEAC's historical retained earnings.

J. Reflects the amount of compensation cost related to the acceleration of the vesting for certain existing stock options granted.

K. Reflects redemptions of 8,928 DEAC public shares for $0.1 million at a redemption price of $10.10 per share based on a pro forma redemption date of December 31, 2019. As of the actual redemption date, the redemption price was $10.12 per share.

L. Reflects the payment of $10.0 million in bonuses to management of Old DK upon closing of the transaction as redemptions were less than 10% of DEAC public shares.

M. Reflects the cash amount paid to Old DK Stockholders that were deemed to be non-accredited by Old DK, in lieu of common stock.

N. Reflects the settlement of $1.5 million of DEAC's historical liabilities at transaction close.

O. Reflects additional cash of $44.5 million obtained by Old DK from drawing on its revolving credit facility subsequent to the balance sheet date. The draw is expected to be short-term in nature and as such has only been reflected on the pro forma balance sheet.

P. Reflects the cancellation of $11.0 million of promissory notes in exchange for Series F preferred shares in lieu of cash which occurred subsequent to the balance sheet date. The Series F shares converted to Class A shares upon close of the business combination and have been reflected herein as such.

Q. Reflects the issuance of 393.0 million of DraftKings Class B common stock to Jason Robins valued at $8.0 million. In connection with issuance of the Class B shares, DraftKings agreed to indemnify Mr. Robins for any personal tax liabilities that may arise, which would result in DraftKings incurring an additional liability and an incremental compensation charge. The Class B shares were valued using a market trading comparables approach.

Purchase Price Allocation Adjustments (PPA)

A. The estimated consideration is as follows:

Estimated Consideration		
Cash consideration[(1)]	$	208,956
Share consideration[(2)]		780,284
Other consideration[(3)]		3,328
Total estimated consideration		992,568

(1) Includes the cash consideration, as adjusted for estimated excess Net Debt Amount and Working Capital Amount of $13.0 million as of December 31, 2019. At the Closing, the Net Debt Amount and Working Capital Amount represented a decrease in total consideration of $11.0 million, resulting in cash consideration of $184.9.

(2) Includes the share consideration and the estimated contingent consideration of the earnout clause as specified in the Business Combination Agreement. The additional consideration related to the earnout clause was estimated assuming a 100%, 100%, and 75% probability of reaching the specified share price targets of $12.50, $14.00, and $16.00, respectively. The possible range for the value of the contingent consideration related to the earnout clause is $0 to $10.2 million.

(3) Includes transaction costs incurred by SBTech to be borne by Old DK and the six year liability insurance for SBTech's current directors and officers, as specified in the Business Combination Agreement.

Under the acquisition method of accounting, the identifiable assets acquired and liabilities assumed of SBTech are recorded at the acquisition date fair values. The pro forma adjustments are preliminary and based on estimates of the fair value and useful lives of the assets acquired and liabilities assumed and have been prepared to illustrate the estimated effect of the SBTech Acquisition.

For all assets acquired and liabilities assumed other than identified intangible assets and goodwill, the carrying value was assumed to equal fair value. The final determination of the fair value of certain assets and liabilities will be completed within the one-year measurement period as required by ASC 805. The size and breadth of the SBTech Acquisition may necessitate the use of this measurement period to adequately analyze and assess a number of the factors used in establishing the asset and liability fair values as of the acquisition date, including the significant contractual and operational factors underlying the developed technology and user relationship intangible assets and the assumptions underpinning the related tax impacts of any changes made. Any potential adjustments made could be material in relation to the preliminary values presented.

Accordingly, the pro forma purchase price allocation is subject to further adjustment as additional information becomes available and as additional analyses and final valuations are completed. There can be no assurances that these additional analyses and final valuations will not result in significant changes to the estimates of fair value set forth below.

The following table sets forth a preliminary allocation of the estimated consideration for the SBTech Acquisition to the identifiable tangible and intangible assets acquired and liabilities assumed based on SBTech's December 31, 2019 balance sheet, with the excess recorded as goodwill:

Estimated Goodwill	
Cash and cash equivalents	$ 9,143
Trade receivables, net	27,781
Other current assets	3,726
Property and equipment, net	11,357
Intangible assets, net	269,239
Deferred tax assets	520
Other non-current assets	344
Total Assets	322,110
Trade payables	9,124
Other accounts payable	12,547
Other long-term liabilities	2,648
Accrued severance pay, net	458
Total liabilities	24,777
Net assets acquired (a)	297,333
Estimated purchase consideration (b)	992,568
Estimated goodwill (b) - (a)	695,235

In accordance with ASC Topic 350, Goodwill and Other Intangible Assets, goodwill will not be amortized, but instead will be tested for impairment at least annually or more frequently if certain indicators are present. In the event management determines that the value of goodwill has become impaired, an accounting charge for the amount of impairment during the quarter in which the determination is made may be recognized. Goodwill recognized is not expected to be deductible for tax purposes.

B. The table below indicates the estimated fair value of each of the identifiable intangible assets:

	Preliminary Estimated Asset Fair Value	**Weighted Average Useful Life (Years)**
	(in thousands, except for useful life)	
Developed technology	134,515	10
Customer Relationships	103,850	15
Trademarks and Trade Names	30,874	15
Total	269,239	
Less: Net intangible assets reported on SBTech's historical financial statements	(29,087)	
Pro forma adjustment	240,152	

The fair values of the developed technology intangible assets were determined by using an "income approach," specifically the relief-from-royalty approach, which is a commonly accepted valuation approach. This approach is based on the assumption that in lieu of ownership, a firm would be willing to pay a royalty in order to exploit the related benefits of this asset. Therefore, a portion of SBTech's earnings, equal to the after-tax royalty that would have been paid for the use of the asset, can be attributed to the firm's ownership. The fair values of the trademark and tradename intangible assets were also determined by the relief-from-royalty approach. The fair values of the user relationship intangible assets were determined by using an "income approach," specifically a multi-period excess earnings approach, which is a commonly accepted valuation approach. Under this approach, the net earnings attributable to the asset or liability being measured are isolated using the discounted projected net cash flows. These projected cash flows are isolated from the projected cash flows of the combined asset group over the remaining economic life of the intangible asset or liability being measured. Both the amount and the duration of the cash flows are considered from a market participant perspective. Where appropriate, the net cash flows were adjusted to reflect the potential attrition of existing customers in the future, as existing customers are a "wasting" asset and are expected to decline over time.

C. Represents the deferred tax impact associated with the incremental differences in book and tax basis created from the preliminary purchase price allocation resulting from the step up in fair value of intangible assets. Deferred taxes were established based on SBTech's blended statutory tax rate of 2.55%, based on jurisdictions where income has historically been generated. This estimate of deferred income tax liabilities is preliminary and is subject to change based upon SBTech's final determination of the fair value of assets acquired and liabilities assumed by jurisdiction.

D. Represents the elimination of SBTech's historical equity.

Adjustments to Unaudited Pro Forma Condensed Combined Statement of Operations

The pro forma adjustments included in the unaudited pro forma condensed statement of operations for the year ended December 31, 2019 are as follows:

Pro Forma Adjustments (PF)

AA. Reflects elimination of transaction-related costs incurred and recorded by DEAC and Old DK.

BB. Reflects the elimination of interest income on the trust account.

CC. Reflects adjustments to income tax expense as a result of the tax impact on the pro forma adjustments at the estimated statutory tax rate of 27.6%.

DD. Reflects the incremental stock-based compensation expense related to certain equity awards expected to continue vesting subsequent to the closing.

EE. Reflects additional compensation expense recorded as a result of the execution of employment agreements with certain members of the management team.

Purchase Price Allocation Adjustments (PPA)

AA. Reflects the incremental amortization expense recorded as a result of the fair value adjustment for intangible assets acquired in the SBTech Acquisition.

BB. Reflects the adjustment to stock-based compensation expense for the post-combination portion of the SBT rolled-over options. The new stock-based compensation expense is amortized on a straight-line basis over the remaining vesting periods.

CC. Reflects adjustments to income tax expense as a result of the tax impact on the purchase accounting adjustments at the estimated statutory tax rate of 27.6%.

5. Loss per Share

Represents the net earnings per share calculated using the historical weighted average shares outstanding and the issuance of additional shares in connection with the Business Combination, assuming the shares were outstanding since January 1, 2019. As the Business Combination is being reflected as if it had occurred at the beginning of the periods presented, the calculation of weighted average shares outstanding for basic and diluted net income per share assumes that the shares issuable relating to the Business Combination have been outstanding for the entire periods presented. For shares redeemed, this calculation is retroactively adjusted to eliminate such shares for the entire periods.

	For the Year ended December 31, 2019
	(in thousands except share and per share data)
Pro forma net loss	(140,255)
Weighted average shares outstanding of Class A common stock	335,922,741
Net loss per share (Basic and Diluted) attributable to Class A common stockholders (1)	$ (0.42)

(1) For the purposes of applying the if converted method for calculating diluted earnings per share, it was assumed that all outstanding warrants sold in the IPO and the private placement are exchanged to Class A common stock. However, since this results in anti-dilution, the effect of such exchange was not included in calculation of diluted loss per share. Additionally, DraftKings' Class B shares were issued to Jason Robins, such shares carry 10 votes per share and allow Jason Robins to have 90% of the voting power of the capital stock of DraftKings on a fully-diluted basis. As these shares have no economic or participating rights, they have been excluded from the calculation of earnings per share.