

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

**AMENDMENT NO. 1  
TO  
FORM S-1  
REGISTRATION STATEMENT  
UNDER  
THE SECURITIES ACT OF 1933**

**THE REAL GOOD FOOD COMPANY, INC.**  
(Exact Name of Registrant as Specified in its Charter)

Delaware  
(State or Other Jurisdiction of  
Incorporation or Organization)

2000  
(Primary Standard Industrial  
Classification Code Number)  
3 Executive Campus, Suite 155  
Cherry Hill, NJ 08002  
(856) 644-5624

87-1280343  
(I.R.S. Employer  
Identification Number)

(Address, including zip code, and telephone number, including area code, of Registrant's principal executive offices)

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**Approximate date of commencement of proposed sale to the public:** As soon as practicable after the effective date of this Registration Statement.

If any of the securities being registered on this form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, check the following box. ☐

If this form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	<input type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input checked="" type="checkbox"/>	Smaller reporting company	<input checked="" type="checkbox"/>
		Emerging growth company	<input checked="" type="checkbox"/>

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 7(a)(2)(B) of the Securities Act. ☒

**CALCULATION OF REGISTRATION FEE**

Title of Each Class of Securities To Be Registered	Amount to be Registered <sup>(1)</sup>	Proposed Maximum Offering Price Per Share <sup>(2)</sup>	Proposed Maximum Aggregate Offering Price <sup>(1)(3)</sup>	Amount of Registration Fee <sup>(3)</sup>
Class A common stock, \$0.0001 par value per share	6,133,333	\$16	\$98,133,328.00	\$9,097

(1) Includes 800,000 additional shares that the underwriters have the option to purchase.

(2) Estimated solely for the purpose of computing the amount of the registration fee pursuant to Rule 457(o) under the Securities Act of 1933, as amended.

(3) The Registrant previously paid a registration fee of \$7,996 in connection with the initial filing of this Registration Statement.

The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933, as amended, or until the Registration Statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to said Section 8(a), may determine.

The information in this preliminary prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This preliminary prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any jurisdiction where the offer or sale is not permitted.

SUBJECT TO COMPLETION, DATED OCTOBER 28, 2021

PRELIMINARY PROSPECTUS

5,333,333 Shares



The Real Good Food Company, Inc.

Class A Common Stock

This is an initial public offering of shares of Class A common stock of The Real Good Food Company, Inc. We are offering shares of our Class A common stock, and the selling stockholder identified in this prospectus, who is an affiliate, is offering shares of our Class A common stock pursuant to the underwriters' option to purchase additional shares. We will not receive any proceeds from the sale of shares of our Class A common stock by the selling stockholder. Prior to this offering, there has been no public market for our Class A common stock. The initial public offering price is expected to be between \$14.00 and \$16.00 per share.

We have applied to list our Class A common stock on the Nasdaq Global Market under the symbol "RGF."

Following the consummation of this offering, we will have two classes of authorized common stock. The Class A common stock and the Class B common stock will have one vote per share. The Class A common stock will represent 100% of the economic interest in The Real Good Food Company, Inc. and the Class B common stock will represent no economic interest in The Real Good Food Company, Inc.

Upon the consummation of this offering, we intend to use the net proceeds to purchase newly issued Class A units of Real Good Foods, LLC (the "Class A Units"). We will also become the sole managing member of Real Good Foods, LLC and, although we will have a minority economic interest in Real Good Foods, LLC, we will operate and control all of its business and affairs and will have sole voting interest in, and control the management of, Real Good Foods, LLC. The members of Real Good Foods, LLC will hold 19,015,824 Class B Units of Real Good Foods, LLC (the "Class B Units"), representing 76% economic interest in Real Good Foods, LLC and no voting interest, along with an equivalent number of shares of Class B common stock of The Real Good Food Company, Inc. Immediately following the completion of this offering, the members of Real Good Foods, LLC holding Class B common stock may exchange their Class B Units and cancel an equivalent amount of their shares of Class B common stock for newly issued shares of our Class A common stock or, at our option, redeem such Class B Units for cash. Following the completion of this offering, holders of our Class A common stock will hold approximately 24% of our voting interest, and holders of our Class B common stock will hold approximately 76% of our voting interest.

We are an "emerging growth company," and a "smaller reporting company," as defined under U.S. federal securities laws and, as such, we have elected to comply with certain reduced public company reporting requirements for this prospectus and may elect to do so in future filings.

Investing in our Class A common stock involves a high degree of risk. Please read the section entitled "Risk Factors" beginning on page 23 of this prospectus. Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

	PER SHARE	TOTAL
Initial Public Offering Price	\$	\$
Underwriting Discounts and Commissions <sup>(1)</sup>	\$	\$
Proceeds to The Real Good Food Company, Inc., before expenses	\$	\$
Proceeds to the selling stockholder, before expenses	\$	\$

(1) For additional information regarding underwriting discounts and commissions and estimated offering expenses, refer to the section entitled "Underwriting."

Delivery of the shares of Class A common stock is expected to be made on or about , 2021. We and the selling stockholder have granted the underwriters an option for a period of 30 days to purchase an additional 800,000 shares of our Class A common stock, of which 333,333 shares would first be sold by the selling stockholder and then 466,667 shares would be issued and sold by us. If the underwriters exercise the option in full, the total underwriting discounts and commissions payable by us will be \$ , the total proceeds to us, before expenses, will be \$ , the total underwriting discounts and commissions payable by the selling stockholder will be \$ , and the total proceeds to the selling stockholder, before expenses, will be \$ .

Joint Book-Running Managers

Jefferies  
Truist Securities

William Blair  
Nomura

Prospectus dated , 2021



**Real Food You Feel Good About Eating™**







**19** carbs **32g** protein





**4g**  
net carbs

**22g**  
protein



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**Through and including , 2021 (the 25th day after the date of this prospectus), all dealers that buy, sell, or trade in our Class A common stock, whether or not participating in this offering, may be required to deliver a prospectus. This is in addition to the dealers' obligation to deliver a prospectus when acting as underwriters and with respect to their unsold allotments or subscriptions.**

Neither we, the selling stockholder, nor the underwriters have authorized anyone to provide any information or to make any representations other than those contained in this prospectus or in any free writing prospectuses we have prepared. Neither we, the selling stockholder, nor the underwriters take responsibility for, and can provide no assurance as to the reliability of, any other information that others may give you. This prospectus is an offer to sell only the shares offered hereby, but only under circumstances and in jurisdictions where it is lawful to do so. The information contained in this prospectus or in any applicable free writing prospectus is current only as of its date, regardless of its time of delivery or any sale of shares of our Class A common stock. Our business, operating results, financial condition, and prospects may have changes since such dates.

For investors outside of the United States: Neither we, the selling stockholder, nor the underwriters have done anything that would permit this offering or possession or distribution of this prospectus in any jurisdiction where action for that purpose is required, other than in the United States. You are required to inform yourself about, and to observe any restrictions relating to, this offering and the distribution of this prospectus outside of the United States.

## BASIS OF PRESENTATION

Unless the context otherwise requires, we use the terms “Real Good Foods,” “the Company,” “we,” “us,” and “our” in this prospectus to refer to Real Good Foods, LLC and The Real Good Food Company, Inc. on a consolidated basis, “RGF, Inc.” to refer to The Real Good Food Company, Inc., “RGF, LLC” to refer to Real Good Foods, LLC, “selling stockholder” refers to the selling stockholder named in this prospectus, and the term “our Class A common stock” to refer to RGF, Inc.’s Class A common stock offered in this prospectus.

RGF, Inc. was incorporated as a Delaware corporation on June 2, 2021, under the name Project Clean, Inc., to serve as the issuer of our Class A common stock offered in this offering. Project Clean, Inc. changed its name to The Real Good Food Company, Inc. on October 7, 2021. The Real Good Food Company LLC was formed in the State of California on February 3, 2016. The Real Good Food Company LLC will convert from a California limited liability company to a Delaware limited liability company, and change its name to Real Good Foods, LLC, immediately prior to the reorganization transactions. Prior to the consummation of this offering and the reorganization transactions described in the section entitled “*The Reorganization*” (the “Reorganization”), RGF, LLC was owned entirely by its members (the “Members”) and operated its business through itself and no other entities. For a discussion regarding the impact of the Reorganization on our liquidity, please refer to the section entitled “*Management’s Discussion and Analysis of Financial Condition—Liquidity and Capital Resources.*”

Following the Reorganization, RGF, Inc. will be a holding company and the sole managing member of RGF, LLC, which will continue to operate the Company’s business. Upon the consummation of this offering and the application of the net proceeds therefrom, RGF, Inc.’s principal asset will be Class A Units of RGF, LLC. For financial reporting purposes, RGF, LLC is the predecessor of RGF, Inc. RGF, Inc. will be the financial reporting entity following this offering. Accordingly, this prospectus contains the following historical audited financial statements:

- **RGF, Inc.** Other than the inception balance sheet, dated as of June 2, 2021 and June 30, 2021, historical financial information of RGF, Inc. has not been included in this prospectus since it is a newly incorporated entity, has no business transactions or activities to date, and was not in existence as of December 31, 2020, and thus had no assets or liabilities during the periods presented in this prospectus.
- **RGF, LLC.** Because RGF, Inc. will have no other interests, assets, or operations other than indirectly as a result of its control of RGF, LLC and ownership of Class A Units thereof, the historical audited financial information included in this prospectus is that of RGF, LLC.

Pursuant to the Reorganization, RGF, Inc. will enter into (i) a tax receivable agreement (the “Tax Receivable Agreement”) with RGF, LLC and the Members, other than certain Fidelity investment funds receiving Class B Units pursuant to the conversion of convertible notes of RGF, LLC (all Fidelity investment funds holding convertible notes of RGF, LLC, collectively, the “Fidelity Investors”), and (ii) a registration rights agreement with the Members other than the Fidelity Investors regarding the terms and conditions upon which shares of Class A common stock issued to such Members upon the exchange of their Class B Units would be registered for future sale. Although the actual timing and amount of any payments that we make to the Members under the tax receivable agreement will vary, we expect those payments will be substantial. These payments confer significant benefits to the Members and will reduce cash provided by tax savings that would otherwise have been available to us to fund our operations and service our debt obligations. For additional information, refer to the section entitled “*Management’s Discussion and Analysis—Liquidity—Tax Receivable Agreement.*”

The unaudited pro forma financial information of the Company presented in this prospectus has been derived from the application of pro forma adjustments to our historical audited financial statements included elsewhere in this prospectus. These pro forma adjustments give effect to the Reorganization. Where applicable, certain other information within this prospectus, including the information within the section entitled “*Dilution,*” presents financial and capitalization information after giving effect to the issuance of our Class A common stock issuable upon the exchange of Class B Units held by the Members, including the Fidelity Investors. The pro forma financial information is also based on an assumed initial public offering price of \$15.00 per share, the midpoint of the estimated offering price range set forth on the cover page of this prospectus, as if all such transactions had occurred on January 1, 2020 in the case of the unaudited pro forma combined statement of income, and as of June 30, 2021, in the case of the unaudited pro forma combined balance sheet.



## INDUSTRY AND MARKET DATA

This prospectus contains statistical data, estimates, and forecasts that are based on various sources, including independent industry publications and other publicly available information, as well as other information based on our internal sources. This information involves a number of assumptions and limitations, and you are cautioned not to give undue weight to these data, estimates, and forecasts. We have not independently verified the accuracy or completeness of the data contained in these industry publications and other publicly available information. Our industry and market data are subject to a variety of risks and uncertainties, including those described in the section entitled “*Risk Factors*,” which could cause results to differ materially from those expressed in these publications and reports.

Certain information in the text of this prospectus is from industry data sources and publicly available data and reports. The content of the below sources, except to the extent specifically set forth in this prospectus, does not constitute a portion of this prospectus and is not incorporated herein. The sources are provided below:

- SPINS, LLC, an independent industry and research organization (“SPINS”) for the retail industry, historical and current market and sales data for the periods January 1, 2018 – December 30, 2018; December 31, 2018 – December 29, 2019; December 30, 2019 – December 27, 2020; and December 28, 2020 – June 13, 2021;
- SPINS, 2021 Brand Switching Analysis, dated February 7, 2021 (the “2021 Brand Switching Analysis”);
- U.S. Department of Health and Human Services Centers for Disease Control and Prevention (the “CDC”), National Diabetes Statistics Report 2020, last reviewed February 11, 2020; and
- The CDC, National Center for Health Statistics, NCHS Data Brief No. 360, February 2020.

## PROSPECTUS SUMMARY

*This summary highlights selected information contained elsewhere in this prospectus and does not contain all of the information that you should consider in making your investment decision. Before investing in our Class A common stock, you should carefully read this entire prospectus, including our audited financial statements and related notes and the information set forth under the sections entitled "Risk Factors," "Unaudited Pro Forma Combined Financial Data," and "Management's Discussion and Analysis of Financial Condition and Results of Operations," in each case included in this prospectus. Some of the statements in this prospectus constitute forward-looking statements that involve risks and uncertainties. For additional information, refer to the section entitled "Cautionary Note Regarding Forward-Looking Statements."*

### Overview

#### **Real Food You Feel Good About Eating**

Real Good Foods is an innovative, high-growth, branded, health- and wellness-focused frozen food company. We develop, market, and manufacture delicious and convenient comfort foods designed to be high in protein, low in sugar, and made from gluten- and grain-free ingredients that are intended to be sold in the health and wellness ("H&W") segment of the frozen food category. Our brand commitment, "Real Food You Feel Good About Eating," represents our strong belief that, by eating our food, consumers can enjoy more of their favorite foods and, by doing so, live better lives as part of a healthier lifestyle.

We are a mission-focused company. Our mission is to make our craveable, nutritious comfort foods accessible to everyone across the United States and, eventually, throughout the world. Our mission is important to us because we believe an increasing number of consumers are seeking to make healthier food choices, yet face limited options when it comes to the convenience of products found in the frozen food aisle. These consumers include the U.S. population seeking to reduce sugar in their diets, the U.S. population seeking to reduce their carbohydrate intake, the 13% of the U.S. adult population suffering from the health effects of diabetes, the 34.5% of the U.S. adult population with prediabetes, and the 42% of the adult U.S. population suffering from obesity. We believe our products provide alternatives for these consumers, and also have broad appeal due to our uncompromising approach to developing products suited to a wide range of consumer tastes and diet preferences.

We believe the nutritional content and quality of our products position us to compete directly within the \$170 billion U.S. H&W industry, which includes natural, specialty, and wellness food products. Since our inception, we have focused on creating H&W products for the frozen food aisle, where we believe H&W brands are underrepresented compared to other categories. We also believe H&W branded products with our macronutrient composition are similarly underrepresented within the frozen food category. We compete in multiple large subcategories within the U.S. frozen food category, including frozen entrée and breakfast, which we consider our two core, strategic growth subcategories. According to SPINS information, during the year ended December 27, 2020, the two core subcategories in which we operate comprised 48% of the approximately \$58 billion U.S. frozen food category excluding frozen and refrigerated meat. Currently, we sell comfort foods such as our bacon wrapped stuffed chicken, chicken enchiladas, grain-free cheesy bread breakfast sandwiches, and various entrée bowls. Based on consumer feedback, we also believe our brand has permission to extend into multiple adjacent food categories within and outside of frozen.

All of our products are prepared with proprietary ingredient systems that allow us to provide consumers with delicious meals that are designed to be high in protein, low in sugar, and made with gluten- and grain-free ingredients. Our base ingredient systems, which include (i) chicken and parmesan cheese, and (ii) plant-based proteins and fibers, are composed of simple ingredients to which our consumers are accustomed. We believe these ingredient systems are critical to our success because they are a large part of what makes our products craveable while allowing us to capture the macronutrient ratios favored by H&W consumers. To support these ingredient systems, we source widely available, nutritious ingredients from a network of suppliers with whom we have strong relationships.

Historically, we have sold substantially all of our products under our “Realgood Foods Co.” brand. We also sell a limited number of private label products to select retail customers. Our branded products are sold to consumers through an increasing number of locations within retail channels, primarily in natural and conventional grocery, drug, club, and mass merchandise stores, including Walmart, Kroger, and Costco. During the 12 weeks ended June 13, 2021, our branded products had an average of approximately 170 thousand “total distribution points” across the United States, including Washington, DC and the Commonwealth of Puerto Rico. The term “total distribution points” is calculated as the sum of the number of stores selling each branded stock keeping unit (“SKU”). For perspective, leading H&W brands within the frozen food category achieved total distribution points in excess of 930 thousand during the same period. We expect to increase our retail distribution footprint by establishing new customer relationships, increasing sales of our products to our existing customers by driving incremental frozen food aisle sales, and continuing to grow awareness and demand for our brand and product offerings. We also believe there is an opportunity to leverage our engaged online consumer base to grow our e-commerce sales, which includes “click-and-collect” purchases by our consumers through our retail customers and, to a limited extent, direct-to-consumer sales through our website and third-party websites.

### Our Strategic Advantages

We believe we are positioned to become a leading H&W brand within the frozen food category. Our strategic advantages are rooted in our mission-focused approach, craveable products, large and engaged consumer community, innovative product development process, self-manufacturing capabilities, product positioning within our category, and management expertise.

### We are a Mission-Focused Company

The purpose of our company is to fulfill our mission of making craveable, nutritious H&W foods accessible to consumers while taking an uncompromising approach to the creation of products that are delicious, convenient, and have broad appeal. We hope to create products that allow consumers to enjoy more of their favorite foods and, by doing so, live better lives as part of a healthier lifestyle. Significant portions of the U.S. population are seeking to make healthier lifestyle choices, which often starts with making better food choices. Our H&W-focused products are designed to address the needs of this large and growing population, while providing the convenience associated with frozen food products. Our mission drives our management team and employees every day and is foundational to our business. We believe we are well-positioned to accomplish our mission due to the taste and macronutrient ratios associated with our products, our innovative approach to product development, and our highly engaged consumer community.

### Our Craveable Products Have Broad Appeal

We are uncompromising on taste in our approach to product development, which we believe helps consumers meet their preferences for increasing protein intake while reducing their intake of carbohydrates, sugar, grain, and gluten. Our entrées, bowls, breakfast sandwiches, enchiladas, and other products are delicious while maintaining macronutrient ratios that are difficult to find within the frozen food category, even among other H&W brands. The following sets forth the carbohydrate and protein content of our products in comparison to our competitors’ products:

COMPANY PRODUCT	CARBOHYDRATES		PROTEIN	
	GRAMS IN EACH SERVING OF OUR PRODUCT	GRAMS IN EACH SERVING OF COMPETITOR PRODUCT	GRAMS IN EACH SERVING OF OUR PRODUCT	GRAMS IN EACH SERVING OF COMPETITOR PRODUCT
Bacon Wrapped Stuffed Chicken	3	16	32	20
Chicken Enchiladas	4	36	20	21
Breakfast Sandwich	4	29	18-20	13
Lasagna Entrée Bowl	11	40	32	16

Our insistence on preserving taste while offering “*Real Food You Feel Good About Eating*” led us to invent our innovative base ingredient systems. While our base ingredient systems are composed of simple ingredients to which our consumers are accustomed, we use these ingredients in unique ways to mimic recipe components that are satiating, but typically higher in carbohydrates and lower in protein. These base ingredient systems are made of: (i) chicken and parmesan cheese, and (ii) plant-based protein and fibers. For example, we use thin, round slices of our innovative chicken and cheese “tortillas” within our enchiladas and use this same ingredient system to make our Italian-themed “pastas.” We also use cauliflower and almond flour to create the cheesy, grain-free “buns” used in our breakfast sandwiches. These base ingredient systems are a key component of our ability to create products with broad appeal without losing the attention of the H&W consumer base we target.

***Our Large Social Media Community is Highly Engaged***

We have one of the largest social media followings of any brand within the frozen food category today, with approximately 365 thousand followers on Instagram and 500 thousand subscribers across all digital platforms as of June 30, 2021. For comparison, we have more Instagram followers than: (i) all Nestle brands within the U.S. frozen food category combined (Sweet Earth, Outsiders, DiGiorno, Jack’s, CPK frozen, Tombstone, Wild Scape, Hot Pockets, and Lean Cuisine), (ii) all Conagra brands within the frozen food category combined (Udi’s, EVOL, Gardein, Healthy Choice, Bertolli, Glutino, Marie Callender’s, Blake’s, and Alexia), and (iii) the top seven H&W brands within the frozen food category combined in sales as of the 52 weeks ended May 16, 2021 (Amy’s Kitchen, Applegate Farms, California Pizza Kitchen, InnovAsian Cuisine, Aidells, Michael Angelos, and Perdue). More importantly, we believe we have high engagement with our consumers relative to our peers; our average number of comments per post on Instagram exceeds any of the top seven H&W brands in our category by five times. We believe our ability to quickly build this robust community is due not only to our revolutionary products, but also to our modern approach to marketing. Instead of investing heavily in traditional marketing and advertising spend, we instead began building our brand by engaging our consumers and potential consumers in direct, authentic conversations through social media, SMS text, e-mail, and our website, and indirectly through influencers. Through this approach to community engagement, we are able to build brand trust and, in turn, loyalty, which efficiently draws new consumers to our brand, provides a forum for real-time feedback, and allows us to understand our diverse population of consumers more deeply. We also believe our extensive community engagement resonates with our retail customers, leading to additional shelf space and distribution points for our products. Our management team is passionate in its belief that our modern approach to engaging and building our community has been, and will continue to be, critical to our brand success.

***We Have an Innovative Product-Development Process***

We have launched most of our products in fewer than six months, and our consumer community is instrumental in our approach to product development. After our marketing team conceives of and formulates our product prototypes, we send them for in-home usage tests through what we refer to as “RGF Labs,” which is a targeted and diverse invitation-only subset of our consumer community. We receive feedback from RGF Labs more quickly than we would through traditional product testing, and we are confident that the insights it provides are more helpful than those provided by focus groups or consumer polling. Because we leverage this feedback to improve our prototypes prior to distributing our products, RGF Labs enables us to introduce new products with higher confidence of market acceptance. In addition, following a trial with RGF Labs, and prior to distribution within retail channels, we introduce our products directly to consumers on our website. This process provides us another opportunity to marry our products to our consumers’ preferences, as our most avid consumers engage with our products through this channel and provide additional feedback. This disciplined approach to product development has resulted in a market acceptance rate higher than industry standard by the time our new products arrive in retail channels. As a result, we believe our concept-to-shelf product innovation is often more efficient and successful compared to conventional brands within our category.

***Our Self-Manufacturing Capabilities Are a Strategic Advantage***

The manufacture of our products requires a specialized process and purpose-built equipment to help ensure they have the macronutrient composition we strive to achieve while maintaining taste. Entering into agreements to operate our manufacturing facility located in City of Industry, California (“City of Industry Facility”) during the three months ended March 31, 2021 enabled us to self-manufacture more than 70% of



our products during June 2021, compared to none for the same period in 2020, thereby significantly reducing our reliance on co-manufacturers. Our City of Industry Facility presents an opportunity to create efficiencies in our manufacturing process and reduce labor costs, including through the purchase of machinery to automate certain manual labor tasks. We believe the facility also has the capacity to scale for additional potential sales upon future investments, including purchases of or upgrades to machinery, processing, and packaging equipment.

***Our Frozen Food Category Positioning Provides Multiple Growth Opportunities***

We are focused on our mission to make our H&W products convenient and accessible through multiple channels within the United States and, ultimately, throughout the world, and our strategy to achieve this begins with the growth of our brand within the frozen food category. We compete in the U.S. frozen food category excluding frozen and refrigerated meat. According to SPINS information, during the 52 weeks ended December 27, 2020, the total U.S. frozen category excluding frozen and refrigerated meat generated retail sales of approximately \$58 billion. We see significant opportunity to address the unmet needs of H&W-focused consumers by offering our delicious H&W products within this category, given that many consumer tastes and preferences call for high protein and lower carbohydrate, sugar, grain, and gluten foods, which are not provided by most other H&W brands.

We believe we have obtained our current distribution points in part because we represent an opportunity for retailers to grow their frozen food aisle sales. The convenience of our products appeals to H&W consumers seeking comfort foods they can prepare at home while maintaining their health goals, in addition to consumers looking for delicious frozen food options. According to the 2021 Brand Switching Analysis, 90% of our sales gains in single-serve frozen breakfast entrée, 82% of our sales gains in single-serve frozen prepared poultry (with regards to our frozen chicken entrées), and 46% of our sales gains in single-serve frozen entrée bowls were a result of new consumers to these subcategories, or were "incremental" sales, during the 52 weeks ended February 7, 2021. Retailers tend to favor brands that bring new consumers to categories and, as such, we believe the incremental sales growth opportunity provided by our products has helped us grow our distribution and strengthen our relationships with our retail customers.

***We Have a Proven Management Team***

We are led by a management team with significant operational and merger and acquisition experience in the food industry, including with public companies. Bryan Freeman, our Executive Chairman, has over 26 years of experience in the frozen food category. Mr. Freeman served on the senior leadership team of AdvancePierre Foods through its initial public offering as well as its sale to Tyson for a reported \$4.2 billion. Gerard G. Law, our Chief Executive Officer, has over 29 years of experience as an operator within the frozen foods category, including previously as part of the senior leadership team at publicly traded J&J Snack Foods Corp. where he managed 16 manufacturing facilities, oversaw multiple successful acquisitions, and had a team of approximately 4,200 employees reporting to him. Our Chief Financial Officer, Akshay Jagdale, has over 15 years of experience as a securities analyst within the food industry and has built an extensive network of industry contacts across our supply chain. Our management believes in the strength of our products, and possesses the expertise required to scale our business.

***Our Market Opportunity***

We compete within the \$170 billion U.S. H&W industry, as measured by SPINS during the 52 weeks ended June 13, 2021. SPINS defines the H&W industry to include natural, specialty, and wellness products. We see significant opportunity within this industry, which, according to SPINS information, had a two-year compound annual growth rate ("CAGR") of 10.7% during the two years ended December 27, 2020, and where favorable consumer trends, including a greater focus on healthy lifestyle and macronutrient content, and increased consumption of meals at home, have led to growth of H&W brands within retail across multiple categories.

Since our inception, we have focused on creating H&W products for the frozen food aisle, where we believe H&W brands are underrepresented compared to other categories. According to SPINS information, during the 52 weeks ended December 27, 2020, the total U.S. frozen food category excluding frozen and refrigerated meat generated retail sales of approximately \$58 billion, with a two-year CAGR of approximately 11%. Within this category, H&W brands generated approximately \$9 billion in sales during the same period, with a

two-year CAGR of approximately 15%. These H&W brands represented approximately 16% of frozen food category sales excluding frozen and refrigerated meat, or 16% “penetration.” By comparison, H&W brands in the broader grocery category, which includes all retail food and beverage sales, represented 23% penetration during the 52 weeks ended December 27, 2020. Further, H&W brands in the refrigerated food category, which is adjacent to the frozen food category, represented 30% penetration during the 52 weeks ended December 27, 2020. We believe our brand is positioned not only to increase its penetration as an H&W brand within the frozen food category, but also to drive H&W industry growth. Additionally, we believe our brand has an opportunity to extend into adjacent categories, including grocery and refrigerated, which comprise the balance of the total H&W industry. While we believe that CAGR and penetration are useful measures to determine brand performance within our industry, they should not be read as a future guarantee of our performance in future periods.

Our branded products are sold to consumers through an increasing number of locations in retail channels, primarily in natural and conventional grocery, drug, club, and mass merchandise stores, including Walmart, Kroger, and Costco, with an average SKU-level all-commodity volume (“ACV”) of approximately 20% during the four weeks ended June 13, 2021. The term “ACV” refers to the measurement of a product’s distribution, weighted by the overall retail sales dollars attributable to the retail location distributing such product, where a retail location is determined to have sold a product if at least one unit of the product was scanned for sale within the relevant time period. We believe we have the opportunity to significantly increase our ACV by executing on our growth strategy.

Further, we have experienced success growing our distribution points by approximately 80% during the two years ended December 27, 2020 and believe there is significant opportunity for continued growth. For example, our total distribution points increased from approximately 94 thousand during the 12 weeks ended December 30, 2018 to approximately 170 thousand during the 12 weeks ended December 27, 2020, representing a two-year CAGR of approximately 34%. For perspective, leading H&W brands within the frozen food category achieved total distribution points in excess of 930 thousand during the 12 weeks ended June 13, 2021. We believe our innovative product offerings, strategic customer relationships, and community engagement efforts well position our Company to compete with such brands and continue accelerating our distribution point growth in future periods.

### **Our Growth Strategy**

We believe we are well-positioned to grow our business and achieve our mission, including by expanding our retail distribution, continuing our modern approach to growing our community, leveraging our innovative product development capabilities, and investing in production capacity, innovation, and automation.

#### ***Expand Our Retail Distribution***

The large H&W consumer base seeking to increase their protein intake and reduce carbohydrates, sugar, gluten, and grain in their diets face limited options in the frozen food category. As consumers increasingly demand delicious, healthier frozen food alternatives, our brand has not only converted consumers from conventional frozen food brands, but also attracted new consumers to the frozen food category generally, driving incremental sales for our customers, and supporting their omni-channel growth efforts. Retailers tend to favor brands that bring new consumers to categories, and we believe our ability to attract new H&W consumers to our customers’ stores and online marketplaces presents a compelling opportunity for our customers to expand our existing shelf space. Further, as we continue to develop innovative products and build brand equity, we believe we can grow our distribution points and achieve penetration levels that rival those of leading H&W brands in the frozen food category. We intend to leverage our strong relationships with prominent retail customers and establish relationships with new customers and consumers to expand our product offerings, capture shelf space, and become a leading H&W brand.

#### ***Invest in Our Modern Approach to Grow Our Community***

Authentic consumer relationships are core to our strategy as they drive brand loyalty, optimize our product development efforts, and introduce new consumers to our brand. We believe we have one of the largest social media followings of any brand within the frozen food category today with over 500 thousand subscribers across all

digital platforms. We rely extensively on social media platforms such as Facebook, Instagram, Pinterest, and TikTok to strengthen brand loyalty and facilitate online collaboration with our community. Although we believe our social media presence and consumer engagement as an H&W brand is compelling, we see significant opportunity for brand growth. We plan to scale our efficient and modern approach to authentic community building by increasing our investment in sales and marketing and continuing our work with influencers and brand ambassadors aligned with our mission. Another component of our modern approach is our ability to converse with our diverse consumer base with specificity: we organize our marketing managers based on the varied need states of our consumers, such as those with diabetes, consumers seeking to reduce carbohydrates, and athletes. Because both H&W and conventional brands within the frozen food category often take a traditional approach to marketing, we believe these strategies will allow us to outpace our competition. Further, we intend to leverage our consumer community to continue to grow our e-commerce sales, which includes “click-and-collect” e-commerce transactions where consumers pick up their product at a retailer following an online sale, as well as traditional direct-to-consumer “deliver-to-me” e-commerce transactions through our own website and third-party websites.

#### ***Leverage Innovative Product Development Capabilities***

We believe our ability to deliver delicious comfort foods while simultaneously offering macronutrient ratios that support healthy lifestyles draws H&W consumers to our brand. Our products are the deliberate result of our innovative product development cycle, which starts with our proprietary base ingredient systems, and then combines our rapid prototyping capabilities with the assimilation of direct community feedback into the development process. We intend to innovate new base ingredient systems that will allow us to expand this offerings of craveable comfort foods that meet the macronutrient ratios sought by our consumers. We also expect to continue to validate our product recipes prior to launch by investing in the expansion of our community feedback approach. We believe we can leverage our product development capabilities to rapidly expand our product offerings within the frozen food category. In addition, because we utilize direct community feedback to align our products with consumer preferences prior to launch, we believe we can continue to launch products that will have a higher likelihood of market acceptance than conventional brands.

While we have focused on developing our H&W products for the frozen food category, we also believe we have a significant opportunity to expand our offerings into adjacent categories based on feedback we have received from our consumers and retail customers. We intend to explore opportunities to introduce our products to new categories by continuing to rely upon and invest in our innovative product development approach. To this end, we will also selectively consider acquisitions of businesses or assets, or other investments, that are aligned with our mission and enhance our growth and profitability.

#### ***Invest in Production Capacity and Automation***

During June 2021, we self-manufactured more than 70% of our products at our City of Industry Facility. The manufacture of our products requires a specialized process and purpose-built equipment to ensure our products have the macronutrient composition we strive for while maintaining taste and quality. Our City of Industry Facility provides us with the opportunity to continue to expand our self-manufacturing capacity while improving production efficiencies. For example, we plan to implement our growth strategy by investing in new production lines, employing new manufacturing automation technology designed to significantly increase productivity while reducing direct labor costs through the automation of certain manual labor tasks, and adopting a continuous improvement cost savings program that focuses on process improvement throughout our supply chain and manufacturing operations to mitigate costs. By streamlining operations throughout our facility, we believe we can continue to deliver quality products while continuing to drive efficiencies across our operations and improve our financial performance. We are also in the process of implementing a new enterprise resource planning (“ERP”) system that we will use to manage our business and which we expect will enhance operations at our City of Industry Facility.

#### ***Summary of the Reorganization***

Prior to the consummation of this offering and the Reorganization described below, RGF, LLC was owned entirely by its Members and operated its business through itself and no other entities. Project Clean, Inc. was incorporated as a Delaware corporation on June 2, 2021 to serve as the issuer of the Class A common stock offered in this offering, the sole managing member of RGF, LLC (the “Managing Member”), and the holder of

Class A Units of RGF, LLC. Project Clean, Inc. changed its name to The Real Good Food Company, Inc. on October 7, 2021.

In connection with the consummation of this offering, we will consummate the following Reorganization:

- we will amend and restate RGF, LLC's existing operating agreement effective as of the consummation of this offering to, among other things: (i) appoint RGF, Inc. as the Managing Member of RGF, LLC, and (ii) replace the membership interests currently held by the Members such that (a) all of the Class A Units will be owned exclusively by RGF, Inc., (b) exchange existing profits interest awards for Class B Units and our Class B common stock in relation to the agreed upon value of such profits interest awards as determined by the unanimous consent of all the Members and holders of profits interest units, and (c) all of the Class B Units will be owned exclusively by the Members in proportion to their percentage of ownership interests in RGF, LLC immediately prior to the consummation of this offering;
- we will amend and restate RGF, Inc.'s certificate of incorporation immediately prior to the consummation of this offering (the "Certificate of Incorporation") to, among other things, provide for Class A common stock and Class B common stock;
- we will issue shares of our Class B common stock to the Members on a one-to-one basis with the number of Class B Units they own, for nominal consideration;
- we will issue shares of our Class A common stock and Class B common stock to Fidelity Investors by converting those certain convertible promissory notes with an aggregate principal amount of \$35.0 million issued by RGF, LLC to the Fidelity Investors in May 2021 pursuant to a note purchase agreement with such investors (the "2021 Notes Agreement" and the notes issued thereunder, the "2021 Notes") to shares of Class A common stock and Class B common stock pursuant to an agreement for conversion of promissory notes (the "Conversion Agreement");
- we will issue 5,333,333 shares of our Class A common stock to the purchasers in this offering, or 5,800,000 shares if the underwriters exercise in full their option to purchase additional shares of our Class A common stock;
- the selling stockholder will sell 333,333 shares of our Class A common stock to the purchasers in this offering if the underwriters exercise their option to purchase additional shares of our Class A common stock for at least that number of shares;
- RGF, Inc. will use all of the net proceeds it receives from this offering to acquire Class A Units from RGF, LLC at a purchase price per Class A Unit equal to the initial public offering price per share of Class A common stock, less underwriting discounts and commissions, collectively representing 76% in the Reorganization of RGF, LLC's outstanding units, including both Class A Units and Class B Units, following this offering, or approximately 73% in the Reorganization if the underwriters exercise in full their option to purchase additional shares of our Class A common stock;
- RGF, LLC intends to use the proceeds from the sale of Class A Units to RGF, Inc. as described in the section entitled "Use of Proceeds," including for general corporate purposes and working capital;
- the Members will hold Class B Units, which have pro rata economic interests, meaning rights to receive distributions or dividends, in whatever form, from RGF, LLC, but no voting or other control rights in RGF, LLC, which will be solely managed by RGF, Inc., and will have no economic interests in RGF, Inc. despite their ownership of Class B common stock;
- the Members will also hold Class B common stock, which will have no economic interest in RGF, Inc. but will vote together with the Class A common stock as to all matters upon which votes of RGF, Inc. stockholders are required;
- the Members will not be permitted to transfer any interest in Class B Units unless approved in writing by the Managing Member or pursuant to one of the following exceptions: (i) exchanges or redemptions permitted by an exchange agreement that RGF, Inc., RGF, LLC, and the Members will enter into (the "Exchange Agreement"), (ii) transactions that terminate the existence of a Member for income tax purposes but do not terminate the existence of such Member under applicable state law, (iii) transfers to the applicable Member's affiliates, and (iv) any transfers by any Member to such Member's spouse,



any lineal ascendants or descendants or trusts or other entities in which such Member or Member's spouse, lineal ascendants or descendants hold (and continue to hold while such trusts or other entities hold Class B Units) 50% or more of such entity's beneficial interests; provided, however, that (a) such transfer restrictions will continue to apply to Class B Units after any such permitted transfer, (b) transferees must agree in writing to be bound by the provisions of the Exchange Agreement (as defined below) and the amended and restated operating agreement of RGF, LLC as adopted immediately prior to the consummation of this offering (the "Operating Agreement"), and (c) such Member (or any subsequent transferee of such Member) shall be required to also transfer the fraction of its remaining Class B common stock ownership corresponding to the proportion of such Member's (or subsequent transferee's) Class B Units that were transferred in the transaction to such transferee;

- Pursuant to the Exchange Agreement, prior to the effectiveness of the registration statement of which this prospectus forms a part, (i) the holders of Class B Units (and certain permitted transferees) may, subject to the terms of the Exchange Agreement, exchange Class B Units for shares of Class A common stock on a one-for-one basis or, at our option, redeem such Class B Units for cash; (ii) in connection with any such exchange or redemption, a holder of Class B Units being so exchanged or redeemed would deliver to us an equivalent number of shares of Class B common stock, which would be canceled; and (iii) additional Class A Units, equivalent to the amount of Class B Units so exchanged or redeemed, will then be issued to RGF, Inc. and, thus, RGF, Inc.'s interest in RGF, LLC will be proportionally increased; and
- RGF, Inc. will enter into (i) the Tax Receivable Agreement with RGF, LLC and the Members other than the Fidelity Investors, and (ii) a registration rights agreement (the "Registration Rights Agreement") with the Members other than the Fidelity Investors regarding the terms and conditions upon which shares of Class A common stock issued to the Members other than the Fidelity Investors upon the exchange of their Class B Units would be registered for future sale. Although the actual timing and amount of any payments that we make to such Members under the Tax Receivable Agreement will vary, we expect those payments will be substantial. These payments confer significant benefits to such Members and will reduce cash provided by tax savings that would otherwise have been available to us to fund our operations and service our debt obligations. For additional information, refer to the section entitled "*Management's Discussion and Analysis—Liquidity—Tax Receivable Agreement.*"

Pursuant to the terms of the Exchange Agreement and in connection with an election by one or more Members to exchange Class B Units into shares of our Class A common stock, we will have the option to, in lieu of issuing Class A common stock, instead make a cash payment to such Member to redeem such Class B Units equal to a volume weighted average market price of one share of Class A common stock for each Class B Unit the Member has elected to exchange (subject to customary adjustments, including for stock splits, stock dividends, and reclassifications) in accordance with the terms of the Operating Agreement. Any decision to make a cash payment to a Member would not affect such Member's continuing obligation to deliver, and the subsequent cancellation of, the equivalent amount of such Member's shares of our Class B common stock. Any decision by us to redeem Class B Units and make a cash payment will be made by our independent directors (within the meaning of the Nasdaq Global Market ("Nasdaq")) who are disinterested. Although the actual timing and amount of any payments that we make to Members pursuant to the Exchange Agreement will vary, we expect those payments will be substantial, which may reduce the cash available to fund our operations and service our debt obligations. For additional information, refer to the section entitled "*Management's Discussion and Analysis—Liquidity—Exchange Agreement.*"

Our corporate structure following this offering, as described above, is commonly referred to as an "Up-C" structure, which is often used by partnerships and limited liability companies when they undertake an initial public offering of their business. The Up-C structure will allow the Members to continue to realize tax benefits associated with owning interests in an entity that is treated as a partnership, or "pass-through" entity, for income tax purposes following the offering. One of these benefits is that future taxable income of RGF, LLC that is allocated to the Members will be taxed on a flow-through basis and therefore will not be subject to corporate

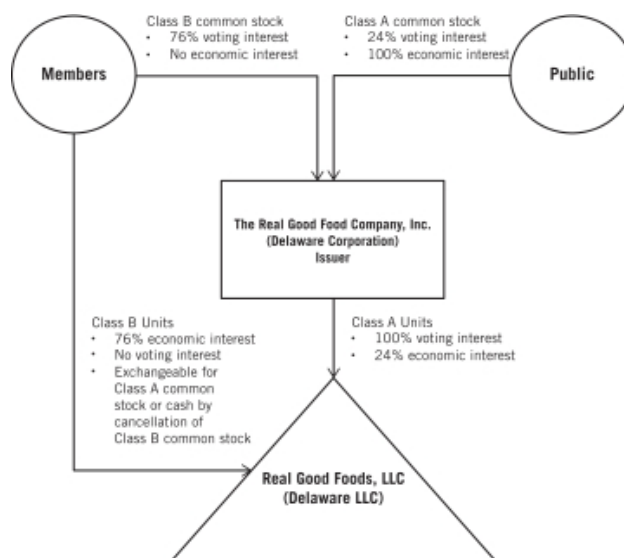
income taxes at the entity level. Additionally, because the Members may exchange their Class B Units for shares of our Class A common stock or, at our option, redeem such Class B Units for cash, the Up-C structure also provides the Members with potential liquidity that holders of non-publicly traded limited liability companies are not typically afforded. For additional information, refer to the sections entitled "*The Reorganization*" and "*Description of Capital Stock*."

We will receive the same benefits as the Members on account of our ownership of Class A Units in an entity treated as a partnership, or "pass-through" entity, for income tax purposes. As we exchange our Class A common stock for additional Class B Units from the Members under the mechanism described above, we will obtain a step-up in tax basis in our share of RGF, LLC's assets. This step-up in tax basis will provide us with certain tax benefits, such as future depreciation and amortization deductions that can reduce the taxable income allocable to us. We expect that RGF, Inc. will enter into the Tax Receivable Agreement with RGF, LLC and each of the Members other than the Fidelity Investors that will provide for the payment by us to the Members of 85% of the amount of tax benefits, if any, that we actually realize (or in some cases are deemed to realize) as a result of (i) increases in tax basis resulting from the exchange of Class B Units, and (ii) certain other tax benefits attributable to payments made under the Tax Receivable Agreement.

For additional information regarding our structure after the consummation of the Reorganization, including this offering, refer to the section entitled "*The Reorganization*." For certain risks related to the Reorganization, refer to the section entitled "*Risk Factors—Risks Related to Our Structure*."

Immediately following the Reorganization and the consummation of this offering, RGF, Inc. will be a holding company and its principal asset will be the Class A Units it purchases from RGF, LLC. As Managing Member, RGF, Inc. will operate and control all of the business and affairs of RGF, LLC and, through RGF, LLC, conduct its business. Although RGF, Inc. will have a minority economic interest in RGF, LLC, it will have the sole voting interest in, and control the management of, RGF, LLC, and will have the obligation to absorb losses of, and receive benefits from, RGF, LLC, which could be significant. As a result, we have determined that, after the Reorganization, RGF, LLC will be a variable interest entity ("VIE"), and that RGF, Inc. will be the primary beneficiary of RGF, LLC. Accordingly, pursuant to the VIE accounting model, RGF, Inc. will consolidate RGF, LLC in its financial statements and we will report a non-controlling interest related to the Class B Units held by the Members on our audited financial statements. RGF, Inc. will have a board of directors and executive officers, but will have no non-executive employees. The functions of all of our employees are expected to reside with RGF, LLC.

For additional information regarding our Certificate of Incorporation and the terms of our Class A common stock and Class B common stock, refer to the section entitled “*Description of Capital Stock*.” For additional information regarding the Operating Agreement, including the terms of the Class A Units and Class B Units, and the exchange right of the Members, the Tax Receivable Agreement, and the Registration Rights Agreement, refer to the section entitled “*Certain Relationships and Related-Party Transactions*.” The following diagram shows our organizational structure after giving effect to the Reorganization, including this offering, assuming no exercise by the underwriters of their option to purchase additional shares of our Class A common stock:



## Recent Developments

The following preliminary discussion and analysis of our financial condition and results of operations for the three months ended September 30, 2021 contains forward-looking statements that involve risks and uncertainties such as our plans, estimates, hopes, beliefs, intentions, and strategies regarding the future. These estimates should not be viewed as a substitute for our full fiscal year or interim period financial statements prepared in accordance with GAAP. Our actual results could differ materially from those in the forward-looking statements below. Factors that could cause or contribute to such differences in our actual results include, but are not limited to, those discussed below and in the sections entitled “*Cautionary Note Regarding Forward-Looking Statements*” and “*Risk Factors*.” Our preliminary results are not necessarily indicative of our actual results or the results that may be expected for any period in the future.

## Preliminary Financial Information for the Three Months Ended September 30, 2021

The following preliminary and unaudited financial information for the three months ended September 30, 2021 is based upon our estimates and subject to completion of our financial closing procedures. Moreover, this data has been prepared solely on the basis of currently available information by, and are the responsibility of, the Company. This information should be read in conjunction with our financial statements and the related notes and the section entitled “*Management’s Discussion and Analysis of Financial Condition and Results of Operations*” for prior periods included elsewhere in this prospectus. Our independent registered public accounting firm, Grant Thornton LLP, has not audited or reviewed or performed any procedures on this preliminary financial information. Accordingly, Grant Thornton LLP does not express an opinion or any other

form of assurance with respect thereto. This summary is not a comprehensive statement of our financial results for this period, and our actual results may differ from these estimates due to the completion of our financial closing procedures and final adjustments and other developments that may arise between now and the time our final quarterly financial statements are completed. Accordingly, we have provided ranges, rather than specific amounts, for the preliminary financial information described below. Our actual results for the three months ended September 30, 2021 will not be available until after this offering is completed. There can be no assurance that these estimates will be realized, and estimates are subject to risks and uncertainties, many of which are not within our control.

We have prepared estimates of the following preliminary and unaudited financial information for the three months ended September 30, 2021 (dollar amounts in thousands).

	THREE MONTHS ENDED SEPTEMBER 30, 2020	THREE MONTHS ENDED SEPTEMBER 30, 2021		% CHANGE THREE MONTHS ENDED SEPTEMBER 30, 2021 VERSUS SEPTEMBER 30, 2020	
		LOW	HIGH	LOW	HIGH
<i>(dollars in thousands)</i>					
Net sales	\$ 9,745	\$21,250	\$23,000	118%	136%
Cost of goods sold	\$ 9,907	\$19,350	\$20,625	95%	108%
Gross Profit	\$ (162)	\$ 1,900	\$ 2,375	—	—
Gross Profit Margin	(1.7)%	8.9%	10.3%	1060 bps	1200 bps
Loss from operations	\$ (2,953)	\$ (6,100)	\$ (5,500)	—	—

#### Net Sales

Our preliminary estimated net sales are expected to increase in the range of approximately \$11.5 million to \$13.3 million, or 118% to 136%, in the three months ended September 30, 2021 compared to the prior year period, primarily due to strong growth in sales volumes of our core products, driven by expansion in the club channel, and, to a lesser extent, greater demand from our existing retail customers.

#### Cost of Goods Sold

Our preliminary estimated cost of goods sold is expected to increase in the range of approximately \$9.4 million to \$10.7 million, or 95% to 108%, in the three months ended September 30, 2021 compared to the prior year period, primarily due to an increase in the sales volume of our products, and an increase in labor and raw material costs, primarily due to labor shortages and supply chain pressures, partially offset by the increase in the amount of products sold that were self-manufactured. Self-manufactured products, which have lower cost of goods sold than co-packed products, represented greater than 70% of our sales in the three months ended September 30, 2021 compared to substantially all of our products being co-packed in the prior year period.

#### Gross Profit

Our preliminary estimated gross profit is expected to increase in the range of approximately \$2.1 million to \$2.5 million for the three months ended September 30, 2021 compared to the prior year period. The estimated improvement in gross profit is primarily due to the absence of \$1.0 million of costs resulting from the write-down of unrecoverable raw material inventory as a result of financial hardship of a co-manufacturer and \$0.5 million of costs related to an inventory write-down, each of which occurred in the three months ended September 30, 2020, an increase in the amount of products sold that were self-manufactured, and an increase in net sales, partially offset by increases in labor and raw material costs.



### *Loss from Operations*

Our preliminary estimated loss from operations is expected to increase in the range of approximately \$2.5 million to \$3.1 million for the three months ended September 30, 2021 compared to the prior year period. The estimated increase in loss from operations is primarily due to an increase of approximately \$2.5 million to \$2.7 million in selling and distribution expenses in support of sales growth, an approximate \$1.3 million to \$1.5 million increase in marketing expenses, and an approximate \$1.0 million to \$1.2 million increase in administrative expenses, partially offset by a \$2.1 million to \$2.5 million increase in gross profit.

### **Risk Factor Summary**

Investing in our Class A common stock involves substantial risk. You should carefully consider all of the information in this prospectus prior to investing in our Class A common stock. We have various categories of risks, including risks related to our business, brand, products, and industry; risks related to our structure; risks related to our regulatory environment; risks related to our intellectual property, information technology, and privacy; risks related to being a public company; risks related to this offering and ownership of our Class A common stock; and risks related to accounting and tax matters, which are discussed more fully in the section entitled “*Risk Factors*.” We encourage you to carefully review the full risk factor disclosures set forth in the section entitled “*Risk Factors*,” as well as the other information in this prospectus, before deciding whether to invest in our Class A common stock. Additional risks beyond those summarized below or discussed elsewhere in this prospectus may apply to our business, activities, or operations as currently conducted or as we may conduct them in the future. Some of the most significant challenges and risks associated with investing in our Class A common stock include the following:

- our limited operating history and significant operating losses;
- our need to increase net sales from existing customers and acquire new customers in order to execute our growth strategy;
- the short and long-term effects of the novel coronavirus (“COVID-19”) pandemic on our business and the industry in which we operate;
- our ability to successfully implement our growth strategy and obtain additional financing to achieve our goals;
- RGF, LLC’s indebtedness, and the agreements governing such indebtedness, which subject it to required debt service payments, as well as financial restrictions and operating covenants, which may reduce our financial flexibility and affect our ability to operate our business;
- our quarterly results may fluctuate significantly, and period-to-period comparisons of our results may not be meaningful;
- the substantial customer concentration risk to which we are subject;
- potential consolidation of our customers;
- our ability to compete successfully in our highly competitive market;
- consumer preferences for our products, which can change rapidly;
- our ability to introduce new products or successfully improve existing products;
- the volatile price of food commodities and packaging materials;
- our brand and reputation, as impacted by real or perceived quality or food safety issues with our products;
- the effectiveness of our digital marketing strategy and the expansion of our social media presence;
- our reliance on third-party delivery and warehousing companies, which could negatively impact our operating results;
- any disruption at one of our facilities;
- our ability to pay taxes and expenses, including payments under the Tax Receivable Agreement, may be limited by our structure; and
- the requirements of being a public company.

## Company Information

The Real Good Food Company LLC was formed in the State of California on February 3, 2016. The Real Good Food Company LLC will convert from a California limited liability company to a Delaware limited liability company and change its name to Real Good Foods, LLC upon the Reorganization. Project Clean, Inc. was incorporated as a Delaware corporation on June 2, 2021 for the purpose of issuing the Class A common stock in this offering and acquiring Class A Units in RGF, LLC. Project Clean, Inc. changed its name to The Real Good Food Company, Inc. on October 7, 2021. Our principal executive offices are located at 3 Executive Campus, Suite 155, Cherry Hill, NJ 08002, and our telephone number is (856) 644-5624. Our website address is [www.realgoodfoods.com](http://www.realgoodfoods.com). The information contained on or accessible through our website is not part of this prospectus or the registration statement of which this prospectus forms a part, and potential investors should not rely on such information in making a decision to purchase our Class A common stock in this offering.

We use various trademarks, trade names, and other intellectual property in our business, including, without limitation, our corporate name and logo. We have over a dozen registered trademarks in the United States and “Realgood” and “Realgood Pizza Co.” registered or pending in certain other non-U.S. jurisdictions. All other service marks, trademarks, and trade names appearing in this prospectus are the property of their respective owners. Solely for convenience, the trademarks and tradenames referred to in this prospectus appear without the ® and ™ symbols, but those references are not intended to indicate, in any way, that we will not assert, to the fullest extent under applicable law, our rights, or the right of the applicable licensor to these trademarks and tradenames. We believe the protection of our trademarks, trade names, copyrights, domain names, trade dress, and trade secrets are important to our success.

## Implications of Being an Emerging Growth Company and a Smaller Reporting Company

We qualify as an “emerging growth company” as defined in the Jumpstart Our Business Startups Act of 2012 (the “JOBS Act”). As an emerging growth company, we may take advantage of specified reduced disclosure and other requirements that are otherwise applicable generally to public companies, including:

- presenting only two years of audited financial statements and two years of related Management’s Discussion and Analysis of Financial Condition and Results of Operations disclosure;
- reduced disclosure regarding our executive compensation arrangements;
- exemption from the requirements to hold non-binding advisory votes on executive compensation;
- exemption from the auditor attestation requirement in the assessment of our internal controls over financial reporting pursuant to Section 404(b) of the Sarbanes-Oxley Act of 2002 (the “Sarbanes-Oxley Act”); and
- exemption from complying with any requirement that may be adopted by the Public Company Accounting Oversight Board (“PCAOB”) regarding mandatory audit firm rotation.

We may take advantage of these exemptions up until the last day of the fiscal year following the fifth anniversary of our initial public offering or such earlier time that we are no longer an emerging growth company. We would cease to be an emerging growth company on the earliest of (i) the last day of the fiscal year in which we have more than \$1.07 billion in annual revenue, (ii) the date we qualify as a “large accelerated filer,” with more than \$700.0 million in market value of our stock held by non-affiliates (and we have been a public company for at least 12 months and have filed one Annual Report on Form 10-K), or (iii) the date on which we have issued more than \$1.0 billion of non-convertible debt securities over a three-year period. We may choose to take advantage of some, but not all, of the available exemptions. We have taken advantage of certain reduced reporting obligations in this prospectus. Accordingly, the information contained herein may be different than the information you receive from other public companies in which you hold stock. For certain risks related to our status as an emerging growth company, refer to the section entitled “*Risk Factors—We are an “emerging growth company” and the reduced disclosure requirements applicable to emerging growth companies may make our Class A common stock less attractive to investors.*”

We are also a “smaller reporting company,” meaning that the market value of our stock held by non-affiliates plus the proposed aggregate amount of gross proceeds to us as a result of this offering is less than

\$700.0 million and our annual revenue was less than \$100.0 million during the most recently completed fiscal year. We may continue to be a smaller reporting company after this offering if either (i) the market value of our stock held by non-affiliates is less than \$250.0 million, or (ii) our annual revenue is less than \$100.0 million during the most recently completed fiscal year and the market value of our stock held by non-affiliates is less than \$700.0 million. If we are a smaller reporting company at the time we cease to be an emerging growth company, we may continue to rely on exemptions from certain disclosure requirements that are available to smaller reporting companies. Specifically, as a smaller reporting company, we may choose to present only the two most recent fiscal years of audited financial statements in our Annual Report on Form 10-K and, similar to emerging growth companies, smaller reporting companies have reduced disclosure obligations regarding executive compensation.

## THE OFFERING

<b>Issuer</b>	The Real Good Food Company, Inc.
<b>Shares of Class A common stock offered by RGF, Inc.</b>	5,333,333 shares
<b>Shares of Class A common stock offered by the selling stockholder (an affiliate) pursuant to the option to purchase additional shares</b>	333,333 shares
<b>Underwriters' option to purchase additional shares of Class A common stock</b>	We and the selling stockholder have granted the underwriters the right to purchase up to 800,000 additional shares of Class A common stock within 30 days of the closing date of this offering, of which 333,333 shares would first be sold by the selling stockholder and then 466,667 shares would be issued and sold by us. For additional information, refer to the section entitled " <i>Underwriting</i> ."
<b>Class A common stock to be outstanding and voting interest immediately after the offering</b>	6,002,575 shares, representing 24% of the voting interest and 100% of the economic interest in RGF, Inc., or 6,802,575 shares, representing 27% of the voting interest and 100% of the economic interest in RGF, Inc., if the underwriters exercise in full their option to purchase additional shares of Class A common stock
<b>Class B common stock to be outstanding and voting interest immediately after the offering</b>	19,015,824 shares, representing 76% of the voting interest and none of the economic interest in RGF, Inc.
<b>Class A Units of RGF, LLC to be held by RGF, Inc. immediately after this offering</b>	6,002,575 Class A Units, representing 24% of the economic interest in the business of RGF, LLC, or 6,802,575 Class A Units, representing 27% of the economic interest in the business of RGF, LLC, if the underwriters exercise in full their option to purchase additional shares of Class A common stock
<b>Class B Units of RGF, LLC to be held by the Members after this offering</b>	19,015,824 Class B Units, representing 76% of the economic interest, but none of the voting interest, in the business of RGF, LLC, or 73% of the economic interest, but none of the voting interest, in the business of RGF, LLC, if the underwriters exercise in full their option to purchase additional shares of Class A common stock
<b>Ratio of shares of Class A common stock to Class A Units</b>	Our Certificate of Incorporation and Operating Agreement will require that we at all times maintain a one-to-one ratio between the number of shares of Class A common stock issued by RGF, Inc. and the number of Class A Units owned by RGF, Inc.

<b>Ratio of shares of Class B common stock to Class B Units</b>	Our Certificate of Incorporation and Operating Agreement will require that we at all times maintain a one-to-one ratio between the number of shares of Class B common stock owned by the Members and the number of Class B Units owned by the Members
<b>Voting</b>	Immediately following this offering and the application of net proceeds from this offering, the Members, including the Fidelity Investors receiving Class B Units and Class B common stock, in the aggregate, will control approximately 76% of the combined voting power of our Class A and Class B common stock. As a result, based on their ownership of RGF, Inc. voting stock, the Members, in the aggregate, will have the collective ability to elect all of the members of the RGF, Inc. board of directors, and thereby to control RGF, Inc. management and affairs. In addition, the Members will be able to determine the outcome of all matters requiring stockholder approval, including mergers and other material transactions, and will be able to cause or prevent a change in the composition of the RGF, Inc. board of directors or a change of control of our Company that could deprive our RGF, Inc. stockholders of an opportunity to receive a premium for their Class A common stock as part of a sale of our Company and might ultimately affect the market price of Class A common stock
<b>Management of RGF, LLC</b>	RGF, Inc. will be the Managing Member of RGF, LLC and will operate and control all of the business and affairs of RGF, LLC
<b>Use of proceeds</b>	<p>RGF, Inc. will use the proceeds from the sale of our Class A common stock to purchase Class A Units of RGF, LLC. Accordingly, RGF, Inc. will not retain any of these proceeds. We will not receive any proceeds from the sale of shares of our Class A common stock by the selling stockholder in this offering.</p> <p>The principal purposes of this offering are to increase our capitalization and financial flexibility, create a public market for our Class A common stock, increase our brand awareness, and facilitate access to the public equity markets for us and our equity holders. RGF, LLC primarily intends to use the net proceeds that it receives from RGF, Inc. from this offering for working capital and other general corporate purposes, which may include research and development and marketing activities, general and administrative matters, and capital expenditures. In addition, RGF, LLC intends to use a portion of the proceeds for the repayment of debt owed to one of its lenders and may also use a portion of the proceeds for the acquisition of, or investment in, businesses or assets that complement our business. However, we do not have binding agreements or commitments for any acquisitions or investments outside the ordinary course of business at this time. Further, RGF, LLC expects to use a portion of the proceeds to pay all of the principal balance and interest owed pursuant to a transfer agreement entered into with a third party in connection with a sublease. Our management will have broad discretion over the use of the net proceeds from this offering. For additional information, refer to the section entitled "<i>Use of Proceeds</i>"</p>
<b>Tax Receivable Agreement</b>	Future exchanges of Class B Units for shares of our Class A common stock are expected to produce favorable tax attributes for us. These



tax attributes would not be available to us in the absence of those transactions. Upon the closing of this offering, we will be a party to the Tax Receivable Agreement. Under the Tax Receivable Agreement, we generally expect to retain the benefit of approximately 15% of the applicable tax savings after our payment obligations below are taken into account

Under the Tax Receivable Agreement, we generally will be required to pay to the Members that will continue to hold Class B Units following the Reorganization approximately 85% of the applicable savings, if any, in income tax that we are deemed to realize (using the actual applicable U.S. federal income tax rate and an assumed combined state and local income tax rate) as a result of:

- certain tax attributes that are created as a result of the exchanges of their Class B Units for shares of our Class A common stock;
- any existing tax attributes associated with their Class B Units, the benefit of which is allocable to us as a result of the exchanges of their Class B Units for shares of our Class A common stock (including the portion of RGF, LLC's existing tax basis in its assets that is allocable to the LLC Units that are exchanged);
- tax benefits related to imputed interest; and
- payments under the Tax Receivable Agreement

For purposes of calculating the income tax savings we are deemed to realize under the Tax Receivable Agreement, we will calculate the U.S. federal income tax savings using the actual applicable U.S. federal income tax rate and will calculate the state and local income tax savings using a rate equal to the sum of the products of (x) RGF, LLC's income tax apportionment rate for each state and local jurisdiction in which RGF, LLC files Tax Returns for the relevant taxable year and (y) the highest corporate income tax rate for each such state and local jurisdiction in which RGF, LLC files tax returns for each relevant taxable year, subject to adjustments. For additional information, refer to the sections entitled "*The Reorganization*," "*Management's Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources—Tax Receivable Agreement*," and "*Certain Relationships and Related-Party Transactions—Tax Receivable Agreement*"

**Exchange and conversion rights of holders of our Class B common stock**

Holders of shares of our Class B common stock do not have preemptive, subscription, redemption, or conversion rights. Immediately following the consummation of this offering, the Members holding Class B common stock may exchange their Class B Units and cancel an equivalent amount of their shares of Class B common stock for newly issued shares of our Class A common stock or, at our option, redeem such Class B Units for cash

**Risk factors**

Investing in our Class A common stock involves a high degree of risk. For a discussion of factors you should consider carefully before deciding to invest in shares of our Class A common stock, refer to the section entitled "*Risk Factors*"

**Proposed Nasdaq trading symbol**

“RGF”

The number of shares of our Class A common stock to be outstanding immediately following the consummation of this offering excludes:

- shares of our Class A common stock reserved for future issuance as of June 30, 2021 under our stock-based compensation plans, consisting of (i) 3,300,000 shares of our Class A common stock reserved for future issuance under our 2021 Stock Incentive Plan (the “2021 Plan”), which will become effective on the day before the date of the effectiveness of the registration statement of which this prospectus forms a part, and (ii) 400,000 shares of our Class A common stock reserved for future issuance under our 2021 Employee Stock Purchase Plan (the “ESPP”), which will become effective on the date of the effectiveness of the registration statement of which this prospectus forms a part. The 2021 Plan and ESPP also provide for automatic annual increases in the number of shares reserved under the plans each year, as described in the section entitled “*Executive Compensation—Equity Compensation Plans and Other Benefit Plans*”; and
- shares of our Class A common stock that may be issuable upon exercise of the Members’ and Fidelity Investors’ rights to exchange their Class B Units.

The shares of our Class B common stock to be outstanding immediately following this offering is based on 19,015,824 Class B Units held by the Members as of June 30, 2021 after taking into account the assumptions set forth below.

Except as otherwise indicated, all information in this prospectus assumes or gives effect to:

- the effectiveness of the Operating Agreement, as well as the filing of our Certificate of Incorporation, each of which will occur immediately prior to the consummation of this offering;
- the automatic conversion of all convertible promissory notes outstanding as of June 30, 2021 into an aggregate of 669,242 shares of our Class A common stock and 2,247,425 shares of our Class B common stock, based on an assumed initial public offering price of \$15.00 per share, the midpoint of the estimated offering price range set forth on the cover page of this prospectus, at a 20% discount to such offering price, immediately prior to the closing of this offering;
- the Reorganization; and
- no exercise of the underwriters’ option to purchase 800,000 additional shares of our Class A common stock.

## SUMMARY FINANCIAL AND OTHER DATA

The following tables set forth summary financial data for the periods and as of the dates indicated. The statements of operations and balance sheet data for the years ended December 31, 2019 and 2020 have been derived from our audited financial statements included elsewhere in this prospectus. The summary statements of operations and balance sheet data for the six months ended June 30, 2020 and 2021 have been derived from our unaudited interim financial statements included elsewhere in this prospectus. We have prepared the unaudited interim financial statements on the same basis as the audited financial statements and have included all adjustments, consisting only of normal recurring adjustments that, in management's opinion, are necessary to state fairly the financial information set forth in those financial statements.

Our historical results are not necessarily indicative of the results to be expected for any future periods, and our results for the six months ended June 30, 2021 are not necessarily indicative of the results to be expected for the full year ending December 31, 2021 or any other period. You should read the following financial information together with the information included within the sections entitled "Capitalization," "Management's Discussion and Analysis of Financial Condition and Results of Operations," "Unaudited Pro Forma Combined Financial Data," and our audited financial statements and related notes included elsewhere in this prospectus.

(In thousands, except unit and per unit data)	YEAR ENDED DECEMBER 31,		SIX MONTHS ENDED JUNE 30,	
	2019	2020	2020	2021
<b>Statement of Operations Data:</b>				
<b>Net sales</b>	\$ 38,743	\$ 38,984	\$ 18,054	\$ 35,463
Cost of sales	32,919	36,306	16,439	28,788
<b>Gross profit</b>	5,824	2,678	1,615	6,675
Operating expenses:				
Selling and distribution	8,025	7,593	3,949	5,968
Marketing	4,145	2,351	1,580	1,387
Administrative	2,409	2,592	1,073	5,802
<b>Total operating expenses</b>	14,579	12,536	6,602	13,157
<b>Loss from operations</b>	(8,755)	(9,858)	(4,987)	(6,482)
Interest expense	5,382	5,682	2,482	3,483
Other expense	51	—	—	370
<b>Loss before income taxes</b>	(14,188)	(15,540)	(7,469)	(10,335)
Income tax expense	—	(22)	(13)	—
<b>Net loss</b>	<b>\$ (14,188)</b>	<b>\$ (15,562)</b>	<b>\$ (7,482)</b>	<b>\$ (10,335)</b>
Preferred return on Series A preferred units	418	546	273	292
<b>Net loss attributable to common unitholders</b>	<b>\$ (14,606)</b>	<b>\$ (16,108)</b>	<b>\$ (7,755)</b>	<b>\$ (10,627)</b>
Net loss per common unit (basic and diluted)	\$ (235.21)	\$ (258.82)	\$ (124.89)	\$ (168.80)
Weighted-average common units outstanding (basic and diluted)	62,097	62,238	62,097	62,957

(In thousands)	AS OF DECEMBER 31,		AS OF JUNE 30, 2021
	2019	2020	(UNAUDITED)
<b>Balance Sheet Data:</b>			
Cash	\$ 388	\$ 28	\$ 654
Total assets	15,298	15,470	34,656
Long term debt, net of issuance costs, including current portion	26,028	39,879	11,596
Business acquisition liabilities	—	—	15,209
Convertible promissory notes	—	—	35,370
Total liabilities	30,046	45,637	75,158
Total members' deficit	(14,748)	(30,167)	(40,502)

### Non-GAAP Financial Measures

In addition to our results determined in accordance with generally accepted accounting principles in the United States ("GAAP"), we believe that Adjusted Gross Profit, Adjusted Gross Margin, and Adjusted EBITDA, all non-GAAP financial measures, are useful performance measures and metrics for investors to evaluate current trends in our operations and compare the ongoing operating performance of our business from period to period. In addition, management uses these non-GAAP financial measures to assess our operating performance and for internal planning purposes. We also believe these measures are widely used by investors, securities analysts, and other parties in evaluating companies in our industry as measures of operational performance. However, the non-GAAP financial measures included in this prospectus have limitations and should not be considered in isolation, as substitutes for, or as superior to performance measures calculated in accordance with GAAP. Other companies may calculate these measures differently, or may not calculate them at all, which limits the usefulness of these measures as comparative measures. Because of these limitations, we consider, and you should consider, Adjusted Gross Profit, Adjusted Gross Margin, and Adjusted EBITDA with other operating and financial performance measures presented in accordance with GAAP.

#### Adjusted Gross Profit and Adjusted Gross Margin

"Adjusted Gross Profit" means, for any reporting period, gross profit adjusted to exclude the impact of costs and adjustments identified by management as affecting the comparability of our gross profit from period to period and "Adjusted Gross Margin" means Adjusted Gross Profit as a percentage of net sales. Adjusted Gross Profit and Adjusted Gross Margin should not be considered as alternatives to gross profit, gross profit margin, or any other measure of financial performance calculated and presented in accordance with GAAP. There are a number of limitations related to the use of Adjusted Gross Profit and Adjusted Gross Margin rather than gross profit and gross profit margin, which are the most directly comparable GAAP measures. Some of these limitations are that our calculation of Adjusted Gross Profit and Adjusted Gross Margin:

- do not reflect costs recognized as a result of a co-manufacturer's financial hardship;
- do not reflect costs associated with the write-down of obsolete inventory, which may need to be replenished;
- do not reflect start-up and idle capacity costs;
- do not reflect costs related to the COVID-19 pandemic;
- do not reflect costs to shut down one of our facilities;
- may differ from those of other companies, including companies in our industry, which reduces the usefulness of Adjusted Gross Profit and Adjusted Gross Margin as comparative measures.

Because of these limitations, we consider, and you should consider, Adjusted Gross Profit and Adjusted Gross Margin with other operating and financial performance measures presented in accordance with GAAP.

The following table presents the reconciliation of Adjusted Gross Profit and Adjusted Gross Margin to the most directly comparable GAAP measures, gross profit and gross margin, respectively, as reported:

(In thousands)	YEAR ENDED DECEMBER 31,		SIX MONTHS ENDED JUNE 30,	
	2019	2020	2020	2021
<b>Gross Profit</b>	<b>\$5,824</b>	<b>\$2,678</b>	<b>\$ 1,615</b>	<b>\$ 6,675</b>
Cost related to financial hardship of co-manufacturer(1)	—	967	—	—
Inventory write-down(2)	—	726	—	—
Start-up and idle capacity costs(3)	—	327	—	1,494
Costs related to the COVID-19 pandemic(4)	—	308	308	493
<b>Adjusted Gross Profit</b>	<b>\$5,824</b>	<b>\$5,006</b>	<b>\$ 1,923</b>	<b>\$ 8,662</b>
<b>Gross Profit Margin</b>	<b>15.0%</b>	<b>6.9%</b>	<b>8.9%</b>	<b>18.8%</b>
<b>Adjusted Gross Margin</b>	<b>15.0%</b>	<b>12.8%</b>	<b>10.7%</b>	<b>24.4%</b>

- (1) Represents costs recognized as a result of a co-manufacturer's financial hardship. These costs include the non-recurring write down of unrecoverable raw materials inventory.
- (2) Represents a non-recurring write-down of obsolete inventory related to a change in strategy for certain products and customers. The amount of the write-down reflects only that portion of obsolete inventory that management estimates to be above normalized levels.
- (3) Represents start-up costs associated with commencing operations at our City of Industry Facility and other costs associated with temporary manufacturing capacity at our City of Industry Facility, including indirect labor costs, utility costs, and rent.
- (4) Represents direct costs incurred in connection with the COVID-19 pandemic, including freight rush charges, labor costs, tolling upcharges, and storage.

#### **Adjusted EBITDA**

"Adjusted EBITDA" means, for any reporting period, net income (loss) before depreciation and amortization, income taxes, and interest expense, and adjusted to exclude the impact of transaction expenses, as well as other costs and adjustments identified by management as affecting the comparability of our operating results from period to period. Adjusted EBITDA should not be considered as an alternative to net loss or any other measure of financial performance calculated and presented in accordance with GAAP. There are a number of limitations related to the use of Adjusted EBITDA rather than net loss, which is the most directly comparable GAAP measure. Some of these limitations are that our calculation of Adjusted EBITDA:

- excludes depreciation and amortization expense and, although these are non-cash expenses, the assets being depreciated may have to be replaced in the future increasing our cash requirements;
- does not reflect income tax payments that reduce cash available to us;
- does not reflect interest expense, or the cash required to service our debt, which reduces cash available to us;
- does not reflect costs recognized as a result of a co-manufacturer's financial hardship;
- does not reflect costs associated with the write-down of obsolete inventory, which may need to be replenished;
- does not reflect start-up and idle capacity costs;
- does not reflect costs related to the COVID-19 pandemic;
- does not reflect the expenses associated with share-based compensation;
- does not reflect costs incurred in connection with certain strategic and financing transactions, which reduce cash available to us;
- does not reflect costs to shut down one of our facilities; and
- may differ from those of other companies, including companies in our industry, which reduces the usefulness of Adjusted EBITDA as a comparative measure.



Because of these limitations, we consider, and you should consider, Adjusted EBITDA with other operating and financial performance measures presented in accordance with GAAP.

We also incurred other non-recurring expenses of \$0.2 million during the six months ended June 30, 2021. These other non-recurring expenses have not been added back to our computation of Adjusted EBITDA.

The following table presents the reconciliation of Adjusted EBITDA to its most directly comparable GAAP measure, net loss, as reported:

(In thousands)	YEAR ENDED DECEMBER 31,		SIX MONTHS ENDED JUNE 30,	
	2019	2020	2020	2021
<b>Net loss</b>	<b>\$ (14,188)</b>	<b>\$ (15,562)</b>	<b>\$ (7,482)</b>	<b>\$ (10,335)</b>
Depreciation and amortization	516	590	296	447
Provision for income tax	—	22	13	—
Interest expense	5,382	5,682	2,482	3,483
Cost recognized related to financial hardship of co-manufacturer(1)	—	967	—	—
Inventory write-down(2)	—	726	—	—
Start-up and idle capacity costs(3)	—	327	—	1,494
Costs related to the COVID-19 pandemic(4)	—	308	308	493
Share-based compensation(5)	—	82	—	36
Transaction expenses(6)	—	598	178	2,702
Costs to shut down facility(7)	125	—	—	—
<b>Adjusted EBITDA</b>	<b>\$ (8,165)</b>	<b>\$ (6,260)</b>	<b>\$ (4,205)</b>	<b>\$ (1,680)</b>

- (1) Represents costs recognized as a result of a co-manufacturer's financial hardship. These costs include the non-recurring write-down of unrecoverable raw materials inventory.
- (2) Represents a non-recurring write-down of obsolete inventory related to a change in strategy for certain products and customers. The amount of the write-down reflects only that portion of obsolete inventory that management estimates to be above normalized levels.
- (3) Represents start-up costs associated with commencing operations at our City of Industry Facility and other costs associated with temporary manufacturing capacity at our City of Industry Facility, including indirect labor costs, utility costs, and rent.
- (4) Represents direct costs incurred in connection with the COVID-19 pandemic, including freight rush charges, labor costs, tolling upcharges, and storage.
- (5) Represents equity-based compensation expense related to a commercial agreement with an investor.
- (6) Represents costs incurred in connection with pursuing certain strategic and financing transactions, including legal, consulting, and accounting costs.
- (7) Represents non-recurring costs associated with shutting down a production and warehouse facility in Tucson, Arizona.

## RISK FACTORS

*Investing in our Class A common stock involves a high degree of risk. You should carefully consider the risk factors described below, together with all of the other information included in this prospectus, before investing in our Class A common stock. If any of the following risks are realized, our business, operating results, financial condition, and prospects could be materially and adversely affected. In that case, the trading price of our Class A common stock may decline, and you may lose all or part of your investment in our Class A common stock. The risks described below are not the only ones we face. Additional risks that we currently do not know about or that we currently believe to be immaterial may also negatively impact our business, operating results, financial condition, and prospects.*

### **Risks Related to Our Business, Brand, Products, and Industry**

***We have a limited operating history and have incurred significant operating losses. As a result of continuing investments to expand our business, we may not achieve or sustain profitability.***

We were formed and commenced commercial sales of our products in 2016. As a result, we have a limited operating history and limited experience manufacturing and selling our products, establishing relationships with customers and consumers, and building our brand reputation. These and other factors combine to make it more difficult for us to accurately forecast our future operating results, which in turn makes it more difficult for us to prepare accurate budgets and implement strategic plans. We expect that this uncertainty will continue to exist in our business for the foreseeable future. If we do not address these risks and uncertainties successfully, our operating results could differ materially from our estimates and forecasts, and from the expectations of investors or analysts, which could harm our business and result in a decline in the trading price of our Class A common stock.

We have experienced net losses in every period since our inception. In the years ended December 31, 2019 and 2020, we incurred net losses of \$14.2 million and \$15.6 million, respectively. In the six months ended June 30, 2020 and 2021, we incurred net losses of \$7.5 million and \$10.3 million, respectively. We anticipate our operating expenses and capital expenditures will increase substantially in the foreseeable future as we seek to expand our retail distribution, invest in our approach to grow our community, leverage our product development capabilities, and invest in production capacity and automation. As a result of our continuing investments to expand our business in these and other areas, we expect our expenses to increase significantly, and we may not achieve profitability in the foreseeable future. Even if we are successful in broadening our consumer base, and increasing net sales from new and existing customers, we may not be able to generate additional net sales in amounts that are sufficient to cover our expenses. We may incur significant losses for a number of reasons, including as a result of the other risks and uncertainties described elsewhere in this prospectus. We cannot assure you that we will achieve profitability in the future or that, if we do become profitable, we will sustain profitability over any particular period of time.

***To execute our growth strategy, we need to attract new customers and consumers to our brand and increase our net sales from existing customers, and we may not be successful in achieving these objectives.***

Our ability to execute our growth strategy depends in part on our ability to attract new customers and consumers to our brand, retain our existing customers, and increase net sales from existing customers. However, we may not be successful in increasing our net sales as a result of a number of factors, including:

- our inability to commercialize innovative and relevant products with the taste, nutritional content, quality, and value demanded by our customers and consumers;
- changes in consumer preferences, including trends impacting the H&W industry and the frozen food category;
- introduction of competitive products by other branded food companies, retailers, restaurants, and other industry participants;
- the pricing of our products and the products of our competitors;
- any decision by customers to reduce the number of our products they sell, or to limit their shelf space available for our products;
- greater reliance by certain retailers on private label products;
- our ability to fulfill orders in a timely manner;

- perceptions regarding the taste, nutritional content, quality, and value of our products relative to those of our competitors or other food products;
- our failure to effectively engage with customers or consumers through our advertising and marketing efforts, including through our social media presence;
- factors impacting our current or target customers, including bankruptcy or financial hardship, changes in business strategy or operations, or industry consolidation;
- regulatory matters impacting our products or the products of our competitors, including product recalls or seizures;
- incidence of food-borne illnesses, contamination or other food-safety incidents caused by our products, or involving our competitors, co-manufacturers, suppliers, or other business partners;
- the impacts and disruptions caused by the COVID-19 pandemic, or any similar pandemics or incidence of disease; or
- general economic factors, including discretionary spending, consumer confidence, interest rates, and unemployment rates.

Any factors that negatively impact our ability to attract customers and consumers to our brand, retain our existing customers, or increase net sales from existing customers, or that result in sales of our products increasing at a lower rate than expected, including factors that are beyond our control, could adversely affect our business, operating results, financial condition, and prospects. If we are unable to significantly increase our net sales, we may never achieve or sustain profitability, which would negatively impact our ability to execute our strategic plan and cause the trading price of our Class A common stock to decline.

***We are subject to substantial customer concentration risk and our failure to retain existing customers would have an adverse effect on our business.***

We have been and continue to be subject to substantial customer concentration risk. Our three largest retail customers during the year ended December 31, 2020 were Walmart, Kroger, and Costco. During the year ended December 31, 2019, Walmart and Kroger accounted for approximately 66% of our net sales, collectively. During the year ended December 31, 2020, Walmart, Kroger and Costco collectively accounted for approximately 57% of our net sales. These customers individually accounted for approximately 28%, 17% and 12% of our net sales, respectively, for the year ended December 31, 2020. For the six months ended June 30, 2021, Costco, Walmart, and Kroger represented approximately 85% of our net sales, collectively, and approximately 57%, 19%, and 9%, of our net sales, respectively. We do not have long-term contracts with our significant customers, any of which could discontinue their relationship with us or seek to modify their commercial terms with us. In addition, our customers are typically not required to purchase any minimum amount of our products. While our growth strategy involves retaining and increasing net sales from existing customers, we cannot guarantee that we will be successful in executing this strategy. The loss of any significant customer, the reduction of purchasing levels from any such customer, or the failure of any of these customers to purchase new products from us would have a material adverse impact our business, operating results and financial condition. For example, throughout 2020, we experienced a reduction of purchasing activity from many of our significant customers, as well as a decision by many retail customers to cancel or postpone shelf-resets, as a result of the impacts of the COVID-19 pandemic, which had a material adverse impact on our net sales and resulted in a decline in our growth rate.

In addition, our customer concentration risk exposes us to product concentration risk as our significant customers may choose to only purchase and provide shelf space for a limited number of our products. If this occurs, it could result in such products representing a large percentage of our net sales, and limit our ability to expand production of and gain market acceptance for new products. For example, we have experienced some concentration of sales of our bacon wrapped stuffed chicken and enchiladas through one of our significant retail customers. We cannot assure you that our significant customers will continue to favor these or other products they purchase from us over competitive products. Further, a significant customer may take actions that affect us for reasons that we cannot always anticipate or control, such as their financial condition, changes in business strategy or operations, introduction of competing products, or its management's perceptions regarding the quality, value, or desirability of our products. Any factor adversely affecting sales of these products to our significant customers could have a disproportionate negative impact on our business.

***Consolidation of customers, or the loss of a significant customer, could negatively impact our sales and profitability.***

In recent years, retailers across the United States have consolidated, including within the geographic regions in which we sell our products. This consolidation has reduced the number of our target customers, while at the same time producing larger organizations with increased negotiating power that are often able to resist price increases, demand fixed commercial terms, operate with lower inventories, and decrease the number of branded products they carry, all of which could negatively impact our business. The consolidation of customers also increases the impact that the loss of a significant customer, or an adverse event affecting the business of a significant customer, could have on our business. Consequently, our operating results may fluctuate significantly in future periods based on the actions of one or more significant customers.

***Pandemics, epidemics, or disease outbreaks, such as COVID-19, may disrupt our business, including, among other things, consumption and trade patterns, supply chain, and production processes, each of which could materially and adversely affect our business, financial condition and results of operations.***

The actual or perceived effects of a pandemic, epidemic, disease outbreak, or similar widespread public health concern, such as COVID-19, could materially and adversely affect our business, financial condition, and results of operations. Pandemics, epidemics, or disease outbreaks may affect demand for our products because quarantines, or other government restrictions on movement, may cause erratic consumer purchase behavior. Governmental or societal impositions of restrictions on public gatherings, especially if prolonged, may have adverse effects on in-person traffic to retail stores. Even the perceived risk of infection or health risk may adversely affect traffic to our store-based retail customers and, in turn, our business, financial condition, and results of operations, particularly if any self-imposed or government-imposed restrictions are in place for a significant period of time.

The ongoing COVID-19 pandemic may continue to affect us and our co-manufacturers', suppliers', and customers' ability to operate in certain regions, delay the development or launch of new products, disrupt the supply chain and manufacturing or shipment of our ingredients or products, or have other adverse effects on our business, financial condition, results of operations, and prospects. In connection with the ongoing COVID-19 pandemic, many of our retail customers canceled or postponed shelf-resets, which significantly impacted our net sales in the year ended December 31, 2020. Further, one of our key co-manufacturers experienced financial hardship as a result of the impacts of the COVID-19 pandemic, which resulted in our inability to meet demand for certain products during the year ended December 31, 2020, which negatively impacted our financial condition and results of operations. In addition, during the six months ended June 30, 2021, we experienced high levels of absenteeism and turnover in our City of Industry Facility that we believe is a result of the COVID-19 pandemic, which caused significant production inefficiencies and an increase in our labor costs. Any factors that cause fluctuations in our labor costs could have a material impact on our cost of goods sold. Further, labor shortages that we believe have resulted from the pandemic may impact our production capacity, which may have a negative impact on our gross profit.

Although we have taken actions to mitigate the impacts of the COVID-19 pandemic, at this time we cannot predict the specific extent, duration, or full impact that the COVID-19 pandemic will have on our business, financial condition, and operations, including our ability to successfully implement our growth strategy and obtain additional financing to achieve our strategic objectives. The impacts of the COVID-19 pandemic on our financial performance will depend on future developments, including the duration and spread of the pandemic and any variants, its impact on our business, manufacturing capacity, and other third parties with whom we do business, progress of vaccination efforts, and related governmental advisories and restrictions. These developments and the impact of the COVID-19 pandemic on the financial markets and the overall economy are highly uncertain and cannot be predicted. If the financial markets or the overall economy are impacted for an extended period, our business may be materially adversely affected.

***We may not be able to compete successfully in our highly competitive market.***

We are a frozen food company operating within the H&W industry, although we believe we compete with other conventional brands within the frozen food category. We operate in a highly competitive market with numerous brands and products competing for market share and limited shelf space from retail customers.

Within our market, we believe competition is primarily based on the following factors:

- product quality and taste;
- brand reputation, recognition, and loyalty;
- nutritional content and claims;
- product pricing;
- product variety;
- relationships with customers and access to retail shelf space; and
- advertising and marketing activity, including social media presence.

We compete with conventional brands within the frozen food category such as Conagra Brands, Inc., Kraft Heinz Company, Nestle S.A., and Tyson Foods, Inc., each of which have substantially greater financial and other resources, a broader assortment of product offerings, more established relationships with retailers, and products that are well-accepted in the marketplace. We also compete with H&W brands such as Amy's Kitchen, Atkins, dr. Praeger's, EVOL, Quest Nutrition, Saffron Road, and Tattooed Chef, which develop products that may include organic fruits and vegetables, antibiotic-free meat, grain-free alternatives, and natural colors and flavors. Each of these companies, as well as our other competitors, may have greater resources, longer operating histories, and greater brand visibility among consumers.

Generally, the food industry is dominated by multinational corporations and other well-established industry participants. We cannot be certain that we will successfully compete with competitors that have greater financial, marketing, product development and technical resources. Conventional food companies may acquire our competitors, or launch their own products that compete with our products, and they may be able to use their resources and scale to respond to changes in consumer preferences, address competitive pressures, reduce pricing, or increase promotional activity. Our retail customers also market competitive products under their own private labels, which are generally sold at lower prices and compete with some of our products. Similarly, retailers could change the merchandising of our products and we may be unable to retain or expand our existing shelf space.

As a result of the intense competitive pressures in our industry, we may lose shelf space and market share, which may require us to lower prices, accelerate product development efforts, increase advertising and marketing expenditures, or increase the use of promotional campaigns, any of which would adversely affect our business, operating results and financial condition.

***Consumer preferences for our products could change rapidly, and, if we are unable to respond quickly to new trends, our business may be adversely affected.***

Our business is focused on the development, manufacture, marketing, and sale of frozen foods. These foods are subject to the requirements of the U.S. Food and Drug Administration ("FDA") and other governmental agencies, including for claims that a product is "high in protein," has no "added sugar," and is made from nutrient-dense ingredients. Consumer preferences, and therefore demand for our products, could change rapidly as a result of a number of factors, including consumer demand for specific nutritional content, dietary habits, or restrictions, including a focus on lowering fat or sodium content, perceptions regarding food quality, concerns regarding the health effects of certain ingredients or macronutrient ratios, shifts in preferences for product attributes, laws and regulations governing product claims, brand reputation and loyalty, and product pricing. A significant shift in consumer demand away from our products, or towards competitive products, could limit our product sales, reduce our market share, and negatively impact our brand reputation, any of which could adversely affect our business, operating results, and financial condition.

***Failure to introduce new products or successfully improve existing products may adversely affect our ability to execute our growth strategy.***

A key element of our growth strategy depends on our ability to develop and commercialize new products and make improvements to existing products that appeal to our existing customers and consumers, attract new customers and consumers to our brand, and meet our standards for taste, nutritional content, and quality. The success of our innovation and product development efforts is affected by our ability to anticipate changes in consumer preferences, the ability of our commercialization, sales, and marketing teams to develop and test product prototypes, and our success in introducing and marketing new products. Our sales and marketing team is continuously seeking to identify and develop new products that feature high nutritional content, build upon the quality of our current



products, enhance our brand reputation and loyalty, and appeal broadly to consumers. Failure to develop and commercialize new products that appeal to consumers could result in a decrease in product sales, or a failure of our product sales to increase in line with our estimates, which would negatively impact our business, operating results, and financial condition. Additionally, the development and commercialization of new products requires substantial expenditures, which we may be unable to recoup if the new products do not gain widespread market acceptance.

Our community is instrumental to our product development approach as we rely extensively on our consumers to provide feedback on our products. For example, after our marketing team formulates our product prototypes, they are run through our consumer validation process referred to as RGF Labs, which is a targeted and diverse invitation-only subset of our consumer community. However, although we intend to invest in the development of our community, including RGF Labs, we may not be able to expand our community, successfully engage with consumers, or improve our consumer validation process. In addition, we cannot be certain that the information received from consumers will allow us to improve our products or launch products with a higher confidence of market acceptance. If we are unable to solicit meaningful product feedback from our consumers, or successfully grow our community or engage with consumers, it could harm our ability to launch new products and negatively impact our net sales.

***We may not be able to successfully implement our growth strategy.***

We have experienced periods of rapid growth since inception and expect to experience additional growth. The anticipated future growth and expansion of our business will place additional demands on our management team and operational infrastructure, and require significant resources to meet our needs, which may not be available in a cost-effective manner, or at all.

Our growth strategy requires us to expand our retail distribution, invest in our approach to grow our community, leverage our product development capabilities, and invest in production capacity and automation. Our ability to implement this strategy depends, among other things, on our ability to:

- strengthen our relationships with existing customers, and establish and build relationships with new customers;
- increase product sales to new and existing customers;
- manage and grow relationships with various co-manufacturers, suppliers, and other business partners;
- commercialize new products that meet our expectations, and the expectations of our customers and consumers, for taste, nutritional content, value, and quality;
- increase our manufacturing and production capacity in a cost-effective manner;
- respond to competitive pressures or other industry changes or trends;
- increase brand recognition and loyalty; and
- enhance our advertising and marketing efforts, including our social media presence.

We may not be successful in implementing our growth strategy for a number of reasons, including as a result of the other risks and uncertainties described elsewhere in this prospectus. If we are unable to implement any aspect of our strategy, we may never achieve or sustain profitability, which would negatively impact our business, harm our reputation, limit our access to capital, and result in a decline in the trading price of our Class A common stock.

***If we fail to effectively expand our manufacturing facilities, distribution channels, and production capabilities, our business and operating results could be harmed.***

Our growth strategy requires us to invest in our manufacturing facilities, expand our distribution channels, and enhance our production capabilities, while simultaneously enhancing our operational infrastructure to support our growth. However, there are risks associated with effectively scaling manufacturing facilities, distribution channels, production processes, and supply chain requirements. For example, we may face challenges building our manufacturing infrastructure, acquiring necessary equipment, or hiring manufacturing employees, and these challenges may be exacerbated as a result of a number of factors, including our limited operating history, increasing costs and wage rates, and the impacts and disruptions caused by the COVID-19 pandemic.

Further, we must accurately forecast demand for our products, potentially over an extended period of time, in order to ensure we have adequate available manufacturing and production capacity. Our forecasts, however, will be based on multiple assumptions that may prove to be inaccurate. If we underestimate our demand, it would limit our ability

to plan for and obtain adequate manufacturing capacity (whether our own manufacturing capacity or co-manufacturing capacity) in order to meet the actual demand for our products, which could result in the loss of sales and harm to our reputation. If we overestimate our demand and overbuild our capacity, we may have significantly underutilized assets and experience higher costs and reduced operating margins. If we do not accurately align our manufacturing capacity and production capabilities with our current or future demand, or if we experience disruptions or delays in scaling our manufacturing facilities, our business, operating results, and financial condition may be materially adversely affected.

***Loss of one or more of our co-manufacturers, or our failure to identify new co-manufacturers, could harm our business and impede our growth.***

For the year ended December 31, 2020, all of our products were manufactured at various facilities operated by our co-manufacturers located in City of Industry, California; Valencia, California; Marietta, Georgia; Manteno, Illinois; Earth City, Missouri; and Nogales, Mexico. Subsequent to December 31, 2020, we ceased manufacturing our products at the facilities located in Valencia, California and Manteno, Illinois. In addition, we entered into a series of agreements pursuant to which we agreed to operate our City of Industry Facility, including subleasing the facility, acquiring certain equipment and inventory located at the facility, and hiring certain employees. For additional information, refer to the section entitled “*Business—Facilities*.”

Our growth strategy involves the enhancement of our overall manufacturing and production capabilities. While we expect to increase production at our City of Industry Facility over time, we also expect to continue to rely on our co-manufacturers to provide us with a portion of our production capacity for the foreseeable future, and we may identify new co-manufacturers to provide additional capacity or flexibility.

We do not currently have manufacturing contracts with our co-manufacturers. Because of the absence of such contracts, any of our co-manufacturers could seek to alter or terminate its relationship with us at any time, potentially leaving us with periods during which we have reduced manufacturing and production capacity. If we need to replace a co-manufacturer, there can be no assurance that additional capacity will be available in a timely manner and in the quantities required, that our quality control requirements will be met, or that the commercial terms will be favorable. If we fail to replace a co-manufacturer, we may be required to reduce our overall production, or increase our production by a smaller amount than forecasted, which could result in loss of sales and reputational harm. Further, an interruption in, or the loss of operations at, one or more of our co-manufacturing facilities, which may be caused by work stoppages, contamination, disease outbreaks, terrorism, fire, earthquakes, flooding, tornadoes, hurricanes, tsunamis, or other natural disasters, could delay, postpone, or reduce production of our products, which could have a material adverse effect on our business until such time as such interruption is resolved or an alternate source of production is secured. As an example, during the year ended December 31, 2020, the original sublessor of our City of Industry Facility, one of our largest co-manufacturers during the period, experienced financial hardship such that it was not able to secure trade credit or working capital from its suppliers or lenders, which we believe was a result of the COVID-19 pandemic. In response to these challenges, this co-manufacturer shut down its facility and was unable to fill our orders, which negatively impacted our ability to produce enough products to meet demand and resulted in lower net sales during the year ended December 31, 2020.

We believe there are a limited number of high-quality co-manufacturers that can meet our pricing requirements and quality control standards, and as we seek to obtain additional or alternative co-manufacturing arrangements in the future, there can be no assurance that we would be able to do so on satisfactory terms, in a timely manner, or at all. In the past, we have encountered difficulties identifying additional or alternative co-manufacturers who are able to meet our requirements and standards, and we may experience similar difficulties in the future. The loss of one or more co-manufacturers, any disruption or delay at a co-manufacturer, or any failure to identify and engage co-manufacturers to increase production capacity, could delay or postpone the production of our products, or reduce our overall production capacity, either of which could have a material adverse effect on our business, operating results, and financial condition.

***As our business grows, we may not be able to obtain ingredients in sufficient quantities to meet the demand for our products.***

Our ability to meet demand for our products and increase our net sales depends in part on our ability to arrange for the purchase of sufficient quantities of ingredients that meet our quality control and pricing requirements. We do not have long-term contracts with our suppliers, any of which could discontinue their relationship with us or seek to

modify their commercial terms with us. Further, certain of the ingredients used in our products, including poultry and dairy products, are considered food commodities that are subject to fluctuations in pricing and availability. We are not assured of continued supply or current pricing of ingredients.

Events that adversely affect our suppliers could impair our ability to obtain the ingredients necessary to meet demand. Such events could include facilities disruptions, food disease, contamination, financial hardships, or work stoppages, as well as natural disasters or other catastrophic occurrences. We continuously seek alternative sources of ingredients to use in our products, but we may not be successful in these efforts. If we need to replace an existing supplier, there can be no assurance that supplies of ingredients will be available when required on acceptable terms, or at all, or that a new supplier would allocate sufficient capacity to us in order to meet our requirements, fill our orders in a timely manner, or meet our quality control standards. If we are unable to manage our supply chain effectively and ensure that our products are available to meet demand, our operating costs could increase and our net sales could decrease, which would have a material adverse impact on our operating results.

We rely on our suppliers to meet our quality standards and to supply ingredients and other products in a timely and safe manner, and in accordance with our product specifications. We have developed and implemented a series of measures to ensure the safety and quality of our third-party supplied products, including using contract specifications, certificates of identity for some products or ingredients, sample testing by suppliers, and sensory based testing. However, no safety and quality measures can eliminate the possibility that suppliers may provide us with products that are inconsistent with our specifications, below our quality standards, improperly labeled, or unsafe for consumption. If this was to occur, in addition to the risks associated with negative customer and consumer experiences, we could face the possible seizure or recall of our products, or the imposition of civil or criminal sanctions, any of which could have an adverse impact on our business.

***The price of food commodities and packaging materials is volatile and may increase significantly, which would adversely affect our operating results.***

We purchase large quantities of ingredients to manufacture our products, including food commodities such as poultry and dairy products. The price of these commodities is volatile and can increase significantly based on a number of factors beyond our control, including consumer demand, harvesting decisions, incidence of disease, adverse weather conditions, natural disasters, and public sentiment. For example, at various times in the past, there has been social and political pressure to implement changes to the supply chain for certain agricultural products, including poultry, which could result in significant increases in the cost of the affected products. In addition, we purchase and use significant quantities of cardboard, film, and plastic to package our products. The costs of these products may also fluctuate based on a number of factors beyond our control, including changes in the competitive environment, availability of substitute materials, and macroeconomic conditions. Volatility in the prices of commodities and other supplies we purchase could significantly increase our cost of sales and reduce our profitability. Moreover, we may not be able to implement price increases for our products to cover some or all of the increased costs, and any price increases we do implement may result in lower sales volumes. If we are not successful in managing our raw material and packaging costs, if we are unable to increase our prices to fully or partially offset the increased costs, or if such price increases reduce our sales volumes, then such cost increases will adversely affect our operating results.

***We will require additional financing to achieve our goals, and a failure to obtain this capital when needed may force us to change our strategic plans.***

Since our inception, substantially all of our resources have been dedicated to the commercialization of our products, the development of our brand and social media presence, and the growth of our operational infrastructure. We anticipate that our operating expenses and capital expenditures will increase substantially in the foreseeable future as we seek to expand our retail distribution, invest in our approach to grow our community, leverage our product development capabilities, and invest in production capacity and automation.

In light of our growth strategies, and our anticipated operating expenses, and capital expenditures, we expect to require additional financing to achieve our goals. Our future capital requirements may depend on many factors, including:

- our historical and projected financial condition, operating results, and liquidity;
- our ability to increase sales to new and existing customers, and the gross margins associated with those sales;

- the loss of one or more key customers, co-manufacturers, suppliers, or other business partners;
- expenses associated with advertising and marketing activities, including the expansion of our social media presence;
- our ability to develop and commercialize new products, and market acceptance of those products;
- our ability to increase shelf space for our products;
- product pricing;
- the impact of discounts, rebates, or promotional activity;
- product mix;
- expenses associated with manufacturing, distribution, and production capabilities;
- contractual commitments and requirements for ingredients;
- expenses associated with attracting and retaining personnel;
- the costs associated with being a public company;
- the amount of indebtedness owed by RGF, LLC, and its ability to satisfy debt service obligations or refinance the indebtedness;
- the timing of, and costs associated with, any acquisitions of companies or assets; and
- the impacts and disruptions caused by the COVID-19 pandemic, or any other pandemics, epidemics, disease outbreak, or similar widespread public health concern on our business and operating results.

Additional funds may not be available when we need them, on terms that are acceptable to us, or at all. Our ability to raise additional financing may be negatively impacted by a number of factors, including our limited operating history, recent and projected financial results, perceptions about the dilutive impact of financing transactions, the competitive environment in our industry, uncertainties regarding the regulatory environment in which we operate, and conditions impacting the capital markets more generally, including economic conditions, inflation, interest rates, political instability, natural disasters, incidence of illness or disease, or other events beyond our control.

In addition, we may seek additional capital due to favorable market conditions or strategic considerations, even if we believe we have sufficient funds for our current or future operating plans. If we issue equity or debt securities to raise additional funds, our existing stockholders may experience dilution, we may incur significant financing or debt service costs, and the new equity or debt securities may have rights, preferences and privileges senior to those of our existing stockholders.

If adequate funds are not available to us on a timely basis, we may be required to change our strategic plans, including by postponing product development activities, delaying investments in our manufacturing or production facilities, and reducing capital expenditures, any of which could impede our growth and prevent us from achieving our strategic objectives.

***RGF, LLC's indebtedness, and the agreements governing such indebtedness, subject it to required debt service payments, as well as financial restrictions and operating covenants, any of which may reduce our financial flexibility and affect our ability to operate our business.***

From time to time, RGF, LLC has financed its liquidity needs in part from borrowings made under various credit agreements. As of June 30, 2021, RGF, LLC owed (i) \$8.0 million under a revolving line of credit established pursuant to a loan and security agreement (as amended, the "PMC Loan Agreement") with PMC Financial Services Group, LLC ("PMC"), (ii) \$2.1 million under a capital expenditure line of credit established pursuant to the PMC Loan Agreement, (iii) \$4.5 million in principal pursuant to a term loan agreement with PMC representing seller financing for the acquisition of the manufacturing business of SSRE Holdings, LLC, and (iv) \$1.2 million under loan and security agreements (the "PPZ Loan") with PPZ, LLC ("PPZ"), which is a Member of RGF, LLC. In May, 2021, RGF, LLC issued the 2021 Notes, of which \$34.1 million was used to repay amounts that had been owed pursuant to the PMC Loan Agreement. In addition, on January 4, 2021 RGF, LLC entered into a transfer agreement with LO Entertainment, LLC ("LO Entertainment") to sublease the City of Industry Facility and take possession of the equipment and inventory on the premises in exchange for deferred payments totaling \$12.5 million. Of this amount, contingent consideration of \$10.0 million is payable upon the sale, liquidation, or disposition of substantially all of RGF, LLC's membership interests.

RGF, LLC's credit agreements contain certain financial restrictions, operating covenants, and debt service requirements. Its failure to comply with obligations under these credit agreements, or inability to make required debt service payments, could result in an event of default under the agreements. A default, if not cured or waived, could permit a lender to accelerate payment of the loan, which could have a material adverse effect on our business, operations, financial condition, and liquidity. Further, if RGF, LLC's debt is accelerated, we cannot be certain that funds will be available to pay the debt or that RGF, LLC will have the ability to refinance the debt on terms satisfactory to us or at all. If RGF, LLC is unable to repay or refinance the accelerated debt, it could become insolvent and seek to file for bankruptcy protection, which would have a material adverse impact on our financial condition. Since the principal asset of RGF, Inc. is expected to be a controlling equity interest in RGF, LLC, we do not expect that RGF, Inc. will have any independent means of generating cash flow from operations sufficient to make debt service payments on behalf of RGF, LLC.

In addition, the covenants in RGF, LLC's credit agreements could limit our ability to engage in transactions that would be in our best interest, or otherwise respond to changing business and economic conditions, and may therefore have a material impact on our business. For example, RGF, LLC's borrowings will require debt service payments, which could require us to divert funds identified for other purposes, such as capital expenditures, to such debt service payments. Further, if RGF, LLC cannot generate sufficient cash flow from operations to service its debt, it may need to refinance the debt, dispose of its assets, or reduce or delay expenditures. Alternatively, RGF, Inc. may be required to issue equity to obtain necessary funds, which would be dilutive to our stockholders. We do not know whether RGF, Inc. or RGF, LLC would be able to take any of these actions on a timely basis or at all.

RGF, LLC's current or future level of indebtedness could affect our operations in several ways, including the following:

- the covenants contained in current or future agreements governing outstanding indebtedness may limit our ability to borrow additional funds, refinance debt, dispose of assets, and make certain investments;
- debt covenants may also affect our flexibility in planning for, and reacting to, changes in the economy and in our industry;
- a high level of debt would increase our vulnerability to general adverse economic and industry conditions;
- a significant level of debt may place us at a competitive disadvantage compared to our competitors that are less leveraged and, therefore, may be able to take advantage of opportunities that our indebtedness would prevent us from pursuing; and
- a high level of debt may impair our ability to obtain additional financing in the future for working capital, capital expenditures, debt service requirements, acquisitions, or other purposes.

For additional information refer to the section entitled "*Management's Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources—Indebtedness*," as well as Note 1 to our audited financial statements included elsewhere in this prospectus.

***Our recurring net losses and the significant amount of our indebtedness could raise doubts regarding our ability to continue as a going concern.***

We have experienced net losses in every period since our inception. In the years ended December 31, 2019 and 2020, we incurred net losses of \$14.2 million and \$15.6 million, respectively. In the six months ended June 30, 2020 and 2021, we incurred net losses of \$7.5 million and \$10.3 million, respectively. We may incur significant losses in future periods, and we cannot assure you that we will achieve or sustain profitability over any particular period of time. In addition, we have limited capital resources and a significant amount of indebtedness. As of June 30, 2021, we had \$654 thousand in cash, current debt obligations of \$0.6 million, convertible debt obligations of \$35.4 million and long-term debt obligations of \$9.8 million. Additionally, as of June 30, 2021, RGF, LLC had current and long-term business acquisition liabilities of \$1.5 million and \$13.7 million, respectively. While we have taken a number of actions designed to enhance our liquidity and alleviate doubt regarding our ability to continue as a going concern, there is no guarantee that these actions, or any other actions we may pursue in the future, will be successful.

In the event we do not consummate this offering, or if this offering does not constitute a "Qualified Public Transaction" pursuant to the 2021 Notes Agreement, our ability to continue as a going concern will be contingent on



our ability to repay or extend the maturity date of the 2021 Notes or to amend the terms of conversion of the 2021 Notes. While we believe, based on prior discussions, that it is probable that the various investors party to the 2021 Notes would agree to extend the maturity date of the 2021 Notes or otherwise amend the 2021 Notes Agreement if no Qualified Public Transaction has occurred, there can be no assurance this will occur. If the maturity date of the 2021 Notes is not extended or terms of conversion of the 2021 Notes are not amended, we would be required to repay or refinance the amount owed pursuant to the notes. If we are unable to generate sufficient cash flow from operations to repay the 2021 Notes, we may need to seek to borrow additional funds, dispose of our assets, or reduce or delay capital expenditures. We may not be able to accomplish any of these alternatives on acceptable terms, or at all. There is no guarantee that we will be successful in negotiating an extension of the maturity date of the 2021 Notes and, if we fail to do so, we would be required to repay or refinance the amount owed pursuant to the 2021 Notes Agreement.

If we are unable to generate sufficient cash flow from operations to repay the 2021 Notes, we may need to seek to borrow additional funds, dispose of our assets, or reduce or delay capital expenditures. We may not be able to accomplish any of these alternatives on acceptable terms, or at all, in which case we may be unable to continue as a going concern. Further, even if we are successful in consummating this offering, we may be required to seek additional equity or debt financing in order to meet our future liquidity requirements and pursue our strategic objectives. If we are unable to raise additional capital when desired, or on terms that are acceptable to us, our business, operating results, and financial condition could be adversely affected.

For additional information refer to the section entitled “*Management’s Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources—Indebtedness*,” as well as Notes 1 and 8 to our audited financial statements included elsewhere in this prospectus.

***Our quarterly results may fluctuate significantly, and period-to-period comparisons of our results may not be meaningful.***

Our quarterly results, including our net sales, operating expenses, operating margins, and profitability, may fluctuate significantly in the future, and period-to-period comparisons of our results may not be meaningful. Accordingly, the results of any one quarter should not be viewed as a prediction or indication of our future performance. In addition, our quarterly results may not fully reflect the underlying performance of our business.

Factors that may cause fluctuations in our quarterly results include, but are not limited to:

- our ability to retain our existing customers, and expand sales of our products to our existing customers;
- our ability to attract new customers and consumers to our brand, the type and amount of products purchased, and the cost of acquisition;
- the mix of our products sold during the period, and the gross margins associated with those sales;
- changes in our pricing policies, or those of our competitors;
- the amount and timing of discounts, rebates, or promotional activity;
- the amount and timing of costs and operating expenses related to the expansion of manufacturing capacity, distribution channels, production capabilities, and operational infrastructure;
- the amount and timing of costs and operating expenses associated with developing and commercializing new products;
- the amount and timing of costs and operating expenses related to the acquisition of businesses, assets, technologies, or intellectual property rights;
- the timing and impact of any security breaches, service outages or other performance problems with our technology infrastructure and software solutions;
- the timing and costs associated with legal or regulatory actions;
- changes in the competitive dynamics of our industry, including consolidation among customers, co-manufacturers, suppliers, or competitors;
- loss of our executive officers or other key employees;
- trends and conditions impacting the H&W industry, and the frozen food category in particular;
- the impacts and disruptions caused by the COVID-19 pandemic, or any other pandemics, epidemics, disease outbreak, or similar widespread public health concern on our business and operating results, or incidence of disease; and
- general economic, political, social, and market conditions.

Fluctuations in quarterly results, or for any other period, may negatively impact the value of our Class A common stock, regardless of whether they impact or reflect the overall performance of our business. If our quarterly results, or results for any other period, fall below the expectations of investors or any securities analysts who follow our stock, or below any guidance we may provide, the trading price of our Class A common stock could decline substantially.

***Food-borne illnesses or other food safety incidents, or advertising or product mislabeling, may materially adversely affect our business by exposing us to lawsuits, product recalls or regulatory enforcement actions, increasing our operating costs, and reducing demand for our product offerings.***

Selling food for human consumption involves legal and other inherent risks, and there is increasing governmental scrutiny of and public awareness regarding food safety. Unexpected side effects, illness, injury, or death related to allergens, food-borne illnesses or other food safety incidents (including food tampering or contamination) caused by products we sell, or involving our co-manufacturers or suppliers, could result in the discontinuance of sales of these products, or of our relationships with such co-manufacturers or suppliers, or otherwise result in increased operating costs, regulatory enforcement actions, or harm to our reputation. Shipment of adulterated or mislabeled products, even if inadvertent, can result in criminal or civil liability. Such incidents could also expose us to product liability, negligence, or other lawsuits, including consumer class action lawsuits or lawsuits brought by states' attorneys general or other consumer protection agencies. Any claims brought against us may exceed or be outside the scope of our existing or future insurance policy coverage or limits. Any judgment against us that is more than our policy limits or not covered by our policies or not subject to insurance would have to be paid from our cash reserves, which could materially harm our liquidity.

The occurrence of food-borne illnesses or other food safety incidents could also adversely impact the availability of affected ingredients, which could result in higher costs, disruptions in supply, and loss of sales. Further, any instances of food contamination or regulatory noncompliance, whether or not caused by our actions, could compel us, our customers, our co-manufacturers, or our suppliers to conduct a recall in accordance with the FDA or U.S. Department of Agriculture ("USDA") regulations, or comparable laws in other jurisdictions where our products may be sold. Food recalls could result in significant losses due to their costs, destruction of product inventory, loss of sales, adverse impact on our brand and reputation, potential loss of existing co-manufacturers, suppliers or customers, and potential negative impact on our ability to attract new customers. The costs of a recall could exceed or be outside the scope of our existing or future insurance policy coverage or limits.

In addition, food companies have been subject to targeted, large-scale product tampering as well as to opportunistic, individual product tampering, and we, like any food company, could be a target for product tampering. Forms of tampering could include the introduction of foreign material, chemical contaminants and pathological organisms into consumer products, as well as product substitution. If we do not adequately address the possibility, or any actual instance, of product tampering, we could face possible seizure or recall of our products and the imposition of civil or criminal sanctions, which could materially adversely affect our business, operating results, and financial condition.

***Our brand and reputation may be diminished due to real or perceived quality or food safety issues with our products, which could have an adverse effect on our business, operating results and financial condition.***

We believe our customers and consumers rely on us to provide them with high-quality, nutrient-dense products. Therefore, real or perceived quality or food safety concerns, or failures to comply with applicable food regulations and requirements, whether or not based on fact, and whether or not involving us or our co-manufacturers or suppliers, could cause negative publicity and reduced confidence in our brand or products, which could have a material adverse effect on our business, operating results, and financial condition. Although we believe we have an appropriate quality control process, there can be no assurance that our products will always comply with the standards we set for our products or applicable food regulations. In addition, while we seek to impose quality control requirements on our co-manufacturers, we cannot guarantee that the products they produce for us will comply with our standards or applicable regulations.

We have no control over our products once purchased by consumers. Accordingly, consumers may store or prepare our products in a manner that is inconsistent with our directions or store our products for longer than approved periods of time, which may adversely affect the quality and safety of our products. If consumers do not perceive our products to be safe or of high quality, then the value of our brand would be diminished, and we could experience a reduction in product sales, either of which would have an adverse impact on our business.

Any loss of confidence on the part of customers or consumers in the ingredients used in our products, the claims we make about our products, or the safety and quality of our products, would be difficult and costly to overcome. Any such adverse effect could be exacerbated by our position in the market as an H&W brand within the frozen food category and may significantly reduce our brand value.

***If we fail to grow the value and enhance the visibility of our brand, our business could suffer.***

While we believe we have a strong brand reputation, a key component of our growth strategy involves growing the value and enhancing the visibility of our “Realgood Foods Co.” brand. Our ability to maintain, position and enhance our brand will depend on a number of factors, including the market acceptance of our current and future product offerings, the nutritional content of our products, food quality and safety, quality assurance, our advertising and marketing efforts, and our ability to build relationships with customers and consumers. Any negative publicity, regardless of its accuracy, could materially adversely affect our business. Brand value is often based on perceptions of subjective qualities, and any incident that erodes the loyalty of our customers, co-manufacturers, suppliers, or consumers, could significantly reduce the value of our brand and harm our business.

***Our success depends in part on the effectiveness of our digital marketing strategy and the expansion of our social media presence, but there are risks associated with these efforts.***

Our digital marketing strategy is integral to our business, as well as to the achievement of our growth strategies. Maintaining, positioning, and enhancing our brand will depend in part on the success of our marketing efforts. As part of these efforts, we rely on social media and other digital marketing to retain customers, attract new customers and consumers to our brand, and enhance the overall visibility of our brand in the market. However, there are a variety of risks associated with these efforts, including the potential for negative comments about or incidents involving us, whether or not accurate, as well as the potential for the improper disclosure of proprietary information about us or consumers. In addition, there is a risk of the U.S. Federal Trade Commission (“FTC”), or other government agency, or other litigation claiming that our marketing does not meet applicable legal requirements or guidance, is not truthful, is misleading, or is deceptive to consumers. Further, the growing use of social and digital media may increase the speed and extent that information, or misinformation, and opinions about us and our products can be shared. For example, many social media platforms immediately publish content created or uploaded by their participants, often without filters or checks regarding the accuracy of the content posted. Negative publicity about us, our brand or our products on social or digital media could seriously damage our brand and reputation, as well as our significant social media presence. In addition, the misuse of social media and digital marketing vehicles by us, our employees, customers, consumers, social media influencers, or business partners could increase our costs, lead to litigation, or result in negative publicity that could damage our reputation. If we do not maintain and enhance the favorable perception of our brand, we may not be able to increase product sales, which could prevent us from achieving our strategic objectives.

***Our reliance on third-party warehousing and logistics companies is subject to risks, which could negatively impact our operating results.***

We currently rely upon third-party warehousing and logistics companies for our product shipments. Our utilization of these services is subject to a number of risks, including facility disruptions, equipment failures, space constraints, appointment availability, work stoppages, adverse weather conditions, and natural disasters, any of which could result in delays in the delivery of our products to customers, which could result in the loss of sales or liability under our customer agreements. In addition, factors such as competitive pressures, increasing wage rates, and rising fuel costs could result in changes to existing commercial arrangements with such warehousing or logistics companies that could negatively impact our operating results. Further, we periodically change warehousing or logistics companies, which could result in logistical difficulties that could adversely affect deliveries. Moreover, if we were to change business partners, we may not be able to obtain favorable commercial terms, which could adversely affect our operating results.

***Any failure to adequately store, maintain and deliver our products could materially adversely affect our business, reputation, financial condition, and operating results.***

Our ability to adequately store, maintain, and deliver our products is critical to our business. Keeping our food products frozen at specific temperatures maintains food safety. In the event of extended power outages, labor disruptions, natural disasters or other catastrophic occurrences, failures of the refrigeration systems in our third-party warehouses or delivery trucks, or other circumstances, our inability to store inventory at freezing temperatures could result in significant product inventory losses, as well as increased risk of food-borne illnesses and other food safety

incidents. Improper handling or storage of food by a customer, without any involvement or fault of ours or our retail customers, could result in food-borne illnesses, which could result in negative publicity and harm to our brand and reputation. Further, we contract with third-party warehousing and logistics companies to conduct certain processes and operations on our behalf. Any failure by these business partners to adequately store, maintain, or transport our products could negatively impact the safety, quality and merchantability of our products and the experience of our customers. The occurrence of any of these risks could materially adversely affect our business, reputation, financial condition, and operating results.

***Our estimates of market opportunity and growth forecasts are subject to significant uncertainty and, even if the markets in which we compete meet or exceed our size estimates, we could fail to increase our net sales or market share.***

Market opportunity estimates and growth forecasts are subject to significant uncertainty and are based on assumptions and estimates. For example, some of our market opportunity estimates are based on independent industry publications and other publicly available information, as well as other information based on our internal sources. While our estimates of market opportunity and expected growth were made in good faith and are based on assumptions we believe to be reasonable in light of currently available information, these estimates may not prove to be accurate. Assessing the market for H&W brands within the frozen food category is particularly difficult due to a number of factors, including uncertainties with respect to defining clear market segmentation, limited available information, and rapid evolution of the market. If we had made different assumptions, our estimates of market opportunity could have been materially different. For example, we use CAGR and penetration as measures to determine brand performance within our industry. While we believe that these are useful measures to determine brand performance within in our industry, they should not be read as a future guarantee of our performance in future periods. In addition, even if the markets in which we compete meet or exceed the size estimates in this prospectus, our business could fail to grow in line with our forecasts, or at all, and we could fail to increase our net sales or market share. Our future growth will depend on many factors, including our success in executing our business strategies, which are subject to numerous risks and uncertainties, including the other risks and uncertainties described elsewhere in this prospectus. Accordingly, estimates of market opportunity in this prospectus should not be viewed as predictions or indications of our actual future growth.

***Our net sales growth rate may slow over time and may not be indicative of future performance.***

Although our business has grown rapidly since we commenced commercial sales in 2016, our historical net sales growth should not be considered to be indicative of our future performance. In future periods, our net sales growth may slow or our net sales could decline due to a number of factors, including changing consumer preferences, increased competition, reduced market growth, reduced demand for our products, failure to commercialize new products, failure to acquire new customers or consumers, and inability to capitalize on growth opportunities. If we fail to achieve net sales growth rates in line with our forecasts, it would have a negative impact on our operating results, and could prevent us from achieving our strategic objectives.

***Failure to retain our senior management may adversely affect our operations.***

Our success and future growth depend in part on the continued services of our senior management, including Bryan Freeman, our Executive Chairman, Gerard G. Law, our Chief Executive Officer, and Akshay Jagdale, our Chief Financial Officer. These executives are responsible for determining the strategic direction of our business and executing our growth strategy. They are also critical to our ability to attract and retain employees, including additional skilled management personnel. From time to time, there may be changes in our senior management personnel or other key employees resulting from the hiring or departure of these personnel, which may disrupt our business. Our executive officers and other key employees are generally employed on an at-will basis, which means that these personnel could terminate their employment with us at any time. The loss of the services of any of these personnel could have a material adverse effect on our business, as we may not be able to find suitable individuals to replace them on a timely basis, if at all. In addition, any such departure could be viewed negatively by employees, customers, investors or business partners, which could harm our reputation. Further, we do not currently carry key-person life insurance for our senior management personnel.

***Our corporate culture has contributed to our success and, if we cannot maintain this culture as we grow, we could lose the creativity, teamwork, focus, and innovation fostered by our culture.***

Our corporate culture focuses on trust and respect, relentless product innovation and improvement, as well as transparency, accountability, and ownership. We believe that our culture has been and will continue to be a key

contributor to our success. If we do not continue to develop our corporate culture or maintain our core values as we grow and evolve, we may be unable to foster the creativity, teamwork, focus, and innovation we believe we need to support our growth. Any failure to preserve our culture could negatively affect our ability to recruit and retain personnel, effectively drive product innovation, and achieve our strategic objectives. Our transition from a private company to a public company may result in a change to our corporate culture, which could harm our business.

***If we are unable to attract, train, and retain employees, our business may be adversely impacted.***

Our ability to execute our growth plan and achieve our strategic objectives depends in part upon our ability to attract, train, and retain a sufficient number of qualified employees (including contract employees hired through professional employer organizations (“PEOs”)) who can manage our business, oversee our manufacturing operations, and establish credibility with our customers, co-manufacturers, suppliers, and other business partners. In particular, in order to increase our manufacturing and production capabilities, it will be critical for us to substantially increase the number of employees within our manufacturing operations. However, competition for qualified employees (including contract employees) is intense within our industry and the geographic regions in which we operate, and we and our co-manufacturers have experienced challenges hiring and retaining employees as a result of a number of factors, including upward pressure on wages, the increased mobility of the workforce, and the impacts of the COVID-19 pandemic. If we are unable to attract and retain the personnel necessary to execute our growth plan, we may be unable to achieve our strategic objectives.

***Substantially all of the employees within our warehouse and production functions are employed by professional employer organizations, which exposes us to certain risks that could adversely affect our business.***

We contract with several PEOs that administer our human resources, payroll, and employee benefits functions for substantially all of our warehouse and production employees, which we sometimes refer to as contract employees. Our PEOs recruit and select these contract employees to fulfill our hiring needs, and each of these employees is an employee-of-record of the relevant PEO. As a result, these contract employees are compensated through the relevant PEO, are governed by the work policies created by such PEO, and receive their annual wage statements and other payroll- or labor-related reports from such PEO. This relationship permits our management to focus on operations and profitability rather than payroll administration, but it also exposes us to certain risks. For example, if a PEO fails to adequately withhold or pay employer taxes, or to comply with other laws, we may be liable for such violations, and any applicable indemnification provisions with a PEO may not be sufficient to insulate us from those liabilities. Any legal or administrative proceedings related to matters of employment tax, labor law and other laws applicable to arrangements we have with our PEOs could distract management from operating our business and cause us to incur significant expenses, either of which could adversely affect our business. In addition, our PEOs have experienced challenges attracting and retaining employees, which has limited their ability to provide us with access to the number of contract employees we require to achieve our strategic objectives.

***Any disruption at one of our facilities could adversely affect our business and operating results.***

Our corporate offices are located in Cherry Hill, New Jersey, and our primary manufacturing facility is located in City of Industry, California. We take precautions to safeguard our facilities, including by acquiring insurance, adopting health and safety protocols, and utilizing off-site storage of computer data. However, vandalism, power outages, terrorism or a natural disaster, such as an earthquake, fire, flood, hurricane, tsunami, or other catastrophic event, could damage or destroy our facilities and inventories, cause substantial delays in our operations, result in the loss of key information, result in reduced sales, and cause us to incur additional expenses. If our manufacturing equipment or inventories were to be damaged, we may be unable to meet our contractual obligations to customers or demand for our products, and we may not be able to predict when we could repair the equipment or replace the inventory, which could have a material adverse impact on our operating results. Further, our insurance coverage may not be sufficient to provide coverage with respect to the damages incurred in any particular case, and our insurance carrier may deny coverage with respect to all or a portion of our claims. Regardless of the level of insurance coverage or other precautions taken, damage to our facilities may have a material adverse effect on our business.

***Climate change may negatively affect our business and operations.***

There is concern that carbon dioxide and other greenhouse gases in the atmosphere may have an adverse impact on global temperatures, weather patterns and the frequency and severity of extreme weather and natural disasters. In the event that such climate change has a negative effect on agricultural productivity, we may be subject to

decreased availability of, or increased pricing for, certain ingredients that are necessary for the manufacturing of our products. In particular, we rely heavily on the use of certain food commodities in our products, including poultry and dairy products, and climate change could exacerbate pricing volatility associated with these products, particularly with regards to impacts on farming operations. Any factors that result in decreased availability of poultry or dairy products, including as a result of changes in consumer demand, incidence of disease, adverse weather conditions, governmental regulations, or public sentiment, could result in a significant increase in the price of these products, which could have a material adverse impact on our operating results.

***Future acquisitions or investments could disrupt our business and harm our financial condition.***

In the future, we may pursue acquisitions of companies or assets to expand our manufacturing or production capacity, develop our supply chain, expand our distribution channels, enhance our operational infrastructure, or otherwise make investments that we believe will help us achieve our strategic objectives. We do not have significant experience negotiating or completing acquisitions or investments, or integrating acquired companies or assets and would be forced to engage and rely upon business advisors for guidance in this area. We may not be able to find suitable acquisition candidates and, even if we do, we may not be able to complete acquisitions on favorable terms, in a timely manner, or at all. If we do complete acquisitions, we may not achieve our intended goals or realize anticipated benefits. Pursuing acquisitions and any related integration process will require significant time and resources and could divert management time and focus from operation of our business, and we may not be able to manage the process successfully. Any acquisitions we complete could be viewed negatively by our customers, co-manufacturers, suppliers or other business partners. In addition, an acquisition, investment, or business relationship may result in unforeseen operating difficulties and expenditures, including disrupting ongoing operations and subjecting us to increased expenses or other liabilities, any of which would adversely impact our business. Moreover, we may be exposed to unknown liabilities related to the acquired company or assets, and the anticipated benefits of any acquisition, investment, or business relationship may not be sufficient to offset the impact of these liabilities. To pay for any such acquisitions or investments, we would have to use cash, incur debt, or issue equity securities, each of which may negatively affect our financial condition or value. If we incur debt, it would result in debt-service obligations and could also subject us to covenants or other restrictions that would impede our ability to manage our operations. If we issue equity, it would result in dilution to our existing stockholders, and the securities we issue could have rights that are superior to our Class A common stock. Our acquisition strategy could require significant management attention, disrupt our business, and cause us to incur significant costs, any of which would negatively impact our operating results and financial condition.

***We may experience difficulties with our new enterprise resource planning system.***

We are in the process of implementing a new ERP system that will be used to manage our business and summarize our operating results. The implementation of the new ERP system has required, and will continue to require, the investment of significant financial and human capital resources. We may not be able to successfully complete the full implementation of the ERP system without experiencing difficulties, in particular as a result of our limited experience implementing such systems and limited access to qualified information technology personnel. Any disruptions, delays, or deficiencies in the design and implementation of the new ERP system could adversely affect our ability to manufacture products, process orders, deliver products, provide customer support, fulfill contractual obligations, track inventories, or otherwise operate our business. It is also possible that the migration to a new ERP system could adversely impact the effectiveness of our internal control over financial reporting, which could lead to material weaknesses or significant deficiencies in our controls.

***Claims, legal proceedings, and other disputes could divert our management's attention, have a negative impact on our reputation, expose us to significant liabilities, and make it more difficult to obtain insurance coverage.***

From time to time, we may be party to various claims, legal proceedings, and other disputes. We evaluate these matters to assess the likelihood of unfavorable outcomes and to estimate, if possible, the amount of potential losses. Based on these assessments and estimates, we may establish reserves, as appropriate. These assessments and estimates are based on the information available to management at the time and involve a significant amount of management judgment. Actual outcomes or losses may differ materially from our assessments and estimates.

Even when not merited, the defense of legal proceedings may divert our management's attention, and we may incur significant expenses in defending these matters. The results of legal proceedings are inherently uncertain, and adverse judgments or settlements in some of these proceedings may result in adverse monetary damages, penalties, or injunctive



relief against us, which could have a material adverse effect on our operating results, financial condition, and liquidity. Any legal proceedings or other disputes, even if fully indemnified or insured, could have a negative impact on our reputation, and make it more difficult to compete effectively or to obtain adequate insurance in the future.

Further, while we maintain insurance for certain potential liabilities, such insurance does not cover all types and amounts of potential liabilities and is subject to various exclusions and caps on amounts recoverable. Even if we believe a claim is covered by insurance, insurers may dispute our entitlement to recovery for a variety of potential reasons, which may affect the timing and amount of our recovery.

***We are subject to anti-corruption, anti-bribery, and similar laws, and non-compliance with such laws can subject us to criminal penalties or significant fines and harm our business and reputation.***

We are subject to anti-corruption and anti-bribery and similar laws, such as the U.S. Foreign Corrupt Practices Act of 1977, as amended (the “FCPA”), the U.S. domestic bribery statute contained in 18 U.S.C. § 201, the U.S. Travel Act, and the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act, and, to the extent we ever expand our operations internationally, we will become subject to similar foreign anti-corruption and anti-bribery laws. Anti-corruption and anti-bribery laws have been enforced aggressively in recent years and are interpreted broadly and prohibit companies, their employees and third-party business partners, representatives, and agents from promising, authorizing, making or offering improper payments or other benefits, directly or indirectly, to government officials and others in the private sector in order to influence official action, direct business to any person, gain any improper advantage, or obtain or retain business. Any violation of the FCPA, or other applicable anti-corruption laws and anti-bribery laws, even if inadvertent, could result in whistleblower complaints, regulatory investigations, severe criminal or civil sanctions, significant legal fees and fines, and other sanctions and remedial measures, and prohibitions on the conduct of our business, any of which could harm our business, operating results, and financial condition.

***The failure to comply with economic sanctions laws can subject us to substantial negative consequences.***

Economic sanction laws in the United States and other jurisdictions may prohibit us from transacting with or in certain countries and with certain individuals and companies. In the United States, the U.S. Department of the Treasury’s Office of Foreign Assets Control (“OFAC”) administers and enforces laws, executive orders and regulations establishing U.S. economic and trade sanctions. Such sanctions prohibit, among other things, transactions with, and the provision of services to, certain foreign countries, territories, entities, and individuals identified by OFAC. In addition, certain programs administered by OFAC prohibit dealing with individuals or entities in certain countries regardless of whether such individuals or entities have been specifically identified by OFAC. Any violation of U.S. economic sanctions laws could result in regulatory investigations, severe criminal or civil sanctions, significant legal fees and fines, and other sanctions and remedial measures, any of which could harm our business operations and financial condition.

**Risks Related to Our Structure**

***Our ability to pay taxes and expenses, including payments under the Tax Receivable Agreement, may be limited by our structure.***

Upon the consummation of this offering, the principal asset of RGF, Inc. will be a controlling equity interest in RGF, LLC. As such, RGF, Inc. is not expected to have any independent means of generating net sales. RGF, LLC will continue to be treated as a partnership for U.S. federal income tax purposes and, as such, will not be subject to U.S. federal income tax. Instead, taxable income will be allocated to holders of the RGF, LLC Units, including RGF, Inc. Accordingly, RGF, Inc. will incur income taxes on RGF, Inc.’s allocable share of any net taxable income of RGF, LLC and incur expenses related to our operations. Pursuant to the Operating Agreement, RGF, LLC will make cash distributions to the holders of RGF, LLC Units in an amount intended to be sufficient to fund their tax obligations in respect of the cumulative taxable income in excess of cumulative taxable losses of RGF, LLC that is allocated to them, to the extent previous tax distributions from RGF, LLC have been insufficient. In addition to tax expenses, we also will incur expenses related to our operations, plus payments under the Tax Receivable Agreement, which we expect will be substantial. We intend to cause RGF, LLC to make distributions or, in the case of certain expenses, payments in an amount sufficient to allow us to pay our taxes and operating expenses, including distributions to fund any ordinary course payments due under the Tax Receivable Agreement. RGF, LLC’s ability to make such distributions may be subject to various limitations and restrictions. RGF, Inc. is expected to be a holding company with no operations and will rely on RGF, LLC to provide it with funds necessary to meet any financial obligations. If

we do not have sufficient funds to pay tax or other liabilities, or to fund our operations (as a result of RGF, LLC's inability to make distributions due to various limitations and restrictions or as a result of the acceleration of our obligations under the Tax Receivable Agreement), we may need to borrow funds, which could have a material adverse impact on our business, operating results, financial condition, and liquidity. To the extent we are unable to make payments under the Tax Receivable Agreement for three months resulting in a default, such unpaid amounts generally will be deferred and will accrue interest at a rate equal to the Secured Overnight Financing Rate, as reported by the Wall Street Journal ("SOFR") (or 0.25%, if greater), plus 500 basis points, until paid by us.

***Under the Tax Receivable Agreement, we will be required to pay certain of our existing owners for certain tax benefits we may claim, and we expect that the payments we will be required to make will be substantial.***

Future exchanges of Class B Units for shares of our Class A common stock are expected to produce favorable tax attributes for us. Upon the exchange of such Class B Units for Class A common stock, both the existing tax basis and anticipated tax basis adjustments are likely to increase (for tax purposes) our depreciation and amortization deductions and therefore reduce the amount of income tax we would be required to pay in the future in the absence of this existing and increased basis. This existing and increased tax basis may also decrease gain (or increase loss) on future dispositions of certain assets to the extent the tax basis is allocated to those assets. Under the Tax Receivable Agreement, we generally expect to retain the benefit of approximately 15% of the applicable tax savings after our payment obligations below are taken into account.

Upon the closing of this offering, RGF, Inc. will be a party to the Tax Receivable Agreement. Under that agreement, we generally will be required to pay to the existing owners of RGF, LLC approximately 85% of the applicable savings, if any, in income tax that we are deemed to realize (using the actual applicable U.S. federal income tax rate and an assumed combined state and local income tax rate) as a result of (i) certain tax attributes that are created as a result of the exchanges of their Class B Units for shares of our Class A common stock, (ii) any existing tax attributes associated with their LLC Units, the benefit of which is allocable to us as a result of the exchanges of their Class B Units for shares of our Class A common stock (including the portion of RGF, LLC's existing tax basis in its assets that is allocable to the Class B Units that are exchanged), (iii) tax benefits related to imputed interest, and (iv) payments under the Tax Receivable Agreement.

The payment obligations under the Tax Receivable Agreement are our obligations, and we expect that the payments we will be required to make under the Tax Receivable Agreement will be substantial. Assuming no material changes in the relevant tax law and that we earn sufficient taxable income to realize all tax benefits that are subject to the Tax Receivable Agreement, we expect that the tax savings associated with future exchanges of Class B Units as described above would aggregate to approximately \$92.4 million over 15 years from the date of this offering based on an assumed initial public offering price of \$15.00 per share of our Class A common stock, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus, and assuming all future exchanges would occur on the date of the consummation of this offering at such initial public offering price. Under such scenario, we would be required to pay the other parties to the Tax Receivable Agreement approximately 85% of such amount, or \$78.5 million, over the 15-year period from the date of this offering. The actual amounts may materially differ from these hypothetical amounts, as potential future tax savings that we will be deemed to realize, and Tax Receivable Agreement payments by us, will be calculated based in part on the market value of our Class A common stock at the time of exchange and the prevailing applicable federal tax rate (plus the assumed combined state and local tax rate) applicable to us over the life of the Tax Receivable Agreement, and will be dependent on our generating sufficient future taxable income to realize the benefit. Payments under the Tax Receivable Agreement are not conditioned on RGF, LLC's existing owners' continued ownership of us after this offering. These payments confer significant benefits to the Members and will reduce cash provided by tax savings that would otherwise have been available to us to fund our operations and service our debt obligations. For additional information, refer to the section entitled "*Certain Relationships and Related-Party Transactions—Tax Receivable Agreement.*"

The actual existing tax basis and increase in tax basis, as well as the amount and timing of any payments under the Tax Receivable Agreement, will vary depending upon a number of factors, including the timing of exchanges by the holders of Class B Units, the price of our Class A common stock at the time of the exchange, whether such exchanges are taxable, the amount and timing of the taxable income we generate in the future, the federal tax rate then applicable, the portion of our payments under the Tax Receivable Agreement constituting imputed interest and any

changes in the relevant tax law. Payments under the Tax Receivable Agreement are expected to give rise to certain additional tax benefits attributable to either further increases in basis or in the form of deductions for imputed interest, depending on the Tax Receivable Agreement and the circumstances. Any such benefits are covered by the Tax Receivable Agreement and will increase the amounts due thereunder. In addition, the Tax Receivable Agreement will provide for interest, at a rate equal to the greater of (a) 0.25%, and (b) SOFR, plus 100 basis points, accrued from the due date (without extensions) of the corresponding tax return to the date of payment specified by the Tax Receivable Agreement. Any late payments that accrue for greater than three months following the due date (without extensions) may be made under the Tax Receivable Agreement will continue to accrue interest at a rate equal to SOFR (or 0.25%, if greater), plus 500 basis points, until such payments are made, including any late payments that we may subsequently make because we did not have enough available cash to satisfy our payment obligations at the time at which they originally arose.

Payments under the Tax Receivable Agreement will be based on the tax reporting positions that we determine. Although we are not aware of any issue that would cause the Internal Revenue Service ("IRS") to challenge our existing tax basis, a tax basis increase or other tax attributes subject to the Tax Receivable Agreement, if any, or if subsequent disallowance of tax basis or other benefits were so determined by the IRS, we would not be reimbursed for any payments previously made under the Tax Receivable Agreement (although we would reduce future amounts otherwise payable under the Tax Receivable Agreement). In addition, the actual state or local tax savings we realize may be different than the amount of such tax savings we are deemed to realize under the Tax Receivable Agreement, which will be based on an assumed combined state and local tax rate applied to our reduction in taxable income as determined for U.S. federal income tax purposes as a result of the tax attributes subject to the Tax Receivable Agreement. As a result, payments could be made under the Tax Receivable Agreement in excess of the tax savings that we realize in respect of the attributes to which the Tax Receivable Agreement relate.

***In certain cases, payments under the Tax Receivable Agreement to our existing owners may be accelerated or significantly exceed the actual benefits we realize in respect of the tax attributes subject to the Tax Receivable Agreement.***

The Tax Receivable Agreement provides that (i) in the event that we materially breach any of our material obligations under the agreement, whether as a result of failure to make any payment within three months of when due (provided we have sufficient funds to make such payment), failure to honor any other material obligation required thereunder or by operation of law as a result of the rejection of the agreement in a bankruptcy or otherwise, or (ii) if, at any time, we elect an early termination of the agreement, our (or our successor's) obligations under the agreement (whether or not Class B Units have been exchanged or acquired before or after such transaction) would accelerate and become payable in a lump sum amount equal to the present value of the anticipated future tax benefits calculated based on certain assumptions, including that we would have sufficient taxable income to fully utilize the benefits arising from the tax deductions, tax basis and other tax attributes subject to the Tax Receivable Agreement.

Additionally, the Tax Receivable Agreement provides that upon certain mergers, asset sales, other forms of business combinations or other changes of control, our (or our successor's) tax savings under the applicable agreements for each taxable year after any such event would be based on certain assumptions, including that we would have sufficient taxable income to fully utilize the benefits arising from the tax deductions, tax basis, and other tax attributes subject to the Tax Receivable Agreement. Furthermore, the Tax Receivable Agreement will determine the tax savings by excluding certain tax attributes the use of which we obtain after the closing date of this offering as a result of acquiring other entities to the extent such tax attributes are the subject of tax receivable agreements that we enter into in connection with such acquisitions.

As a result of the foregoing, (i) we could be required to make payments under the Tax Receivable Agreement that are greater or less than the specified percentage of the actual tax savings we realize in respect of the tax attributes subject to the agreement, and (ii) if we materially breach a material obligation under the agreement or if we elect to terminate the agreement early, we would be required to make an immediate lump sum payment equal to the present value of the anticipated future tax savings, which payment may be made significantly in advance of the actual realization of such future tax savings. In these situations, our obligations under the Tax Receivable Agreement could have a substantial negative impact on our liquidity and could have the effect of delaying, deferring or preventing certain mergers, asset sales, other forms of business combinations, or other changes of control. There can be no assurance that we will be able to fund or finance our obligations under the Tax Receivable Agreement. If we were to elect to terminate the Tax Receivable Agreement immediately after this offering, based on an assumed initial public

offering price of \$15.00 per share of our Class A common stock, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus, and a discount rate equal to the lesser of (i) 5.5%, compounded annually and (ii) SOFR, plus 100 basis points, we estimate that we would be required to pay \$83.7 million in the aggregate under the Tax Receivable Agreement. For additional information, refer to the section entitled "*Certain Relationships and Related-Party Transactions—Tax Receivable Agreement.*"

***In certain circumstances, RGF, LLC will be required to make distributions to RGF, Inc. and the existing owners of RGF, LLC and the distributions that RGF, LLC will be required to make may be substantial.***

RGF, LLC will be treated as a partnership for U.S. federal income tax purposes and, as such, will not be subject to U.S. federal income tax. Instead, taxable income will be allocated to holders of its Class A Units and Class B Units, including RGF, Inc. Pursuant to the Operating Agreement, RGF, LLC will make pro rata cash distributions, or tax distributions, to the owners of Class A Units and Class B Units in an amount intended to be sufficient to allow each of the LLC Unit holders to pay taxes on such holder's allocable share of the cumulative taxable income, reduced by cumulative taxable losses, to the extent previous tax distributions from RGF, LLC have been insufficient.

Funds used by RGF, LLC to satisfy its tax distribution obligations will not be available for reinvestment in our business. Moreover, the tax distributions that RGF, LLC will be required to make may be substantial, and will likely exceed (as a percentage of RGF, LLC's income) the overall effective tax rate applicable to a similarly situated corporate taxpayer.

As a result of potential differences in the amount of net taxable income allocable to us and to the existing owners of RGF, LLC, as well as the use of an assumed tax rate in calculating RGF, LLC's distribution obligations, we may receive distributions significantly in excess of our tax liabilities and obligations to make payments under the Tax Receivable Agreement. To the extent, as currently expected, we do not distribute such cash balances as dividends on our Class A common stock and instead, for example, hold such cash balances or lend them to RGF, LLC, the existing owners of RGF, LLC would benefit from any value attributable to such accumulated cash balances as a result of their ownership of our Class A common stock following an exchange of their Class B Units. For additional information, refer to the section entitled "*The Reorganization.*"

***We will not be reimbursed for any payments made to our existing investors under the Tax Receivable Agreement in the event that any tax benefits are disallowed.***

If the IRS challenges the tax basis that give rise to payments under the Tax Receivable Agreement and the tax basis is subsequently disallowed, the recipients of payments under that agreement will not reimburse us for any payments we previously made to them. Instead, any such disallowance would be taken into account in determining future payments under the Tax Receivable Agreement and would, therefore, reduce the amount of any such future payments. Nevertheless, if the claimed tax benefits from the tax basis are disallowed, our payments under the Tax Receivable Agreement could exceed our actual tax savings, and we may not be able to recoup payments under the Tax Receivable Agreement that were calculated on the assumption that the disallowed tax savings were available.

***We are controlled by our existing owners, whose interests may differ from those of our public stockholders.***

Immediately following this offering and the application of the net proceeds from this offering, the Members (our owners prior to the consummation of this offering along with the Fidelity Investors), in the aggregate, will control approximately 76% of the combined voting power of our Class A common stock and Class B common stock. As a result, based on their ownership of RGF, Inc. voting stock, such owners, in the aggregate, will have the collective ability to elect all of the members of the RGF, Inc. board of directors, and thereby to control RGF, Inc.'s management and affairs. In addition, they will be able to determine the outcome of all matters requiring stockholder approval, including mergers and other material transactions, and will be able to cause or prevent a change in the composition of the RGF, Inc. board of directors or a change of control of our Company that could deprive our RGF, Inc. stockholders of an opportunity to receive a premium for their Class A common stock as part of a sale of our Company and might ultimately affect the trading price of Class A common stock.

In addition, immediately following the consummation of this offering and the application of the net proceeds from this offering, the Members, including the Fidelity Investors holding Class B Units, will own 76% of the LLC Units, taking into account the Class A Units and Class B Units together. Because they hold their ownership interest in our business through RGF, LLC rather than through the public company, these existing owners may have conflicting interests with RGF, Inc. public stockholders.

For example, RGF, LLC's existing owners may have different tax positions from RGF, Inc., which could influence their decisions regarding whether and when to dispose of assets, whether and when to incur new indebtedness or refinance existing indebtedness, especially in light of the existence of the Tax Receivable Agreement that we entered in connection with this offering, and whether and when we should terminate the Tax Receivable Agreement and accelerate its obligations thereunder. In addition, the structuring of future transactions may take into consideration these existing owners' tax or other considerations even where no similar benefit would accrue to us. For additional information, refer to the section entitled "*Certain Relationships and Related-Party Transactions—Tax Receivable Agreement.*"

### **Risks Related to Our Regulatory Environment**

***Our operations are subject to regulation by the FDA, USDA, and other federal, state, and local authorities in the U.S., and in any other jurisdictions in which we may sell our products, and there is no assurance that we will be in compliance with all laws and regulations.***

Our operations are subject to extensive regulation by the FDA, USDA, and other federal, state, and local authorities in the U.S. and in any other jurisdictions in which we may sell our products. Specifically, for products manufactured or sold in the U.S., we are subject to the requirements of the Federal Food, Drug, and Cosmetic Act ("FDCA") and regulations promulgated thereunder by the FDA. This comprehensive regulatory program governs, among other things, the manufacturing, nutritional value, composition and ingredients, packaging, labeling, and safety of food. Under this program, the FDA requires that facilities that manufacture food products comply with a range of requirements, including hazard analysis and preventative controls regulations, current good manufacturing practices ("GMPs"), and supplier verification requirements. Our processing facilities, including those of our co-manufacturers, are subject to periodic inspection by foreign, federal, state, and local authorities. We do not control the manufacturing processes of, and rely upon our co-manufacturers for compliance with, GMPs for the manufacturing of our products that they conduct. If we or our co-manufacturers cannot successfully manufacture products that conform to our specifications and the strict regulatory requirements of the FDA, USDA, or other regulatory authorities, we or they may be subject to adverse inspectional findings or enforcement actions, which could materially impact our ability to market our products, result in our co-manufacturers' inability to continue manufacturing for us, or result in a recall of our product, that have already been distributed. In addition, we rely upon our co-manufacturers to maintain adequate quality control, quality assurance, and qualified personnel. If the FDA, USDA, or another regulatory authority determines that we or our co-manufacturers, suppliers, or other business partners have not complied with applicable regulatory requirements, our business may be adversely impacted.

We seek to comply with applicable laws and regulations through expert personnel with experience to ensure quality-assurance compliance and contracting with third-party laboratories that conduct analyses of new products to establish nutrition labeling information and to help identify certain potential contaminants before distribution. Our existing compliance structures may be insufficient to address the current or changing regulatory environment. This may result in gaps in compliance coverage or the omission of necessary new compliance activity. Failure by us or our co-manufacturers to comply with applicable laws and regulations, or maintain permits, licenses, or registrations relating to our or their operations, could subject us to civil remedies or penalties, including fines, injunctions, product recalls, warning letters, or restrictions on the marketing or manufacturing of products, as well as potential criminal sanctions, any of which could result in increased operating costs and reputational harm. In addition, changes to laws, regulations, or policies applicable to foods could leave us vulnerable to adverse governmental action and materially adversely affect our business, operating results, and financial condition.

***The manufacture, labeling, distribution, and marketing of food products is highly regulated, and any changes in existing laws or regulations, or failure to comply with such laws and regulations, could increase our costs and otherwise adversely affect our business.***

The manufacture and marketing of food products is highly regulated. We, our co-manufacturers, and our suppliers are subject to a variety of laws and regulations. These laws and regulations apply to many aspects of our business, including the manufacture, packaging, labeling, distribution, advertising, sale, quality, and safety of our products, as well as the health and safety of our employees and the protection of the environment.

In the U.S., we are subject to regulation by various governmental agencies, including the FDA, USDA, FTC, Occupational Safety and Health Administration, and Environmental Protection Agency, as well as various state and local agencies. For example, California currently enforces legislation commonly referred to as "Proposition 65" that requires that "clear and reasonable" warnings be given to consumers who are exposed to chemicals known to the

State of California to cause cancer or reproductive toxicity. We may be adversely impacted by litigation or other actions relating to Proposition 65 or future legislation that is similar. We are also regulated outside the U.S. by various international regulatory bodies. In addition, we are subject to certain standards, such as Global Food Safety Initiative standards. We could incur costs, including fines, penalties, and third-party claims, because of any actual or alleged violations of such requirements.

We are subject to detailed and complex requirements for how our products may be labeled and advertised, which may also be supplemented by guidance from governmental agencies. Generally speaking, these requirements divide information into mandatory information that we must present to consumers and voluntary information that we may present to consumers. Packaging, labeling, disclosure, and advertising regulations may describe what mandatory information must be provided to consumers, where and how that information is to be displayed physically on our products or elsewhere, the terms, words or phrases in which it must be disclosed, and the penalties for non-compliance. Voluntary statements made by us or by certain third parties, whether on package labels or otherwise, can be subject to FDA regulation, FTC regulation, USDA regulation, state and local regulation, foreign regulation, or any combination of the foregoing. These statements may be subject to specific requirements, subjective regulatory evaluation, and legal challenges by plaintiffs. These regulations can be confusing and subject to conflicting interpretations. Guidelines, standards and market practice for, and consumer understanding of, certain types of voluntary statements, such as those characterizing the nutritional and other attributes of food products, continue to evolve rapidly, and regulators may attempt to impose civil or criminal penalties against us if they disagree with our approach to using voluntary statements. Governmental entities, including the FDA and USDA, may disagree with our use of "low carbohydrate" claims on our website, may determine such claims are impermissible, and may determine that our website's general use of the terms "high in protein," "grain-free," and "gluten-free" for our products generally, rather than for the specific products to which they apply, requires revisions to our website and related enforcement actions. Furthermore, in recent years the FDA has increased enforcement of its regulations with respect to nutritional, health, and other claims related to food products, and plaintiffs have commenced legal actions against a number of companies that market food products positioned as "natural" or "healthy," asserting false, misleading and deceptive advertising and labeling claims, including claims related to such food being "all natural" or claiming that they lack any genetically modified ingredients. We have been subject to at least one such claim, and could become subject to future similar claims and lawsuits. Should we become subject to additional similar claims or actions, consumers may avoid purchasing products from us or seek alternatives and our management may have to devote significant time on the defense of such claims, even if the basis for any such claim is unfounded, and the cost of defending against any such claims could be significant. If the basis for any claim is founded, we may update our packaging labels and materials, which would require us to incur significant cost. The occurrence of any of the foregoing risks could materially adversely affect our business, operating results, and financial condition.

The regulatory environment in which we operate could change significantly and adversely in the future. For example, any change in manufacturing, labeling or packaging requirements for our products may lead to an increase in costs or interruptions in production, either of which could adversely affect our operations and financial condition. Any changes in existing laws or regulations, the adoption of new laws or regulations, or evolving interpretations of existing laws or regulations, could increase our costs and, in the event of non-compliance, result in civil remedies, including fines, injunctions, or product recalls, as well as potential criminal sanctions, any of which may adversely affect our business, reputation, operating results, and financial condition.

***Even inadvertent, non-negligent or unknowing violations of federal, state, or local regulatory requirements could expose us to adverse governmental action and materially adversely affect our business, operating results, and financial condition.***

The FDCA, which governs the shipment of foods in interstate commerce, generally does not distinguish between intentional and unknowing, non-negligent violations of the law's requirements. Most state and local laws operate similarly. Consequently, almost any deviation from subjective or objective requirements of the FDCA, or applicable state or local laws, leaves us vulnerable to a variety of civil and criminal penalties. Failure to comply with laws and regulations could materially adversely affect our business, operating results, and financial condition.



***Failure by our co-manufacturers or suppliers of ingredients to comply with food safety laws, or other laws and regulations, or with the specifications and requirements of our products, may disrupt our supply of products and adversely affect our business.***

If our co-manufacturers or suppliers fail to comply with food safety laws, or other laws and regulations, or face allegations of non-compliance, their operations may be disrupted. Additionally, our co-manufacturers are required to maintain the quality of our products and comply with our product specifications. In the event of actual or alleged non-compliance, we may be forced to find alternative co-manufacturers or suppliers and we may be subject to lawsuits or other disputes related to such non-compliance by our co-manufacturers and suppliers. As a result, our finished products or supply of ingredients could be disrupted, or our costs could increase, either of which would adversely affect our operating results. The failure of our co-manufacturers to produce products that conform to our quality standards or product specifications could adversely affect our reputation, and result in product recalls, product liability claims, and reduced product sales. Additionally, actions we may take to mitigate the impact of any disruption or potential disruption in our supply of ingredients or product inventory, including increasing inventory in anticipation of a potential supply or production interruption, may adversely affect our business.

In some instances we may be responsible or held liable for the activities and compliance of our co-manufacturers and suppliers, despite having limited visibility into their operations. Although we seek to appropriately select our co-manufacturers and suppliers, they may fail to adhere to regulatory standards, our safety and quality standards, our product specifications, or labor and employment practices, and we may fail to identify deficiencies or violations.

***We are subject to international laws and regulations that could adversely affect our business.***

We are currently subject to international laws and regulations where we manufacture our products, and to the extent we commence selling and distributing our products internationally, we will become subject to additional laws and regulations. Our products are subject to numerous food safety and other laws and regulations relating to the sourcing, manufacturing, storing, labeling, marketing, advertising, and distribution of these products. If regulators determine that the labeling or composition of any of our products is not in compliance with applicable laws or regulations, or if we or our co-manufacturers otherwise fail to comply with applicable laws and regulations, we could be subject to civil remedies or penalties, such as fines, injunctions, product recalls, warning letters, restrictions on the marketing or manufacturing of the products, as well as potential criminal sanctions, which would harm our business, operating results, financial condition, and reputation. In addition, enforcement of existing laws and regulations, and changes to existing legal or regulatory requirements, may result in increased compliance costs that could adversely affect our business.

***Legal claims, government investigations or other regulatory enforcement actions could subject us to civil and criminal penalties.***

We operate in a highly regulated environment with constantly evolving legal and regulatory frameworks. Consequently, we are subject to heightened risk of legal claims, government investigations, or other regulatory enforcement actions. Although we have implemented policies and procedures designed to ensure compliance with existing laws and regulations, there can be no assurance that our employees (including our employees that are employed through our PEOs), consultants, or independent contractors will not violate our policies and procedures. Moreover, a failure to maintain effective control processes could lead to violations of laws and regulations. Legal claims, government investigations, or regulatory enforcement actions arising out of our failure or alleged failure to comply with applicable laws and regulations could subject us to civil and criminal penalties that could materially and adversely affect our product sales, reputation, financial condition, and operating results.

***Risks Related to Our Intellectual Property, Information Technology, and Privacy***

***We may not be able to protect our intellectual property and proprietary technology adequately, which may impact our commercial success.***

We believe that our intellectual property and proprietary technology has substantial value and has contributed significantly to the success of our business. We rely on a combination of copyrights, trademarks, trade dress, trade secrets, and trademarks laws, as well as confidentiality agreements and other contractual restrictions, to protect our intellectual property. However, these legal means afford only limited protection and may not adequately protect our intellectual property or permit us to gain or keep any competitive advantage.

Our trademarks, including our Realgood Foods Co. logo, are valuable assets that reinforce our brand and consumers' favorable perception of our products. We also rely on unpatented proprietary expertise, recipes and formulations, and

other trade secrets and copyright protection to develop and maintain our competitive position. Our continued success depends in part upon our ability to protect and preserve our intellectual property.

Our confidentiality agreements with our employees, consultants, independent contractors, co-manufacturers, and suppliers, including some of our co-manufacturers who use our formulations to manufacture our products, generally require that all information made known to them be kept strictly confidential. Nevertheless, trade secrets are difficult to protect. Our confidentiality agreements may not effectively prevent disclosure of our proprietary information and may not provide an adequate remedy in the event of unauthorized disclosure of such information. In addition, others may independently discover our trade secrets, in which case we would not be able to assert trade secret rights against such parties. Further, some of our formulations have been developed by or with our co-manufacturers and suppliers. As a result, we may not be able to prevent others from using similar formulations, which could adversely affect our business. In addition, we have not historically obtained confidentiality agreements or invention assignment agreements from all employees and consultants, which could impact our ability to protect our intellectual property and proprietary technology.

We cannot assure you that the steps we have taken to protect our intellectual property rights are adequate, that our intellectual property rights can be successfully defended and asserted in the future, or that third parties will not infringe upon or misappropriate any such rights. In addition, our trademark rights and related registrations may be challenged in the future and could be canceled or narrowed. Failure to protect our trademark rights could prevent us in the future from challenging third parties who use names and logos similar to our trademarks, which may in turn cause consumer confusion or negatively affect customers' or consumers' perception of our brand and products. In addition, if we do not keep our trade secrets confidential, others may produce products with our recipes or formulations. Moreover, intellectual property disputes and proceedings and infringement claims may result in a significant distraction for management and significant expense, which may not be recoverable regardless of whether we are successful. Such proceedings may be protracted with no certainty of success, and an adverse outcome could subject us to liability, force us to cease use of certain trademarks or other intellectual property, or force us to enter into licenses with others.

***We rely on information technology systems and any damage to, or failure or interruption of, those systems could have a material adverse effect on our business.***

We are dependent on various information technology systems, including, but not limited to, networks, applications, and outsourced services in connection with the operation of our business. A failure of our information technology systems to perform as we anticipate could disrupt our business and result in transaction errors, processing inefficiencies, and loss of sales, any of which could harm our business. In addition, our information technology systems may be vulnerable to damage or interruption from circumstances, some of which are beyond our control, including fire, natural disasters, systems failures, viruses, and security breaches. Any such failure, damage, or interruption could have a material adverse effect on our business.

***Cybersecurity incidents, or real or perceived errors, failures, or bugs in our systems or other technology disruptions or failure to comply with laws and regulations relating to privacy and the protection of data relating to our confidential information or our customers' and consumers' personal information could negatively impact our business, our reputation and our relationships with customers.***

Our continued success depends in part on our systems, applications, and software continuing to operate to meet the changing needs of our customers. We rely on our technology for substantially all aspects of our business operations. We use mobile applications, social networking, and other online activities to connect with our customers, consumers, co-manufacturers, suppliers, and employees. Our business involves the storage and transmission of numerous classes of sensitive or confidential information and intellectual property, including customers', consumers', and suppliers' information, private information about employees, and financial and strategic information about us and our business partners. Further, as we pursue new initiatives that enhance our operations and cost structure, potentially including acquisitions, we may also be required to expand and improve our information technologies, resulting in a larger technological presence and corresponding exposure to cybersecurity risk. Like all technology and information systems, such use gives rise to cybersecurity risks, including security breaches, espionage, system disruption through material errors, failures, vulnerabilities, or bugs, particularly when new features or capabilities are released, theft, and inadvertent release of information. Our technology and information systems may be subject to computer viruses or malicious code, break-ins, phishing impersonation attacks, attempts to overload our servers with denial-of-service or other attacks, ransomware, and similar incidents or disruptions from unauthorized use of our

computer systems, as well as unintentional incidents causing data leakage, any of which could lead to interruptions, delays, or website or mobile app shutdowns. For example, in 2018 we were subject to a phishing attack, which resulted in an unauthorized third party accessing our servers, and we could experience similar incidents in the future, particularly as hackers utilize increasingly sophisticated measures to bypass information security systems. Electronic security attacks designed to gain access to personal, sensitive, or confidential data are constantly evolving, and such attacks continue to grow in sophistication. If we fail to assess and identify cybersecurity risks associated with new initiatives or acquisitions, we may become increasingly vulnerable to such risks. While we have implemented measures to prevent such security breaches and cyber incidents, our preventative measures and incident response efforts may not be effective. The theft, destruction, loss, misappropriation, or release of sensitive or confidential information or intellectual property, or interference with our information technology systems or the technology systems of third parties on which we rely, could result in business disruption, negative publicity, reputational harm, violation of privacy laws, loss of customers, and liability, all of which could have a material adverse effect on our business, operating results, and financial condition. Additionally, as a result of a breach or other security incident, we could be subject to demands, claims, and litigation by private parties and investigations, related actions, and penalties by regulatory authorities. Moreover, we could incur significant costs in notifying affected persons and entities and otherwise complying with the multitude of foreign, federal, state, and local laws and regulations relating to the unauthorized access to, or use or disclosure of, personal information.

In addition, we are subject to numerous federal, state, local and foreign laws, rules, and regulations relating to the collection, processing, storing, sharing, disclosure, use, and security of personal information and other data. We are also potentially subject to specific contractual requirements contained in agreements with third parties governing our use and protection of personal information and other data. We strive to comply with applicable laws, policies, legal, and contractual obligations and industry standards relating to privacy and data protection, to the extent possible. Nevertheless, such laws, regulations, and other obligations may require us to change our business practices and may negatively impact our ability to expand our business and pursue business opportunities. We may incur significant expenses to comply with the laws, regulations, and other obligations that apply to us. Additionally, the privacy- and data protection-related laws, rules, and regulations applicable to us may be interpreted and applied in new ways or in a manner that is inconsistent from one jurisdiction to another and may conflict with other rules or our practices. Further, new laws, rules, and regulations could be enacted with which we are not familiar or with which our practices do not comply.

Several jurisdictions have passed new laws and regulations in this area that apply to us now or may apply in the future as we grow and expand, and other jurisdictions are considering imposing additional restrictions. Examples include the California Consumer Privacy Act (the "CCPA"), which came into effect on January 1, 2020, and the recently passed California Privacy Rights Act (the "CPRA"), which amends the CCPA and has many provisions that will go into effect on January 1, 2023. The CPRA will impose additional obligations on companies covered by the legislation and will significantly modify the CCPA, including through expanding consumers' rights with respect to sensitive personal information. The CPRA also creates a new state agency that will be vested with authority to implement and enforce the CCPA and CPRA. Further, we must also comply with laws on advertising, including the Telephone Consumer Protection Act and the Telemarketing Sales Rule and the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003.

In addition to privacy and data security requirements under applicable laws, we are subject to the Payment Card Industry Data Security Standard ("PCI-DSS"), a self-regulatory standard that requires companies that process payment card data to implement certain data security measures. If we or our payment processors fail to comply with the PCI-DSS, we may incur significant fines or liability and lose access to major payment card systems. Industry groups may in the future adopt additional self-regulatory standards by which we are legally or contractually bound.

Further, if we expand into Europe, we may also face additional particular privacy, data security, and data protection risks in connection with requirements of the General Data Protection Regulation (E.U.) 2016/679 (the "GDPR"), and other data protection regulations. Among other stringent requirements, the GDPR restricts transfers of personal data outside of the E.U. to countries deemed to lack adequate privacy protections (such as the United States), unless an appropriate safeguard specified by the GDPR is implemented. Currently, there is considerable uncertainty as to how to comply with the GDPR with respect to cross-border transfers.

Any failure, or perceived failure, by us to comply with any federal, state, local, or foreign privacy or consumer protection-related laws, rules, regulations or other principles or orders to which we may be subject, or other legal

obligations relating to privacy or consumer protection, could adversely affect our reputation, brand, and business, and may result in claims, investigations, proceedings, or actions against us by governmental entities or others or other penalties or liabilities or require us to change our operations or cease using certain data sets.

### **Risks Related to Being a Public Company**

***The requirements of being a public company will increase our expenses, strain our resources, divert management's attention, and affect our ability to attract and retain qualified board members and skilled employees.***

As a public company, we will be subject to the reporting requirements of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), the Sarbanes-Oxley Act, the Dodd-Frank Wall Street Reform and Consumer Protection Act, Nasdaq listing standards, as well as other applicable securities rules and regulations. The Securities and Exchange Commission (the "SEC"), Nasdaq, and other regulators continue to adopt new rules and regulations, and make changes to existing rules and regulations, that will require our compliance. Further, factors such as increased stockholder activism, the rising prominence of stockholder rights groups, the current volatile political environment, and the current high level of government intervention and regulatory reform, may lead to new laws or regulations, new interpretations of existing laws or regulations, and additional governance obligations, all of which may lead to additional compliance costs, disclosure requirements and management oversight.

Compliance with these rules and regulations may cause us to incur additional accounting, legal, and other expenses that we did not incur as a private company. We also anticipate that we will incur costs associated with corporate governance requirements, including requirements under securities laws, as well as rules and regulations implemented by the SEC and Nasdaq, particularly after we are no longer an "emerging growth company" or a "smaller reporting company." We expect these rules and regulations to increase our legal and financial compliance costs and make some activities more time-consuming and costly, while also diverting management's time and attention from executing our growth strategies.

Further, these rules and regulations could make it more difficult or more costly for us to obtain certain types of insurance, including director and officer liability insurance, and we may be forced to accept reduced policy limits and coverage or incur substantially higher costs to obtain the same or similar coverage. The impact of these requirements could also make it more difficult for us to attract and retain qualified persons to serve on our board of directors, our board committees, or as executive officers or other key employees.

***Our management team has limited experience managing a public company.***

Most members of our management team have limited experience managing a publicly traded company, interacting with public company investors, and complying with the increasingly complex laws pertaining to public companies. Our management team may not successfully or efficiently manage our transition to being a public company that is subject to significant reporting obligations and regulatory oversight, and the continuous scrutiny of investors and analysts. These new obligations and constituents will require significant attention from our senior management and could divert their attention away from the day-to-day management of our business, which could harm our business, operating results and financial condition.

***We are an "emerging growth company" and the reduced disclosure requirements applicable to emerging growth companies may make our Class A common stock less attractive to investors.***

We are an "emerging growth company" as defined in the JOBS Act. As an emerging growth company, we may take advantage of specified reduced disclosure and other requirements that are otherwise applicable generally to public companies, including:

- presenting only two years of audited financial statements and only two years of related Management's Discussion and Analysis of Financial Condition and Results of Operations disclosure;
- reduced disclosure about our executive compensation arrangements;
- exemption from the requirements to hold non-binding advisory votes on executive compensation;
- exemption from the auditor attestation requirement in the assessment of our internal controls over financial reporting pursuant to Section 404(b) of the Sarbanes-Oxley Act; and
- exemption from complying with any requirement that may be adopted by the PCAOB regarding mandatory audit firm rotation.

We may take advantage of these exemptions up until the last day of the fiscal year following the fifth anniversary of this offering or such earlier time that we are no longer an emerging growth company. We would cease to be an

emerging growth company on the earliest of (i) the last day of the fiscal year in which we have more than \$1.07 billion in annual revenue, (ii) the date we qualify as a "large accelerated filer," with more than \$700.0 million in market value of our stock held by non-affiliates (and we have been a public company for at least 12 months and have filed one Annual Report on Form 10-K), or (iii) the date on which we have issued more than \$1.0 billion of non-convertible debt securities over a three-year period. We may choose to take advantage of some, but not all, of the available exemptions. We have taken advantage of certain reduced reporting obligations in this prospectus. Accordingly, the information contained herein may be different than the information you receive from other public companies in which you hold stock.

We cannot predict if investors will find our Class A common stock less attractive because we rely on these reduced reporting obligations. If some investors find our Class A common stock less attractive, there may be a less active trading market for our Class A common stock, which could have an adverse impact on the trading price of our Class A common stock and cause the trading price to be more volatile.

***We are a "smaller reporting company," and the reduced disclosure requirements applicable to smaller reporting companies may make our Class A common stock less attractive to investors.***

We are also a "smaller reporting company" under applicable SEC rules, meaning that the market value of our Class A common stock held by non-affiliates plus the proposed aggregate amount of gross proceeds to us as a result of this offering is less than \$700.0 million and our annual revenue was less than \$100.0 million during the most recently completed fiscal year. We may continue to be a smaller reporting company after this offering if either (i) the market value of our stock held by non-affiliates is less than \$250.0 million, or (ii) our annual revenue was less than \$100.0 million during the most recently completed fiscal year and the market value of our stock held by non-affiliates was less than \$700.0 million. If we are a smaller reporting company at the time we cease to be an emerging growth company, we may continue to rely on exemptions from certain disclosure requirements that are available to smaller reporting companies. Specifically, as a smaller reporting company we may choose to present only the two most recent years of audited financial statements and only two years of related Management's Discussion and Analysis of Financial Condition and Results of Operations disclosure in our Annual Report on Form 10-K, and we may take advantage of reduced disclosure obligations regarding executive compensation.

***If we fail to maintain proper and effective internal controls, our ability to produce accurate financial statements on a timely basis could be impaired and investors may lose confidence in our financial reporting, which could cause the trading price of our Class A common stock to decline.***

Ensuring that we have adequate internal financial and accounting controls and procedures in place to produce accurate financial statements on a timely basis is a costly and time-consuming effort. We are in the process of upgrading our information technology systems and implementing additional financial and management controls, reporting systems and procedures in order to improve our control environment and comply with the public reporting requirements under the Exchange Act. Additionally, the rapid growth of our operations and this offering have created a need for additional resources within our accounting and finance functions due to the increasing need to produce timely financial information and to ensure the level of segregation of duties customary for a public company. While we have hired additional resources in the accounting and finance functions and have started implementing our ERP system, we continue to assess the sufficiency of existing personnel in response to these increasing demands and expectations, and we expect to incur significant expenses to hire additional personnel. If any of these new or improved controls and systems do not perform as expected, we may experience material weaknesses in our controls, which may cause us to fail to timely and accurately report our financial results or result in a material misstatement of our financial statements.

Commencing with our second Annual Report on Form 10-K that we will file after becoming a public company, we must perform system and process evaluation and testing of our internal control over financial reporting to allow management to report on the effectiveness of our internal controls over financial reporting in our Annual Report on Form 10-K filing for that year, as required by Section 404 of the Sarbanes-Oxley Act. The rules governing the standards that must be met for management to assess our internal controls over financial reporting are complex and require significant documentation, testing and possible remediation. We expect to expend significant resources to develop the necessary documentation and testing procedures required by Section 404. We cannot be certain that the actions we will take to improve our internal controls over financial reporting will be sufficient, or that we will be able to implement our planned processes and procedures in a timely manner.

Further, our independent registered public accounting firm will not be required to attest to the effectiveness of our internal control over financial reporting until our first Annual Report on Form 10-K required to be filed with the SEC following the later of the date we are deemed to be an “accelerated filer” or a “large accelerated filer,” each as defined in the Exchange Act, or the date we are no longer an emerging growth company. An independent assessment of the effectiveness of our internal controls could detect problems that our management’s assessment might not.

Any failure to maintain internal control over financial reporting could inhibit our ability to accurately report our financial condition, operating results, or liquidity. If we are unable to conclude that our internal control over financial reporting is effective, or if our independent registered public accounting firm determines that we have material weaknesses or significant deficiencies in our internal control over financial reporting, investors may lose confidence in the accuracy and completeness of our financial reports, the trading price of our Class A common stock could decline, and we could be subject to sanctions or investigations by Nasdaq, the SEC or other regulatory authorities. Failure to remedy any material weaknesses, or to implement or maintain other effective control systems required of public companies, could also restrict our future access to the capital markets.

***Our disclosure controls and procedures may not prevent or detect all errors or acts of fraud.***

Our disclosure controls and procedures are designed to provide reasonable assurance that information required to be disclosed by us in reports we file or submit under the Exchange Act is accumulated and communicated to management, recorded, processed, summarized and reported within the time periods specified in the rules and forms of the SEC. We believe that any disclosure controls and procedures or internal controls and procedures, no matter how well conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are met. These inherent limitations include the realities that judgments in decision-making can be faulty, and that breakdowns can occur because of simple error or mistake. Additionally, controls can be circumvented by the individual acts of some persons, by collusion of two or more people, or by an unauthorized override of the controls. Accordingly, because of the inherent limitations in our control system, misstatements or insufficient disclosures due to error or fraud may occur and not be detected.

**Risks Related to this Offering and Ownership of Our Class A Common Stock**

***No public market for our Class A common stock currently exists, and an active trading market may not develop or be sustained following this offering.***

Prior to this offering, there has been no public market for our Class A common stock. Although we have applied to list our Class A common stock on Nasdaq, an active trading market may not develop following the closing of this offering or, if developed, may not be sustained. The lack of an active market may impair your ability to sell your shares at the time you wish to sell them, and may reduce the trading price of your shares. An inactive market may also impair our ability to raise capital to continue to fund operations by selling shares, and may impair our ability to acquire other companies or assets by using our shares as consideration. The initial public offering price was determined by negotiations between us and the underwriters for this offering and may not be indicative of the future trading price of our Class A common stock.

***The trading price of our Class A common stock may be volatile, and you may be unable to sell your shares at or above the offering price.***

The trading prices of the securities of other newly public companies, including companies in the food industry, have historically been volatile. The trading price of our Class A common stock is likely to be volatile and could be subject to wide fluctuations as a result of numerous factors, including:

- actual or anticipated fluctuations in our financial condition, operating results, and liquidity;
- any guidance we may provide to the public, any changes in this guidance, or our failure to meet this guidance;
- announcements of new products by us or our competitors, and competition from new or existing products;
- market conditions or trends in the H&W industry, and in the frozen food category in particular;
- economic conditions and trends in the geographic locations in which we operate and where our products are sold;
- addition or loss of significant customers, co-manufacturers, suppliers or other business partners;



- new laws or regulations applicable to our business or products, or changes to the interpretation of existing laws or regulations;
- actual or anticipated changes in our growth rate and financial performance relative to our competitors;
- announcements of significant acquisitions, strategic partnerships, or joint ventures by us or our competitors;
- announcement or expectation of additional financing efforts;
- additions or departures of executive officers or other key personnel;
- operating results relative to the expectations of securities analysts and other market participants, and the issuance of new or updated research or reports by such parties;
- fluctuations in the valuation of companies perceived by investors to be comparable to us;
- outcome of litigation, regulatory matters, enforcement actions, or other disputes that may arise;
- the expiration of contractual lock-up agreements with our executive officers, directors, and equity holders;
- sales of our Class A common stock, including by our executive officers, directors, or large stockholders;
- the size of our public float and factors impacting the trading volume of our Class A common stock;
- the impacts and disruptions caused by the COVID-19 pandemic, or any other pandemics, epidemics, disease outbreak, or similar widespread public health concern on our business and operating results; and
- general economic, industry, and market conditions.

The trading price of our Class A common stock may also fluctuate as a result of the other risks and uncertainties described elsewhere in this prospectus, and other factors beyond our control.

Further, the stock markets have experienced price and volume fluctuations that have affected and continue to affect the trading prices of equity securities of many companies. These fluctuations often have been unrelated or disproportionate to the operating performance of those companies. These broad market and industry fluctuations may negatively impact the trading price of our Class A common stock. If the trading price of our Class A common stock after this offering does not exceed the initial public offering price, you may not realize any return on your investment in us and may lose some or all of your investment.

In the past, companies that have experienced volatility in the trading of their securities have been subject to securities class action litigation. We may be the target of this type of litigation in the future. Securities litigation against us could result in substantial costs and divert our management's attention from other business concerns, which could harm our business.

***Substantial future sales of our Class A common stock, or the perception in the public markets that these sales may occur, could cause our share price to fall.***

Sales of a substantial number of shares of our Class A common stock in the public market could occur at any time. These sales, or the perception in the market that the holders of a large number of shares of our Class A common stock intend to sell shares, could reduce the trading price of our Class A common stock. Upon the closing of this offering, we will have 6,002,575 shares of our Class A common stock outstanding (or 6,802,575 shares, if the underwriters exercise in full their option to purchase additional shares of our Class A common stock) and 19,015,824 authorized but unissued shares of our Class A common stock that would be issuable upon redemption or exchange of Class B Units. The shares of Class A common stock offered in this offering will be freely tradable without restriction under the Securities Act of 1933, as amended ("Securities Act"), except for any shares of our Class A common stock that may be held or acquired by our directors, executive officers and other affiliates, as that term is defined in the Securities Act, which will be restricted securities under the Securities Act. Restricted securities may not be sold in the public market unless the sale is registered under the Securities Act or an exemption from registration is available.

Subject to the restrictions set forth in the lock-up agreements entered into by each of our directors, the selling stockholder, and officers and substantially all of our equity holders in connection with this offering, as described elsewhere in this prospectus, outstanding shares of our Class A common stock may be freely sold in the public market at any time to the extent permitted by Rules 144 and 701 under the Securities Act, or to the extent that such shares have already been registered under the Securities Act and are held by non-affiliates.

We intend to enter into the Registration Rights Agreement with the Members, other than the Fidelity Investors, pursuant to which the shares of Class A common stock issued upon redemption or exchange of Class B Units held by such Members will be eligible for resale, subject to certain requirements and limitations set forth therein. For additional information, refer to the section entitled “*Certain Relationships and Related-Party Transactions—Registration Rights Agreement.*”

We also intend to file one or more registration statements on Form S-8 under the Securities Act to register all shares of our Class A common stock issued or issuable under the 2021 Plan and the ESPP. Any such Form S-8 registration statements will automatically become effective upon filing. Accordingly, shares registered under such registration statements will be available for sale in the open market following the expiration of the applicable lock-up period.

If any of these additional shares are sold, or if it is perceived that they will be sold, in the public market, the trading price of our Class A common stock could decline.

***Future sales and issuances of our Class A common stock, or securities convertible into or exercisable for our Class A common stock, including pursuant to our equity incentive plans, could result in additional dilution of the percentage ownership of our stockholders and could cause the trading price of our Class A common stock to decline.***

We may issue additional securities following the closing of this offering. In the future, we may sell shares of our Class A common stock, or securities convertible into or exercisable for our Class A common stock, in one or more transactions at prices and in a manner we determine from time to time. We also expect to issue shares of our Class A common stock to directors, officers, employees, and consultants pursuant to our equity incentive plans. If we sell shares of our Class A common stock, or securities convertible into or exercisable for our Class A common stock, in subsequent transactions, or if shares of our Class A common stock are issued pursuant to our equity incentive plans, investors may be materially diluted. In addition, new investors in such subsequent transactions could receive securities with rights senior to those of holders of our Class A common stock.

***Our management has broad discretion in the use of the net proceeds received by the Company in this offering and may not use the net proceeds effectively.***

RGF, Inc. will use the proceeds from its sale of its Class A common stock in this offering to purchase the Class A Units. Accordingly, we will not retain any of these proceeds. The principal purposes of this offering are to increase our capitalization and financial flexibility, create a public market for our Class A common stock, increase our brand awareness, and facilitate access to the public equity markets for us and our equity holders. RGF, LLC primarily intends to use the net proceeds that it receives from RGF, Inc. from this offering for working capital and other general corporate purposes, which may include research and development and marketing activities, general and administrative matters, and capital expenditures. In addition, RGF, LLC intends to use the net proceeds for the repayment of the full amount owed pursuant to the PPZ Loan, and may use a portion of the proceeds for the acquisition of, or investment in, businesses or assets that complement our business. However, we do not have binding agreements or commitments for any acquisitions or investments outside the ordinary course of business at this time.

Our management will have broad discretion over the use of the net proceeds from this offering. Investors in this offering will need to rely upon the judgment of our management with respect to the use of proceeds. If we do not use the net proceeds that we receive in this offering effectively, our business, operating results, and financial condition will be adversely impacted, and we may not be able to achieve our strategic objectives.

***If you purchase shares of our Class A common stock in this offering, you will incur immediate and substantial dilution.***

The offering price of our Class A common stock is substantially higher than the pro forma net tangible book value per share of our Class A common stock, which on an adjusted basis was \$(10.81) per share of our Class A common stock as of June 30, 2021. As a result, you will incur immediate and substantial dilution in net tangible book value when you buy our Class A common stock in this offering. This means that you will pay a higher price per share than the amount of our total tangible assets, less our total liabilities, divided by the number of shares of our Class A common stock outstanding. In addition, you may also experience additional dilution if options or other rights to purchase our Class A common stock that are outstanding or that we may issue in the future are exercised, converted, or exchanged, or we issue additional shares of our Class A common stock at prices lower than our net tangible book value at such time. For additional information, refer to the section entitled “*Dilution.*”

***Our charter documents and Delaware law could prevent a takeover that stockholders consider favorable and cause the trading price of our Class A common stock to decline.***

Our Certificate of Incorporation and our amended and restated bylaws ("Bylaws") will contain provisions that could delay or prevent a change of control of our Company. These provisions could also make it more difficult for stockholders to elect directors and take other corporate actions. These provisions include:

- providing for a classified board of directors with staggered, three-year terms;
- authorizing our board of directors to issue preferred stock with voting or other rights or preferences that could discourage a takeover attempt or delay a change of control;
- prohibiting cumulative voting in the election of directors;
- providing that vacancies on our board of directors may be filled only by a majority of directors then in office, even though less than a quorum;
- prohibiting the adoption, amendment or repeal of our Bylaws or the repeal of the provisions of our Certificate of Incorporation regarding the election and removal of directors without the required approval of at least 66-2/3% of the shares entitled to vote at an election of directors;
- prohibiting stockholder action by written consent;
- limiting the persons who may call special meetings of stockholders; and
- requiring advance notification of stockholder nominations and proposals.

These provisions may frustrate or prevent any attempts by our stockholders to replace or remove our current management by making it more difficult for stockholders to replace members of our board of directors, which is responsible for appointing the members of our management. In addition, the provisions of Section 203 of the Delaware General Corporation Law ("DGCL") govern us. These provisions may prohibit large stockholders, in particular those owning 15% or more of our outstanding voting stock, from merging or combining with us for a certain period of time without the consent of our board of directors.

These and other provisions in our Certificate of Incorporation and Bylaws and under the DGCL could discourage potential takeover attempts, reduce the price investors might be willing to pay in the future for shares of our Class A common stock, and result in the trading price of our Class A common stock being lower than it would be without these provisions.

***Our Certificate of Incorporation provides that the Court of Chancery of the State of Delaware and federal district courts of the United States of America will be the exclusive forums for substantially all disputes between us and our stockholders, which could limit our stockholders' ability to obtain a favorable judicial forum for disputes with us or our directors, officers or employees.***

Our Certificate of Incorporation provides that the Court of Chancery of the State of Delaware is the exclusive forum for:

- any derivative action or proceeding brought on our behalf;
- any action asserting a claim of breach of a fiduciary duty owed by, or other wrongdoing by, any of our directors, officers, employees, or agents to us or our stockholders;
- any action asserting a claim against us arising pursuant to any provision of the DGCL, our Certificate of Incorporation, or our Bylaws;
- any action to interpret, apply, enforce, or determine the validity of our Certificate of Incorporation or Bylaws; and
- any action asserting a claim against us that is governed by the internal affairs doctrine;

provided, that with respect to any derivative action or proceeding brought on our behalf to enforce any liability or duty created by the Securities Act or the rules and regulations thereunder, the exclusive forum will be the federal district courts of the United States of America. Our Certificate of Incorporation further provides that the federal district courts of the United States of America will be the exclusive forum for resolving any complaint asserting a cause of action arising under the Securities Act.

These exclusive forum provisions may limit a stockholder's ability to bring a claim in a judicial forum that it finds favorable for disputes with us or our directors, officers, or other employees, which may discourage lawsuits against us and our directors, officers, and other employees.

***We have never paid dividends on our Class A common stock and we do not intend to pay dividends for the foreseeable future.***

We have never declared or paid any dividends on our Class A common stock and do not intend to pay any dividends in the foreseeable future. We anticipate that we will retain all of our future earnings if any, to service debt, fund over growth, develop our business, fund working capital needs, and for general corporate purposes. Any determination to pay dividends in the future will be at the discretion of our board of directors. Accordingly, investors should rely on sales of their Class A common stock after price appreciation, which may never occur, as the only way to realize any future gains on their investment in our Class A common stock. Further, the PMC Loan Agreement contains negative covenants that limit the ability of RGF, LLC to make distributions to RGF, Inc., which limits the ability of RGF, Inc. to declare or pay dividends to its stockholders. Any future loan agreements entered into by RGF, LLC may contain similar restrictions that may have the effect of limiting or preventing RGF, Inc. from declaring or paying dividends. For additional information, refer to the section entitled "Management's Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources."

***If securities or industry analysts do not initiate coverage over us, ceases coverage of us, or issues an adverse or misleading opinion regarding us or our business, the trading price and trading volume of our Class A common stock could decline.***

The trading market for our Class A common stock will be influenced by the research and reports that industry or securities analysts publish about our business. If one or more of these analysts does not initiate coverage over us, ceases coverage of us, or fails to regularly publish reports on us, we could lose visibility in the financial markets, which in turn could cause the trading price and trading volume of our Class A common stock to decline. Moreover, if any of the analysts who cover us issues an adverse or misleading opinion regarding our business, or our stock performance, or if our operating results fail to meet the expectations of analysts or the investor community, one or more of the analysts who cover us may change their recommendations regarding our business, and the trading price of our Class A common stock could decline.

### **Risks Related to Accounting and Tax Matters**

***Changes in tax laws or regulations that are applied adversely to us in the various tax jurisdictions to which we are subject could increase the costs of our products and harm our operating results.***

New income, sales, use, or other tax laws, statutes, rules, regulations, or ordinances could be enacted at any time. Those enactments could harm our business, operating results, and financial condition. Further, existing tax laws, statutes, rules, regulations, or ordinances could be interpreted, changed, modified, or applied adversely to us. These events could require us to pay additional tax amounts on a prospective or retroactive basis, as well as require us to pay fines, and penalties, and interest for past amounts deemed to be due, any of which would harm our operating results.

***Changes in existing financial accounting standards or practices may require us to restate our reported financial results or harm our operating results.***

GAAP is subject to interpretation by the Financial Accounting Standards Board, the SEC and various bodies formed to promulgate and interpret appropriate accounting principles. A change in these principles or interpretations could have a significant effect on our reported financial results and could affect the reporting of transactions completed before the announcement of a change. Adoption of such new standards and any difficulties in the implementation of changes in accounting principles, including the ability to modify our accounting systems, could cause us to fail to meet our financial reporting obligations, which could lead to regulatory enforcement actions, cause investors to lose confidence in our financial reports, and result in a decline in the trading price of our Class A common stock.

## CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

This prospectus includes forward-looking statements within the meaning of the federal securities laws. We have based these forward-looking statements largely on our current expectations and projections about future events and financial trends affecting the operating results and financial condition of our business. Forward-looking statements should not be read as a guarantee of future performance or results and will not necessarily be accurate indications of the times at, or by, which such performance or results will be achieved. Forward-looking statements are based on information available at the time those statements are made and/or management's good faith belief as of that time with respect to future events, and are subject to risks and uncertainties that could cause actual performance or results to differ materially from those expressed in or suggested by the forward-looking statements. Important factors that could cause such differences include, but are not limited to, statements regarding:

- our limited operating history and significant operating losses;
- our ability to (i) increase our net sales from existing customers and acquire new customers; (ii) retain our customers; (iii) compete successfully in our industry; (iv) respond to new trends and changes in consumer preferences; (v) introduce new products or successfully improve existing products; (vi) implement our growth strategy; (vii) effectively expand our manufacturing and production capacity; (viii) retain our co-manufacturers and identify new co-manufacturers; (ix) obtain ingredients in sufficient quantities to meet demand for our products; or (x) obtain financing to achieve our goals to develop and commercialize new products, invest in our manufacturing facilities, and expand our product offerings;
- the impact of the COVID-19 pandemic on our supply chain and consumer behaviors;
- our structure and its impact on our ability to meet our financial obligations, including payments under the Tax Receivable Agreement;
- the requirements of becoming a public company;
- failure or interruption of our data systems; and
- cybersecurity incidents, or real or perceived errors, failures, or bugs in our systems or other technology disruptions or failure to comply with laws and regulations relating to privacy and the protection of data relating to our confidential information or our customers' personal information.

In addition, in this prospectus, the words "anticipate," "believe," "continue," "could," "estimate," "expect," "intend," "may," "plan," "potential," "predict," "project," "will continue," "will likely result," "will," and similar expressions, as they relate to our Company, our business and our management, are intended to identify forward-looking statements. In light of these risks and uncertainties, the forward-looking events and circumstances discussed in this prospectus may not occur and actual results could differ materially from those anticipated in or implied by the forward-looking statements.

These forward-looking statements are subject to a number of risks, uncertainties and assumptions, including those described in the section entitled "*Risk Factors*" and elsewhere in this prospectus. Moreover, we operate in a competitive and rapidly changing environment, and new risks emerge from time to time. It is not possible for our management to predict all risks, nor can we assess the impact of all factors on our business or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained in any forward-looking statements we may make. In light of these risks, uncertainties and assumptions, the forward-looking events and circumstances discussed in this prospectus may not occur and actual results could differ materially and adversely from those anticipated in or implied by in the forward-looking statements.

You should not rely upon forward-looking statements as predictions of future events. Although we believe that the expectations reflected in the forward-looking statements are reasonable, we cannot guarantee that the future results, levels of activity, performance or events and circumstances reflected in the forward-looking statements will be achieved or occur. We undertake no obligation to update publicly any forward-looking statements for any reason after the date of this prospectus to conform these statements to actual results or to changes in our expectations, except as required by law.

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You should read this prospectus and the documents that we reference in this prospectus and have filed with the SEC as exhibits to the registration statement of which this prospectus is a part with the understanding that our actual future results, levels of activity, performance, and events and circumstances may be materially different from what we expect.

In addition, the words “we believe” and similar statements reflect our beliefs and opinions on the relevant subject. These statements are based upon information available to us as of the date of this prospectus, and while we believe such information forms a reasonable basis for such statements, such information may be limited or incomplete, and our statements should not be read to indicate that we have conducted an exhaustive inquiry into, or review of, all potentially available relevant information. These statements are inherently uncertain and you are cautioned not to unduly rely upon these statements.



## THE REORGANIZATION

### Reorganization

In connection with the consummation of this offering, we will consummate the following reorganization, which we refer to as the Reorganization:

- we will amend and restate RGF, LLC's existing operating agreement effective as of the consummation of this offering to, among other things: (i) appoint RGF, Inc. as the Managing Member and, (ii) replace the membership interests currently held by the Members such that (a) all of the Class A Units will be owned exclusively by RGF, Inc., (b) exchange existing profits interest awards for Class B Units and Class B common stock in relation to the agreed upon value of such profits interest awards as determined by the unanimous written consent of all the Members and holders of profits interest units, and (c) all of the Class B Units will be owned exclusively by the Members in proportion to their percentage of ownership interests in RGF, LLC immediately prior to the consummation of this offering;
- we will amend and restate our Certificate of Incorporation to, among other things, provide for Class A common stock and Class B common stock;
- we will issue shares of Class B common stock to the Members on a one-to-one basis with the number of Class B Units they own, for nominal consideration;
- we will issue shares of our Class A common stock and Class B common stock to the Fidelity Investors by converting those certain convertible promissory notes with an aggregate principal amount of \$35.0 million issued by RGF, LLC to the Fidelity Investors in May 2021 pursuant to the 2021 Notes Agreement to shares of Class A common stock and Class B common stock pursuant to the Conversion Agreement;
- we will issue 5,333,333 shares of our Class A common stock to the purchasers in this offering, or 5,800,000 shares if the underwriters exercise in full their option to purchase additional shares of our Class A common stock;
- the selling stockholder will sell 333,333 shares of our Class A common stock to the purchasers in this offering if the underwriters exercise in full their option to purchase additional shares of our Class A common stock;
- RGF, Inc. will use all of the net proceeds it receives from this offering to acquire Class A Units from RGF, LLC at a purchase price per Class A Unit equal to the initial public offering price per share of Class A common stock, less underwriting discounts and commissions, collectively representing 76% of RGF, LLC's outstanding units, including both Class A Units and Class B Units, following this offering, or approximately 73% if the underwriters exercise their option to purchase additional shares of Class A common stock for at least that number of shares;
- RGF, LLC intends to use the proceeds from the sale of Class A Units to RGF, Inc. as described in the section entitled "*Use of Proceeds*," including for general corporate purposes and working capital;
- the Members will hold Class B Units, which have pro rata economic interests, meaning rights to receive distributions or dividends, in whatever form, from RGF, LLC, but no voting or other control rights in RGF, LLC, which will be solely managed by RGF, Inc., and will have no economic interests in RGF, Inc. despite their ownership of Class B common stock;
- the Members will also hold Class B common stock, which will have no economic interests in RGF, Inc. but will vote together with the Class A common stock as to all matters upon which votes of RGF, Inc. stockholders are required;
- the Members will not be permitted to transfer any interest in Class B Units unless approved in writing by the Managing Member or pursuant to one of the following exceptions: (i) exchanges or redemptions permitted by the Exchange Agreement, (ii) transactions that terminate the existence of a Member for income tax purposes but do not terminate the existence of such Member under applicable state law, (iii) transfers to the applicable Member's affiliates, and (iv) a transfers by any Member to such Member's spouse, any lineal ascendants or descendants or trusts or other entities in which such Member or Member's spouse, lineal ascendants or descendants hold (and continue to hold while such trusts or other entities hold Class B Units) 50% or more of such entity's beneficial interests; provided, however, that (a) such transfer restrictions will continue to apply to Class B Units after any such permitted transfer, (b) transferees must agree in writing to be bound by the provisions of the Exchange Agreement and the Operating Agreement, and (c) such Member (or any subsequent transferee of such Member) shall be required to also transfer the fraction of its

remaining Class B common stock ownership corresponding to the proportion of such Member's (or subsequent transferee's) Class B Units that were transferred in the transaction to such transferee;

- Pursuant to the Exchange Agreement, prior to the effectiveness of the registration statement of which this prospectus forms a part, (i) the holders of Class B Units (and certain permitted transferees) may, subject to the terms of the Exchange Agreement, exchange Class B Units for shares of Class A common stock on a one-for-one basis or, at our option, redeem such Class B Units for cash; (ii) in connection with any such exchange or redemption, a holder of Class B Units being so exchanged or redeemed would deliver to us an equivalent number of shares of Class B common stock, which would be canceled; and (iii) additional Class A Units, equivalent to the amount of Class B Units so exchanged or redeemed, will then be issued to RGF, Inc. and, thus, RGF, Inc.'s interest in RGF, LLC will be proportionally increased; and
- RGF, Inc. will enter into (i) the Tax Receivable Agreement with RGF, LLC and the Members, other than the Fidelity Investors, and (ii) the Registration Rights Agreement with the Members, other than the Fidelity Investors, regarding the terms and conditions upon which shares of Class A common stock issued to the Members upon the exchange of their Class B Units would be registered for future sale. Although the actual timing and amount of any payments that we make to the Members under the Tax Receivable Agreement will vary, we expect those payments will be substantial. These payments confer significant benefits to the Members and will reduce cash provided by tax savings that would otherwise have been available to us to fund our operations and service our debt obligations. For additional information, refer to the section entitled "*Management's Discussion and Analysis—Liquidity—Tax Receivable Agreement.*"

Pursuant to the terms of the Exchange Agreement, and in connection with an election by one or more of the Members, collectively, to exchange Class B Units into shares of our Class A common stock, we will also have the option to, in lieu of issuing Class A common stock, instead make a cash payment to such Member to redeem such Class B Units equal to a volume weighted average market price of one share of Class A common stock for each Class B Unit the Member has elected to exchange (subject to customary adjustments, including for stock splits, stock dividends, and reclassifications) in accordance with the terms of the Operating Agreement. Any decision to make a cash payment to a Member would not affect such Member's continuing obligation to deliver, and the subsequent cancellation of, the equivalent amount of such Member's shares of Class B common stock. Any decision by us to make a cash payment to redeem Class B Units will be made by our independent directors (within the meaning of Nasdaq listing standards) who are disinterested. Although the actual timing and amount of any payments that we make to Members pursuant to the Exchange Agreement will vary, we expect those payments will be substantial. For additional information, refer to the section entitled "*Management's Discussion and Analysis—Liquidity.*"

Our corporate structure following this offering, as described above, is commonly referred to as an "Up-C" structure, which is often used by partnerships and limited liability companies when they undertake an initial public offering of their business. The Up-C structure will allow the Members to continue to realize tax benefits associated with owning interests in an entity that is treated as a partnership, or "pass-through" entity, for income tax purposes following the offering. One of these benefits is that future taxable income of RGF, LLC that is allocated to the Members will be taxed on a flow-through basis and therefore will not be subject to corporate income taxes at the entity level. Additionally, because the Members may exchange their Class B Units for shares of our Class A common stock or, at our option, redeem such Class B Units for cash, the Up-C structure also provides the Members with potential liquidity that holders of non-publicly traded limited liability companies are not typically afforded. For additional information, refer to the section entitled "*Description of Capital Stock.*" For a discussion of certain risks related to the Reorganization, refer to the section entitled "*Risk Factors—Risks Related to Our Structure.*"

We will receive the same benefits as the Members on account of our ownership of Class A Units in an entity treated as a partnership, or "pass-through" entity, for income tax purposes. As we exchange our Class A common stock for additional Class B Units from the Members under the mechanism described above, we will obtain a step-up in tax basis in our share of RGF, LLC's assets. This step-up in tax basis will provide us with certain tax benefits, such as future depreciation and amortization deductions that can reduce the taxable income allocable to us. We expect that RGF, Inc. will enter into the Tax Receivable Agreement with RGF, LLC and each of the Members other than the Fidelity Investors that will provide for the payment by us to the Members of 85% of the amount of tax benefits, if

any, that we actually realize (or in some cases are deemed to realize) as a result of (i) increases in tax basis resulting from the exchange of Class B Units, and (ii) certain other tax benefits attributable to payments made under the Tax Receivable Agreement.

For a description of the terms of the Registration Rights Agreement and the Tax Receivable Agreement, refer to the section entitled “*Certain Relationships and Related-Party Transactions*.”

### **Organizational Structure Following this Offering**

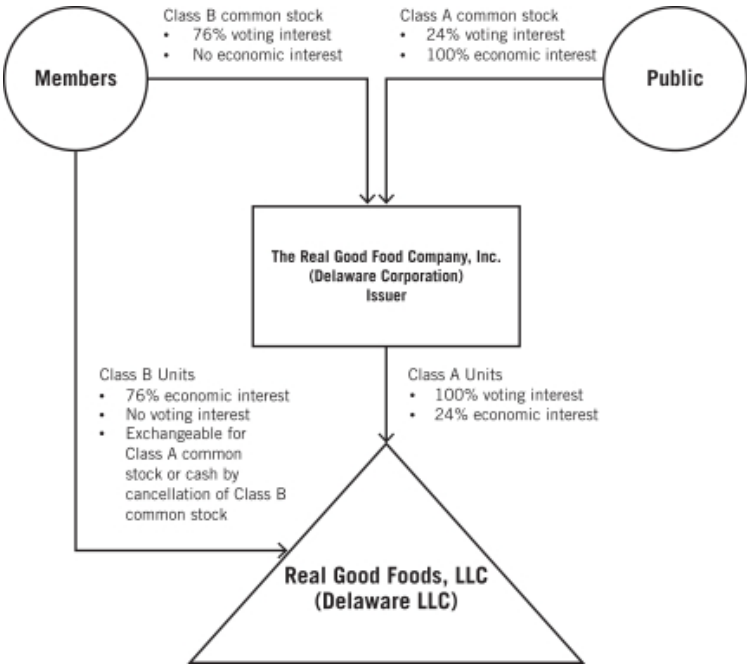
Immediately following the consummation of the Reorganization, including this offering:

- RGF, Inc. will be a holding company and its principal asset will be Class A Units it purchases from RGF, LLC;
- RGF, Inc. will be the Managing Member and will operate and control all of the business and affairs of RGF, LLC;
- our Certificate of Incorporation and Operating Agreement will require that we at all times maintain a one-to-one ratio between the number of shares of Class A common stock issued by RGF, Inc. and the number of Class A Units owned by RGF, Inc.;
- RGF, Inc. will hold 6,002,575 Class A Units representing 24% of the economic interest in RGF, LLC, or 27% if the underwriters exercise in full their option to purchase additional shares of Class A common stock, where “economic interests” means the right to receive any distributions, whether cash, property or securities of RGF, LLC, in connection with Class A Units;
- the purchasers in this offering, together with the Fidelity Investors converting promissory notes issued by them from RGF, LLC into Class A common stock Class B common stock, (i) will hold 6,002,575 shares of Class A common stock, representing approximately 24% of the combined voting power of all of our common stock, or approximately 27% if the underwriters exercise in full their option to purchase additional shares of Class A common stock, (ii) will hold 100% of the economic interest in RGF, Inc., and (iii) through RGF, Inc.’s ownership of Class A Units, indirectly will hold approximately 24% of the economic interest in RGF, LLC, or 27% if the underwriters exercise in full their option to purchase additional shares of Class A common stock;
- the Members, including the Fidelity Investors, will hold (i) 19,015,824 Class B Units, representing 76% of the economic interest in RGF, LLC, or 73% if the underwriters exercise in full their option to purchase additional shares of Class A common stock, and (ii) through their ownership of Class B common stock, approximately 76% of the voting power in RGF, Inc., or approximately 73% if the underwriters exercise in full their option to purchase additional shares of Class A common stock; and
- following the consummation of the Reorganization and this offering, each Class B Unit held by the Members will be exchangeable, at the election of such Members, for newly issued shares of Class A common stock on a one-for-one basis or, at our option, redeemed for a cash payment equal to a volume weighted average market price of one share of Class A common stock for each Class B Unit exchanged (subject to customary adjustments, including for stock splits, stock dividends, and reclassifications) in accordance with the terms of the Operating Agreement and Exchange Agreement. For additional information, refer to the section entitled “*Certain Relationships and Related-Party Transactions—Operating Agreement*.” Any decision by us to redeem Class B Units and make a cash payment will be made by our independent directors (within the meaning of Nasdaq listing standards) who are disinterested. Although the actual timing and amount of any payments that we make to Members pursuant to the Exchange Agreement will vary, we expect those payments will be substantial. For additional information, refer to the section entitled “*Management’s Discussion and Analysis—Liquidity*.” Shares of our Class B common stock will be canceled on a one-to-one basis if we, at the election of a Member, exchange Class B Units of such Member as described above.

As the Managing Member, RGF, Inc. will operate and control all of the business and affairs of RGF, LLC and, through RGF, LLC, conduct our business. Although RGF, Inc. will have a minority economic interest in RGF, LLC, it will have the sole voting interest in, and control the management of, RGF, LLC, and will have the obligation to absorb losses of, and receive benefits from, RGF, LLC that could be significant. As a result, we have determined

that, after the Reorganization, RGF, LLC will be a VIE, and that RGF, Inc. will be the primary beneficiary of RGF, LLC. Accordingly, pursuant to the VIE accounting model, RGF, Inc. will consolidate RGF, LLC in its audited financial statements and will report a non-controlling interest related to the Class B Units held by the Members on our audited financial statements. RGF, Inc. will have a board of directors and executive officers, but will have no non-executive employees. The functions of all of our employees are expected to reside at RGF, LLC.

The following diagram shows our organizational structure after giving effect to the Reorganization, including this offering, assuming no exercise by the underwriters of their option to purchase additional shares of Class A common stock:



## USE OF PROCEEDS

We estimate that we will receive net proceeds of approximately \$74.2 million from the issuance and sale of shares of Class A common stock in this offering, or approximately \$77.0 million if the underwriters exercise in full their option to purchase additional shares, assuming an initial public offering price of \$15.00 per share, the midpoint of the estimated offering price range set forth on the cover page of this prospectus, after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us. We will not receive any proceeds from the sale of shares of our Class A common stock by the selling stockholder in this offering.

Each \$1.00 increase or decrease in the assumed initial public offering price of \$15.00 per share, the midpoint of the estimated offering price range set forth on the cover page of this prospectus, would increase or decrease, as applicable, the net proceeds to us from this offering by \$5.0 million, assuming the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same, and after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us. Similarly, each increase or decrease of 1.0 million shares in the number of shares of Class A common stock offered by us would increase or decrease, as applicable, the net proceeds that we receive from this offering by \$14.0 million, assuming no change in the assumed initial public offering price per share and after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us.

RGF, Inc. will use the proceeds from the sale of our Class A common stock to purchase Class A Units of RGF, LLC. Accordingly, RGF, Inc. will not retain any of these proceeds. The principal purposes of this offering are to increase our capitalization and financial flexibility, create a public market for our Class A common stock, increase our brand awareness, and facilitate access to the public equity markets for us and our equity holders. RGF, LLC primarily intends to use the net proceeds that it receives from RGF, Inc. from this offering for working capital and other general corporate purposes, which may include research and development and marketing activities, general and administrative matters, and capital expenditures. In addition, RGF, LLC intends to use the net proceeds from this offering for the repayment of debt to PPZ and may also use a portion of the proceeds for the acquisition of, or investment in, businesses or assets that complement our business. However, we do not have binding agreements or commitments for any acquisitions or investments outside the ordinary course of business at this time.

With respect to the repayment of debt, RGF, LLC plans to use a portion of the proceeds to pay all of the principal balance and interest of its outstanding notes due to PPZ. PPZ holds three notes issued by RGF, LLC in the following principal amounts, each with a maturity date of December 31, 2021: (i) a \$40.0 thousand note with an interest rate of 8.0% per annum; (ii) a \$400.0 thousand note with an interest rate of 9.0% per annum; and (iii) a \$500.0 thousand note with an interest rate of 9.0% per annum. RGF, LLC also plans to use a portion of the proceeds to repay outstanding indebtedness under the PMC Credit Facility, inclusive of all outstanding balances under the PMC revolving line of credit, which has a maturity date of January 31, 2023, and the PMC capital expenditure line of credit, which has a maturity date of March 31, 2025, as well as outstanding business acquisition liabilities related to the acquisition of the manufacturing business of SSRE Holdings, LLC, including the PMC Term Loan, which has payments due over 54 months commencing on September 30, 2021 and interest-only payments commencing at the close of the transaction. The PMC revolving line of credit and the PMC capital expenditure line of credit bear interest at an annual rate equal to the greater of (a) the prime rate announced by Wells Fargo Bank, N.A. or (b) 3.5%, plus 8.5% per annum. The PMC Term Loan bears interest at an annual rate equal to the greater of (a) the prime rate announced by Wells Fargo Bank, N.A. or (b) 3.3%, plus 8.6% per annum. Further, RGF, LLC expects to use \$10.0 million of the proceeds to pay contingent consideration that is payable upon the sale, liquidation, or disposition of substantially all of RGF, LLC's membership interests, pursuant to a transfer agreement entered into with LO Entertainment, LLC ("LO Entertainment") to sublease the premises and take possession of equipment and inventory on the premises at the City of Industry Facility. If the contingent consideration of \$10.0 million has not been paid within 12 months following the closing, the contingent consideration shall accrue interest at an annual rate of 9.0% and RGF, LLC shall make monthly payments of accrued interest only commencing the 13th month following the closing. For additional information, refer to the section entitled "*Management's Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources—Indebtedness.*"

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As of the date of this prospectus, we cannot specify with certainty the specific allocations or all of the particular uses for the net proceeds to be received upon the consummation of this offering. The expected use of net proceeds from this offering represents our intentions based upon our present plans and business conditions, which could change in the future as our plans and business conditions evolve. We may find it necessary or advisable to use the net proceeds for other purposes, and we will have broad discretion in the application and specific allocations of the net proceeds of this offering. Pending the uses described above, we intend to invest the net proceeds from this offering in short- and intermediate-term, interest-bearing obligations, investment-grade instruments, or other securities.



## DIVIDEND POLICY

We have never declared or paid any dividends on our Class A common stock and do not currently expect to declare or pay dividends for the foreseeable future. Instead, we intend to use our future earnings, if any, to service debt, fund our growth, develop our business, fund working capital needs, and for general corporate purposes. Any future determination to pay dividends on our Class A common stock will be subject to the discretion of our board of directors and depend upon various factors, including our operating results, financial condition, liquidity requirements, capital requirements, level of indebtedness, contractual restrictions with respect to payment of dividends, restrictions imposed by applicable law, general business conditions, and other factors that our board of directors may deem relevant. Accordingly, investors should rely on sales of their Class A common stock after price appreciation, which may never occur, as the only way to realize any future gains on their investment in our Class A common stock.

Furthermore, RGF, Inc. is a holding company and will have no material assets other than our direct and indirect ownership of RGF, LLC. Our ability to pay cash dividends will depend on the payment of distributions by our current and future subsidiaries, including RGF, LLC. Such distributions may be restricted as a result of state law regarding distributions by a limited partnership to its partners or contractual agreements, including any future agreements governing their indebtedness.

Our ability to pay dividends to holders of our Class A common stock is significantly limited as a practical matter insofar as we may seek to pay dividends out of funds made available to us by RGF, LLC because certain loan agreements restrict the ability of RGF, LLC to make distributions to RGF, Inc. For additional information, refer to the section entitled “*Management’s Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources—Indebtedness*” and Note 8 of our audited financial statements included in this prospectus. Any financing arrangements that we enter into in the future may include restrictive covenants that limit our ability to pay dividends.

Holders of our Class B common stock do not have any right to receive dividends, or to receive a distribution upon our liquidation, dissolution, or winding-up, with respect to their Class B common stock.

## CAPITALIZATION

The following table sets forth our cash and cash equivalents and capitalization as of June 30, 2021 as follows:

- of RGF, LLC on an actual basis;
- of RGF, Inc. on a pro forma basis, giving effect to:
  - (i) the Reorganization described in the section entitled “*The Reorganization*”;
  - (ii) the initial vesting of the restricted stock units (“RSUs”) that our board of directors has approved subject to the consummation of this offering, based on an assumed initial offering price of \$15.00 per share, the midpoint of the estimated offering price range set forth on the cover page of this prospectus;
  - (iii) the exchange of existing profits interest units in RGF, LLC held by the Members for fully vested Class B Units and our Class B common stock, effective as of the offering date;
  - (iv) the automatic conversion of all convertible promissory notes outstanding as of June 30, 2021 held by the various Fidelity investment funds outstanding immediately prior to the consummation of this offering into an aggregate of 669,242 shares of our Class A common stock and of 2,247,425 shares of our Class B common stock, based on an assumed initial public offering price of \$15.00 per share, the midpoint of the estimated offering price range set forth on the cover page of this prospectus, at a 20% discount to such offering price, immediately prior to the consummation of this offering; and
  - (v) the filing and effectiveness of our Certificate of Incorporation upon the consummation of this offering;
- of RGF, Inc. on a pro forma as-adjusted basis, giving effect to:
  - (i) the pro forma adjustments described above;
  - (ii) the sale of 5,333,333 shares of our Class A common stock in this offering, at the assumed initial public offering price of \$15.00 per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus, after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us; and
  - (iii) the repayment, out of the proceeds of this offering, of our all of the principal and interest outstanding from RGF, LLC’s notes with PPZ, as well as all outstanding indebtedness under the PMC Credit Facility, the outstanding business acquisition liabilities related to the acquisition of the manufacturing business of SSRE Holdings, LLC, and the contingent consideration that is payable pursuant to the transfer agreement entered into with LO Entertainment.

We will not receive any proceeds from the sale of shares of our Class A common stock by the selling stockholder in this offering. The pro forma as-adjusted information set forth in the table below is illustrative only and will be adjusted based on the actual initial public offering price and other terms of this offering as determined at pricing.

You should read this table together with the sections entitled “*The Reorganization*,” “*Unaudited Pro Forma Combined Financial Data*,” and “*Management’s Discussion and Analysis of Financial Condition and Results of Operations*,” in addition to our audited financial statements and related notes included in this prospectus.

	AS OF JUNE 30, 2021		
	ACTUAL	PRO FORMA	PRO FORMA AS ADJUSTED <sup>(1)</sup>
<b>(In thousands, except share and per share data)</b>			
Cash and cash equivalents	\$ 654	\$ 654	\$ 48,363
Indebtedness:			
Convertible promissory notes	35,370	—	—
Business acquisition liabilities	15,209	15,209	—
Notes payable	11,596	11,596	308
Members' equity (deficit):			
Common Units: 62,957 units issued and outstanding, actual; no units issued or outstanding pro forma as adjusted	1,013	—	—
Series A preferred units: 11,798 units issued and outstanding, actual; no units issued or outstanding, pro forma and pro forma as adjusted	7,337	—	—
Series Seed preferred units: 28,428 units issued and outstanding, actual; no units issued or outstanding, pro forma and pro forma as adjusted	715	—	—
Stockholders' equity (deficit)			
Preferred stock, \$0.0001 par value: no shares authorized, issued or outstanding, actual; no shares issued or outstanding, pro forma; no shares issued or outstanding, pro forma as adjusted	—	—	—
Class A common stock, \$0.0001 par value: no shares issued and outstanding, actual; 669,242 shares issued and shares outstanding, pro forma; 6,002,575 shares issued and outstanding, pro forma as adjusted <sup>(3)</sup>	—	—	1
Class B common stock, \$0.0001 par value: no shares issued and outstanding, actual; 19,015,825 shares issued and outstanding, pro forma; 19,015,825 shares issued and outstanding, pro forma as adjusted	—	1	2
Additional paid-in capital	—	87,995	109,358
Accumulated deficit	(49,567)	(93,129)	(93,910)
Total Members'/stockholders equity (deficit) attributable to RGF, Inc.	(40,502)	(5,132)	15,484
Non-controlling interest <sup>(4)</sup>	—	—	48,943
Total Members'/stockholders' equity (deficit)	(40,502)	(5,132)	64,537
Total capitalization	\$ 21,673	\$ 21,673	\$ 64,845

- (1) The pro forma as-adjusted information is illustrative only and will change based on the actual initial public offering price and other terms of this offering as determined at pricing. We will not receive any proceeds from the sale of shares of our Class A common stock by the selling stockholder in this offering. Each \$1.00 increase or decrease in the assumed initial public offering price of \$15.00 per share, which is the midpoint of the estimated offering price range set forth on the cover of this prospectus, would increase or decrease, as applicable, each of our pro forma as-adjusted cash and cash equivalents, total Members'/stockholders' equity (deficit) and total capitalization by approximately \$5.0 million, assuming that the number of shares offered remains the same and after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us. Similarly, each increase or decrease of 1.0 million shares in the number of shares of our Class A common stock offered would increase or decrease, as applicable, each of our pro forma as-adjusted cash and cash equivalents, total Members'/stockholders' (deficit) equity and total capitalization by approximately \$14.0 million, assuming the assumed initial public offering price remains the same and after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us.
- (2) The Class B Units and Class B common stock, on a pro forma and pro forma as adjusted basis, each reflect the reclassification of historical components of capitalization into Class B common stock of RGF, Inc. and Class B Units of RGF, LLC, as part of the Reorganization and the conversion of outstanding convertible promissory notes into Class B Units and Class B common stock. For additional information, see the section entitled "The Reorganization."
- (3) The Class A common stock, on a pro forma basis, reflects the conversion of outstanding convertible promissory notes into Class A common stock. The Class A common stock, on a pro forma as adjusted basis, further reflects the issuance of shares of our Class A common stock in this offering.

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- (4) The non-controlling interest, on a pro forma and pro forma as adjusted basis, reflects the proportional interest in combined total equity of RGF, Inc. held by the Members based on an aggregate equity valuation determined by the midpoint of the estimated offering price range set forth on the cover page of this prospectus.

In the table above, the number of shares of our Class A common stock outstanding as of June 30, 2021 on a pro forma as-adjusted basis excludes:

- shares of our Class A common stock reserved for future issuance as of June 30, 2021 under our equity-based compensation plans, consisting of (i) 3,300,000 shares of our Class A common stock reserved for future issuance under the 2021 Plan, which will become effective on the day before the date of the effectiveness of the registration statement of which this prospectus forms a part, and (ii) 400,000 shares of our Class A common stock reserved for future issuance under the ESPP, which will become effective on the date of the effectiveness of the registration statement of which this prospectus forms a part. The 2021 Plan and ESPP also provide for automatic annual increases in the number of shares reserved under the plans each year, as described in the section entitled “*Executive Compensation—Equity Compensation Plans and Other Benefit Plans*”; and
- shares of our Class A common stock that may be issuable upon exercise of the Members’ and the Fidelity Investors’ rights to exchange their Class B Units.

## UNAUDITED PRO FORMA COMBINED FINANCIAL DATA

The following unaudited pro forma combined financial information has been prepared in accordance with Article 11 of Regulation S-X as amended by the final rule, Release 33-10786 "Amendments to Financial Disclosures about Acquired and Disposed Businesses" (the "Final Rule"). The unaudited pro forma combined balance sheet has been adjusted to include transaction accounting adjustments, which reflect the application of the accounting required by GAAP, linking the effects of the events listed below to our historical financial statements. The unaudited pro forma income statement has been adjusted to include transaction accounting adjustments, which reflects the pro forma balance sheet adjustments assuming such adjustments were made as of the beginning of the fiscal year presented.

The unaudited combined financial information presents our financial position and results of operations after giving pro forma effect to:

- (1) The Reorganization transactions described within the section entitled "*The Reorganization*," (not including this offering) as if such transactions occurred on June 30, 2021 for the unaudited pro forma combined balance sheet and on January 1, 2020 for the unaudited pro forma combined statements of operations;
- (2) The effects of the Tax Receivable Agreement, as described within the section entitled "*Certain Relationships and Related-Party Transactions—Tax Receivable Agreement*"; and
- (3) The offering and the application of the estimated net proceeds from this offering as described within the section entitled "*Use of Proceeds*."

The historical financial information of RGF, LLC was derived from the audited financial statements and unaudited interim financial statements of RGF, LLC as of the year ended December 31, 2020 and for the six months ended June 30, 2021, respectively. RGF, Inc. was formed on June 2, 2021 and will have no material assets or results of operations prior to the consummation of this offering. Therefore, its historical financial information is not included in the unaudited pro forma combined financial information.

The unaudited pro forma combined balance sheet as of June 30, 2021 assumes that the Reorganization, together with the other transactions referred to in numbered items (1) through (4) above, occurred on June 30, 2021. The unaudited pro forma combined statement of operations for the year ended December 31, 2020 and the unaudited pro forma combined statement of operations for the six months ended June 30, 2021 present the pro forma effect of the Reorganization and the other transactions referred to in numbered items (1) through (4) above as if they had occurred on January 1, 2020.

The unaudited pro forma combined financial information is included for informational purposes only and does not purport to reflect the results of operations or financial position of RGF, Inc. that would have occurred had the Reorganization occurred on the dates assumed. The unaudited pro forma combined financial information does not purport to be indicative of our results of operations or financial position had the Reorganization occurred on the dates assumed. The unaudited pro forma combined financial information also does not project our results of operations or financial position for any future period or date. In addition, the unaudited pro forma combined financial information does not reflect any cost savings, operating synergies, or revenue enhancements that may be achieved as a result of the Reorganization.

As a public company, we will implement additional procedures and processes for the purpose of addressing the standards and requirements applicable to public companies. We expect to incur additional annual expenses related to these steps including, among other things, additional directors' and officers' liability insurance, director fees, costs to comply with the reporting requirements of the SEC, transfer agent fees, hiring of additional accounting, legal and administrative personnel, and increased auditing and legal fees and similar expenses. Due to the scope and complexity of these activities, the amount of these costs could increase or decrease materially and would be based on subjective estimates and assumptions that could not be factually supported. We have not included any pro forma adjustments relating to these costs.

Prior to the consummation of this offering and the Reorganization transactions described in the section entitled “*The Reorganization*,” RGF, LLC was owned entirely by its Members and operated its business through itself and no other entities. Project Clean, Inc. was incorporated as a Delaware corporation on June 2, 2021 to serve as the issuer of the Class A common stock offered in this offering and to acquire Class A Units of RGF, LLC. Project Clean, Inc. changed its name to The Real Good Food Company, Inc. on October 7, 2021. Following the Reorganization, RGF, Inc. will be a holding company and the sole Managing Member of RGF, LLC, which will continue to operate the Company’s business.

For purposes of the unaudited pro forma combined financial information presented in this prospectus, we have assumed that RGF, Inc. will receive net proceeds of approximately \$74.2 million from the issuance and sale of shares of our Class A common stock at a price per share equal to the midpoint of the estimated price range set forth on the cover page of this prospectus, after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by RGF, Inc. The unaudited pro forma combined financial information presented assumes no exercise by the underwriters of their option to purchase additional shares of our Class A common stock in this offering.

As described within the section entitled “*Certain Relationships and Related Party Transactions—Tax Receivable Agreement*,” in connection with the consummation of this offering, we and RGF, LLC will enter into the Tax Receivable Agreement, pursuant to which we will agree to pay the Members 85% of the cash savings, if any, in U.S. federal, state, and local income tax or franchise tax that we actually realize as a result of (a) the increases in tax basis attributable to exchanges by the Members and (b) tax benefits related to imputed interest deemed to be paid by us as a result of the Tax Receivable Agreement.

We expect to benefit from the remaining 15% of cash savings, if any, that we realize. Due to the uncertainty in the amount and timing of future exchanges of Class B Units of RGF, LLC by the Members, the unaudited pro forma combined financial information assumes that no exchanges of Class B Units of RGF, LLC have occurred and therefore no increases in tax basis in RGF, LLC’s assets or other tax benefits that may be realized thereunder have been assumed in the unaudited pro forma combined financial information. Additionally, given RGF, Inc. has recognized a full valuation allowance in respect to deferred tax assets arising from net operating loss carry forwards, no immediate tax liability savings will result from the step-up in tax basis due to the offering. Accordingly, a liability for the Tax Receivable Agreement has not been recorded as of the effective date of the offering.

Upon an exchange under the exchange feature, an additional Tax Receivable Agreement liability shall be recorded against stockholders’ equity based on the amounts probable (not subject to a valuation allowance) and reasonably estimable of being paid under the Tax Receivable Agreement. Similarly, changes in both the deferred tax asset and valuation allowance that result from subsequent exchanges shall be reflected as charges against stockholders’ equity. Any subsequent changes to the Tax Receivable Agreement liability that are not related to an exchange or a payment pursuant to the Tax Receivable Agreement shall be recorded in operating income including the initial recognition of a Tax Receivable Agreement liability at a post-transaction date. Subsequent changes to the deferred tax valuation allowance shall be recognized in income tax expense.

If all of the Members were to exchange their Class B Units of RGF, LLC, we would recognize a liability of approximately \$92.4 million, assuming (i) all exchanges occurred on the same day; (ii) a price of \$15.00 per share (the midpoint of the price range set forth on the cover page of this prospectus); (iii) a constant corporate tax rate of 27.98%; (iv) we will have sufficient taxable income to fully utilize the tax benefits in the year the related tax deduction arises; and (v) no material changes in tax law. For each \$1.00 increase (decrease) in the assumed share price of \$15.00 per share, our liability would increase (decrease) by approximately \$5.9 million, assuming that the number of Class B Units of RGF, LLC exchanged by the Members and the corporate tax rate remain the same. These amounts are estimates and have been prepared for informational purposes only. The actual amount of liability that we will recognize will differ based on, among other things, the timing of the exchanges, the price of our shares of Class A common stock at the time of the exchange, and the tax rates then in effect.



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The unaudited pro forma combined financial information should be read together with the sections entitled “*Basis of Presentation*,” “*Capitalization*,” “*Summary Financial and Other Data*,” “*Management’s Discussion and Analysis of Financial Condition and Results of Operations*,” and the audited financial statements for the years ended December 31, 2019 and 2020, the unaudited interim combined financial statements for the six months ended June 30, 2021 of RGF, LLC, and related notes thereto included elsewhere in this prospectus.

**The Real Good Food Company, Inc.**  
**UNAUDITED PRO FORMA COMBINED BALANCE SHEET**  
**As of June 30, 2021**  
**(dollar amounts in thousands)**

	AS OF JUNE 30, 2021	TRANSACTION ACCOUNTING ADJUSTMENTS- REORGANIZATION	TRANSACTION ACCOUNTING ADJUSTMENTS- OFFERING	PRO FORMA AS OF JUNE 30, 2021
<b>Assets</b>				
Current assets:				
Cash and cash equivalents	\$ 654	\$ —	\$ 74,206(a) (26,497)(c)	\$ 48,363
Accounts receivable, net	4,601	—	—	4,601
Inventories	5,197	—	—	5,197
Other current assets	208	—	—	208
Total current assets	10,660	—	47,709	58,369
Non-current assets:				
Property and equipment, net	5,883	—	—	5,883
Operating lease right of use assets	4,407	—	—	4,407
Deferred loan cost	281	—	(281)(c)	—
Goodwill	12,486	—	—	12,486
Deferred transaction costs	761	—	(761)(b)	—
Other noncurrent assets	178	—	—	178
Total non-current assets	23,996	—	(1,042)	22,954
<b>Total assets</b>	<b>\$ 34,656</b>	<b>\$ —</b>	<b>\$ 46,667</b>	<b>\$ 81,323</b>
<b>Liabilities and Members'/Stockholders' Equity (Deficit)</b>				
Current liabilities:				
Accounts payable	5,965	—	—	5,965
Operating lease liabilities	389	—	—	389
Finance lease liabilities	65	—	—	65
Business acquisition liabilities	1,515	—	(1,515)(c)	—
Accrued and other current liabilities	2,653	—	3,139(b) 500(i)	6,292
Loan with PPZ, LLC, a related party	1,215	—	(1,215)(c)	—
Convertible debt	35,370	—	(35,370)(d)	—
Current portion of long-term debt	617	—	(309)(c)	308
Total current liabilities	47,789	—	(34,770)	13,019
Non-current liabilities:				
Long-term debt	9,764	—	(9,764)(c)	—
Long-term operating lease liabilities	3,873	—	—	3,873
Long-term finance lease liabilities	38	—	—	38
Long-term business acquisition liabilities, net of current portion	13,694	—	(13,694)(c)	—
Total non-current liabilities	27,369	—	(23,458)	3,911
<b>Total liabilities</b>	<b>75,158</b>	<b>—</b>	<b>(58,228)</b>	<b>16,930</b>
<b>Members' Equity (Deficit)</b>				
Common units: 62,957 units issued and outstanding at June 30, 2021 and December 31, 2020	1,013	(1,013)(g)	—	—
Series A preferred units: 11,798 units issued and outstanding as of December 31, 2020 and June 30, 2021; liquidation preference of \$8.4 million as of December 31, 2020 and June 30, 2021	7,337	(7,337)(g)	—	—
Series Seed preferred units: 28,428 units issued and outstanding as of December 31, 2020 and June 30, 2021; liquidation preference of \$715 thousand as of December 31, 2020 and June 30, 2021	715	(715)(g)	—	—
<b>Stockholders' Equity (Deficit)</b>				
Class A common stock, \$0.0001 par value	—	—	1(a) (d)	1
Class B common stock, \$0.0001 par value	—	1(g)	—(e)	1
Additional paid-in capital	—	9,064(g)	100,294(f)	109,358
Accumulated deficit	(49,567)	—	(281)(c) (8,380)(d) (500)(i)	(93,910)
			(35,182)(e)	
Total Members'/stockholders' equity (deficit) attributable to RGF, Inc.	(40,502)	—	55,952	15,450
Noncontrolling interests	—	—	48,943(h)	48,943
Total Members'/stockholders' equity (deficit)	(40,502)	—	104,895	64,393
<b>Total liabilities and members'/stockholders' equity (deficit)</b>	<b>\$ 34,656</b>	<b>\$ —</b>	<b>\$ 46,667</b>	<b>\$ 81,323</b>

**The Real Good Food Company, Inc.**  
**UNAUDITED PRO FORMA COMBINED STATEMENT OF OPERATIONS**  
**For the six months ended June 30, 2021**  
**(dollar amounts in thousands, except share and per share data)**

	SIX MONTHS ENDED JUNE 30, 2021	TRANSACTION ACCOUNTING ADJUSTMENTS- REORGANIZATION	TRANSACTION ACCOUNTING ADJUSTMENTS- OFFERING	PRO FORMA COMBINED SIX MONTHS ENDED JUNE 30, 2021
<b>Revenues</b>				
Net sales	\$ 35,463	\$ —	\$ —	\$ 35,463
Cost of sales	28,788	—	—	28,788
<b>Gross Profit</b>	6,675	—	—	6,675
<b>Operating expenses:</b>				
Selling and distribution	5,968	—	—	5,968
Marketing	1,387	—	—	1,387
Administrative	5,802	—	3,282(l)	9,084
<b>Total operating expenses</b>	13,157	—	3,282	16,439
<b>Loss from operations</b>	(6,482)	—	(3,282)	(9,764)
Interest expense	3,483	—	(3,390)(j)	93
Change in fair value of convertible debt	370	—	(370)(p)	—
<b>Loss before income taxes</b>	(10,335)	—	478	(9,857)
Income tax expense	—	—	—(k)	—
<b>Net Loss</b>	\$ (10,335)	\$ —	\$ 478	\$ 9,857
Net loss attributable to noncontrolling interests	—	—	(7,493)(n)	(7,493)
Net loss attributable to RGF, Inc.	\$ (10,335)	\$ —	\$ 7,971	\$ (2,364)
Preferred return on Series A preferred units	292	(292)(o)	—	—
Net loss attributable to common unitholders (shareholders)	\$ (10,627)	\$ 292	\$ 7,971	\$ (2,364)
Net loss per common unit (basic and diluted)	\$ (168.80)			\$ (0.39)
Weighted-average common units outstanding (basic and diluted)	62,957			6,079,239

**The Real Good Food Company, Inc.**  
**UNAUDITED PRO FORMA COMBINED STATEMENT OF OPERATIONS**  
**For the year ended December 31, 2020**  
(dollar amounts in thousands, except share and per share data)

	YEAR ENDED DECEMBER 31, 2020	TRANSACTION ACCOUNTING ADJUSTMENTS- REORGANIZATION	TRANSACTION ACCOUNTING ADJUSTMENTS- OFFERING	PRO FORMA COMBINED  YEAR ENDED DECEMBER 31, 2020
<b>Revenues</b>				
Net sales	\$ 38,984	\$ —	\$ —	\$ 38,984
Cost of sales	36,306	—	—	36,306
<b>Gross Profit</b>	2,678	—	—	2,678
<b>Operating expenses</b>				
Selling and distribution	7,593	—	—	7,593
Marketing	2,351	—	—	2,351
Administrative	2,592	—	6,590(l) 500(q) 35,182(m)	44,864
<b>Total operating expenses</b>	12,536	—	42,272	54,808
<b>Loss from operations</b>	(9,858)	—	(42,272)	(52,130)
Interest expense	5,682	—	(4,805)(j)	877
Other expense	—	—	—	—
<b>Loss before income taxes</b>	(15,540)	—	(37,467)	(53,007)
Income tax expense	(22)	—	—(k)	(22)
<b>Net Loss</b>	\$ (15,562)	\$ —	\$ (37,467)	\$ (53,029)
Net loss attributable to noncontrolling interests	—	—	(40,289)(n)	(40,289)
Net loss attributable to RGF, Inc.	\$ (15,562)	\$ —	\$ 2,822	\$ (12,740)
Preferred return on Series A preferred units	546	(546)(o)	—	—
Net loss attributable to common unitholders (shareholders)	\$ (16,108)	\$ 546	\$ 2,822	\$ (12,740)
Net loss per common unit (basic and diluted)	\$ (258.82)			\$ (2.12)
Weighted-average common units outstanding (basic and diluted)	62,238			6,002,575

## NOTES TO UNAUDITED PRO FORMA COMBINED FINANCIAL INFORMATION

### 1. Description of the Reorganization Transactions

#### **Offering and Reorganization**

RGF, Inc., the issuer in this offering, was incorporated in connection with this offering to serve as a holding company that will hold the sole controlling interest in RGF, LLC as the Managing Member and own all of the Class A Units of RGF, LLC. RGF, Inc. has not engaged in any business or other activities other than those incidental to its formation, the Reorganization transactions described within the section entitled “*The Reorganization*” and the preparation of this prospectus and the registration statement of which this prospectus forms a part.

Effective as of the consummation of this offering, the existing operating agreement of RGF, LLC will be amended to, among other things: (i) appoint RGF, Inc. as the Managing Member of RGF, LLC, and (ii) replace the membership interests currently held by the Members such that (a) all of the Class A Units will be owned exclusively by RGF, Inc., (b) exchange existing profits interest awards for our Class B Units and our Class B common stock in relation to the agreed upon value of such profits interest awards as determined by the unanimous written consent of all the Members and holders of profits interest units, and (c) all of our Class B Units will be owned exclusively by the Members in proportion to their percentage of ownership interests in RGF, LLC immediately prior to the consummation of this offering.

RGF, Inc. will use all of the net proceeds from this offering of our Class A common stock to acquire Class A Units from RGF, LLC at a purchase price per Class A Unit equal to the initial public offering price per share of Class A common stock, less underwriting discounts and commissions.

RGF, Inc. will issue shares of our Class B common stock to the Members on a one-to-one basis with the number of Class B Units owned by such Members for nominal consideration. Holders of Class B common stock will have no economic interests in RGF, Inc. but will vote together with the holders of our Class A common stock as to all matters upon which votes of RGF, Inc. stockholders are required. Upon an exchange of our Class B Units for shares of our Class A common stock by a Member, an equivalent number of shares of our Class B common stock owned by such Member shall be canceled.

Following this offering, RGF, Inc. will remain a holding company, its principal asset will be the Class A Units of RGF, LLC, and it will control all of the business and affairs of RGF, LLC as the Managing Member. RGF, LLC is a variable interest entity for which RGF, Inc. is the primary beneficiary; as such, RGF, Inc. will consolidate the financial results of RGF, LLC. The Reorganization shall be accounted for consistent with a transaction between entities under common control, and RGF, Inc. will recognize the net assets of RGF, LLC at historical carryover cost basis as of the transaction date.

For a description of the Reorganization and diagram depicting our structure after giving effect to the Reorganization and this offering, refer to the section entitled “*The Reorganization*.”

### 2. Adjustments to Unaudited Pro Forma Combined Financial Information

**Adjustments included in the unaudited pro forma combined balance sheet as of June 30, 2021 are as follows:**

#### **Adjustments related to the Offering**

- a) Represents the net proceeds of approximately \$74.2 million based on an assumed initial public offering price of \$15.00 per share, which is the midpoint of the estimated offering price range set forth on the cover of this prospectus, after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us. Additionally, the unaudited pro forma combined financial information presented assumes no exercise by the underwriters of their option to purchase additional shares of our Class A common stock in this offering.
- b) We are deferring certain costs associated with this offering. These costs primarily represent legal, accounting and other direct costs and are recorded in deferred transaction costs on our unaudited pro forma combined balance sheet. Upon the consummation of this offering, these capitalized costs will be offset against the proceeds raised from this offering as a reduction of additional paid-in-capital. There were initially

\$761 thousand of deferred offering costs recorded as other noncurrent assets as of June 30, 2021, and \$3.1 million of additional deferred offering costs that were incurred and recorded in accrued and other current liabilities with a corresponding reduction to additional paid-in capital.

- c) Represents the use of \$26.5 million of the proceeds from this offering to repay: (i) outstanding indebtedness under the PMC Credit Facility, inclusive of all outstanding balances under the PMC Revolver and the PMC Capex Line, (ii) outstanding indebtedness under the related party loan from PPZ, LLC, and (iii) outstanding business acquisition liabilities related to acquisition of the manufacturing business of SSRE Holdings, LLC, including the PMC Term Loan and deferred and contingent consideration due under the transfer agreement with LO Entertainment, LLC, as will be determined prior to the consummation of this offering. Unamortized debt issuance costs and debt discount of \$281 thousand related to the extinguished indebtedness has been written off through accumulated deficit.
- d) Represents the impact of the conversion of outstanding convertible promissory notes pursuant to a Note Purchase Agreement dated May 7, 2021. The aggregate principal amount of \$35.0 million is exchangeable immediately prior to the consummation of the initial public offering into an aggregate number of 669,242 and 2,247,425 shares of our Class A and Class B common stock, respectively, based on an exchange price at a 20% discount to an assumed initial public offering price of \$15.00 per share, the midpoint of the estimated offering price range set forth on the cover page of this prospectus. This automatic exchange feature at the time of an initial public offering is deemed for accounting purposes to be a share settled redemption feature at a predominantly fixed monetary value (premium equal to par divided by 0.8, or 125% of par). As of the date of the offering, the net carrying amount of the convertible promissory notes, for which the fair value option has been elected, shall be adjusted to fair value through current period earnings, with fair value of the debt represented by the value of the shares to be delivered to contractually settle the instrument at an offering date. An adjustment to fair value represents a markup of the convertible promissory note to fair value from June 30, 2021 to the offering date based on the known and contractually supportable premium of 25% as contractually obligated at the date of conversion. Accordingly, the adjustment of the fair value has been recorded in accumulated deficit for the amount of \$8.4 million. Conversion of the promissory notes shall be recognized as an increase in additional paid-in capital, an increase (decrease) to retained earnings for the adjustment of the fair value, and a decrease to indebtedness equal to the fair value of the promissory notes at the date of conversion.
- e) Represents the exchange of profits interest units in RGF, LLC issued to a provider of marketing services controlled by the Company's Chief Marketing Officer and to certain other members of RGF, LLC management. In connection with the service provider's achievement of certain performance conditions, and with respect to grants to those certain members of RGF, LLC's management, profits interest units will be unitized as fully vested Class B Units and our Class B common stock, effective as of the offering date. The Class B Units of RGF, LLC held by the Members will hold economic rights but are non-controlling interests.

Profits interest units provide holders with the right to receive a cash payment representing a certain percentage of net profits of the Company during a particular period and to be settled at the time of a liquidity event, including a sale transaction. A sale transaction is defined as a sale or transfer of substantially all of the assets or membership interests in RGF, LLC. Prior to the Reorganization, profits interest units were not deemed to be equity ownership interests and were classified as liability awards and accounted for as performance bonuses in accordance with ASC Topic 710, *Compensation*. As of the most recent balance sheet date, June 30, 2021, we did not record a liability as payments with respect to the profits interest units were not deemed probable or estimable. The Class B Units will be fully vested as of the offering date, and the impacts of associated compensation expense has been reflected as an adjustment to accumulated deficit, computed based upon the number of shares received in exchange of the profits interest units, multiplied by \$15.00 per share, the midpoint of the estimated offering price range set forth on the cover page of this prospectus.

- f) The following table is a reconciliation of the adjustments impacting additional paid-in-capital in connection with the offering:

	SIX MONTHS ENDED JUNE 30, 2021	
Net proceeds from offering of Class A common stock	74,205	(a)
Reclassification of costs incurred in this offering to additional paid in capital	(3,900)	(b)
Conversion of convertible promissory notes into Class A common stock	43,750	(d)
Conversion of profits interest units into Class B common stock	35,182	(e)
Adjustment for non-controlling interest	(48,943)	(h)
Net additional paid-in capital pro forma adjustment	100,294	

- g) As a result of the Reorganization, the operating agreement of RGF, LLC will be amended and restated to, among other things, designate RGF, Inc. as the Managing Member of RGF, LLC. As the Managing Member, RGF, Inc. will exclusively operate and control the business and affairs of RGF, LLC with its economic ownership reflected in Class A Units. The Class B Units of RGF, LLC held by the Members will hold economic rights and are considered non-controlling interests in the combined financial statements of RGF, Inc. The adjustment to non-controlling interest of \$48.9 million reflects the proportional interest in the pro forma combined total equity of RGF, Inc. held by the Members.
- h) Represents amounts due for termination of a capital markets advisory contract with a service provider in connection with the completion of this offering.

***Adjustments Related to the Reorganization***

- i) Represents the issuance of our Class B common stock to the Members for nominal consideration and a reclassification of the remaining balance of the Members' investment to additional paid-in capital.

**Adjustments included in the unaudited pro forma combined statement of operations for the year ended December 31, 2020 and the six months ended June 30, 2021 are as follows:**

***Adjustments Related to the Offering and Reorganization***

- j) Reflects the reduction in interest expense of \$4.8 million for the year ended December 31, 2020 and \$3.4 million for the six months ended June 30, 2021, as a result of the repayment of the outstanding indebtedness to PMC and PPZ, LLC, as described within the section entitled "Use of Proceeds," as if such repayment occurred on January 1, 2020. Adjustment for the year ended December 31, 2020 is net of \$863 thousand in accelerated interest expense related to write-off of unamortized debt issuance costs and debt discount on the retired credit facilities.



- k) RGF, LLC has been, and will continue to be, treated as a partnership for U.S. federal and state income tax purposes. As such, income generated by RGF, LLC will flow through to its partners, including RGF, LLC, and is generally not subject to tax at the RGF, LLC level. Following the Reorganization, we will be subject to U.S. federal income taxes, in addition to state, local, and foreign income taxes with respect to our allocable share of any taxable income of RGF, LLC. Given the historical losses of RGF, LLC, the deferred tax assets carry a full valuation allowance, and as such, the effective tax rate following the consummation of this offering is expected to be 0%. We will continue to assess the realizability of the deferred tax assets each reporting period.
- l) Represents the impact of compensation provided to certain executive officers and to our board of directors in connection with the offering. Compensation expense for executive officers reflects vesting of RSU grants that our board of directors has approved subject to the consummation this offering, based on an assumed initial offering price of \$15.00 per share, the midpoint of the estimated offering price range set forth on the cover page of this prospectus. Compensation expense for our board or directors includes: (i) an annual cash retainer of \$75.0 thousand payable to each non-employee director, and (ii) the initial vesting of RSUs that our board of directors has approved subject to the consummation this offering, based on an assumed initial offering price of \$15.00 per share, the midpoint of the estimated offering price range set forth on the cover page of this prospectus.
- m) Reflects incremental compensation expense of \$35.2 million for the year ended December 31, 2020, related to the achievement of certain performance conditions associated with profits interest units issued to a provider of marketing services and certain members of RGF, LLC management. Profits interest units will be unitized as fully vested Class B Units and our Class B common stock, effective as of the offering date. The incremental compensation expense has been measured based upon the fair value of our Class B Units, estimated based upon initial offering price of \$15.00 per share, the midpoint of the estimated offering price range set forth on the cover page of this prospectus, given Class B Units are convertible into Class A shares of our common stock at the election of the unitholder. Related compensation expense has been reflected as an increase to selling, general, and administrative within the Unaudited Pro Forma Combined Statements of Operations.
- n) Following the Reorganization and the offering, RGF, Inc. will become the sole Managing Member of RGF, LLC, and upon consummation of this offering, RGF Inc. will initially own approximately 24% of the economic interest in RGF, LLC through its ownership of Class A Units. The ownership percentage held by the non-controlling interests will be approximately 76%. Net income attributable to the non-controlling interests represents approximately 76% of net earnings before income taxes. The 76% non-controlling economic interest is applied to the pro forma of RGF, LLC net income to determine the pro forma net income attributable to non-controlling interest.
- o) In connection with the Reorganization, Series A preferred units shall convert into Class B units and Class B common stock, and the preferred return due to holders of the Series A preferred units will no longer be earned.
- p) In connection with the offering, the convertible promissory notes will be converted to shares of Class A common stock. As the convertible promissory notes are recorded at fair value on the historical balance sheet of RGF, LLC, this adjustment removes the impact of related revaluation adjustments recognized during the six months ended June 30, 2021.
- q) Represents amounts due for termination of a capital markets advisory contract with a service provider in connection with the completion of this offering.

### 3. Loss per Share

The basic and diluted pro forma net loss per share of our common stock represents net loss attributable to RGF, Inc. divided by the combination of the shares of our Class A common stock held by existing stockholders and the shares of our Class A common stock issued in this offering, the proceeds of which are expected to equal \$74.2 million (based on the midpoint of the price range shown on the cover of this prospectus, after deducting underwriting discounts and commissions and estimated offering expenses payable by us). For additional information, refer to the section entitled "Use of Proceeds."

The outstanding shares of our Class B common stock are not considered participating securities as they have no right to receive dividends or a distribution on liquidation or winding up of RGF, Inc., and no earnings are allocable to such class. Accordingly, basic and diluted pro forma net loss per share of our Class B common stock has not been presented.

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The tables below present the computation of pro forma basic and dilutive loss per share of Class A common stock for RGF, Inc. for the year ended December 31, 2020 and the six months ended June 30, 2021 (in thousands, except share and per share amounts):

	YEAR ENDED DECEMBER 31, 2020
<b>Numerator:</b>	
<b>Pro forma net loss</b>	\$ (53,029)
Loss allocated to non-controlling interests	(40,289)
<b>Net loss attributable to RGF, Inc.—Basic loss per share</b>	<u>\$ (12,740)</u>
<b>Denominator:</b>	
<b>Pro forma weighted average common shares outstanding—Basic loss per share</b>	<b>6,002,575</b>
Denominator adjustments—Diluted loss per share	
Incremental common shares attributable to dilutive instruments (1)	
Assumed conversion of Class B Units to shares of Class A common stock (2)	
<b>Pro forma weighted average common shares outstanding—Diluted loss per share</b>	<u><b>6,002,575</b></u>
<b>Pro Forma Loss Per Share:</b>	
Basic	\$ (2.12)
Diluted	\$ (2.12)

- (1) For the year ended December 31, 2020, the dilutive effects of RGF, LLC's unvested equity awards are not included in the computation of pro forma diluted loss per share as the effect would be anti-dilutive.
- (2) The non-controlling interest holders have exchange rights that enable them to exchange their Class B Units for shares of our Class A common stock on a one-for-one basis. The non-controlling interest holders exchange rights cause the Class B Units to be considered potentially dilutive shares for purposes of pro forma dilutive loss per share calculations. For the year ended December 31, 2020, these exchange rights were not included in the computation of pro forma diluted loss per share as the effect would be anti-dilutive.

	SIX MONTHS ENDED JUNE 30, 2021
<b>Numerator:</b>	
<b>Pro forma net loss</b>	\$ (9,857)
Loss allocated to non-controlling interests	(7,493)
<b>Net loss attributable to RGF, Inc.—Basic loss per share</b>	<u>\$ (2,364)</u>
<b>Denominator:</b>	
<b>Pro forma weighted average common shares outstanding—Basic loss per share</b>	<b>6,079,239</b>
Denominator adjustments—Diluted loss per share	
Incremental common shares attributable to dilutive instruments (1)	
Assumed conversion of Class B Units to shares of our Class A common stock (2)	
<b>Pro forma weighted average common shares outstanding—Diluted loss per share</b>	<u><b>6,079,239</b></u>
<b>Pro Forma Loss Per Share:</b>	
Basic	\$ (0.39)
Diluted	\$ (0.39)

- (1) For the six months ended June 30, 2021, the dilutive effects of RGF, LLC's unvested equity awards are not included in the computation of pro forma diluted loss per share as the effect would be anti-dilutive.
- (2) The non-controlling interest holders have exchange rights that enable them to exchange their Class B Units for shares of our Class A common stock on a one-for-one basis. The non-controlling interest holders exchange rights cause the Class B Units to be considered potentially dilutive shares for purposes of pro forma dilutive loss per share calculations. For the year ended December 31, 2020, these exchange rights were not included in the computation of pro forma diluted loss per share as the effect would be anti-dilutive.

## DILUTION

The Members will maintain their holdings of Class B Units in RGF, LLC after the Reorganization. Because the Members, other than certain Fidelity Investors acquiring Class A common stock in connection with the conversion of the RGF, LLC promissory notes, will not hold any of our Class A common stock immediately following the consummation of this offering or have any right to receive distributions from RGF, Inc., we have presented dilution in pro forma net tangible book value per share both before and after this offering assuming that all of the Members, as holders of Class B Units had their Class B Units exchanged for newly issued shares of our Class A common stock on a one-to-one basis (rather than for cash) and the cancellation for no consideration of all of their shares of our Class B common stock (which is not entitled to receive distributions or dividends, whether cash or stock, from RGF, Inc.) in order to more meaningfully present the potential dilutive impact on the investors in this offering. We have also assumed the issuance of the 669,242 shares of our Class A common stock in connection with the conversion of RGF, LLC promissory notes, the issuance of 2,247,425 shares of our Class B common stock in connection with the conversion of RGF, LLC promissory notes, and an exchange of such shares of Class B common stock for an equivalent amount of shares of Class A common stock. We refer to the assumed exchange of all Class B Units for shares of our Class A common stock as described in the previous sentence as the “Assumed Exchange.”

If you invest in our Class A common stock in this offering, your interest will be diluted to the extent of the difference between the public offering price per share of our Class A common stock and the pro forma as-adjusted net tangible book value per share of our Class A common stock immediately following the consummation of this offering.

Pro forma net tangible book value per share of RGF, Inc. is determined by dividing our total tangible assets less our total liabilities by the number of shares of our Class A common stock outstanding, including the Assumed Exchange. RGF, LLC’s historical net tangible book value as of June 30, 2021 was \$(53.0) million, or \$(841.65) per unit. After giving effect to the Reorganization, the Assumed Exchange, and the automatic conversion of all convertible promissory notes outstanding as of June 30, 2021 into an aggregate of 669,242 shares of our Class A common stock and 2,247,425 shares of our Class B common stock, based on an assumed initial public offering price of \$15.00 per share, the midpoint of the estimated offering price range set forth on the cover page of this prospectus, each of which will occur immediately prior to the consummation of this offering, our pro forma net tangible book value as of June 30, 2021 was \$52.1 million, or \$8.67 per share, based on the total number of shares of our Class A common stock deemed to be outstanding as of June 30, 2021.

After giving effect to our sale of 5,333,333 shares of our Class A common stock in this offering at an assumed public offering price of \$15.00 per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus, and after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us, our pro forma as-adjusted net tangible book value as of June 30, 2021 would have been approximately \$122.6 million, or approximately \$10.81 per share.

This represents an immediate increase in net tangible book value of \$2.14 per share to our existing stockholders, and an immediate dilution in pro forma net tangible book value of \$4.19 per share to new investors purchasing shares of our Class A common stock in this offering. The following table illustrates this dilution on a per share basis:

Assumed public offering price per share of our Class A common stock	\$15.00
Pro forma net tangible book value per share as of June 30, 2021	\$ 8.67
Increase in pro forma net tangible book value per share attributable to new investors purchasing shares of our Class A common stock in this offering	2.14
Increase in pro forma net tangible book value per share of our Class A common stock attributable to automatic conversion of all outstanding convertible promissory notes	850.33
Pro forma as-adjusted net tangible book value per share of our Class A common stock to investors immediately following the consummation of this offering	10.81
Dilution in pro forma net tangible book value per share of our Class A common stock to new investors purchasing shares of our Class A common stock in this offering	\$ 4.19

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The dilution information discussed above is illustrative only and will change based on the actual initial public offering price and other terms of this offering determined at pricing.

Each \$1.00 increase or decrease in the assumed initial public offering price of \$15.00 per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus, would incrementally increase or decrease, as applicable, our pro forma as-adjusted net tangible book value per share after this offering by \$0.44 and dilution per share to new investors purchasing shares of our Class A common stock in this offering by \$0.44, assuming that the number of shares of our Class A common stock offered by us, as set forth on the cover page of this prospectus, remains the same and after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us. Similarly, each increase of 1.0 million shares in the number of shares offered by us, as set forth on the cover page of this prospectus, would increase our pro forma as-adjusted net tangible book value per share of our Class A common stock after this offering by \$0.25 and decrease the dilution per share to new investors purchasing shares of our Class A common stock in this offering by \$0.25, assuming no change in the assumed initial public offering price per share and after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us. A decrease of 1.0 million shares in the number of shares of our Class A common stock offered by us, as set forth on the cover page of this prospectus, would decrease our pro forma as-adjusted net tangible book value per share after this offering by \$0.30 and increase the dilution per share to new investors purchasing shares of our Class A common stock in this offering by \$0.30, assuming no change in the assumed initial public offering price and after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us.

If the underwriters exercise their option to purchase additional shares in full, our pro forma as adjusted net tangible book value per share after this offering would be \$129.1 million, representing an immediate increase in pro forma as-adjusted net tangible book value per share of \$1.96 to existing stockholders, and immediate dilution in pro forma as adjusted net tangible book value per share of \$4.37 to new investors purchasing shares of our Class A common stock in this offering, assuming an initial public offering price of \$15.00 per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus, and after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us.

The following table presents, as of June 30, 2021, after giving effect to the Assumed Exchange and the sale by us of shares of our Class A common stock in this offering at the assumed initial public offering price of \$15.00 per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus, the difference between the existing stockholders and the investors purchasing shares of our Class A common stock in this offering, with respect to the number of shares of our Class A common stock purchased from us, the total consideration paid or to be paid to us, and the average price per share paid or to be paid to us, before deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us.

As the table shows, new investors purchasing shares of our Class A common stock in this offering and the Fidelity Investors will pay an average price per share substantially higher than our existing stockholders paid.

	SHARES PURCHASED		TOTAL CONSIDERATION		WEIGHTED AVERAGE PRICE PER SHARE
	NUMBER	PERCENT	AMOUNT	PERCENT	
(In thousands, except shares, per share amounts and percentages)					
Existing stockholders before this offering (the Members)	19,685,067	78.7%	\$ 10,038	11.1%	\$ 15.00
New investors purchasing shares in this offering and the Fidelity Investors	5,333,333	21.3%	\$ 80,000	88.9%	\$ 15.00
Total	25,018,400	100.0%	\$ 90,038	100.0%	

A sale by the selling stockholder and us if the underwriters exercise their option to purchase additional shares for 800,000 shares in this offering will cause the number of shares held by existing stockholders and the Fidelity Investors to be reduced to 18,682,492 shares, or 73% of the total number of shares of our Class A common stock

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and Class B common stock outstanding immediately after the completion of this offering, and will increase the number of shares held by new investors and the Fidelity Investors to 6,802,575 shares, or 27% of the total number of shares of our Class A common stock and Class B common stock outstanding immediately after the completion of this offering.

Each \$1.00 increase or decrease in the assumed initial public offering price of \$15.00 per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus, would increase or decrease, as applicable, the total consideration paid by new investors by \$5.3 million and, in the case of an increase, would increase the percentage of total consideration paid by new investors by 6.7 percentage points and, in the case of a decrease, would decrease the percentage of total consideration paid by new investors by the same, assuming that the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same. Similarly, each increase or decrease of 1.0 million shares in the number of shares offered by us, as set forth on the cover page of this prospectus, would increase or decrease, as applicable, the total consideration paid by new investors by \$15.0 million and, in the case of an increase, would increase the percentage of total consideration paid by new investors by 18.8 percentage points and, in the case of a decrease, would decrease the percentage of total consideration paid by new investors by 18.8 percentage points, assuming no change in the assumed initial public offering price.

The table above assumes no exercise of the underwriters' option to purchase additional shares in this offering. If the underwriters exercise their option to purchase additional shares in full, the number of shares of our Class A common stock held by the existing stockholders, the Members, would be reduced to 73% of the total number of shares of our Class A common stock outstanding after this offering, and the number of shares of our Class A common stock held by new investors and the Fidelity Investors purchasing shares of our Class A common stock in this offering would be increased to 27% of the total number of shares of our Class A common stock outstanding after this offering.

The dilution information discussed above is illustrative only and will change based on the actual offering price, the number of shares we sell and other terms of this offering that will be determined at pricing.

The total number of shares of our Class A common stock reflected in the discussion and table above excludes (except to the extent of the options to be exercised in connection with this offering):

- shares of our Class A common stock reserved for future issuance as of June 30, 2021 under our equity-based compensation plans, consisting of (i) 3,300,000 shares of Class A common stock reserved for future issuance under the 2021 Plan, which will become effective on the day before the date of the effectiveness of the registration statement of which this prospectus forms a part, and (ii) 400,000 shares of our Class A common stock reserved for future issuance under the ESPP, which will become effective on the date of the effectiveness of the registration statement of which this prospectus forms a part; and
- shares of our Class A common stock that may be issuable upon exercise of the Members' and Fidelity Investors' rights to exchange their Class B Units.

The 2021 Plan and ESPP also provide for automatic annual increases in the number of shares reserved under the plans each year, as described in the section entitled "*Executive Compensation—Equity Compensation Plans and Other Benefit Plans*." To the extent any outstanding options described above are exercised, new options are issued under our equity-based compensation plans, or we issue additional shares of our Class A common stock or other equity or convertible debt securities in the future, there will be further dilution to investors participating in this offering. If all of the outstanding options described above had been exercised as of December 31, 2020, the pro forma as-adjusted net tangible book value per share after this offering would be \$8.15, and dilution in net tangible book value per share to new investors would be \$6.85.

- the automatic conversion of all convertible promissory notes outstanding as of June 30, 2021 into an aggregate of 669,242 shares of our Class A common stock and 2,247,425 shares of our Class B common stock, based on an assumed initial public offering price of \$15.00 per share, the midpoint of the estimated offering price range set forth on the cover page of this prospectus, at a 20% discount to such offering price, immediately prior to the closing of this offering.

## MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

*The following discussion and analysis of our financial condition and results of operations should be read in conjunction with the section entitled "Summary Financial and Other Data," our audited financial statements, the accompanying notes, and the other financial information included within this prospectus. The following discussion below contains forward-looking statements that involve risks and uncertainties such as our plans, estimates, hopes, beliefs, intentions, and strategies regarding the future. Our actual results could differ materially from those in the forward-looking statements below. Factors that could cause or contribute to such differences in our actual results include, but are not limited to, those discussed below and in the sections entitled "Cautionary Note Regarding Forward-Looking Statements" and "Risk Factors." Our historical results are not necessarily indicative of the results that may be expected for any period in the future.*

### Overview

We are an innovative, high-growth, branded, health- and wellness-focused frozen food company. We develop, market, and manufacture delicious and convenient comfort foods designed to be high in protein, low in sugar, and made from gluten- and grain-free ingredients that are intended to be sold in the health and wellness ("H&W") segment of the frozen food category. Our brand commitment, "*Real Food You Feel Good About Eating*," represents our strong belief that, by eating our food, consumers can enjoy more of their favorite foods, and, by doing so, live better lives as part of a healthier lifestyle. Our mission is to make our craveable, nutritious foods accessible to everyone across the United States and, eventually, throughout the world. Our mission is important to us because we believe an increasing number of consumers are seeking to make healthier food choices, yet face limited options when it comes to the convenience of products found in the frozen food aisle.

Since our inception, we have focused on creating H&W products for the frozen food aisle, where we believe H&W brands are underrepresented compared to other categories. We compete in multiple large subcategories within the U.S. frozen food category, including frozen entrée and breakfast, which we consider our two core, strategic growth subcategories. According to SPINS information, during the 52 weeks ended December 27, 2020, the two core subcategories in which we operate comprised 48% of the approximately \$58 billion U.S. frozen food category excluding frozen and refrigerated meat. Currently, we sell comfort foods such as our bacon wrapped stuffed chicken, chicken enchiladas, grain-free cheesy bread breakfast sandwiches, and various entrée bowls. All of our products are prepared with our proprietary ingredient systems and recipes, allowing us to provide consumers with delicious meals designed to be high in protein, low in sugar, and gluten and grain free.

Our base ingredient systems, which include (i) chicken and parmesan cheese, and (ii) plant-based proteins and fibers, are composed of simple ingredients to which our consumers are accustomed. These ingredient systems are critical to our success because they are a large part of what makes our products craveable while allowing us to capture the macronutrient ratios favored by H&W consumers. To support these ingredient systems, we source widely available high-quality ingredients from a network of suppliers with whom we have strong relationships.

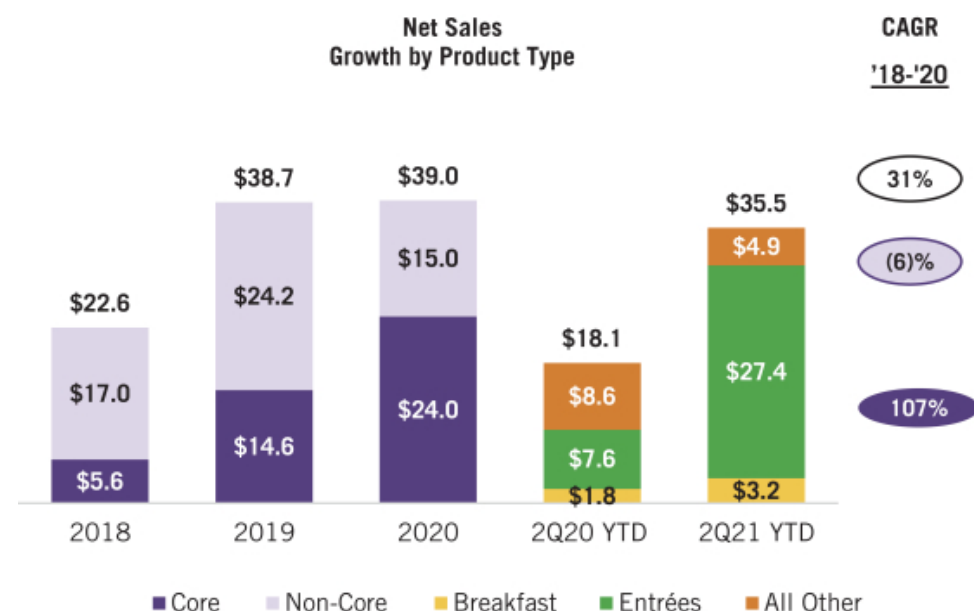
During the year ended December 31, 2020, substantially all of our products were manufactured at various facilities operated by our co-manufacturers. During the three months ended March 31, 2021, we took over operations at our U.S. Department of Agriculture-certified manufacturing facility located in City of Industry, California (our "City of Industry Facility"), which included leasing the facility, acquiring certain equipment and inventory, and hiring certain employees. The products we manufacture at our City of Industry Facility are certified by the Gluten-Free Certification Organization ("GFCO") to be labeled for sale as "gluten free." Operating our City of Industry Facility allowed us to self-manufacture more than 70% of our products during June 2021. Additionally, in October 2021, we entered into a lease for an industrial warehouse located in Bolingbrook, Illinois (our "Bolingbrook Facility") commencing January 1, 2022. This 81,406 square foot facility will be used for food manufacturing and assembly, warehousing, and distribution, which we expect will allow us to increase the percentage of our self-manufactured products. We also expect we will continue to rely on our network of experienced co-manufacturers to produce the remaining portion our products as we seek to further expand our production capacity and execute our growth strategy.

Our branded products are sold to consumers through an increasing number of locations within retail channels, primarily in natural and conventional grocery, drug, club, and mass merchandise stores. Our three largest retail customers during the year ended December 31, 2020 were Walmart, Kroger, and Costco. During the year ended

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December 31, 2019, Walmart and Kroger accounted for approximately 66% of our net sales, collectively. During the year ended December 31, 2020, Walmart, Kroger, and Costco collectively accounted for approximately 57% of our net sales. These customers individually accounted for approximately 28%, 17% and 12% of our net sales, respectively, for the year ended December 31, 2020. For the six months ended June 30, 2021, Costco, Walmart, and Kroger represented approximately 85% of our net sales, collectively, and approximately 57%, 19%, and 9%, of our net sales, respectively. Historically, we have sold substantially all of our products under our "Realgood Foods Co." brand. We also sell a limited number of private-label products to select retail customers. According to SPINS information, net sales of our frozen entrées and frozen breakfasts during the 52 week period ended June 13, 2021 had two-year CAGRs of approximately 57% and 368%, respectively.

The charts below set forth (i) our net sales from the years ended December 31, 2018 to December 31, 2020 for our two core subcategories (frozen entrée and frozen breakfast) and our non-core subcategories, and (ii) our net sales for the six months ended June 30, 2020 and June 30, 2021 for each of our core subcategories of frozen breakfast and frozen entrées and for our non-core other products, which include frozen pizza and ice cream.



Our net sales information for the year ended December 31, 2018 is unaudited and our independent registered public accounting firm has not audited, reviewed, compiled, or performed any procedures on such 2018 information.

During the six months ended June 30, 2020 and 2021, we had net sales of \$18.1 million and \$35.5 million, respectively, an increase of 96%, primarily due to strong growth in sales volumes of our core products, frozen entrées in particular, driven by expansion into the club channel, including new strategic customers, and, to a lesser extent, greater demand from our existing retail customers. In the six months ended June 30, 2021, 47% of our gross sales were from measured channels, customers that are tracked by SPINS information, and 53% of our gross sales were from unmeasured channels, customers that are excluded from SPINS information.

During the years ended December 31, 2018, 2019, and 2020, we had net sales of \$22.6 million, \$38.7 million, and \$39.0 million, respectively. While our net sales increased by 72.4% from the year ended December 31, 2018 to December 31, 2020, our core products' sales grew 327.5% during the same period. Our core products' growth was driven primarily by the success of our breakfast sandwiches and raw stuffed chicken entrées as well as an



increase in distribution points during the period. During the year ended December 31, 2019, we also experienced growth in our other products, which slowed during the year ended December 31, 2020 as our frozen pizza products had relatively weaker sales owing primarily to declines in the pizza subcategory of the H&W industry as a whole, resulting in lower overall sales for our non-core products during the year ended December 31, 2020.

We have experienced net losses in every period since our inception. As of June 30, 2021, we had an accumulated deficit of approximately \$49.6 million. In the six months ended June 30, 2020 and 2021, we incurred net losses of \$7.5 million and \$10.3 million, respectively. As of June 30, 2021, we had \$654 thousand in cash, current debt obligations of \$0.6 million, convertible debt obligations of \$35.4 million, and long-term debt obligations of \$9.8 million. Additionally, as of June 30, 2021, we had current and long-term business acquisition liabilities of \$1.5 million and \$13.7 million, respectively.

We anticipate our operating expenses and capital expenditures will increase substantially in the foreseeable future as we seek to grow our distribution footprint with our retail customers, increase the number of our customer relationships, develop additional base ingredient systems, introduce new products, expand our consumer community, hire additional employees, and invest in manufacturing capabilities.

We expect we will be able to execute our business strategy and achieve our mission by expanding our retail distribution, investing in our modern approach to grow our community, and leveraging our innovative product development capabilities to develop new base ingredient systems and expand our product offerings. We also believe the direct operation of our City of Industry Facility provides, and our Bolingbrook Facility will provide, us with the opportunity to significantly expand production capacity, increase automation, improve gross margins, and enhance quality control processes. However, we cannot assure you that we will achieve profitability in the future or that, if we do become profitable, we will sustain profitability over any particular period of time.

### **Key Factors and Trends Impacting Our Business and Industry**

We believe the growth of our business and our future success is dependent upon many factors. While the factors and trends described below present significant opportunities for us, they also pose important challenges that we must successfully address to enable us to sustain the growth of our business and improve our results of operations. These factors and trends in our business have driven fluctuations in net sales over the periods presented and are expected to be key drivers of our net sales growth for the foreseeable future.

#### ***Continued Expansion of and Penetration Within Our Retail Distribution Footprint***

We expect H&W brand growth within the frozen food category to continue to outpace that of conventional brands for the foreseeable future. According to SPINS information, during the 52 weeks ended December 27, 2020, the U.S. frozen food category excluding frozen and refrigerated meat generated retail sales of approximately \$58 billion, with a two-year compound annual growth rate ("CAGR") of approximately 11%. Within this category, H&W brands generated approximately \$9 billion in retail sales during the same period, with a two-year CAGR of approximately 15%. These H&W brands represented approximately 16% of frozen food category sales excluding frozen and refrigerated meat during the same period, or 16% "penetration," which is less than the 23% penetration of H&W brands within the grocery category, including all retail food and beverage sales, and the 30% penetration of H&W brands within the refrigerated food category during the 52 weeks ended December 27, 2020. We expect H&W brand penetration to continue to increase in the frozen food category as consumers increasingly seek to make healthier food choices. While we believe that CAGR and penetration are useful measures to determine brand performance within our industry, they should not be read as a future guarantee of our performance in future periods.

One of our goals is to become a leading H&W brand. In order to do so, we intend to leverage our strong relationships with prominent retail customers and to develop relationships with new customers and consumers. By focusing on developing innovative products and building brand equity, we believe we can achieve or exceed retail penetration levels similar to those of other leading H&W brands in the frozen food category. During the 12 weeks ended June 13, 2021, our branded products had an average of approximately 170 thousand "total distribution points" across the United States, in addition to Washington, DC and the Commonwealth of Puerto Rico. The term "total distribution points" is calculated as the sum of the number of stores selling each branded stock keeping unit ("SKU"). For perspective, leading H&W brands within the frozen food category achieved total distribution points in excess of 930 thousand during the same period.

We have experienced success increasing our distribution footprint and believe there is further opportunity for organic growth. For example, our total distribution points increased from an average of approximately 128 thousand during the 12 weeks ended June 16, 2019 to an average of approximately 170 thousand during the four weeks ended June 13, 2021, representing a two-year CAGR of approximately 16%. According to SPINS information, during the 24 weeks ended June 13, 2021, we had 92 thousand total distribution points in frozen entrees, representing a two-year CAGR of approximately 58%, and 25 thousand total distribution points in frozen breakfast, representing a two-year CAGR of approximately 92%. We believe we have been able to meaningfully increase our distribution in part because we represent an opportunity for retailers to drive traffic into their stores, grow their frozen food category, and drive their omni-channel growth efforts. Retailers tend to favor brands that bring new consumers to categories and, as such, we believe the incremental sales growth opportunity provided by our products has helped us grow our distribution and strengthen our relationships with retail customers. As an example, according to the 2021 Brand Switching Analysis, 90% of our sales gains in single-serve frozen breakfast entrée, 82% of our sales gains in single-serve frozen prepared poultry (with regards to our frozen chicken entrées), and 46% of our sales gains in single-serve frozen entrée bowls were a result of new consumers to these subcategories, or were “incremental” sales, for the 52 weeks ended February 7, 2021. We believe there is a significant opportunity for additional growth of our total distribution points within our established retail channels, including natural and conventional grocery, drug, club, and mass merchandise stores, by increasing our distribution footprint with our retail customers, increasing the number of our retail customer relationships, introducing new products, and expanding our consumer community.

Growing total distribution points is also a function of expanding our product offerings, and we have demonstrated our ability to achieve a strong presence in multiple subcategories within the frozen food category. However, there is significant white space to expand distribution of our products. During the four weeks ended June 13, 2021, our branded products had an average SKU-level all-commodity volume (“ACV”) of 20%. The term “ACV” refers to the measurement of a product’s distribution, weighted by the overall retail sales dollars attributable to the retail location distributing such product, where a retail location determined to have sold a product if at least one unit of the product was scanned for sale within the relevant time period. We believe we have the opportunity to significantly increase our ACV by executing on our growth strategy.

#### ***Expansion of Our Innovative Product Offerings***

We are uncompromising on taste in our approach to product development, which we believe helps consumers meet their preferences for increasing protein intake while reducing carbohydrate, sugar, grain, and gluten intake. Our entrées, breakfast sandwiches, and other products are craveable while maintaining macronutrient ratios we believe are difficult to find within the frozen food category, even among other H&W brands.

Our primary strategic focus is growing our net sales in frozen entrée and breakfast, our core subcategories within the frozen food category, while maintaining a strong presence in multiple other subcategories of frozen food. We believe these subcategories offer significant opportunity to increase our penetration as an H&W brand. However, we see additional opportunities as an H&W brand in other frozen subcategories, in addition to other categories. Based on consumer feedback, we believe our brand has permission to extend into multiple adjacent food categories within and outside of frozen foods. We plan to invest in research and development to develop innovative and competitive products for those categories.

We also intend to expand our product portfolio by developing new base ingredient systems, creating new and innovative recipes, and improving our packaging, while maintaining a focus on macronutrient-balanced foods that have broad consumer appeal and are competitive among other H&W brands. We believe the commercialization of these products will require us to hire additional employees within our product design and commercialization team, thereby increasing our marketing expense, as well as research and development costs within our administrative expense. We anticipate our marketing expense and research and development costs will increase in absolute dollars and as a percentage of net sales in the short term.

#### ***Consumer Trends***

We compete within the \$170 billion U.S. H&W industry, as measured by SPINS during the 52 weeks ended June 13, 2021. SPINS defines the H&W industry to include natural, specialty, and wellness products. We see significant opportunity within this industry, which had a CAGR of 10.7% during the two years ended December 27, 2020, and where favorable consumer trends, such as a greater focus on healthy lifestyle and macronutrient content and increased consumption of meals at home, have led to growth of H&W brands within retail across multiple categories.

We believe an increasing number of consumers are seeking to make healthier food choices yet face limited options when it comes to the convenience of products found in the frozen food aisle. These consumers include the U.S. population seeking to reduce sugar in their diets, the U.S. population seeking to reduce their carbohydrate intake, the 42% of the adult U.S. population suffering from obesity, the 34.5% of the U.S. adult population with prediabetes, and the 13% of the adult U.S. population suffering from the health effects of diabetes. We believe the needs of these consumers are currently underserved, particularly by products in the frozen food aisle. While we believe our products are designed to provide alternatives for these consumers, we also believe our products have broad appeal due to our uncompromising approach to developing products suited to a wide base of consumer tastes and dietary preferences.

We believe preference for H&W brands, and specifically food products that are designed to be high protein with limited sugar, grain, and gluten, has not reached its peak. We believe our ability to attract the robust and growing consumer base seeking the macronutrient and nutritional content of our products will allow us to add distribution points with our retail customers and increase our net sales, which we believe will help us scale and increase our gross margin from sales of our products.

#### ***Growth of Our Team***

As of June 30, 2021, we had approximately 260 full-time personnel, of whom approximately 200 were contract personnel working at our City of Industry Facility. Our remaining personnel work across various functional areas within our business, including manufacturing, sales, marketing, and administration.

We have significantly expanded our manufacturing, marketing, and accounting functions, as well as our executive team, to support our rapid growth, particularly since September 2020. Growing our manufacturing function has accounted for a majority of the increase in employee headcount over that period as we scale our self-manufacturing capacity at our City of Industry Facility, and we anticipate that commencing operations at our Bolingbrook Facility will continue to accelerate this growth. Additionally, we have increased our sales and marketing headcount to support the growth of our business and have increased our accounting headcount in preparation for being a public reporting company.

We intend to further increase our manufacturing headcount over time as we experience net sales growth; however, in light of our expected investments in automation and production efficiency at our City of Industry Facility, we expect our manufacturing headcount related expenses to increase at a lower rate than net sales. We also expect to increase our headcount across various other functional areas as we expand our business operations, which could substantially increase our selling and distribution expense, marketing expense, and administrative expense. The anticipated increase in the size of our workforce may also require us to expand our current facilities or obtain new facilities, which will in turn necessitate additional capital expenditures and further increase our operational expense. However, while we expect to grow our headcount over time, we may experience challenges hiring and retaining a sufficient number of employees.

#### ***Ability to Leverage and Grow Our Digital Community***

We believe our modern approach to engaging with our vast consumer community has been a key component of our success and driven the growth of our brand and distribution footprint. Further, we have leveraged our consumer community through RGF Labs, which is a targeted and diverse invitation-only subset of our consumers, as well as our e-commerce platform, to solicit feedback, which enables us to market our products with added confidence of their retail success. We continue to focus on our modern approach to marketing, targeting consumers within the health-conscious community and promoting products that are desirable based on current consumer preferences and diet and lifestyle choices. In future periods, we expect to significantly expand our marketing efforts to achieve greater brand awareness, increase consumer acquisition and retention rates, and increase market penetration, which we believe will collectively drive increases to net sales. We believe our marketing expense will increase both in absolute dollars and as a percentage of net sales as we continue to grow our social media following and enhance our digital marketing strategy.

#### ***Self-Manufacture of Our Products***

During the three months ended March 31, 2021, we took over operations at our City of Industry Facility, which included leasing the facility, acquiring certain equipment and inventory, and hiring certain employees. Our City of Industry Facility contains four flexible production lines that are U.S. Food and Drug Administration ("FDA") and U.S.

Department of Agriculture ("USDA") registered. In addition, the products we manufacture at our City of Industry Facility are certified by GFCO to be labeled for sale as "gluten free" (to 10ppm gluten or less), in accordance with the standards set by the GFCO, when bearing the GFCO-certification mark. For additional information regarding our acquisition of the City of Industry Facility, refer to our audited statement of assets acquired and liabilities assumed included elsewhere in this prospectus.

In addition, in October 2021, we entered into a lease to commence operations at our Bolingbrook Facility on January 1, 2022, which we expect will enable us to further scale our operations and self-manufacture a greater portion of our products.

By streamlining operations throughout our City of Industry Facility and entering into the lease for the Bolingbrook Facility, we believe we can continue to deliver quality products while improving our financial performance. Our City of Industry Facility, for instance, enabled us to self-manufacture more than 70% of our products during June 2021, thereby significantly reducing our reliance on co-manufacturers; substantially all of our products were prepared by our co-manufacturers during the same period in 2020. Further, our City of Industry Facility provides us with the opportunity to continue to expand our self-manufacturing capacity while improving production efficiencies. For example, we plan to implement our growth strategy by investing in new production lines, implementing new manufacturing automation technology designed to significantly increase productivity while reducing direct labor costs through the automation of certain manual labor tasks, and adopting a continuous improvement cost savings program that focuses on process improvements throughout our supply chain and manufacturing operations to mitigate costs. We are also in the process of implementing a new enterprise resource planning ("ERP") system that will be used to manage our business, streamline operations, and provide additional opportunities to enhance operations at our facility, including through process automation.

We plan to continue to increase the percentage of our self-manufactured products, which will require additional investment in facilities, capital expenditures, and human capital expenditures. We believe these investments will not only allow us to expand our distribution footprint and product offerings, but also allow us to increase our gross profit margin. Our capital expenditure investments are likely to increase significantly as we increase and optimize our self-manufacturing capabilities. We also expect to incur additional costs in connection with implementing the ERP system. Further, our self-manufacturing workforce is largely variable and will grow as we scale our business and increase net sales, but we anticipate that human capital expenditures will be mitigated as we continue to invest in technology and automation to reduce manual labor tasks and improve efficiency. We expect our cost of goods sold will increase in absolute dollars but decrease as a percentage of net sales as we improve our product mix, increase our manufacturing output, and leverage plant overhead costs, thereby reducing per-unit costs.

#### **E-Commerce Business**

Although our e-commerce sales significantly over-index relative to our frozen food peers, we believe there is potential to increase our net sales through e-commerce. We sell a limited percentage of our products to consumers through "click-and-collect" e-commerce transactions, where consumers pick up their product at a retailer following an online sale, and traditional direct-to-consumer "deliver-to-me" e-commerce transactions through our own website and third-party websites. We manage our e-commerce business through various third-party websites and platforms in addition to our own, which have remained operational and experienced increased consumer traffic throughout the duration of the COVID-19 pandemic in 2020 in comparison to the year ended December 31, 2019.

We believe the key factors impacting the growth rate of our e-commerce business will include consumer demand for our products, shifting purchasing habits of consumers with respect to in-person retail sales channels, our ability to innovate to create new products and timely manufacture products at the quantities necessary, and the scope and duration of the COVID-19 pandemic. We believe there is significant opportunity to drive growth through our e-commerce channels by partnering with our retail customers to leverage their digital and physical infrastructure. As a result of changes in consumer purchasing behavior, as well as a shift in how consumers engage with brands, we intend to bolster our e-commerce capabilities, understanding that we may experience less e-commerce demand in the foreseeable future as a result of consumer purchasing habits preferring in-person shopping.

As our brand continues to amplify its audience with consumers, it has been critical to continue our development of our brand's e-commerce engine and expansion of our digital marketing presence. Our e-commerce platform has

continued to evolve as part of our digital marketing strategy and has become a strategic driver of our product development process through the launch of new products. We expect our marketing expense will increase in absolute dollars and increase as a percentage of net sales as we make additional investment in developing our e-commerce capabilities. We anticipate our e-commerce business will continue to be a driver of long-term growth, although the growth rate is unpredictable and may not be in line with our historical experience, particularly given the unusual market and consumer dynamics presented during the COVID-19 pandemic.

#### **Indebtedness**

Since our inception, we have financed our liquidity needs in part from borrowings made under various credit agreements and other forms of indebtedness, and continue to be subject to certain financial restrictions, operating covenants, and debt service requirements set forth in these agreements. During the six months ended June 30, 2021, we took certain actions designed to enhance our liquidity and improve our financial condition, including adopting cost-reduction measures, extending the maturity date of certain indebtedness, acquiring additional borrowing capacity, and issuing the convertible promissory notes with an aggregate principal amount of \$35.0 million pursuant to a note purchase agreement with various investors. We believe that these actions, together with the net proceeds from the offering contemplated by this prospectus, will generate sufficient liquidity to fund our working capital requirements, pursue our business plan, and continue scaling our production capabilities and digital marketing strategy, which will help us effectively execute our growth strategy. However, there can be no assurance that we will be able to satisfy our debt payment obligations, including by generating sufficient cash flows from our operations or otherwise to satisfy our debt service, and it is possible that we may be required to divert funds identified for other purposes to satisfy such payment obligations, which could negatively impact our business and results of operations.

#### **Impacts of the COVID-19 Pandemic on Our Business**

Throughout the year ended December 31, 2020 and continuing through June 30, 2021, the COVID-19 pandemic spread globally, causing government intervention and changes in consumer behavior and resulting in business interruptions and closures, as well as travel bans and stay-at-home orders. These effects of the COVID-19 pandemic impacted the regions in which we operate our business and in which our suppliers, co-manufacturers, retail customers, and consumers are located. The overall impact of the COVID-19 pandemic continues to be highly uncertain and subject to change. Although certain governmental restrictions imposed as a result of the COVID-19 pandemic have begun to be lifted, given the global economic slowdown, the disruption of global supply chains and distribution systems, and other risks and uncertainties associated with the COVID-19 pandemic, our business, financial condition, results of operations, and growth prospects have been, and could continue to be, materially adversely affected.

In connection with the ongoing impacts of the COVID-19 pandemic, many of our retail customers canceled or postponed shelf-resets in 2020, which significantly impacted our net sales in the six months ended June 30, 2020. Further, one of our key co-manufacturers experienced financial hardship as a result of the impacts of the COVID-19 pandemic, which resulted in our inability to meet demand for certain of our products during the year ended December 31, 2020, and negatively impacted our financial condition and results of operations. Additionally, during the six months ended June 30, 2021, we experienced high levels of absenteeism and turnover at our City of Industry Facility that we believe is a result of the COVID-19 pandemic, which caused significant production inefficiencies and an increase in our labor costs.

While we believe the impacts of the COVID-19 pandemic significantly negatively impacted our net sales and results of operations during the year ended December 31, 2020 and through June 30, 2021, we believe the actions we have taken to respond to the COVID-19 pandemic, combined with our strong brand and diversified product portfolio, position us to emerge from the pandemic poised for long-term growth. For additional information, refer to the risk factor captioned *"Pandemics, epidemics or disease outbreaks, such as COVID-19, may disrupt our business, including, among other things, consumption and trade patterns, supply chain, and production processes, each of which could materially and adversely affect our business, financial condition and results of operations"* in the section entitled *"Risk Factors,"* and Note 1 to our audited financial statements located elsewhere in this prospectus.

#### **Supply Chain Disruptions**

We, our suppliers, and our co-manufacturers modified operations during the year ended December 31, 2020 and through the six months ended June 30, 2021 in response to the COVID-19 pandemic. Our suppliers and

co-manufacturers operated at reduced hours and implemented social-distancing measures, which limited the number of personnel that could be working in their facilities at any given time. We also adopted and implemented social-distancing and safety practices at our City of Industry Facility. The measures we have all taken have resulted, and may continue to result, in increases to our short- and long-term cost of goods sold. If we or our business partners need to further modify operations in response to the COVID-19 pandemic, we expect our business, financial condition, and results of operations would be materially adversely affected.

During the year ended December 31, 2020, the original sublessor of our City of Industry Facility, one of our largest co-manufacturers during the period, experienced financial hardship such that it was not able to secure trade credit or working capital from its suppliers or lenders. As a result of these challenges, this co-manufacturer shut down its facility and was unable to fill our orders, which negatively impacted our ability to produce enough products to meet demand and resulted in lower net sales during the year ended December 31, 2020. We do not believe that any of our other co-manufacturers or suppliers closed their facilities or materially limited their operations in response to the impacts of the COVID-19 pandemic. However, our co-manufacturers and suppliers may in the future experience closures, operating limitations, or financial difficulties as a result of the ongoing impacts of the COVID-19 pandemic. For additional information on our manufacturing and facilities, refer to the section entitled “*Business—Facilities*.”

In addition, we, along with our co-manufacturers and suppliers, have experienced, and continue to experience, labor shortages since March 2020, which we believe is a result of indirect impacts of the COVID-19 pandemic. The ability of our business partners to attract and retain employees may continue to result in disruptions to our supply chain and impact our net sales, cost of goods sold, and gross margin.

#### ***Shelf Reset Disruptions***

During the year ended December 31, 2020, the impacts of the COVID-19 pandemic resulted in many of our retail customers canceling or postponing repurchase orders, or “shelf resets,” to restock our products in their stores, which had a significant negative impact on our net sales. Many of these customers resumed regular shelf reset activity beginning in the three months ended June 30, 2021. We expect the resumption of shelf reset activity with our retail customers to result in an acceleration in our total distribution point growth in the second half of 2021.

#### ***Employee Health and Safety***

The health and safety of our employees is our highest priority. Throughout the COVID-19 pandemic, we have remained operational as an “essential business” while focusing on safeguarding the well-being of our employees. In an effort to protect the health and safety of our employees, we have limited the number of employees on-site relative to our typical personnel capacity, adopted remote work and flexible scheduling policies, and implemented enhanced safety measures and protocols at our facilities in accordance with U.S. Department of Health and Human Services Centers for Disease Control and Prevention guidelines. Further, we have installed clear plastic barriers to separate employees and provided personal protective equipment to help ensure employee safety and limit potential exposure to COVID-19.

#### ***Operating Expense Reduction***

To mitigate the adverse impacts the COVID-19 pandemic has had, or may have, on our business and operations, we have implemented a number of temporary measures to reduce our operating expenses and preserve liquidity, including restricting employee travel, canceling or postponing events, transitioning meetings with current and prospective customers to a virtual platform, suspending hiring of non-essential employees, eliminating or deferring discretionary expenditures, seeking payment accommodations or deferrals, and reducing ingredient, packaging, and finished goods inventories. We also reduced our discretionary spending, including product promotions, marketing expense, and travel expense, lowering our marketing expense by 43% during the year ended December 31, 2020 compared to the year ended December 31, 2019. Additionally, we temporarily reduced our overall headcount across all departments, including marketing, accounting, and operations, by ten employees, or 40%, from March 2020 to August 2020. From August 2020 through June 2021, we increased our headcount by 45 employees.

Although such measures were implemented on a temporary basis, management continues to evaluate whether certain of these policies would be appropriate to extend. While these measures enabled us to preserve liquidity, we believe these temporary changes in operations had a negative impact on our ability to grow our net sales during the year ended December 31, 2020.



### **Paycheck Protection Program Loan**

In May 2020, we received loan proceeds in the amount of \$309 thousand under the Paycheck Protection Program ("PPP") from Carter Federal Credit Union (the "PPP Loan"), which we used for permitted general and corporate purposes. As of December 31, 2020, the outstanding balance on the PPP Loan was \$309 thousand. In August 2021, we were notified that forgiveness of the PPP Loan had been approved. For additional information, refer to the section entitled "*Liquidity*."

## **Components of Our Results of Operations**

### **Net Sales**

Our net sales are primarily derived from the sale of our products directly to our retail customers. Our products are sold to consumers through an increasing number of locations in retail channels, primarily in natural and conventional grocery, drug, club and mass merchandise stores. We sell a limited percentage of our products to consumers through "click-and-collect" e-commerce transactions, where consumers pick up their product at a retailer following an online sale, and traditional direct-to-consumer "deliver-to-me" e-commerce transactions through our own website and third-party websites.

Historically, we have sold substantially all of our products under our "Realgood Foods Co." brand. We also sell a limited number of private label products to select retail customers.

We expect our net sales growth will be driven by a number of factors, including the following:

- increased penetration as an H&W brand within our existing retail channels, as well as expansion into other distribution channels;
- the impact of our marketing efforts as we continue to expand our consumer community, build our brand, and drive consumer adoption of our products, including through e-commerce channels;
- continued product innovation through our modern approach to our product development, including enhancing existing products and introducing new products in the frozen food category and adjacent categories that appeal to a broad range of consumers;
- sustained market share gain by H&W brands generally in the large and growing U.S. frozen food industry;
- consumer trends, including a greater focus on H&W, increased consumption of meals at home, and a preference for convenient H&W products; and
- our ability to increase manufacturing capacity to meet demand, including hiring a sufficient number of qualified manufacturing personnel and investing in technology to automate certain manual labor tasks.

We record net sales as gross sales net of discounts, allowances, coupons, slotting fees, and trade advertising that we offer our customers. Such amounts are estimated and recorded as a reduction in total gross sales in order to arrive at reported net sales. Our net sales are periodically influenced by the introduction and discontinuance of sales and promotion incentives. We anticipate that promotional activities will continue to impact our net sales, which will continue to impact period-over-period results.

Our three largest retail customers during the year ended December 31, 2020 were Walmart, Kroger, and Costco. During the year ended December 31, 2019, Walmart and Kroger accounted for approximately 66% of our net sales, collectively, and during the year ended December 31, 2020, Walmart, Kroger, and Costco collectively accounted for approximately 57% of our net sales. These customers individually accounted for approximately 28%, 17% and 12% of our net sales, respectively, for the year ended December 31, 2020. For the six months ended June 30, 2021, Costco, Walmart, and Kroger represented approximately 85% of our net sales, collectively, and approximately 57%, 19%, and 9%, of our net sales, respectively.

We believe our relationships with these prominent retailers have helped us increase consumer awareness of our brand and thereby enabled incremental sales within our category to new and existing customers. In addition, we do not have purchase commitments from or minimum volume requirements with any of our customers. The loss of any significant customer, or the reduction of purchasing levels from any such customer, may cause our net sales to fluctuate significantly from period to period. Our customer concentration also potentially exposes us to product



concentration risk, as our significant customers may choose to only purchase and provide shelf space for a limited number of our products. For example, we have experienced some concentration of sales of our bacon wrapped stuffed chicken and enchiladas through one of our significant retail customers.

Our primary strategic focus is growing our net sales in the frozen entrée and breakfast subcategories within the frozen food category, while maintaining a strong presence in multiple other subcategories of frozen food. We do not charge the same price for the various products we offer across these subcategories and may introduce new products with price points that differ from our current products. We also sell our products in varying package sizes and through multiple retail channels. We do not charge the same price for our products on a per-ounce basis across package sizes, nor do we charge the same price for the same product across our distribution channels. Accordingly, the amount of net sales we recognize will vary from period to period depending on a number of factors, including the mix of products sold and the package sizes of such products, as well as the distribution channels through which the sales are made.

#### **Gross Profit**

Gross profit consists of our net sales less cost of goods sold. Our cost of goods sold primarily consists of the cost of ingredients for our products, direct and indirect labor cost, co-manufacturing fees, plant and equipment cost, other manufacturing overhead expense, and depreciation and amortization expense, as well as the cost of packaging our products.

Our gross profit margin is impacted by a number of factors, including changes in the cost of ingredients, cost and availability of labor, and factors impacting our ability to efficiently manufacture our products, including through investments in production capacity and automation.

We purchase large quantities of ingredients to manufacture our products, including food commodities such as poultry, pork, and dairy products. The price of these commodities is volatile and can change significantly based on a number of factors beyond our control, including consumer demand, harvesting decisions, incidence of disease, adverse weather conditions, natural disasters, and public sentiment. During the year ended December 31, 2020, the average prices for poultry and pork belly (along with certain other ingredients we use in our products) were below their respective five-year averages during the year ended December 31, 2020, and we realized some benefits from these lower prices in the form of decreased cost of goods sold and resulting higher gross profit margin. During the six months ended June 30, 2021, the average prices for these ingredients were above their respective five-year averages and we realized some adverse impacts from these higher prices in the form of increased cost of goods sold and resulting lower gross profit margin. We intend to attempt to mitigate any adverse movement in ingredient costs through a combination of cost management and product price increases. However, if our mitigation strategies do not eliminate increased costs, we may not be able to implement price increases for our products to cover some or all of the increased costs, and any price increases we do implement may result in lower sales volumes. In addition, if our input costs decline, we may be asked to pass along these reduced costs to our customers in the form of lower prices for our products. These potential increases in ingredient costs may adversely impact our gross profit.

Competition for qualified employees (including contract employees) is intense within our industry and the geographic regions in which we operate, and we have experienced challenges hiring and retaining employees. In addition, we have experienced upward pressure on wages, which we believe is due to competition for limited resources, increased mobility of the workforce, and government assistance relating to the COVID-19 pandemic. During the six months ended June 30, 2021, we experienced high levels of absenteeism and turnover in our City of Industry Facility that we believe is a result of the COVID-19 pandemic, which caused significant production inefficiencies and an increase in our labor costs. Any factors that cause fluctuations in our labor costs could have a material impact on our cost of goods sold. In addition, labor shortages may impact our production capacity, which may have a negative impact on our gross profit.

During the year ended December 31, 2020, substantially all of our products were manufactured at various facilities operated by our co-manufacturers. However, we were able to self-manufacture more than 70% of our products at our City of Industry Facility during June 2021 and expect this percentage to increase over time. We believe our direct operation of our City of Industry Facility provides us with the opportunity to significantly expand manufacturing capacity by investing in additional production lines, hiring new employees and investing in automation. As our

production capacity increases to meet demand for our products, we expect our gross profit margin to increase. However, there may be fluctuations in our gross profit margin from period to period as a result of a number of factors, including the timing of employee hiring decisions, the amount and timing of investments in manufacturing equipment, and the timing of product sales relative to investments in production capacity.

### **Operating Expenses**

#### *Selling and Distribution Expense*

Our products are shipped from our and our co-manufacturers' facilities directly to customers' or to third-party logistics providers by truck and rail. Distribution expense includes third-party freight and warehousing costs, as well as salaries and wages, bonuses, and incentives for our distribution personnel. We expect our distribution expense in future periods to increase in absolute dollars, but to decrease as a percentage of net sales due to expected added operating efficiencies.

Our products are primarily sold through a network of food brokers and our own direct sales force. Selling expense includes salaries and wages, commissions, bonuses, and incentives for our sales personnel, broker fees, and sales-related travel and entertainment expenses. We expect our selling expense in future periods to increase in absolute dollars as we invest to support our growth.

#### *Marketing Expense*

Marketing expense includes salaries and wages for marketing personnel, website costs, advertising costs, costs associated with consumer promotions, influencer and promotional agreements, product samples and sales ads incurred to acquire new customers and consumers, retain existing customers and consumers, and build our brand awareness. Our marketing programs also include selective event sponsorships designed to increase brand awareness, and provide opportunities to sample branded products to consumers. Included in marketing expense are costs and fees relating to the execution of in-store product demonstrations, as well as costs associated with product promotions and coupons.

We expect to significantly expand our marketing efforts to achieve greater brand awareness, attract new customers and consumers, and increase market penetration. Our marketing expense has decreased as a percentage of our net sales in recent periods, due in part to the impacts of the COVID-19 pandemic, but we expect our marketing expense in future periods will increase, as measured in both absolute dollars and as a percentage of net sales, as we invest to support new product releases to drive greater brand awareness, and attract new retail customers and consumers to our products.

#### *Administrative Expense*

Administrative expense includes salaries, wages, and bonuses for our management and general administrative personnel, research and development costs, depreciation of non-manufacturing property and equipment, professional fees to service providers including accounting and legal, costs associated with the implementation and utilization of our new ERP system, insurance, and other operating expenses.

We continue to increase headcount, particularly in our management and finance departments, to support our continued growth and prepare us to be a public reporting company. We expect our administrative expenses to increase in absolute dollars as we incur increased costs related to the growth of our business and our operation as a public company with increased personnel cost in accounting, internet technology, and compliance-related teams. Further, our administrative expense is expected to increase with additions to our research and development team as we further develop our product portfolio.

### **Segment Overview**

Our chief operating decision maker, who is our Chief Executive Officer, reviews financial information on an aggregate basis for purposes of allocating resources and evaluating financial performance, as well as for strategic operational decisions and managing the organization. For the years ended December 31, 2019 and 2020 and six months ended June 30, 2020 and 2021, we have determined that we have one operating segment and one reportable segment.

## Results of Operations

The following table summarizes our statements of operations for the respective periods (in thousands):

	YEAR ENDED DECEMBER 31,		THREE MONTHS ENDED JUNE 30,		SIX MONTHS ENDED JUNE 30,	
	2019	2020	2020	2021	2020	2021
<b>Net sales</b>	<b>\$ 38,743</b>	<b>\$ 38,984</b>	<b>\$ 8,679</b>	<b>\$ 18,685</b>	<b>\$18,054</b>	<b>\$ 35,463</b>
Cost of goods sold	32,919	36,306	8,047	16,023	16,439	28,788
<b>Gross profit</b>	<b>5,824</b>	<b>2,678</b>	<b>632</b>	<b>2,662</b>	<b>1,615</b>	<b>6,675</b>
Operating expenses:						
Selling and distribution	8,025	7,593	1,796	3,049	3,949	5,968
Marketing	4,145	2,351	807	755	1,580	1,387
Administrative	2,409	2,592	432	2,982	1,073	5,802
<b>Total operating expenses</b>	<b>14,579</b>	<b>12,536</b>	<b>2,403</b>	<b>6,786</b>	<b>6,602</b>	<b>13,157</b>
<b>Loss from operations</b>	<b>(8,755)</b>	<b>(9,858)</b>	<b>(1,770)</b>	<b>(4,124)</b>	<b>(4,987)</b>	<b>(6,482)</b>
Interest expense	5,382	5,682	1,474	1,440	2,482	3,483
Other expense	51	—	—	370	—	370
<b>Loss before income taxes</b>	<b>(14,188)</b>	<b>(15,540)</b>	<b>(3,876)</b>	<b>(5,934)</b>	<b>(7,469)</b>	<b>(10,335)</b>
Income tax expense	—	(22)	(13)	—	(13)	—
<b>Net loss</b>	<b>\$(14,188)</b>	<b>\$(15,562)</b>	<b>\$ (3,889)</b>	<b>\$ (5,934)</b>	<b>\$ (7,482)</b>	<b>\$(10,335)</b>

### Comparison of the Three and Six Months Ended June 30, 2020 and June 30, 2021

#### Net Sales

The following table sets forth our net sales for the periods indicated (dollar amounts in thousands):

	THREE MONTHS ENDED JUNE 30,		\$ CHANGE	% CHANGE	SIX MONTHS ENDED JUNE 30,		\$ CHANGE	% CHANGE
	2020	2021			2020	2021		
Net Sales	\$ 8,679	\$ 18,685	\$ 10,006	115%	\$18,054	\$35,463	\$ 17,409	96%

Net sales increased by \$10.0 million, or 115%, and \$17.4 million, or 96%, in the three and six months ended June 30, 2021, respectively, as compared to the prior year periods, primarily due to strong growth in sales volumes of our core products, driven by expansion into the club channel, as well as the addition of new strategic customers, and, to a lesser extent, greater demand from our existing retail customers and the resumption of shelf resets within the same period, which we believe were paused during the year ended December 31, 2020 as a result of the COVID-19 pandemic.

#### Cost of Goods Sold

The following table sets forth our cost of goods sold for the periods indicated (dollar amounts in thousands):

	THREE MONTHS ENDED JUNE 30,		\$ CHANGE	% CHANGE	SIX MONTHS ENDED JUNE 30,		\$ CHANGE	% CHANGE
	2020	2021			2020	2021		
Cost of goods sold	\$ 8,047	\$ 16,023	\$ 7,976	99%	\$16,439	\$28,788	\$ 12,349	75%
Percentage of net sales	93%	86%			91%	81%		

Cost of goods sold increased by \$8.0 million, or 99%, and \$12.3 million, or 75%, respectively, in the three and six months ended June 30, 2021 as compared to the prior year periods, primarily due to the increase in the sales

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volume of our products, and an increase in labor costs of \$0.5 million due to high levels of absenteeism and turnover in our City of Industry Facility during the six months ended June 30, 2021, which we believe was a result of the COVID-19 pandemic, and an increase in raw material costs, partially offset by the increase in the amount of products sold that were self-manufactured. Self-manufactured products, which have lower cost of goods sold than co-manufactured products, represented greater than 70% of our sales in the three and six months ended June 30, 2021 compared to substantially all of our products being co-manufactured in the prior year periods.

### *Gross Profit and Gross Margin*

The following table sets forth our gross profit and gross margin for the periods indicated (dollar amounts in thousands):

	THREE MONTHS ENDED JUNE 30,		\$ CHANGE	% CHANGE	SIX MONTHS ENDED JUNE 30,		\$ CHANGE	% CHANGE
	2020	2021			2020	2021		
Gross profit	\$ 632	\$ 2,662	\$ 2,030	321%	\$ 1,615	\$ 6,675	\$ 5,060	313%
Gross margin	7.3%	14.3%			8.9%	18.8%		

Gross profit increased \$2.0 million, or 321%, and \$5.1 million, or 313%, in the three and six months ended June 30, 2021 as compared to the prior year periods. The improvement in gross profit was primarily due to a significant increase in of our self-manufactured products as a percentage of net sales, because self-manufactured products have a higher profit margin than co-manufactured products. This increase in gross profit was partially offset by increased labor costs of \$0.5 million, due to high levels of absenteeism and turnover in our City of Industry Facility during the six months ended June 30, 2021, which we believe was a result of the COVID-19 pandemic and, to a lesser extent, an increase in raw material costs.

### *Operating Expenses*

#### *Selling and Distribution Expense*

The following table sets forth our selling and distribution expense for the periods indicated (dollar amounts in thousands):

	THREE MONTHS ENDED JUNE 30,		\$ CHANGE	% CHANGE	SIX MONTHS ENDED JUNE 30,		\$ CHANGE	% CHANGE
	2020	2021			2020	2021		
Selling and distribution	\$ 1,796	\$ 3,049	\$ 1,253	70%	\$ 3,949	\$ 5,968	\$ 2,019	51%
Percentage of net sales	21%	16%			22%	17%		

Selling and distribution expense increased \$1.3 million, or 70%, and \$2.0 million, or 51%, in the three and six months ended June 30, 2021, respectively, as compared to the prior year periods. Selling and distribution expense increased primarily due to an increase in sales and, to a lesser extent, an increase in industry freight rates.

#### *Marketing Expense*

The following table sets forth our marketing expense for the periods indicated (dollar amounts in thousands):

	THREE MONTHS ENDED JUNE 30,		\$ CHANGE	% CHANGE	SIX MONTHS ENDED JUNE 30,		\$ CHANGE	% CHANGE
	2020	2021			2020	2021		
Marketing	\$ 807	\$ 755	(\$ 52)	(6)%	\$ 1,580	\$ 1,387	(\$ 193)	(12)%
Percentage of net sales	9%	4%			9%	4%		

Marketing expense decreased \$52 thousand, or 6%, and \$193 thousand, or 12%, in the three and six months ended June 30, 2021, respectively, as compared to the prior year periods. Marketing expense decreased primarily due to lower levels of digital advertising, driven by the timing of our advertising plan, which is weighted more towards the second half of 2021.

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### Administrative Expense

The following table sets forth our administrative expense for the periods indicated (dollar amounts in thousands):

	THREE MONTHS ENDED JUNE 30,		\$ CHANGE	% CHANGE	SIX MONTHS ENDED JUNE 30,		\$ CHANGE	% CHANGE
	2020	2021			2020	2021		
Administrative	\$ 432	\$ 2,982	\$ 2,550	590%	\$ 1,073	\$ 5,802	\$ 4,729	441%
Percentage of net sales	5%	16%			6%	16%		

Administrative expense increased \$2.6 million, or 590%, and \$4.7 million, or 441%, in the three and six months ended June 30, 2021, respectively, as compared to the prior year periods. The \$4.7 million increase in the six months ended June 30, 2021 was primarily driven by \$2.5 million in higher transaction-related expenses and \$1.5 million in higher research and development costs resulting from higher levels of commercialization activity to support growth. The \$2.5 million increase in the three months ended June 30, 2021 was primarily driven by \$1.1 million in higher transaction-related expenses and a \$0.8 million in higher research and development costs resulting from higher levels of commercialization activity to support growth. Increased headcount to support growth and higher insurance costs also contributed to the increases in administrative expenses.

### Interest Expense

The following table sets forth our interest expense for the periods indicated (dollar amounts in thousands):

	THREE MONTHS ENDED JUNE 30,		\$ CHANGE	% CHANGE	SIX MONTHS ENDED JUNE 30,		\$ CHANGE	% CHANGE
	2020	2021			2020	2021		
Interest expense	\$ 1,474	\$ 1,440	(\$ 34)	(2)%	\$ 2,482	\$ 3,483	\$ 1,001	40%
Percentage of net sales	17%	9%			14%	10%		

Interest expense decreased \$34 thousand, or 2%, and increased \$1.0 million, or 40%, in the three and six months ended June 30, 2021, respectively, as compared to the prior year periods. The increase in interest expense in the six months ended June 30, 2021 was due to higher deferred loan and success fee costs compared to the prior year period, offset by our lower outstanding principal balance on the PMC Revolver following the issuance of the 2021 Notes. The decrease in interest expense in the three months ended June 30, 2021 was due to lower cost of borrowing as a result of our convertible note issuance in May 2021.

### Comparison of the Years Ended December 31, 2019 and December 31, 2020

#### Net Sales

The following table sets forth our net sales during the years ended December 31, 2019 and 2020, respectively (dollar amounts in thousands):

	YEAR ENDED DECEMBER 31,		\$ CHANGE	% CHANGE
	2019	2020		
Net sales	\$38,743	\$38,984	\$ 241	0.6%

Net sales increased \$0.2 million, or 0.6%, to \$39.0 million during the year ended December 31, 2020 from \$38.7 million during the year ended December 30, 2019. Our net sales growth was primarily driven by volume increases, as well as the addition of a new club channel customer in the three months ended December 31, 2020, partially offset by many of our retail customers canceling or postponing shelf resets to restock our products in their stores, which we believe was due to the impacts of the COVID-19 pandemic. In addition, during the year ended December 31, 2020, the original sublessor of our City of Industry Facility, one of our largest co-manufacturers

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during the period, experienced financial hardship such that it was not able to secure trade credit or working capital from its suppliers or lenders, which we believe was a result of the COVID-19 pandemic. This co-manufacturer shut down its facility and was unable to fill our orders. These challenges negatively impacted our ability to produce enough products to meet demand and resulted in lower net sales growth than we anticipated during the year ended December 31, 2020.

#### *Cost of Goods Sold*

The following table sets forth our cost of goods sold during the years ended December 31, 2019 and 2020, respectively (dollar amounts in thousands):

	YEAR ENDED DECEMBER 31,		\$ CHANGE	% CHANGE
	2019	2020		
Cost of goods sold	\$32,919	\$36,306	\$ 3,387	10.3%
Percentage of net sales	85.0%	93.1%		

Cost of goods sold increased \$3.4 million, or 10.3%, to \$36.3 million during the year ended December 31, 2020, compared to \$32.9 million during the year ended December 31, 2019, due primarily to our write-down of obsolete inventory following our initial establishment of an inventory reserve by new management to account for slow-moving and obsolete inventory. Prior to the year ended December 31, 2020, we did not account for this obsolete inventory. Additionally, idle capacity costs also contributed to the increase in cost of goods sold.

#### *Gross Profit and Gross Margin*

The following table sets forth our gross profit and gross margin during the years ended December 31, 2019 and 2020, respectively (dollar amounts in thousands):

	YEAR ENDED DECEMBER 31,		\$ CHANGE	% CHANGE
	2019	2020		
Gross profit	\$ 5,824	\$2,678	\$ (3,146)	(54.0)%
Gross margin	15.0%	6.9%		(54.3)%

Gross profit decreased \$3.1 million, or 54.0%, to \$2.7 million during the year ended December 31, 2020, compared to \$5.8 million during the year ended December 31, 2019, due primarily to our write-down of obsolete inventory and establishment of our inventory reserve. In addition, lower than anticipated sales growth owing primarily to canceled shelf-resets, as well as supply chain disruptions arising out of the COVID-19 pandemic, including the shut-down of one of our largest co-manufacturing partners' facilities and our resulting inability to fill our orders and produce enough products to meet demands, negatively impacted our gross margin during the year ended December 31, 2020.

#### *Operating Expenses*

##### *Selling and Distribution Expense*

The following table sets forth our selling and distribution expense during the years ended December 31, 2019 and 2020, respectively (dollar amounts in thousands):

	YEAR ENDED DECEMBER 31,		\$ CHANGE	% CHANGE
	2019	2020		
Selling and distribution	\$ 8,025	\$ 7,593	\$ (432)	(5.4)%
Percentage of net sales	20.7%	19.5%		

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Selling and distribution expense decreased \$0.4 million, or 5.4%, to \$7.6 million during the year ended December 31, 2020, compared to \$8.0 million during the year ended December 31, 2019. This change was primarily driven by lower distribution expense owing to lower industry shipping rates and customer mix changes that favorably impacted shipping costs. Selling expense was relatively stable from period to period.

Selling and distribution expense as a percentage of net sales was 19.5% during the year ended December 31, 2020, compared to 20.7% during the year ended December 31, 2019. The decrease in selling and distribution expense as a percentage of net sales was primarily a result of a decrease in distribution expense as a percentage of net sales, which was driven by our targeted efforts to lower our distribution expense. We have implemented several strategies to lower our distribution costs, including optimizing inventory levels, maximizing truckload freight, and limiting our direct-to-consumer sales efforts.

### *Marketing Expense*

The following table sets forth our marketing expense during the years ended December 31, 2019 and 2020, respectively (dollar amounts in thousands):

	YEAR ENDED DECEMBER 31,		\$ CHANGE	% CHANGE
	2019	2020		
Marketing	\$ 4,145	\$ 2,351	\$ (1,794)	(43.3)%
Percentage of net sales	10.7%	6.0%		

Marketing expense decreased \$1.8 million, or 43.3%, to \$2.4 million during the year ended December 31, 2020, compared to \$4.1 million during the year ended December 31, 2019. Marketing expense as a percentage of net sales were 6.0% during the year ended December 31, 2020, compared to 10.7% during the year ended December 31, 2019. The decrease in marketing expense as a percentage of net sales was primarily a result of lower digital advertising spending and, to a lesser extent, lower personnel related expense as a result of downsizing our marketing team in response to the COVID-19 pandemic.

### *Administrative Expense*

The following table sets forth our administrative expense during the years ended December 31, 2019 and 2020, respectively (dollar amounts in thousands):

	YEAR ENDED DECEMBER 31,		\$ CHANGE	% CHANGE
	2019	2020		
Administrative	\$2,409	\$2,592	\$ 183	7.6%
Percentage of net sales	6.2%	6.6%		

Administrative expense increased \$0.2 million, or 7.6%, to \$2.6 million during the year ended December 31, 2020, compared to \$2.4 million during the year ended December 31, 2019. The increase was primarily due to an increase in headcount as we brought in a new management team to drive growth and prepare us for this offering. Administrative expense as a percentage of net sales were 6.6% during the year ended December 31, 2020, compared to 6.2% during the year ended December 31, 2019.

### *Interest Expense*

The following table sets forth our interest expense during the years ended December 31, 2019 and 2020, respectively (dollar amounts in thousands):

	YEAR ENDED DECEMBER 31,		\$ CHANGE	% CHANGE
	2019	2020		
Interest expense	\$ 5,382	\$ 5,682	\$ 300	5.6%
Percentage of net sales	13.9%	14.6%		



Interest expense during the year ended December 31, 2020 increased \$0.3 million, or 5.6%, to \$5.7 million from \$5.4 million during the year ended December 31, 2019, primarily due to additional interest expense incurred under our loan and security agreement, as amended (the "PMC Loan Agreement") with PMC Financial Services Group, LLC ("PMC"). Interest expense during the years ended December 31, 2019 and 2020 included amortization expense related to deferred loan and success fees in the amounts of \$2.7 million and \$1.1 million, respectively.

### Quarterly Results of Operations

The following table sets forth our unaudited quarterly statements of operations data for each of the periods presented. In management's opinion, the data below have been prepared on the same basis as the audited financial statements included elsewhere in this prospectus and reflects all necessary adjustments, consisting only of normal recurring adjustments, necessary for a fair statement of this data. The results of historical periods are not necessarily indicative of the results to be expected for a full year or any future period. The following quarterly financial data should be read in conjunction with our audited financial statements and related notes included elsewhere in this prospectus.

	THREE MONTHS ENDED							
	SEP. 30, 2019	DEC. 31, 2019	MAR. 31, 2020	JUN. 30, 2020	SEP. 30, 2020	DEC. 31, 2020	MAR. 31, 2021	JUN. 30, 2021
(\$ IN THOUSANDS, EXCEPT PER SHARE DATA)								
<b>Net sales</b>	<b>\$ 11,235</b>	<b>\$ 9,186</b>	<b>\$ 9,375</b>	<b>\$ 8,679</b>	<b>\$ 9,745</b>	<b>\$ 11,185</b>	<b>\$ 16,778</b>	<b>\$ 18,685</b>
Cost of sales	9,092	8,676	8,393	8,047	9,907	9,959	12,765	16,023
<b>Gross profit</b>	<b>2,143</b>	<b>510</b>	<b>982</b>	<b>632</b>	<b>(162)</b>	<b>1,226</b>	<b>4,013</b>	<b>2,662</b>
Operating expenses:								
Selling and distribution	2,266	2,105	2,155	1,795	1,753	1,890	2,919	3,049
Marketing	1,222	750	773	807	356	415	632	755
Administrative	464	637	640	432	682	838	2,820	2,982
Total operating expenses	3,952	3,492	3,568	3,034	2,791	3,143	6,371	6,786
<b>Loss from operations</b>	<b>(1,809)</b>	<b>(2,982)</b>	<b>(2,586)</b>	<b>(2,402)</b>	<b>(2,953)</b>	<b>(1,917)</b>	<b>(2,358)</b>	<b>(4,124)</b>
Interest expense	1,519	1,687	1,007	1,474	1,263	1,938	2,043	1,440
Other expense	—	51	—	—	—	—	—	370
<b>Loss before income taxes</b>	<b>(3,328)</b>	<b>(4,720)</b>	<b>(3,593)</b>	<b>(3,876)</b>	<b>(4,216)</b>	<b>(3,855)</b>	<b>(4,401)</b>	<b>(5,934)</b>
Income tax expense	—	—	—	(13)	—	(9)	—	—
<b>Net loss</b>	<b>\$ (3,328)</b>	<b>\$ (4,720)</b>	<b>\$ (3,593)</b>	<b>\$ (3,889)</b>	<b>\$ (4,216)</b>	<b>\$ (3,864)</b>	<b>\$ (4,401)</b>	<b>\$ (5,934)</b>
Net loss per common unit (basic and diluted)	<b>\$ (55.69)</b>	<b>\$ (78.10)</b>	<b>\$ (60.06)</b>	<b>\$ (64.83)</b>	<b>\$ (70.10)</b>	<b>\$ (63.83)</b>	<b>\$ (72.23)</b>	<b>\$ (96.58)</b>
Weighted-average common units outstanding (basic and diluted)	62,097	62,097	62,097	62,097	62,097	62,670	62,957	62,957

### Quarterly Trends

Our net sales growth and gross margin trends have generally improved sequentially starting in the quarter ended December 31, 2020. For the three quarters prior to December 31, 2020, our net sales and gross margins were significantly negatively impacted by retailers cancelling shelf-resets and supply chain disruptions, which we believe were driven by the COVID-19 pandemic. Prior to the quarter ended March 31, 2020, we experienced strong growth as compared to the prior year in our net sales, which were driven by greater consumer demand for our products and expansion of distribution. We cannot assure you that these patterns of sequential growth in net sales and/or gross profit and gross margin will continue or that events similar to the COVID-19 pandemic will not occur and affect our net sales, gross profit, and gross margin. We anticipate that gross profit and gross margin may fluctuate from quarter to quarter because of variability in our production volumes and product mix.

Our operating expenses generally have increased sequentially in each quarter starting in the quarter ended December 31, 2020, primarily due to increases in headcount and related expenses to support our growth. For example, our current senior management team was established during September of 2020 and since then we have continued our investment in personnel to support our growth and our public company readiness.

## Non-GAAP Financial Measures

In addition to our results determined in accordance with generally accepted accounting principles in the United States ("GAAP"), we believe that Adjusted Gross Profit, Adjusted Gross Margin, and Adjusted EBITDA, non-GAAP financial measures, are useful performance measures and metrics for investors to evaluate current trends in our operations and compare the ongoing operating performance of our business from period to period. In addition, management uses these non-GAAP financial measures to assess our operating performance and for internal planning purposes. We also believe these measures are widely used by investors, securities analysts, and other parties in evaluating companies in our industry as measures of operational performance. However, the non-GAAP financial measures included in this prospectus have limitations and should not be considered in isolation, as substitutes for, or as superior to performance measures calculated in accordance with GAAP. Other companies may calculate these measures differently, or may not calculate them at all, which limits the usefulness of these measures as comparative measures. Because of these limitations, we consider, and you should consider, Adjusted Gross Profit, Adjusted Gross Margin, and Adjusted EBITDA with other operating and financial performance measures presented in accordance with GAAP. For additional information, including a reconciliation of these non-GAAP financial measures to the most directly comparable GAAP measures, refer to the definitions and section entitled "Prospectus Summary — Non-GAAP Financial Measures," above.

### Adjusted Gross Profit

Adjusted Gross Profit decreased \$0.8 million to \$5.0 million for the year ended December 31, 2020, compared to \$5.8 million for the year ended December 31, 2019, primarily driven by a higher percentage of our sales coming from lower margin products and supply chain disruptions that we believe were caused by the COVID-19 pandemic. Our sales were significantly lower than we had expected primarily due to the cancellation of shelf resets by our customers and supply chain disruption caused by the financial hardship of our co-manufacturers that resulted in our inability to meet demand for our products during the period.

Adjusted Gross Profit increased \$6.7 million to \$8.7 million for the six months ended June 30, 2021, compared to \$1.9 million for the six months ended June 30, 2020, primarily driven by an increase in the amount of self-manufactured products, which carry higher margins. More than 70% of our sales in the six months ended June 30, 2021 were from products that we self-manufactured compared to substantially all of our sales being co-manufactured for the six months ended June 30, 2020.

### Adjusted EBITDA

Adjusted EBITDA increased \$1.9 million to a loss of \$6.3 million for the year ended December 31, 2020, compared to a loss of \$8.2 million for the year ended December 31, 2019, primarily driven by a decrease in marketing expenses and, to a lesser extent, selling and distribution expenses and administrative expenses.

Adjusted EBITDA increased \$2.5 million to a loss of \$1.7 million for the six months ended June 30, 2021, compared to a loss of \$4.2 million for the six months ended June 30, 2020, primarily driven by an increase in sales volume and a greater proportion of self-manufactured goods, partially offset by an increase in selling and distribution expenses and administrative expenses. Our selling and distribution costs increased primarily due to higher sales volume and an increase in industry freight rates. Our administrative expenses increased as we invested in infrastructure to support our growth and to prepare for this offering.

We also incurred other non-recurring expenses of \$0.2 million during the six months ended June 30, 2021. These other non-recurring expenses have not been added back to our computation of Adjusted EBITDA.

## Liquidity and Capital Resources

We have experienced net losses in every period since our inception. As of June 30, 2021, we had an accumulated deficit of approximately \$49.6 million. In the six months ended June 30, 2020 and 2021, we incurred net losses of \$7.5 million and \$10.3 million, respectively. In the years ended December 31, 2019 and 2020, we incurred net losses of \$14.2 million and \$15.6 million, respectively. As of June 30, 2021, RGF, LLC had \$654 thousand in cash, current debt obligations of \$0.6 million, convertible debt obligations of \$35.4 million, and long-term debt obligations of \$9.8 million. Additionally, as of June 30, 2021, RGF, LLC had current and long-term business acquisition liabilities of \$1.5 million and \$13.7 million, respectively.

Since our inception, we have dedicated substantially all of our resources to the commercialization of our products, the development of our brand and social media presence, and the growth of our operational infrastructure. Historically, we have financed our operations primarily through issuances of equity and debt securities and borrowings under our credit agreements and, to a lesser extent, through sales of our products.

We anticipate our operating expenses and capital expenditures will increase substantially in the foreseeable future as we seek to attract new customers and consumers to our brand, develop and commercialize new products, expand shelf space for our products, invest in our distribution and manufacturing facilities, enhance our production capabilities, expand our marketing channels, and hire additional employees. Further, our liquidity may be significantly impacted by potential cash payments we make pursuant to the Reorganization transactions. Our future capital requirements will depend on many factors, including our ability to retain and expand sales of our products to our existing customers, our ability to attract new customers and consumers and the cost of acquiring these customers and consumers, our ability to commercialize new products, the introduction of competitive products, changes in customer and consumer preferences, and trends impacting the packaged food industry and the H&W industry. In addition, we may enter into arrangements to acquire or invest in complementary businesses or assets in the future.

Our ability to meet our capital requirements is dependent upon generating sufficient cash flows from operations or having sufficient access to equity financing or available borrowing capacity to pay operating expenses, meet working capital requirements, and make required debt-service payments. If our existing sources of liquidity are insufficient to satisfy our working capital requirements, we may seek to borrow under our credit facilities, seek new or modified borrowing arrangements, or sell additional securities. The sale of convertible debt or equity securities could result in dilution to our stockholders, and these equity securities may have rights or preferences that are superior to those of our stockholders. Our incurrence of additional indebtedness would result in additional debt-service obligations, as well as covenants that may further restrict our operations and encumber our assets. In addition, there can be no assurance that any additional financing will be available on acceptable terms, or at all.

#### **Exchange Agreement**

In connection with the consummation of this offering, we will enter into an exchange agreement (the “Exchange Agreement”) with the Members, including certain Fidelity investment funds receiving Class B Units pursuant to the conversion of the 2021 Notes (collectively, the “Fidelity Investors”), pursuant to which the holders of Class B Units (and certain permitted transferees) may, subject to the terms of the Exchange Agreement, exchange their Class B Units for shares of our Class A common stock on a one-for-one basis. The Exchange Agreement will also provide that, in connection with any such exchange, such Class B Units will be canceled, and additional Class A Units, equivalent to the amount of Class B Units so exchanged, will be issued to RGF, Inc., proportionally increasing RGF Inc.’s interest in RGF, LLC.

Pursuant to the terms of the Exchange Agreement, and in connection with an election by one or more Members to exchange Class B Units into shares of Class A common stock, we will have the option to, in lieu of issuing Class A common stock, instead make a cash payment to any such Member equal to a volume weighted average market price of one share of Class A common stock for each Class B Unit exchanged (subject to customary adjustments, including for stock splits, stock dividends, and reclassifications) in accordance with the terms of the Operating Agreement. Although the actual timing and amount of any payments that we make to Members pursuant to the Exchange Agreement will vary, we expect those payments to our Members will be substantial and may limit our cash available to meet our operating capital requirements or service our debt obligations.

#### **Tax Receivable Agreement**

We expect to obtain a step-up in the tax basis of our share of RGF, LLC’s assets when a Member receives cash or shares of our Class A common stock in connection with a redemption or exchange of such Member’s Class B Units for cash or Class A common stock (such basis increase, the “Basis Adjustments”). We intend to treat such acquisition of Class B Units as our direct purchase of Class B Units from a Member for U.S. federal income and other applicable tax purposes, regardless of whether such Class B Units are surrendered by a Member to RGF, LLC for redemption or sold to us upon the exercise of our election to acquire such Class B Units directly. Basis Adjustments may have the effect of reducing the amounts that we would otherwise pay in the future to various tax authorities. Basis Adjustments may also decrease gains (or increase losses) on future dispositions of certain capital assets to the extent tax basis is allocated to those capital assets. The Fidelity Investors will not be party to the Tax Receivable Agreement.

In connection with the Reorganization, RGF, Inc. will enter into the Tax Receivable Agreement with RGF, LLC and the Members other than the Fidelity Investors. The Tax Receivable Agreement will provide for the payment by us to such persons of 85% of the amount of tax benefits, if any, that we actually realize, or in some circumstances are deemed to realize, as a result of the transactions described above, including increases in the tax basis of the assets of RGF, LLC arising from such transactions, and tax basis increases attributable to payments made under the Tax Receivable Agreement and deductions attributable to imputed interest and other payments of interest pursuant to the Tax Receivable Agreement. RGF, LLC will have in effect an election under Section 754 of the U.S. Internal Revenue Code of 1986, as amended (the "Code"), effective for each taxable year in which an exchange of Class B Units for shares of our Class A common stock or cash occurs. These Tax Receivable Agreement payments are not conditioned upon any continued ownership interest in RGF, LLC or us by any Member. We expect to benefit from the remaining 15% of tax benefits, if any, that we may actually realize. The actual Basis Adjustments, as well as any amounts paid to the Members under the Tax Receivable Agreement, will vary depending on a number of factors.

The payment obligations under the Tax Receivable Agreement are obligations of RGF, Inc. and not of RGF, LLC. Although the actual timing and amount of any payments that may be made under the Tax Receivable Agreement will vary, we expect that the payments that we may be required to make to the Members could be substantial. Any payments made by us to Members under the Tax Receivable Agreement will generally reduce the amount of overall cash flow that might have otherwise been available to us or to RGF, LLC and, to the extent that we are unable to make payments under the Tax Receivable Agreement for any reason, the unpaid amounts generally will be deferred and will accrue interest until paid by us. For additional information, refer to the section entitled "*Certain Relationships and Related-Party Transactions*."

#### **Indebtedness**

##### ***PMC Loan Agreement***

In June 2016, RGF, LLC entered into the PMC Loan Agreement. As of December 31, 2020, the PMC Loan Agreement provided us with a \$36.5 million line of credit, repayable on June 30, 2021 (the "PMC Revolver"), as well as a \$2.0 million line of credit, which matures on March 31, 2025 (the "PMC CapEx Line"), and for which borrowings are restricted for use towards capital expenditures. The PMC Loan Agreement contains no financial covenants and is collateralized by our accounts receivable, inventory, equipment, deposit accounts, and general intangibles.

As of December 31, 2019 and 2020, we owed \$23.2 million and \$36.9 million, respectively, on the PMC Revolver, which included the unpaid loan balance and lender fees. Further, as of December 31, 2019 and 2020, we owed \$1.7 million and \$1.5 million, respectively, under the PMC CapEx Line. The outstanding balances on the PMC Revolver and the PMC CapEx Line bear interest at an annual rate equal to the greater of the prime rate announced by Wells Fargo Bank, N.A., or 3.5%, plus 8.5% per annum. On March 29, 2021, RGF, LLC entered into an amendment to the PMC Loan Agreement to extend the maturity date of the PMC Revolver from June 30, 2021 to January 31, 2023, excluding a \$1.25 million fee, which we paid in June 2021.

On May 7, 2021, RGF, LLC issued convertible notes to various investors for a purchase price of \$35.0 million, and used a portion of the proceeds to repay \$34.1 million owed pursuant to the PMC Loan Agreement. Further, on June 30, 2021, RGF, LLC and PMC amended the PMC Loan Agreement to reduce the maximum revolver amount under the PMC Revolver from \$36.5 million to \$15.0 million. Further, in September 2021, RGF, LLC and PMC amended the PMC Loan Agreement to increase the maximum revolver amount under the PMC Revolver from \$15.0 million to \$18.5 million and the PMC CapEx credit limit from \$2.0 million to \$3.0 million. As of June 30, 2021, there was \$8.0 million outstanding on the PMC Revolver, which included the unpaid loan balance and fees.

For additional information regarding our issuance of convertible notes, refer to the section below entitled "*—2021 Notes*."

##### ***PPZ Notes***

In February 2017, RGF, LLC issued a promissory note in the principal amount of \$40.0 thousand to PPZ, LLC ("PPZ"), a Member of RGF, LLC (the "Initial PPZ Note"). The Initial PPZ Note bears interest at a simple rate of 8.0% per annum.

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In June 2017, RGF, LLC and PPZ entered into loan and security agreements, as well as a promissory note secured by all of RGF, LLC's assets and subordinated only to existing and future indebtedness that we owe PMC, pursuant to which PPZ loaned us \$400.0 thousand (the "2017 PPZ Note"). The 2017 PPZ Note bears interest at a simple rate of 9.0% per annum.

In October 2018, RGF, LLC and PPZ entered into a loan and security agreement, as well as a promissory note secured by all of RGF, LLC's assets and subordinated only to existing and future indebtedness we owe PMC, pursuant to which PPZ loaned us \$500.0 thousand (the "2018 PPZ Note" and, collectively with the Initial PPZ Note and 2017 PPZ Note, the "PPZ Notes"). The 2018 PPZ Note bears interest at a simple rate of 9.0% per annum.

Each of the PPZ Notes matures on December 31, 2021.

For additional information regarding the PPZ Notes, refer to Note 8 to our audited financial statements included elsewhere in this prospectus.

### *Paycheck Protection Program Loan*

On May 9, 2020, RGF, LLC received loan proceeds in the amount of \$309 thousand under the PPP from Carter Federal Credit Union. The PPP, established as part of the Coronavirus Aid, Relief and Economic Security Act, provides for loans to qualifying businesses for amounts of up to 2.5 times the average monthly payroll expenses of the qualifying business. Under the terms of the PPP Loan, the entire amount of principal and accrued interest may be forgiven to the extent the borrower uses the proceeds for qualifying expenses as determined by the U.S. Small Business Administration ("SBA") under the PPP, including payroll, benefits, rent and utilities, and maintains its payroll levels.

As of June 30, 2021, the outstanding balance on the PPP Loan was \$309 thousand. The unforgiven portion of the PPP Loan, if any, is payable over two years at an interest rate of 1.0% per annum, with a payment deferral for the first six months, and fully repayable on May 9, 2022.

We believe that we used the proceeds for purposes consistent with the PPP. In March 2021, RGF, LLC applied for forgiveness of the full \$309 thousand principal amount and associated interest. In August 2021, we were notified that forgiveness of the PPP Loan had been approved.

### *2021 Notes*

On May 7, 2021, RGF, LLC entered into a note purchase agreement (the "2021 Notes Agreement") with various Fidelity investment funds (collectively, the "Fidelity Investors"), pursuant to which the Fidelity Investors purchased the convertible promissory notes of RGF, LLC with an aggregate principal amount of \$35.0 million (the "2021 Notes"), of which \$34.1 million was used to partially repay amounts owed pursuant to the PMC Revolver. The 2021 Notes bear an interest rate of 1.0% per annum compounded annually on the unpaid principal balance. The principal and any accrued and unpaid interest are due on the first anniversary of the closing date of the 2021 Notes.

According to the terms of the 2021 Notes, upon the occurrence of a Qualified Financing, the notes would convert into fully paid and non-assessable Series A preferred units of RGF, LLC. A "Qualified Financing" is defined in the 2021 Notes Agreement as a transaction or series of related transactions, conducted with the principal purpose of raising capital, pursuant to which RGF, LLC issues and sells its Series A preferred units (as may be adjusted for any security split, security dividend, combination, or other recapitalization or reclassification effected after May 7, 2021), with aggregate gross proceeds to RGF, LLC of at least \$50.0 million (excluding all proceeds from the 2021 Notes and from any incurrence, conversion, or cancelation of other indebtedness or other securities converting into Units in the financing). The discount investors would receive in connection with a Qualified Financing is 20.0%.

Further, pursuant to the terms of the 2021 Notes, the notes would convert into common units of RGF, LLC upon the occurrence of a Qualified Public Transaction. A "Qualified Public Transaction" includes the closing of the issuance and sale of equity securities RGF, LLC in RGF, LLC's first firmly underwritten public offering with gross proceeds to RGF, LLC of not less than \$75.0 million pursuant to an effective registration statement under the Securities Act, and in connection with such offering, RGF, LLC's common units (as may be adjusted for any security split, security dividend, combination or other recapitalization or reclassification effected after May 7, 2021) are listed for trading on Nasdaq or the New York Stock Exchange. The discount investors would receive in connection with a Qualified Public Transaction is 20.0%.

In connection with the Reorganization, RGF, LLC, RGF, Inc. and the Fidelity Investors have entered into an agreement for conversion of promissory notes (the "Conversion Agreement") pursuant to which, in connection with the offering, (i) a portion of the 2021 Notes reflecting an original principal amount of \$8,030,900 shall convert into shares of our Class A common stock, (ii) a portion of the 2021 Notes reflecting an original principal amount of \$26,969,100 shall convert into Class B Units and an equivalent amount of shares of our Class B common stock, and (iii) accrued and unpaid interest shall be repaid in cash. The conversions contemplated by the Conversion Agreement are calculated at a 20% discount to the per share price set forth in the final prospectus for this offering

RGF, LLC has elected the fair value option under ASC 825, *Financial Instruments* for measurement of the 2021 Notes. As of June 30, 2021, the outstanding balance of the 2021 Notes was \$35.4 million. The 2021 Notes balance have been included in current liabilities as of June 30, 2021 as all borrowings were due within one year based on the 2021 Notes Agreement in effect as of the balance sheet date. The 2021 Notes mature on March 7, 2022.

For further information regarding the 2021 Notes, refer to Notes 1 and 8 to our audited financial statements.

**Management Actions to Enhance Liquidity and Capital Resources**

Our financial statements as of June 30, 2020 and 2021 and December 31, 2019 and 2020 have been presented on the basis that we are a going concern, which contemplates the realization of assets and satisfaction of liabilities in the normal course of business. As a result, these financial statements do not include any adjustments that might result from the outcome of going concern uncertainty. In addition, the audit report rendered with respect to the financial statements is unqualified as to audit scope.

As of June 30, 2021, we had \$654 thousand in cash, convertible debt obligations of \$35.4 million, and current debt obligations of \$0.6 million. Additionally, as of June 30, 2021, we had current and long-term business acquisition liabilities of \$1.5 million and \$13.7 million, respectively. Since our inception, we have experienced net losses in every period, and have financed our operations primarily through issuances of equity and debt securities and borrowings under our credit agreements and, to a lesser extent, through sales of our products. Given our liquidity constraints, as of December 31, 2020 and June 30, 2021 there was substantial doubt about our ability to continue as a going concern. However, subsequent to December 31, 2020, and during the six months ended June 30, 2021, in addition to pursuing this offering, we have taken a number of actions designed to enhance our liquidity and alleviate doubt regarding our ability to continue as a going concern, including reducing costs, extending the maturity date of certain existing indebtedness, and acquiring additional borrowing capacity.

Specifically, we completed the following actions in the six months ended June 30, 2021:

- On February 1, 2021, RGF, LLC and PPZ amended the PPZ Notes to extend the maturity dates of the notes to December 31, 2021.
- On March 29, 2021, RGF, LLC entered into an amendment to the PMC Loan Agreement to extend the maturity date of the PMC Revolver from June 30, 2021 to January 31, 2023, excluding a \$1.25 million fee, which we paid in June 2021.
- During the three months ended March 31, 2021, RGF, LLC entered into a series of agreements pursuant to which it agreed to operate our City of Industry Facility, which included leasing the facility, acquiring certain equipment required to operate the facility and inventory located at the facility, and hiring certain employees. The transactions closed in March 2021. We believe that directly operating our City of Industry Facility will enable us to expand our production capacity, improve quality control, and enhance our gross margin.
- On May 7, 2021, RGF, LLC issued the 2021 Notes. We expect this offering will constitute a Qualified Public Transaction pursuant to the terms of the 2021 Notes, and that the 2021 Notes will convert in full in connection with the consummation of this offering. For additional information, refer to Note 8 to our audited financial statements contained elsewhere in this prospectus.
- We have also taken a number of other actions, including adopting a continuous improvement cost savings program that focuses on process improvements and strategic sourcing to mitigate supply chain costs, implementing a new ERP system to enable further cost efficiencies and improve inventory management, and accelerating capital expenditures to enable automation at our manufacturing facility and reduce labor costs, including through the purchase of machinery to automate certain manual labor tasks.

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In the event a Qualified Public Transaction or a Qualified Financing does not occur prior to the maturity date of the 2021 Notes, our ability to continue as a going concern would be contingent upon our ability to repay the 2021 Notes or extend the maturity date of the 2021 Notes. While we believe that it is probable that the Note Investors would agree to extend the maturity date of the 2021 Notes if no Qualified Public Transaction or Qualified Financing has occurred, there can be no assurance this will occur. If the maturity date of the 2021 Notes is not extended, we would be required to repay or refinance the amount owed pursuant to the 2021 Notes. If we are unable to generate sufficient cash flows from operations to repay the 2021 Notes, we may need to seek to borrow additional funds, dispose of our assets, or reduce or delay capital expenditures. We may not be able to accomplish any of these alternatives on acceptable terms, or at all. The failure to generate sufficient cash flows from operations, or to accomplish any of these alternatives, could have a material adverse impact on our business.

If we are successful in consummating the offering contemplated by this prospectus, the net proceeds from the offering will generate additional liquidity to fund our working capital requirements and pursue our business plan. We believe that the offering will constitute a Qualified Public Transaction and, therefore, the 2021 Notes will convert into shares of our Class A common stock upon consummation of the offering. However, there can be no assurance that we will be successful in consummating the offering. Further, even if we are successful, we may be required to seek additional equity or debt financing in order to meet our future liquidity requirements and pursue our strategic objectives. If we are unable to raise additional capital when desired, or on terms that are acceptable to us, our business, operating results and financial condition could be adversely affected.

We expect to continue to incur operating losses for the foreseeable future due to the investments that we intend to make in our business and, as a result, we may require additional capital resources to grow our business. However, in light of the foregoing, and based on our current level of operations and business plans, we believe our cash and cash equivalents, cash flows from operating activities, available borrowings under our credit agreements and anticipated net proceeds from this offering will be sufficient to meet our liquidity requirements for at least the next 12 months.

### **Cash Flows**

The following table summarizes our cash flows for the periods indicated (in thousands):

	YEAR ENDED DECEMBER 31,			SIX MONTHS ENDED JUNE 30,		
	2019	2020	CHANGE (\$)	2020	2021	CHANGE (\$)
Net cash used in operating activities	(10,916)	(7,754)	3,162	(3,994)	(1,236)	2,758
Net cash used in investing activities	(498)	(149)	349	(16)	(2,528)	(2,512)
Net cash provided by financing activities	11,661	7,543	(4,118)	4,298	4,390	92
Net increase (decrease) in cash and cash equivalents	247	(360)	(607)	288	626	398
Cash and cash equivalents at beginning of period	141	388	247	388	28	(360)
Cash and cash equivalents at end of period	388	28	(360)	676	654	(22)

### *Net Cash Used in Operating Activities*

Cash used in operating activities was \$4.0 million and \$1.2 million for the six months ended June 30, 2020 and 2021, respectively, and \$10.9 million and \$7.8 million for the year ended December 31, 2019 and 2020, respectively.

During the year ended December 31, 2019, we incurred a net loss of \$14.2 million, which was the primary reason for net cash used in operating activities of \$10.9 million. Net cash used in operating activities also included \$2.2 million in cash outflows from changes in operating assets and liabilities and \$5.5 million of non-cash expenses, including interest and debt fees and depreciation and amortization expense.

During the year ended December 31, 2020, we incurred a net loss of \$15.6 million, which was the primary reason for net cash used in operating activities of \$7.8 million. Net cash used in operating activities also included \$1.9 million in cash inflows from changes in operating assets and liabilities and \$5.9 million of non-cash expenses, including interest and debt fees and depreciation and amortization expense.



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In the six months ended June 30, 2020, we incurred a net loss of \$7.5 million, which was the primary reason for net cash used in operating activities of \$4.0 million. Net cash used in operating activities also included \$0.9 million in cash inflows from changes in operating assets and liabilities and \$2.6 million of non-cash expenses, including interest and debt fees and depreciation and amortization expense.

In the six months ended June 30, 2021, we incurred a net loss of \$10.3 million, which was the primary reason for net cash used in operating activities of \$1.2 million. Net cash used in operating activities also included \$5.1 million in cash inflows from changes in operating assets and liabilities and \$3.6 million of non-cash expenses, including interest and debt fees, depreciation and amortization expense, and changes and in the fair value of convertible debt.

### *Net Cash Used in Investing Activities*

Net cash used in investing activities in the years ended December 31, 2019 and 2020 primarily related to capital expenditures to support our growth and investment in property, equipment, and inventory.

During the year ended December 31, 2019, net cash used in investing activities was \$498 thousand and consisted of cash outflows for the purchases of property, plant, and equipment.

During the year ended December 31, 2020, net cash used in investing activities was \$149 thousand and consisted of cash outflows for the purchase of property, plant, and equipment.

During the six months ended June 30, 2020, net cash used in investing activities was \$20 thousand and consisted of cash outflows for purchases of property, plant, and equipment.

During the six months ended June 30, 2021, net cash used in investing activities was \$2.5 million and consisted of cash outflows for purchases of property, plant and equipment, primarily for manufacturing facility improvement and manufacturing equipment for our newly acquired City of Industry manufacturing facility.

### *Net Cash Provided by Financing Activities*

Net cash provided by financing activities in the years ended December 31, 2019 and 2020 was primarily driven by the net proceeds from our issuances of equity securities and borrowings under our credit agreements.

Cash provided by financing activities totaled \$11.7 million during the year ended December 31, 2019, consisting primarily of borrowing on the PMC Revolver to fund operations and net proceeds from the sale and issuance of Series A preferred units of RGF, LLC.

Cash provided by financing activities totaled \$7.5 million during the year ended December 31, 2020, a decrease of \$4.1 million compared to the year ended December 31, 2019. Cash provided by financing activities primarily included borrowing on the PMC Revolver to fund operations. The decrease in cash from financing activities was primarily driven by the decrease of \$3.2 million in cash used in operating activities lessening the need for additional debt.

Cash provided by financing activities totaled \$4.4 million during the six months ended June 30, 2021, an increase of \$0.1 million compared to the six months ended June 30, 2020. Cash provided by financing activities included the issuance of \$35 million in convertible notes, which were used to pay down a portion of the outstanding balance on the PMC revolver. Cash from financing activities was used to fund operating activities as well as capital-expenditures.

## **Off-Balance Sheet Arrangements**

We do not have any off-balance sheet arrangements.

## **Seasonality**

We experience mild seasonal earning characteristics, predominantly with products that experience lower sales volume in warm-weather months. For example, our bacon wrapped stuffed chicken experiences seasonal softness during months that consumers prefer to grill outdoors instead of preparing microwaveable meals. In addition, similar to other H&W brands, the highest percentage of our net sales tends to occur in the first and second quarters of the calendar year, when consumers are more likely to seek H&W brands. Further, certain of the ingredients we process,

such as cauliflower and artichoke hearts, are agricultural crops with seasonal production cycles. These seasonal earning characteristics have not historically had a material impact on our net sales primarily due to the timing and strong growth of our total distribution points. The bulk of our distribution point gains are a function of retailer shelf-resets, which tend to occur during the third and fourth quarters of the calendar year, which helps to support year-round performance across our product offerings. As our business continues to grow, we expect the impact from seasonality to increase over time, with net sales growth occurring predominantly in the first and second quarters.

### **New Accounting Pronouncements**

Refer to Note 2 to our audited financial statements included elsewhere in this prospectus for a detailed description of recent accounting pronouncements issued and adopted.

### **Critical Accounting Policies and Estimates**

The financial information discussed in this “*Management’s Discussion and Analysis of Financial Condition and Results of Operations*” is based upon or derived from our audited financial statements, which have been prepared in conformity with GAAP. In preparing our financial statements, we are required to make judgments, estimates, and assumptions that affect the reported amounts of assets, liabilities, net sales, cost of sales and expenses, disclosure of contingent assets and liabilities, as well as related disclosures. We base the estimates, assumptions and judgments involved in the accounting policies described below on historical experience and on various other assumptions that we believe are reasonable under the circumstances, the results of which form the basis for making judgments about the carrying amounts of assets and liabilities that are not readily apparent from other sources.

We believe that the estimates, assumptions and judgments involved in the accounting policies described below have the greatest potential impact on our audited financial statements because they involve the most difficult, subjective or complex judgments about the effect of matters that are inherently uncertain. Therefore, we consider these to be our critical accounting policies. Accordingly, we evaluate our estimates and assumptions on an ongoing basis. Actual results may differ materially from these estimates. These estimates and assumptions include, but are not limited to, bad debt reserve, inventory costing including reserves, and net sales recognition including variable consideration for estimated reserves for discounts, incentives, and other allowances. For additional information, refer to Note 1 to our audited financial statements.

#### **Net Sales Recognition**

Our net sales are principally derived from selling our products to our customers. While our net sales recognition does not involve significant judgment, it represents an important accounting policy.

Net sales are recognized upon transfer of title and risk of inventory loss to our customers. The customer can direct the use and obtain substantially all of the remaining benefits from the asset at this point in time. Net sales are recognized in an amount that reflects the consideration we expect to ultimately receive in exchange for those promised products, net of expected discounts for sales promotions and customary allowances.

We offer sales promotions through various regional and national programs to our customers. These programs include in-store discounts, as well as product coupons offered directly to consumers, which may be redeemed at the point of sale. Customary allowances for early invoice payment and shrinkage are also applied by our customers. The costs associated with these programs are accounted for as variable consideration as defined under Accounting Standards Codification (“ASC”) Topic 606, *Revenue from Contracts with Customers* (“ASC 606”), and are reductions to the transaction price of the products. Depending on the specific type of sales incentive and other promotional program, we use the expected value method to determine the variable consideration.

We review and update our estimates and related accruals of variable consideration each period based on the terms of our agreements, historical experience, and expected levels of performance of the trade promotion or other programs. Any uncertainties in the ultimate resolution of variable consideration due to factors outside our influence are typically resolved within a short timeframe, and therefore do not require additional constraint on the variable consideration. We also offer compensation to our customers for access to shelf space in stores, and associated payments are recognized as reductions to the transaction price received from the customer upon the sale of associated products.

### **Inventories**

Inventories are stated at the lower of cost or net realizable value. We record sales and other reductions in inventory through cost of sales using the first-in, first-out method. The cost of finished goods inventories include ingredients, direct labor, freight-in for ingredients, and indirect production and overhead costs.

We monitor our inventories to identify any excess or obsolete items on hand. We write down our inventories for estimated excess and obsolescence in an amount equal to the difference between the cost of inventories and estimated net realizable value. These estimates are based on management's judgment about future demand and market conditions. Once established, these adjustments are considered permanent and are not revised until the related inventory is sold or disposed of.

### **Equity-Based Compensation**

Prior to this offering, we have not granted any equity-based awards to our directors, officers, or employees. Accordingly, we have not historically incurred equity-based compensation expense for equity-based awards to our directors, officers, or employees. Profits interest units granted to certain officers were classified as liability awards and accounted for as performance bonuses in accordance with ASC Topic 710, *Compensation, General* ("ASC 710"). The accounting guidance requires management to assess whether, as of the end of each reporting period, payment of compensation pursuant to the awards is probable and whether it can be reasonably estimated. Because payment with respect to the profits interest units was not deemed probable or estimable as of December 31, 2020, no compensation expense was recognized for the profits interest units for the period ended December 31, 2020. For additional information, refer to Note 1 to our audited financial statements included elsewhere in this prospectus.

However, we expect to grant equity-based awards in the future, and to the extent that we do, we expect to recognize equity-based compensation expense in accordance with ASC Topic 718, *Stock Compensation* ("ASC 718"). We will measure equity-based compensation expense at the grant date for all equity-based awards made to directors, officers, and employees based on the grant date fair value of the awards, and recognize the expense on a straight-line basis over the requisite service period, which is generally the vesting period for the relevant award. We expect to recognize forfeitures of equity-based awards as incurred.

For RSU awards and restricted stock awards, we expect to calculate the grant date fair value of the awards based on the closing price of our Class A common stock on the grant date. For option awards, we expect to estimate the grant date fair value using the Black-Scholes option pricing model, which requires the input of complex and subjective variables and the application of judgment. Determining the fair value of our stock options under this model will require us to make certain assumptions, including with respect to the fair value of the underlying Class A common stock, the expected volatility of the price of our Class A common stock, the risk-free interest rate, the expected term of the award, and the expected dividend yield of our Class A common stock. We will use our judgment in making these assumptions and, to the extent we make different assumptions, our equity-based compensation expense may materially differ.

In connection with this offering, our compensation committee recommended and our board of directors approved the grant of RSUs to certain of our officers upon the effectiveness of the registration statement of which this prospectus is a part. Consistent with our executive compensation philosophy, we expect additional equity-based awards will be issued to our directors, officers and employees in future periods. For additional information, refer to the section entitled "*Executive Compensation—Equity Awards*."

We may recognize significant equity-based compensation expense in future periods, which would have a negative impact on our operating results.

### **Contingent Consideration**

In February 2018, RGF, LLC entered into a product placement agreement with Divario Ventures, LLC ("Divario"), a subsidiary of Albertsons Companies, Inc. ("Albertsons Companies"), pursuant to which RGF, LLC agreed to issue its common units to Divario (the "Divario Initial Equity") in exchange for the achievement and maintenance of specified distribution thresholds in retail locations operated by Albertsons Companies through October 31, 2020. Additionally, Divario may be entitled to additional common units (the "Divario Incentive Equity") as incentive awards upon achievement of specified annual sales targets with Albertsons Companies through October 31, 2021. In connection

with the consummation of this offering, the sales achieved by Albertsons Companies will be annualized and the portion of the Divario Incentive Equity deemed to be earned at that time, if any, will be issued to Divario. Further, in connection with the Reorganization, the Divario Incentive Equity will be exchanged into Class B Units of RGF, LLC and 999,082 shares of Class B common stock pursuant to an exchange that will be approved with the consent of Divario, the Company, and all the Members.

Because both the Divario Initial Equity and Divario Incentive Equity are considered consideration due to a customer under ASC 606, the grant date fair value of the awards, measured in accordance with ASC 718, is recognized in earnings as contra-revenue over the term of the slotting arrangements based upon the relative volume of gross sales to Albertsons Companies during each quarter for the duration of the agreement.

### **Emerging Growth Company Status**

We are an “emerging growth company” as defined in the Jumpstart Our Business Startups Act of 2012 (the “JOBS Act”), which permits us to take advantage of specified reduced disclosure and reporting requirements that are otherwise applicable generally to public companies, including presenting only two years of audited financial statements in a registration statement for an initial public offering, reduced disclosure about our executive compensation arrangements, an exemption from the requirement to hold non-binding advisory votes on executive compensation, an exemption from the requirement to provide an auditor’s report on internal controls over financial reporting pursuant to Section 404 of the Sarbanes-Oxley Act of 2002, and an exemption from any requirement that may be adopted by the Public Company Accounting Oversight Board regarding mandatory audit firm rotation. We have not elected to use the extended transition period for complying with new or revised accounting standards and the election to not use the extended transition period is irrevocable.

We may take advantage of these exemptions up until the last day of the fiscal year following the fifth anniversary of this offering or such earlier time that we are no longer an emerging growth company. We would cease to be an emerging growth company on the earliest of (i) the last day of the fiscal year in which we have more than \$1.07 billion in annual revenue, (ii) the date we qualify as a “large accelerated filer,” with more than \$700.0 million in market value of our stock held by non-affiliates (and we have been a public company for at least 12 months and have filed one Annual Report on Form 10-K), or (iii) the date on which we have issued more than \$1.0 billion of non-convertible debt securities over a three-year period. We have taken advantage of certain reduced reporting obligations in this prospectus. As a result, the information contained herein may be different than the information you receive from other public companies in which you hold stock.

### **Smaller Reporting Company Status**

We are also a “smaller reporting company” under applicable Securities and Exchange Commission (“SEC”) rules, meaning that the market value of our Class A common stock held by non-affiliates plus the proposed aggregate amount of gross proceeds to us as a result of this offering is less than \$700.0 million and our annual revenue was less than \$100.0 million during the most recently completed fiscal year. We may continue to be a smaller reporting company after this offering if either (i) the market value of our stock held by non-affiliates is less than \$250.0 million, or (ii) our annual revenue was less than \$100.0 million during the most recently completed fiscal year and the market value of our stock held by non-affiliates is less than \$700.0 million.

If we are a smaller reporting company at the time we cease to be an emerging growth company, we may continue to rely on exemptions from certain disclosure requirements that are available to smaller reporting companies. Specifically, as a smaller reporting company we may choose to present only the two most recent fiscal years of audited financial statements in our Annual Report on Form 10-K and, similar to emerging growth companies, smaller reporting companies have reduced disclosure obligations regarding executive compensation.

## BUSINESS

### Overview

#### ***Real Food You Feel Good About Eating***

Real Good Foods is an innovative, high-growth, branded, H&W-focused frozen food company. We develop, market, and manufacture delicious and convenient comfort foods designed to be high in protein, low in sugar, and made from gluten- and grain-free ingredients that are intended to be sold in the H&W segment of the frozen food category. Our brand commitment, “*Real Food You Feel Good About Eating*,” represents our strong belief that, by eating our food, consumers can enjoy more of their favorite foods and, by doing so, live better lives as part of a healthier lifestyle.

We are a mission-focused company. Our mission is to make our craveable, nutritious comfort foods accessible to everyone across the United States and, eventually, throughout the world. Our mission is important to us because we believe an increasing number of consumers are seeking to make healthier food choices, yet face limited options when it comes to the convenience of products found in the frozen food aisle. These consumers include the portion of the U.S. population seeking to reduce sugar in their diets, the portion of the U.S. population seeking to reduce their carbohydrate intake, the 13% of the U.S. adult population suffering from the health effects of diabetes, and the 42% of the adult U.S. population suffering from obesity. We believe our products provide alternatives for these consumers, and also have broad appeal due to our uncompromising approach to developing products suited to a wide range of consumer tastes and diet preferences.

We believe the nutritional content and quality of our products position us to compete directly within the \$170 billion U.S. H&W industry, which includes natural, specialty, and wellness food products. Since our inception, we have focused on creating H&W products for the frozen food aisle, where we believe H&W brands are underrepresented compared to other categories. We also believe H&W branded products with our macronutrient composition are similarly underrepresented within the frozen food category.

We compete in multiple large subcategories within the U.S. frozen food category, including frozen entrée and breakfast, which we consider our two core, strategic growth subcategories. According to SPINS information, during the 52 weeks ended December 27, 2020, the subcategories in which we operate comprised 48% of the approximately \$58 billion U.S. frozen food category excluding frozen and refrigerated meat. Currently, we sell comfort foods within these subcategories such as our bacon wrapped stuffed chicken, chicken enchiladas, grain-free cheesy bread breakfast sandwiches, and various entrée bowls. Based on consumer feedback, we also believe our brand has permission to extend into multiple adjacent food categories within and outside of frozen.

All of our products are prepared with proprietary ingredient systems that allow us to provide consumers with delicious meals that are designed to be high in protein, low in sugar, and made with gluten- and grain-free ingredients. Our base ingredient systems, which include (i) chicken and parmesan cheese, and (ii) plant-based proteins and fibers, are composed of simple ingredients to which our consumers are accustomed. We believe these ingredient systems are critical to our success because they are a large part of what makes our products craveable while allowing us to capture the macronutrient ratios favored by H&W consumers. To support these ingredient systems, we source widely available, nutritious ingredients from a network of suppliers with whom we have strong relationships.

Historically, we have sold substantially all of our products under our “Realgood Foods Co.” brand. We also sell a limited number of private label products to select retail customers. Our branded products are sold to consumers through an increasing number of locations within retail channels, primarily in natural and conventional grocery, drug, club, and mass merchandise stores, including Walmart, Kroger, and Costco. During the 12-weeks ended June 13, 2021, our branded products had an average of approximately 170 thousand “total distribution points” across the United States, including Washington, DC and the Commonwealth of Puerto Rico. The term “total distribution points” is calculated as the sum of the number of stores selling each branded SKU. For perspective, leading H&W brands within the frozen food category achieved total distribution points in excess of 930 thousand during the same period. We expect to increase our retail distribution footprint by establishing new customer relationships, increasing sales of our products to our existing customers by driving incremental frozen food aisle sales and continuing to grow

awareness and demand for our brand and product offerings. We also believe there is an opportunity to leverage our engaged consumer base to grow our e-commerce sales, which includes “click-and-collect” purchases by our consumers through our retail customers and, to a limited extent, direct-to-consumer sales through our website and third-party websites.

### Our Strategic Advantages

We believe we are positioned to become a leading H&W brand within the frozen food category. Our strategic advantages are rooted in our mission-focused approach, craveable products, large and engaged consumer community, innovative product-development process, self-manufacturing capabilities, product positioning within our category, and management expertise.

#### We are a Mission-Focused Company

The purpose of our company is to fulfill our mission of making craveable, nutritious H&W foods accessible to consumers while taking an uncompromising approach to the creation of products that are delicious, convenient, and have broad appeal. We hope to create products that allow consumers to enjoy more of their favorite foods and, by doing so, live better lives as part of a healthier lifestyle. Significant portions of the U.S. population are seeking to make healthier lifestyle choices, which often starts with making better food choices. Our H&W-focused products are designed to address the needs of this large and growing population, while providing the convenience associated with frozen food products. Our mission drives our management team and employees every day and is foundational to our business. We believe we are well-positioned to accomplish our mission due to the taste and macronutrient ratios associated with our products, our innovative approach to product development, and our highly engaged consumer community.

#### Our Craveable Products Have Broad Appeal

We are uncompromising on taste in our approach to product development, which we believe helps consumers meet their preferences for increasing protein intake while reducing their intake of carbohydrates, sugar, grain, and gluten. Our entrées, bowls, breakfast sandwiches, enchiladas, and other products are delicious, while maintaining macronutrient ratios that are difficult to find within the frozen food category, even among other H&W brands. The following sets forth the carbohydrate and protein content of our products in comparison to our competitors' products:

COMPANY PRODUCT	CARBOHYDRATES		PROTEIN	
	GRAMS IN EACH SERVING OF OUR PRODUCT	GRAMS IN EACH SERVING OF COMPETITOR PRODUCT	GRAMS IN EACH SERVING OF OUR PRODUCT	GRAMS IN EACH SERVING OF COMPETITOR PRODUCT
Bacon Wrapped Stuffed Chicken	3	16	32	20
Chicken Enchiladas	4	36	20	21
Breakfast Sandwich	4	29	18-20	13
Lasagna Entrée Bowl	11	40	32	16

Our insistence on preserving taste while offering “*Real Food You Feel Good About Eating*” led us to invent our innovative base ingredient systems. While our base ingredient systems are composed of simple ingredients to which our consumers are accustomed, we use these ingredients in unique ways to mimic recipe components that are satiating, but typically higher in carbohydrates and lower in protein. These base ingredient systems are made of: (i) chicken and parmesan cheese, and (ii) plant-based protein and fibers. For example, we use thin, round slices of our innovative chicken and cheese “tortillas” within our enchiladas and use this same ingredient system to make our Italian-themed “pastas.” We also use cauliflower and almond flour to create the cheesy, grain-free “buns” used in our breakfast sandwiches. These base ingredient systems are a key component of our ability to create products with broad appeal without losing the attention of the H&W consumer base we target.

#### Our Large Social Media Community is Highly Engaged

We have one of the largest social media followings of any brand within the frozen food category today, with approximately 365 thousand followers on Instagram and 500 thousand subscribers across all digital platforms as of June 30, 2021. For comparison, we have more Instagram followers than: (i) all Nestle brands within the U.S. frozen food category

combined (Sweet Earth, Outsiders, DiGiorno, Jack's, CPK frozen, Tombstone, Wild Scape, Hot Pockets, and Lean Cuisine), (ii) all Conagra brands within the frozen food category combined (Udi's, EVOL, Gardein, Healthy Choice, Bertolli, Glutino, Marie Callender's, Blake's, and Alexia), and (iii) the top seven H&W brands within the frozen food category in sales as of the 52 weeks ended May 16, 2021 combined (Amy's Kitchen, Applegate Farms, California Pizza Kitchen, InnovAsian Cuisine, Aidells, Michael Angelos, and Perdue). More importantly, we believe we have high engagement with our consumers relative to our peers; our average number of comments per post on Instagram exceeds any of the top seven H&W brands in our category by five times. We believe our ability to quickly build this robust community is due not only to our revolutionary products, but also to our modern approach to marketing. Instead of investing heavily in traditional marketing and advertising spend, we instead began building our brand by engaging our consumers and potential consumers in direct, authentic conversations through social media, SMS text, e-mail, and our website, and indirectly through influencers. Through this approach to community engagement, we are able to build brand trust and, in turn, loyalty, which efficiently draws new consumers to our brand, provides a forum for real-time feedback, and allows us to understand our diverse population of consumers more deeply. We also believe our extensive community engagement resonates with our retail customers, leading to additional shelf space and distribution points for our products. Our management team is passionate in its belief that our modern approach to engaging and building our community has been, and will continue to be, critical to our brand success.

#### ***We Have an Innovative Product-Development Process***

We have launched most of our products in fewer than six months, and our consumer community is instrumental in our approach to product development. After our marketing team conceives of and formulates our product prototypes, we send them for in-home usage tests through what we refer to as "RGF Labs," which is a targeted and diverse invitation-only subset of our consumer community. We receive feedback from RGF Labs more quickly than we would through traditional product testing, and we are confident that the insights it provides are more helpful than provided by focus groups or consumer polling. Because we leverage this feedback to improve our prototypes prior to distributing our products, RGF Labs enables us to introduce new products with higher confidence of market acceptance. In addition, following a trial with RGF Labs, and prior to distribution within retail channels, we introduce our products directly to consumers on our website. This process provides us another opportunity to marry our products to our consumers' preferences, as our most avid consumers engage with our products through this channel and provide additional feedback. This disciplined approach to product development has resulted in a market acceptance rate higher than industry standard by the time our new products arrive in retail channels. As a result, we believe our concept-to-shelf product innovation is often more efficient and successful compared to conventional brands within our category.

#### ***Our Self-Manufacturing Capabilities Are a Strategic Advantage***

The manufacture of our products requires a specialized process and purpose-built equipment to help ensure they have the macronutrient composition we strive to achieve while maintaining taste. Entering into agreements to operate our City of Industry Facility during the three months ended March 31, 2021 enabled us to self-manufacture more than 70% of our products during June 2021, compared to none for the same period in 2020, thereby significantly reducing our reliance on co-manufacturers. Our City of Industry Facility presents an opportunity to create efficiencies in our manufacturing process and reduce labor costs, including through the purchase of machinery to automate certain manual labor tasks. We believe the facility also has the capacity to scale for additional potential sales upon future investments, including purchases of or upgrades to machinery, processing, and packaging equipment.

#### ***Our Frozen Food Category Positioning Provides Multiple Growth Opportunities***

We are focused on our mission to make our H&W products convenient and accessible through multiple channels within the United States and, ultimately, throughout the world, and our strategy to achieve this begins with the growth of our brand within the frozen food category. We compete in the U.S. frozen food category excluding frozen and refrigerated meat. According to SPINS information, during the 52 weeks ended December 27, 2020, the total U.S. frozen category excluding frozen and refrigerated meat, generated retail sales of approximately \$58 billion. We see significant opportunity to address the unmet needs of H&W-focused consumers by offering our delicious H&W products within this category, given that many consumer tastes and preferences call for high protein and lower carbohydrate, sugar, grain, and gluten foods, which are not provided by most other H&W brands.

We believe we have obtained our current distribution points in part because we represent an opportunity for retailers to grow their frozen food aisle sales. The convenience of our products appeals to H&W consumers seeking comfort foods they can prepare at home while maintaining their health goals, in addition to consumers looking for delicious frozen food options. According to the 2021 Brand Switching Analysis, 90% of our sales gains in single-serve frozen breakfast entrée, 82% of our sales gains in single-serve frozen prepared poultry (with regards to our frozen chicken



entrées), and 46% of our sales gains in single-serve frozen entrée bowls were a result of new consumers to these subcategories, or were “incremental” sales, during the 52 weeks ended February 7, 2021. Retailers tend to favor brands that bring new consumers to categories and, as such, we believe the incremental sales growth opportunity provided by our products has helped us grow our distribution and strengthen our relationships with our retail customers.

#### ***We Have a Proven Management Team***

We are led by a management team with significant operational and merger and acquisition experience in the food industry, including with public companies. Bryan Freeman, our Executive Chairman, has over 26 years of experience in the frozen food category. Mr. Freeman served on the senior leadership team of AdvancePierre Foods through its initial public offering, as well as its sale to Tyson for a reported \$4.2 billion. Gerard G. Law, our Chief Executive Officer, has over 29 years of experience as an operator within the frozen foods category, including previously as part of the senior leadership team at publicly traded J&J Snack Foods Corp. (“J&J Snack Foods”), where he managed 16 manufacturing facilities, oversaw multiple successful acquisitions, and had a team of approximately 4,200 employees reporting to him. Our Chief Financial Officer, Akshay Jagdale, has over 15 years of experience as a securities analyst within the food industry and has built an extensive network of industry contacts across our supply chain. Our management believes in the strength of our products and possesses the expertise required to scale our business.

#### **Our Market Opportunity**

We compete within the \$170 billion U.S. H&W industry, as measured by SPINS during the 52 weeks ended June 13, 2021. SPINS defines the H&W industry to include natural, specialty, and wellness products. We see significant opportunity within this industry, which, according to SPINS information, had a two-year CAGR of 10.7% during the two years ended December 27, 2020, and where favorable consumer trends, including a greater focus on healthy lifestyle and macronutrient content, and increased consumption of meals at home, have led to growth of H&W brands within retail across multiple categories.

Since our inception, we have focused on creating H&W products for the frozen food aisle, where we believe H&W brands are underrepresented compared to other categories. According to SPINS information, in the 52 weeks ended December 27, 2020, the U.S. frozen food category excluding frozen and refrigerated meat generated retail sales of approximately \$58 billion, with a two-year CAGR of approximately 11%. Within this category, H&W brands generated approximately \$9 billion in sales during the same period, with a two-year CAGR of approximately 15%. These H&W brands represented approximately 16% of frozen food category sales excluding frozen and refrigerated meat, or 16% “penetration.” By comparison, H&W brands in the broader grocery category, which includes all retail food and beverage sales, represented 23% penetration during the 52 weeks ended December 27, 2020. Further, H&W brands in the refrigerated food category, which is adjacent to the frozen food category, represented 30% penetration during the 52 weeks ended December 27, 2020. We believe our brand is positioned to not only increase its penetration as an H&W brand within the frozen food category, but also to drive H&W industry growth. Additionally, we believe our brand has an opportunity to extend into adjacent categories including grocery and refrigerated, which comprise the balance of the total H&W industry.

Our branded products are sold to consumers through an increasing number of locations in retail channels, primarily in natural and conventional grocery, drug, club, and mass merchandise stores, including Walmart, Kroger, and Costco, with an average ACV of approximately 20% during the four weeks ended June 13, 2021. The term “ACV” refers to the measurement of a product’s distribution, weighted by the overall retail sales dollars attributable to the retail location distributing such product, where a retail location is determined to have sold a product if at least one unit of the product was scanned for sale within the relevant time period. We believe we have the opportunity to significantly increase our ACV by executing on our growth strategy.

Further, we have experienced success growing our distribution points by approximately 80% during the two years ended December 27, 2020 and believe there is significant opportunity for continued growth. For example, our total distribution points increased from approximately 94 thousand during the 12 weeks ended December 30, 2018 to approximately 170 thousand during the 12 weeks ended December 27, 2020, representing a two-year CAGR of approximately 34%. For perspective, leading H&W brands within the frozen food category achieved total distribution points in excess of 930

thousand during the 12 weeks ended June 13, 2021. We believe our innovative product offerings, strategic customer relationships, and community engagement efforts well position our Company to compete with such brands and continue accelerating our distribution point growth in future periods.

## **Our Growth Strategy**

We believe we are well-positioned to grow our business and achieve our mission, including by expanding our retail distribution, investing in our modern approach to growing our community, leveraging our innovative product development capabilities, and investing in production capacity and automation.

### ***Expand Our Retail Distribution***

The large H&W consumer base seeking to increase their protein intake and reduce carbohydrates, sugar, gluten, and grain in their diets face limited options in the frozen food category. As consumers increasingly demand delicious, healthier frozen food alternatives, our brand has not only converted consumers from conventional frozen food brands, but also attracted new consumers to the frozen food category generally, driving incremental sales for our customers and supporting their omni-channel growth efforts. Retailers tend to favor brands that bring new consumers to categories, and we believe our ability to attract new H&W consumers to our customers' stores and online marketplaces presents a compelling opportunity for our customers to expand our existing shelf space. Further, as we continue to develop innovative products and build brand equity, we believe we can grow our distribution points and achieve penetration levels that rival those of leading H&W brands in the frozen food category. We intend to leverage our strong relationships with prominent retail customers and establish relationships with new customers and consumers to expand our product offerings, capture shelf space, and become a leading H&W brand.

### ***Invest in Our Modern Approach to Grow Our Community***

Authentic consumer relationships are core to our strategy as they drive brand loyalty, optimize our product development efforts, and introduce new consumers to our brand. We believe we have one of the largest social media followings of any brand within the frozen food category today with over 500 thousand subscribers across all digital platforms. We rely extensively on social media platforms such as Facebook, Instagram, Pinterest, and TikTok to strengthen brand loyalty and facilitate online collaboration with our community. Although we believe our social media presence and consumer engagement as an H&W brand is compelling, we see significant opportunity for brand growth. We plan to scale our efficient and modern approach to authentic community building by increasing our investment in sales and marketing and continuing our work with influencers and brand ambassadors aligned with our mission. Another component of our modern approach is our ability to converse with our diverse consumer base with specificity: we organize our marketing managers based on the varied need states of our consumers, such as those with diabetes, consumers seeking to reduce carbohydrates, and athletes. Because both H&W and conventional brands within the frozen food category often take a traditional approach to marketing, we believe these strategies will allow us to outpace our competition. Further, we intend to leverage our consumer community to continue to grow our e-commerce sales, which includes "click-and-collect" e-commerce transactions where consumers pick up their product at a retailer following an online sale, as well as traditional direct-to-consumer "deliver-to-me" e-commerce transactions through our own website and third-party websites.

### ***Leverage Innovative Product Development Capabilities***

We believe our ability to deliver delicious comfort foods while simultaneously offering macronutrient ratios that support healthy lifestyles draws H&W consumers to our brand. Our products are the deliberate result of our innovative product development cycle, which starts with our proprietary base ingredient systems, and then assimilates our rapid prototyping capabilities with direct community feedback into the development process. We intend to innovate new base ingredient systems that will allow us to expand our product offerings of craveable comfort foods that meet the macronutrient ratios sought by our consumers. We also expect to continue to validate our product recipes prior to launch by investing in the expansion of our community feedback approach. We believe we can leverage our product development capabilities to rapidly expand our product offerings within the frozen food category. In addition, because we utilize direct community feedback to align our products with consumer preferences prior to launch, we believe we can continue to launch products that will have a higher likelihood of market acceptance than conventional brands.

While we have focused on developing our H&W products for the frozen food category, we also believe we have a significant opportunity to expand our product offerings into adjacent categories based on feedback we have received from our consumers and retail customers. We intend to explore opportunities to introduce our products to new

categories by continuing to rely upon and invest in our innovative product development approach. To this end, we will also selectively consider acquisitions of businesses or assets, or other investments, that are aligned with our mission and enhance our growth and profitability.

#### **Invest in Production Capacity and Automation**

During June 2021, we self-manufactured more than 70% of our products at our City of Industry Facility. The manufacture of our products requires a specialized process and purpose-built equipment to ensure our products have the macronutrient composition we strive for while maintaining taste and quality. Our City of Industry Facility provides us with the opportunity to continue to expand our self-manufacturing capacity while improving production efficiencies. For example, we plan to implement our growth strategy by investing in new production lines, employing new manufacturing automation technology designed to significantly increase productivity while reducing direct labor costs, and adopting a continuous improvement cost savings program that focuses on process improvement throughout our supply chain and manufacturing operations. By streamlining operations throughout our facility, we believe we can continue to deliver quality products while continuing to drive efficiencies across our operations and improve our financial performance. We are also in the process of implementing a new ERP system that we will use to manage our business and which we expect will enhance operations at our City of Industry Facility.

#### **Our Products**



We produce and sell, entrées, bowls, breakfast sandwiches, enchiladas, and other H&W products within the frozen food category. Our craveable products are offered in ready-to-heat and ready-to-cook formats for consumers to prepare. Our breakfast sandwiches and entrées are our core products and have been the chief drivers of our growth. All of our products are designed to be free of gluten-containing ingredients and added sugar, and to be higher in protein and lower in carbohydrates than their conventional equivalents. We are focused on making our products delicious, while ensuring they are balanced in macronutrients.



**Breakfast Sandwiches**

Our breakfast sandwiches have a delicious bun made with grain-free, gluten-free, and protein-rich ingredients, including cheese, almond flour, and eggs. We use this innovative bun to sandwich eggs, cheddar cheese, and a sausage, bacon, or turkey patty. Our breakfast sandwiches are designed to look and taste like traditional breakfast sandwiches but without wheat flour, grain, or other carbohydrate-dense ingredients. Each breakfast sandwich provides 18 to 20 grams of protein and four grams of carbohydrates per serving, compared to a similar breakfast sandwich produced by one of our conventional counterparts, which has 29 grams of carbohydrates and 13 grams of protein per serving.



**Entrées**

*Bowls*

Our entrée bowls are designed to have the satisfying taste of comfort food. For example, instead of using traditional wheat flour pasta, our lasagna bowl is made with layers of our chicken and parmesan pasta base, marinara sauce that we make with simple ingredients, and ricotta and mozzarella cheese. Our lasagna bowls contain 11 grams of carbohydrates and 32 grams of protein per serving, compared to a similar dish produced by one of our competitors, which has 40 grams of carbohydrates and 16 grams of protein per serving. We also produce over half a dozen other bowls, all of which are microwavable and convenient to prepare.



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### *Enchiladas*

Our enchiladas provide a macronutrient balanced, delicious sampling of Mexican food. Instead of carbohydrate-loaded wheat flour tortillas, we use thin, round slices of our innovative chicken and cheese “tortilla.” We roll freshly seasoned and cooked shredded chicken, pork, cheese, or beef into our “tortillas” and top them with our tomatillo verde sauce or roasted chili poblano red sauce. Our sauces are made using fresh produce. The result is a delicious enchilada with fewer than four grams of carbohydrates and 20 grams of protein per serving.



### *Bacon Wrapped Stuffed Chicken*

Our bacon wrapped stuffed chicken is our modern take on a classic dish. We wrap our cheese-stuffed chicken with thick-cut bacon in lieu of the wheat-flour breading used by certain of our competitors, which can comprise up to one-third of their final product. Our product design results in a high-protein meal that is grain-free and gluten-free, and contains three grams of carbohydrates and 32 grams of protein. A conventional version of this dish has 16 grams of carbohydrates and 20 grams of protein per serving.

### **Other Frozen Food Items**

To help fulfill our mission and delight our consumers, we provide macronutrient balanced foods for all eating occasions and times of day and offer products in multiple subcategories within the frozen food category. We believe that the variety of our product offerings increases brand engagement and awareness, grows consumer loyalty, and allows us to strategically meet evolving consumer preferences.

We believe that participating in high-impulse categories like ice cream, where consumers are more likely to switch from conventional brands, is an efficient marketing tactic that broadens our consumer base and increases engagement. For example, we launched a no-added sugar, extra-creamy, super-premium ice cream as a limited time “drop” on our e-commerce platform. The product delighted our community and led to one of our retail customers asking to carry the product. Today, this product is shelved in approximately 1,100 stores nationwide. We consider ice cream a “non-core” category.







Another example of a high-impulse category is the H&W frozen pizza subcategory, which is a large segment with consumers continually trying new items and discovering new brands. We use this category to funnel new consumers into our franchise. We expect our upcoming launch of pizza made with Beyond Meat ingredients will sell within our e-commerce sales channel, and in more than 1,000 retail stores in the three months ending September 30, 2021.

Finally, we participate in the snacks and appetizers subcategory with our bite-sized, breading-free chicken nuggets stuffed with cheese.

We are developing and in the future intend to introduce additional products that fit our mission and have similar macronutrient profiles to our existing product line, including Asian entrées, chicken tenders, breakfast protein bites and breakfast bowls, and protein fries and protein tots.

Motivated by our mission, our success, and our consumers' feedback, we continue to innovate and expand our product offerings to address growing demand for products that appeal to consumers with a preference for increasing their protein intake while reducing carbohydrates, sugar, grain, and gluten in their diets.

## **Our Innovative Approach to Product Development and Marketing**

### ***Product Ideation***

We generate new product ideas by listening to product requests from our consumer community and retail customers. From there, our marketing team introduces a proposed product, which is then quickly validated by our cross-functional development team located at our City of Industry Facility. This team is composed of talent from our finance, culinary, food science, sales, manufacturing, and engineering teams. By having the product validation team located at our manufacturing facility we benefit from compressed development timelines. For example, during the year ended December 31, 2020, our bacon wrapped stuffed chicken was introduced to retail fewer than six months from its initial ideation.

Once a product is in development, our development and commercialization teams produce prototypes that are then run through a consumer validation process we call RGF Labs. RGF Labs is an invitation-only group from our consumer community. The consumers invited to be in RGF Labs are meant to represent all life stages and varying need and we believe they cover every segment of our consumer group. This includes people who are on restrictive diets, including the ketogenic diet or paleo, or are casual consumers of our products. We send prototypes, gather in-home-use tests, and improve products based on responses from RGF Labs. It is common to go through multiple prototypes and in-home-use tests on the same product to ensure it will delight the consumer. In addition to our focus on delivering breakthrough products, we also utilize our innovative approach to improve our existing products.

### ***Our Supply Chain and Manufacturing Process***

#### ***Our Supply Chain***

We purchase large quantities of ingredients to manufacture our products, including food commodities such as poultry and dairy products. The price of these commodities is volatile and can change significantly based on a number of factors beyond our control, including consumer demand, harvesting decisions, incidence of disease, adverse weather conditions, natural disasters, and public sentiment.

Our base ingredient systems, which include (i) chicken and parmesan cheese, and (ii) plant-based proteins and fibers, are composed of quality ingredients to which consumers are accustomed. To support these ingredient systems, we source high-quality ingredients that are widely available from a network of suppliers with whom we have strong relationships.

#### *Our Manufacturing and Packaging Process*

Our products are manufactured at our City of Industry Facility and through our co-manufacturing partners located in Marietta, Georgia; Earth City, Missouri; and Nogales, Mexico. During June 2021, more than 70% of our products were self-manufactured, compared to a limited number during the year ended December 31, 2020.

Our City of Industry Facility contains four flexible production lines that are FDA and USDA registered. In addition, the products we manufacture at this facility are certified by the GFCO to be labeled for sale as “gluten free” (to 10ppm gluten or less), in accordance with the standards set by the GFCO, when bearing the GFCO certification mark.

Packing configurations available to us are significant and flexible. Configurations include shrink wrap, horizontal wrapping, vertical weighing and bagging, and cartoning.

#### *Quality Control*

We utilize a food safety and quality management program, which employs manufacturing procedures, expert technical knowledge of food safety science, employee training, ongoing process innovation, and both internal and independent auditing.

We and our co-manufacturing partners each have a food safety plan (“FSP”) that focuses on preventing food safety risks and is designed to be compliant with the requirements set forth under the Food Safety Modernization Act (“FSMA”). In addition, each facility has at least one preventive controls qualified individual who has successfully completed training in the development and application of risk-based preventive controls at least equivalent to that received under a standardized curriculum recognized by the USDA and FDA.

Each of our and our co-manufacturer’s facilities complies with the Global Food Safety Initiative. All facilities manufacturing our products are certified against a standard recognized by Safe Quality Food Institute. These standards are integrated food safety and quality management protocols designed specifically for the food sector and offer a comprehensive methodology to manage food safety and quality. Certification provides an independent and external validation that a product, process, or service is designed to comply with applicable regulations and standards.

In addition to third-party inspections of our manufacturing partners, we have instituted audits to address topics including allergen control; ingredient, packaging and product specifications; and sanitation. Under FSMA, our City of Industry Facility and co-manufacturers’ facilities are required to have an FSP, a hazard analysis critical control plan, or a hazard analysis critical control points plan that identifies critical pathways for contaminants and mandates control measures that must be used to prevent, eliminate, or reduce relevant food-borne hazards.

#### *Sales Channels and Product Distribution*

Our branded products are sold to consumers through an increasing number of retail channels, primarily in natural and conventional grocery, drug, club, and mass merchandise stores. During the year ended December 31, 2019, Walmart and Kroger accounted for approximately 66% of our net sales, collectively. During the year ended December 31, 2020, Walmart, Kroger, and Costco collectively accounted for approximately 57% of our net sales. These three customers represented approximately 85% of our net sales for the six months ended June 30, 2021. Our branded products are also sold through our e-commerce sales channel, which includes “click-and-collect” purchases through our retail customers and, to a limited extent, direct-to-consumer sales through our website and third-party websites. We also sell a limited number of private label products to select retail customers.

We distribute the majority of our products directly to our customers from our City of Industry Facility, or from the facilities operated by our co-manufacturers located in Marietta, Georgia; Earth City, Missouri; and Nogales, Mexico. When we are not shipping directly to our customers from these facilities, we contract with several third-party warehousing and logistics vendors to handle the order fulfillment and delivery process. The third-party logistics providers receive our products at their locations and take responsibility for storing, picking and consolidating our products, and then shipping orders to our customers. Currently, we do not utilize internal software to track product shipments, although we leverage the systems of our logistics partners to manage our supply chain through retail distribution. However, we are in the process of implementing a new ERP system that we expect will assist us in managing and improving our product distribution processes.



## **Sales and Marketing**

### **Sales**

Our sales team is led by our Senior Vice President, Head of Sales. In addition to our sales team, we use an extensive network of brokers to service our customers. We do not use distributors.

### **Digital Marketing and Social Media**

Our marketing department is led by our Chief Marketing Officer. We currently manage all of our marketing activities in-house and do not rely on agencies or third parties for such activities, which we believe enhances the consistency and strength of our brand messaging. Our marketing team is segmented into community managers, who engage with thousands of consumers every week to build relationships, educate them on our products, talk about our mission, and promote healthy lifestyles. We believe maintaining authentic conversations with our robust and engaged community will allow us to durably and efficiently grow our brand equity relative to our competitors.

We primarily engage with our community directly through social media, SMS text, and our website, and indirectly through influencers.

**Social Media.** We believe we have one of the largest social media followings of any brand within the frozen food category today with over 500 thousand subscribers across all digital platforms. We rely extensively on social media platforms such as Facebook, Instagram, Pinterest, and TikTok to strengthen brand loyalty and facilitate online collaboration with our community. These platforms allow us to directly and efficiently reach our target demographics, and facilitate authentic conversations with our consumers. Through our online community, we are currently able to garner approximately 1.8 million organic impressions every month.

A few examples of how we use social media to connect with our community are summarized below:

- **Facebook:** We maintain a Facebook page, which we use to facilitate consumer services, distribute brand and product information, and publish videos and pictures promoting our brand. As of June 30, 2021, we had approximately 200 thousand Facebook followers.
- **Instagram:** We maintain an active Instagram account, @realgoodfoods, which we use to regularly publish content related to our business and products in order to better engage with our consumers. As of June 30, 2021, we had approximately 365 thousand followers on Instagram. More important than the number of our followers, our community on Instagram is significantly more engaged than any other branded frozen food company in the United States. For comparison, our average number of comments per post exceeds any of the top seven H&W brands by five times.

**SMS Text.** As of June 30, 2021, we had over 210 thousand SMS text subscribers. We use this list to distribute brand and product information and to engage with our consumers. Communicating with consumers via SMS text message is a particularly effective tactic that allows us to personalize and geo-target our campaigns to tie to the store locations and area codes of the SMS Text subscriber.

**Influencers.** In lieu of focusing our resources on more traditional marketing spend, we have partnered with nano, micro and strategic influencers, with a broad social media reach, and encourage them to share their authentic impressions of our products. We believe this leads to greater brand loyalty and stronger conversion.

**Website.** We also maintain a registered domain website at [www.realgoodfoods.com](http://www.realgoodfoods.com). Our website drew over 728 thousand visitors from June 30, 2020 to June 30, 2021 based on Google Analytics. Our website is used as a platform to promote our products, share recipes, highlight nutritional facts, and provide business updates. The information contained on or accessed through our website does not constitute part of this prospectus.

## **Our Competition**

We are an H&W brand operating within the frozen food category, although we believe we compete with other conventional brands within the frozen food category. We operate in a highly competitive market with numerous brands and products competing for market share and limited shelf space from retail customers.

Within our category, we believe competition is primarily based on the following factors:

- product quality and taste;

- brand reputation, recognition, and loyalty;
- nutritional content and claims;
- product pricing;
- product variety;
- relationships with customers and access to retail shelf space; and
- advertising and marketing activity and social media presence.

While we believe we compete favorably with respect to each of these factors, there is no guarantee that we will be able to compete effectively against our current or future competitors. We compete with conventional packaged food companies such as Conagra Brands, Inc., Kraft Heinz Company, Nestle S.A., and Tyson Foods, Inc. We also compete with H&W brands such as Amy's Kitchen, Atkins, dr. Praeger's, EVOL, Quest Nutrition, Saffron Road, and Tattooed Chef. Each of these companies, as well as our other competitors, may have greater financial and other resources, longer operating histories, a broader assortment of product offerings, products that are well-accepted in the marketplace, more established relationships with retailers, and greater brand visibility among consumers.

## **Our Culture and Human Capital**

### ***"Keeping it REAL"***

We are a mission-focused company. We believe there is a better way to feed our future, and we are committed to producing *Real Food You Feel Good About Eating*. We believe that our company culture has been and will continue to be a key contributor to the fulfillment of this commitment. Our culture enables us to foster the creativity, teamwork, focus, and innovation we need to support our growth. Our employees drive our mission and share core values that both stem from and define our culture, which plays an invaluable role in our execution at all levels within our organization, and contributes to our success and the continued growth of our business. Our shared core values focus on (i) trust and respect for each other, our customers, consumers, business partners, stockholders, and other constituents; (ii) relentless product innovation and continuous improvement; and (iii) a culture of transparency, accountability, and ownership, and collectively serve as the driving force behind how we work together, engage with our constituents and the communities in which we operate, and lay the groundwork for our future growth and success. We call this *"Keeping it REAL."*

Prior to the consummation of this offering, our board of directors will adopt a written code of business conduct and ethics, as well as other governance policies and practices, which will serve as a guide for our directors, officers, employees, and representatives in our daily interactions with our customers, consumers, business partners, stockholders, and other constituents. We will provide periodic training and educational materials to our directors and employees on these governance principles, which will help instill a commitment to ethical behavior and legal compliance.

### ***Our Team***

We value having talented people at every level of our business. As of June 30, 2021, we had approximately 260 full-time personnel. None of our employees is represented by a labor union. We have never experienced a labor-related work stoppage.

We contract with several professional employer organizations ("PEOs") that administer our human resources, payroll, and employee benefits functions for substantially all of our warehouse and production employees. Our PEOs recruit and select these contract employees to fulfill our hiring needs, and each of these employees is an employee of record of the relevant PEO. As of June 30, 2021, of our full-time personnel, approximately 200 are contract employees hired through our PEOs. The remaining approximately 60 personnel work across various functional areas within our business, including manufacturing, sales, marketing, and administration.

Our ability to execute our growth plan and achieve our strategic objectives depends in part upon our ability to attract, train, and retain a sufficient number of qualified employees (including contract personnel hired through PEOs), who can manage our business, oversee our manufacturing operations, and establish credibility with our customers, co-manufacturers, suppliers, and other business partners. We expect to make significant investments to hire additional employees to support the growth of our business. However, competition for qualified employees (including contract personnel) is intense within our industry and the geographic regions in which we operate, and we have experienced challenges hiring and retaining employees.

In an effort to attract and retain employees, we provide competitive employee wages that are consistent with employee positions, skill levels, experience, knowledge, and geographic location. We also offer our employees competitive time off, health, and welfare benefits, Company-paid holidays, recognition programs, and career-development opportunities. In addition, we focus on our employees' growth by creating experiences that align with our strategic priorities, and promote performance and opportunities for development.

The health and safety of our employees is our highest priority. During the ongoing COVID-19 pandemic, we have remained operational as an "essential business" while focusing on safeguarding the well-being of our employees. In an effort to protect the health and safety of our employees, we have limited the number of employees on-site relative to our typical personnel capacity, adopted remote work and flexible scheduling policies, and implemented enhanced safety measures and protocols at our facilities.

### **Facilities**

We do not own any real property. Our principal executive office is located in Cherry Hill, New Jersey, where we lease approximately 5,800 square feet of office space under a lease agreement that expires in October 2026, subject to an option to extend the term of the lease for a successive five-year period. We primarily use this location for general office and administrative purposes.

We also operate our City of Industry Facility, which is a 45,000 square foot facility that we lease pursuant to a transfer agreement entered into on January 4, 2021. In connection with the lease, we took possession of certain equipment and inventory located on the premises. In addition, on February 16, 2021, we entered into a purchase agreement with PMC pursuant to which we purchased certain equipment and inventory required to operate our City of Industry Facility. These agreements collectively reflect our acquisition of the co-manufacturing business belonging to one of our former co-manufacturers, which closed on March 31, 2021. Our City of Industry Facility lease expires on June 30, 2024, with an option to extend the lease for a successive five-year period.

On October 4, 2021, we entered into a lease agreement for our Bolingbrook Facility, a 81,406 square foot industrial warehouse in Bolingbrook, Illinois to be used for food manufacturing and assembly, warehousing, and distribution. This lease will commence on January 1, 2022 and will expire on April 1, 2029, with two options to extend the lease for successive five-year periods.

In addition to our principal executive office and food manufacturing facility, we lease a 19,500 square foot industrial building in La Verne, California, which we use as a warehouse for packaging and distributing our products, as well as for office and administrative purposes. This lease expires on March 31, 2026, with an option to extend the lease for a successive five-year period.

We believe that these facilities are sufficient to meet our current needs. We intend to expand our facilities or add new facilities as we grow, and we believe that suitable additional space will be available as needed to accommodate expansion of our operations.

### **Trademarks and Other Intellectual Property**

To establish and protect our proprietary rights, we rely on a combination of copyright, trademark, trade dress, and trade secret laws, as well as confidentiality agreements and other contractual restrictions. We do not own any registered patents.

Our intellectual property is a strategically important component of our business. In particular, we believe that our trademarks are valuable assets that reinforce the distinctiveness of our brand to consumers, are critical to maintaining and improving our competitive position, and are an important aspect of building brand equity. As such, we consider "The Real Good Food Company" name and our "Realgood Foods Co." logo trademarks to be among our most valuable intellectual property assets. We also believe that having distinctive marks that are readily identifiable on our products is an important factor in continuing to build our brand and distinguish our products. Accordingly, our products are marketed and sold uniformly using the term "Realgood." We have registered trademarks identifying our most popular products, including Realgood Enchiladas, Realgood Stuffed Chicken, Realgood Entrée Bowls, and Realgood Breakfast Sandwiches, among others. We expect to continue to invest in our trademark portfolio as we introduce new products and seek to build and protect our brand.

As of June 30, 2021, we owned 15 U.S. trademark registrations, had three pending U.S. trademark applications, owned two foreign trademark registrations, and had two pending foreign trademark applications. Further, we have a registered domain name, [www.realgoodfoods.com](http://www.realgoodfoods.com). The information contained on or accessed through our website does not constitute part of this prospectus.

We also rely on unpatented proprietary expertise, food recipes, and formulations, as well as other trade secrets and copyright protection, to maintain and improve our competitive position. We treat the confidential specifics of our marketing, promotions, and products as trade secrets, and information we work to keep confidential. In addition, we treat our proprietary information related to recipe formulas, processes, know-how, and methods used in our production and manufacturing as trade secrets, and information we work to keep confidential. We have taken reasonable measures to keep each of these items, as well as our business and marketing plans, customer lists, and contracts, reasonably protected and secure.

While there is no active litigation involving any of our trademarks or other intellectual property rights, we may be required to enforce or defend our intellectual property rights against third parties in the future. For additional information regarding these and other risks related to our intellectual property portfolio and their potential effect on us, refer to the section entitled “*Risk Factors—Risks Related to Our Intellectual Property, Information Technology, and Privacy.*”

### **Security, Privacy, and Data Protection**

The regulatory environment surrounding information security and privacy is demanding, with the frequent imposition of new and changing requirements across our business. Various federal, state, and foreign legislative and regulatory bodies may expand current laws or regulations, enact new laws or regulations, or issue revised rules or guidance regarding privacy, data protection, information security, and consumer protection. We must comply with increasingly complex and rigorous laws and regulations regarding privacy and the collection, storage, use, processing, transfer, transmission, disclosure, and protection of personal and other data, which require us, among other things, to maintain reasonable and appropriate data security measures and to provide timely notice to individuals and regulators in the event that such personal information is compromised.

Earning and maintaining the trust of our customers, consumers, supply chain partners, employees, and securityholders is critical to the success and growth of our business, and we take significant measures to protect the privacy and security of their personal data and to comply with applicable laws. We have established and maintain an information security program, which is aligned with applicable standards and regulations, including PCI-DSS. In November 2020, California voters passed the California Privacy Rights Act (“CPRA”), which will become fully effective on January 1, 2023. The CPRA imposes additional data privacy compliance requirements on companies covered by the legislation, including the expansion of consumers’ rights with respect to certain sensitive personal information, which may impact our business. The CPRA also establishes a new regulatory agency dedicated to enforcing the requirements of the California Consumer Privacy Act (“CCPA”) and CPRA. The effects of the CCPA and CPRA may require us to materially modify our data processing practices and policies and to incur substantial compliance-related costs and expenses. We must also comply with laws on advertising, including the Telephone Consumer Protection Act (“TCPA”) the Telemarketing Sales Rule, and Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (“CAN-SPAM Act”).

Our team of professionals works to identify and mitigate risks, implement best practices, and continue to evaluate ways to improve our information security. These steps include data encryption in transit and at rest, network security, limiting and authorizing access controls, and multi-factor authentication for access to systems with data. We also employ regular system monitoring, logging, and alerting to retain and analyze the security state of our corporate and production infrastructure. In addition, we take appropriate steps to help ensure that appropriate security measures are maintained by the third-party vendors we use, including by conducting security reviews.

### **Government Regulation**

The food industry is highly regulated. We, our co-manufacturers, and our suppliers are subject to extensive laws and regulations in the United States by federal, state, and local government authorities, or by federal, state, and local government authorities in other jurisdictions where they are located. These laws and regulations apply to many

aspects of our business, including the manufacture, packaging, labeling, distribution, advertising, sale, quality, and safety of our products, as well as the health and safety of our employees and the protection of the environment.

Our business is subject to extensive regulation by the FDA, USDA, and the U.S. Federal Trade Commission ("FTC"), and other federal, state, and local authorities in the United States, and any other jurisdictions in which we may manufacture or sell our products. Specifically, in the United States, we and our products are subject to the requirements of the FDA and USDA and regulations promulgated thereby. This comprehensive regulatory program governs the manufacturing, nutritional value, composition and ingredients, packaging, labeling, and safety of food. Under this program, the FDA requires that facilities that manufacture food products comply with a range of requirements, including hazard analysis and preventative controls regulations, good manufacturing practices ("GMPs"), and supplier verification requirements. Our processing facilities, including those of our co-manufacturers, are subject to periodic inspection by foreign, federal, state, and local authorities. For example, our City of Industry Facility, has been subject to periodic inspections by the FDA, USDA, and Occupational Safety and Health Administration to evaluate compliance with certain applicable requirements. In the instances where we do not control the manufacturing processes of our products, we rely upon our co-manufacturers for compliance with GMPs for the manufacturing of our products conducted by our co-manufacturers. We seek to comply with applicable laws and regulations through a combination of employing internal experience and expert personnel to monitor quality-assurance compliance, and we contract with third-party laboratories that conduct analyses of new products to establish nutrition labeling information and to help identify certain potential contaminants before distribution.

The FDA also requires that certain nutrition and product information appear on our product labels and, more generally, that our labels and labeling be truthful and not misleading. Similarly, the FTC requires that our marketing and advertising be truthful, not misleading, and not deceptive to consumers. We are also restricted from making certain types of claims about our products, including nutrient content claims, health claims, and claims regarding the effects of our products on any structure or function of the body, whether express or implied, unless we satisfy certain regulatory requirements and our representations are not misleading. Further, we must comply with additional laws impacting our advertising, including the TCPA, the Telemarketing Sales Rule, and the CAN-SPAM Act.

In addition to federal regulatory requirements in the United States, certain states impose their own manufacturing and labeling requirements. For example, every state in which our products are manufactured requires facility registration with the relevant state food safety agency, and those facilities are subject to state inspection as well as federal inspection. Further, states can impose state-specific labeling requirements, such as Proposition 65 in California.

We are currently subject to international laws and regulations where we manufacture our products, and to the extent we commence selling and distributing our products internationally, we will become subject to additional laws and regulations.

We are also subject to labor and employment laws, laws governing advertising, privacy laws, safety regulations, and other laws, including consumer protection regulations that regulate retailers or govern the promotion and sale of merchandise. Our operations, and those of our co-manufacturers and suppliers, are also subject to various laws and regulations relating to environmental protection and worker health and safety matters.

Although we have implemented policies and procedures designed to comply with existing laws and regulations, we operate in a highly regulated environment with constantly evolving legal and regulatory frameworks. Consequently, we are subject to heightened risk of legal claims, government investigations, or other regulatory enforcement actions.

### **Legal Proceedings**

From time to time, we are involved in various legal proceedings and other disputes arising from or related to matters incident to the ordinary course of our business activities. Although the results of such legal proceedings and other disputes cannot be predicted with certainty, we believe that we are not currently a party to any matters which, if determined adversely to us, individually or in the aggregate, would have a material adverse effect on our business, operating results, financial condition, or prospects. However, regardless of the merit of any matters raised or the ultimate outcome, legal proceedings and other disputes may generally have an adverse impact on us as a result of defense and settlement costs, diversion of management resources, and other factors.

## MANAGEMENT

### Executive Officers and Directors

The following table sets forth information regarding our executive officers, directors, and director nominees as of October 1, 2021:

NAME	AGE	POSITION
<b>Executive Officers</b>		
Bryan Freeman	51	Executive Chairman, Chairperson of our Board of Directors
Gerard G. Law	47	Chief Executive Officer, Director
Akshay Jagdale	41	Chief Financial Officer
Andrew J. Stiffelman	36	Chief Marketing Officer of RGF, LLC
<b>Non-Employee Directors and Director Nominees</b>		
Deanna T. Brady (1)(4)	56	Director Nominee
George F. Chappelle, Jr. (1)(2)(4)	60	Lead Independent Director
Gilbert B. de Cardenas (3)(4)	58	Director Nominee
Mark J. Nelson (1)	52	Director Nominee

(1) Will be a member of our audit committee upon appointment.

(2) Member of our compensation committee.

(3) Will be a member of our compensation committee upon appointment to our board of directors.

(4) Will be a member of our nominating and corporate governance committee upon appointment.

### Executive Officers

**Bryan Freeman.** Mr. Freeman has served as Executive Chairman of RGF, LLC since October 2020, and has served as Executive Chairman, and Chairperson of the board of directors of RGF, Inc. since June 2, 2021. Mr. Freeman also served as Chief Executive Officer of RGF, LLC from September 2017 to October 2020. Mr. Freeman has over 20 years of experience in the frozen foods industry. Since 2015, Mr. Freeman has served as Chairman of High Road Ice Cream, Inc. and, since 2010, as Managing Partner at Slingshot Consumer LLC ("Slingshot"), a private equity fund focused on emerging food manufacturing companies. Prior to joining us, Mr. Freeman was an executive at AdvancePierre Foods from 2015 to 2017, and part of the senior leadership team when AdvancePierre Foods completed its initial public offering in 2016. Mr. Freeman also served on the mergers and acquisitions team at AdvancePierre Foods. Mr. Freeman resigned from AdvancePierre Foods after its sale to Tyson Foods in 2017. From 2010 to 2014, Mr. Freeman served as Chief Executive Officer at Better Bakery Co. LLC. From 2005 to 2009, he served as Chief Executive Officer at MCOOLZ, LLC, a dairy and juice processing manufacturer and marketer. Prior to working at MCOOLZ, LLC, Mr. Freeman served as President at Snackworks LLC from 2000 to 2005, which was acquired by J&J Snack Foods (Nasdaq: JJSF) in 2005. Mr. Freeman holds a Bachelor of Arts in International Economics from the University of California, Los Angeles, and a Master of Business Administration and Juris Doctor from Loyola Marymount University.

We believe Mr. Freeman's history with the Company, AdvancePierre Foods, and Snackworks LLC, in addition to his extensive leadership experience in the frozen foods industry, strategic expertise, and knowledge, qualify him to serve as Chairperson of our board of directors.

**Gerard G. Law.** Mr. Law has served as Chief Executive Officer of RGF, LLC since September 2020 and Chief Executive Officer and director of RGF, Inc. since June 2, 2021. Mr. Law has over 29 years of experience in the frozen foods industry, with experience in sales, marketing, research and development, operations, distribution, and mergers and acquisitions. Prior to joining us, from 2011 to 2020 Mr. Law was Senior Vice President, Snack Foods Division at J&J Snack Foods (Nasdaq: JJSF), where he managed 16 manufacturing plants. Prior to serving in that role, Mr. Law held a wide range of positions at J&J Snack Foods of increasing responsibility from 1992 to 2011, including Senior Vice President, Western Operations; General Manager; Assistant General Manager; Plant Engineer; and Design Engineer, Snack Foods Division. Since 2014, Mr. Law has served as 2nd Vice Chair and Board Member

of Oaks Integrated Care, a nonprofit organization. Mr. Law holds a Bachelor of Science in Business, as well as a Master of Business Administration in Marketing, from Drexel University LeBow College of Business.

We believe Mr. Law's role as our Chief Executive Officer and his history at J&J Snack Foods, in addition to his extensive management experience in the frozen foods industry, manufacturing expertise, and knowledge qualify him to serve on our board of directors.

**Akshay Jagdale.** Mr. Jagdale has served as Chief Financial Officer of RGF, LLC since December 2020 and as Chief Financial Officer of RGF, Inc. since June 2, 2021. Mr. Jagdale has more than 15 years of experience as a securities analyst in the food and beverage industry. Prior to joining us, Mr. Jagdale served as Chief Business Development and Strategy Officer at Aromyx Corporation from June 2019 to December 2020. From 2015 to 2019 Mr. Jagdale served as Managing Director and Equity Analyst at Jefferies Group LLC and from 2008 to 2015 he served as a Director and Equity Analyst at KeyBank, N.A. Prior to that, Mr. Jagdale served as an Associate at JPMorgan Chase & Co. from 2005 to 2008, an Assistant Client Advocate at Willis Towers Watson from 2004 to 2005, and a Risk Analyst at Marsh McLennan from 2003 to 2004. Mr. Jagdale holds a Bachelor of Arts in Economics with a specialization in Finance from Rutgers, The State University of New Jersey-New Brunswick.

**Andrew J. Stiffelman.** Mr. Stiffelman has served as Chief Marketing Officer of RGF, LLC since April 2017. Prior to joining us, Mr. Stiffelman served as Senior Marketing Director at AdvancePierre Foods from 2015 to 2016, and as Marketing Director from 2014 to 2015. Mr. Stiffelman served as Supply Chain Director at Hostess Brands from 2013 to 2014. Prior to that, he served in various roles at Smithfield Foods from 2009 to 2013, most recently as Strategic Planning and Category Management Senior Manager. Mr. Stiffelman holds a Bachelor of Science in Business Administration with a specialty in Finance and Real Estate, as well as a Master of Business Administration in Finance and Management, from the University of Missouri Trulaske College of Business.

## Non-Employee Directors

**George F. Chappelle, Jr.** Mr. Chappelle has served as Lead Independent Director to our board of directors and as Chairperson of our compensation committee since September 2021. Mr. Chappelle's formal election to our audit committee and nominating and corporate governance committee will occur prior to the consummation of this offering. Since January 2020, Mr. Chappelle has served as a Board Member and Advisor of Green Fees LLC and, from July 2018 to December 2020, served as Chairman of the Board of Flagstone Foods. Prior to joining us, Mr. Chappelle served in several roles at Tyson Foods, including as Chief Corporate Services Officer from April 2019 to January 2020, General Manager of Emerging Proteins from January 2019 to January 2020, Chief Operating Officer of Prepared Foods from January 2018 to December 2018, and Chief Integration Officer from July 2017 to December 2017. Mr. Chappelle also served as Chief Operating Officer of AdvancePierre Foods from 2014 to 2017, Chief Operating Officer of Vi-Jon in 2013, Chief Operating Officer of Solo Cup Company from 2009 to 2012, and held several positions at Sara Lee Foods, including as Senior Vice President, Chief Supply Chain Officer and Senior Corporate Officer from 2008 to 2009, and Senior Vice President, Chief Information Officer and Senior Corporate Officer from 2005 to 2008. Prior to his role at Sara Lee Foods, Mr. Chappelle served as Vice President, Chief Information Officer, and Corporate Officer of HJ Heinz from 2002 to 2005, and Group Vice President, Information Systems of ABB Switzerland Ltd. from 2000 to 2002. Mr. Chappelle holds a Bachelor of Science in Information Technology from Westfield State College, and a Master of Science in Applied Management from Lesley College.

We believe Mr. Chappelle's experience as a former officer of Tyson Foods, and previous service as Chief Operating Officer of AdvancePierre Foods, as well as his extensive leadership skills, industry experience and knowledge, qualify him to serve on our board of directors.

## Non-Employee Director Nominees

**Deanna T. Brady, R.D.** Ms. Brady is a nominee to our board of directors, audit committee and nominating and corporate governance committee, whose formal election will occur concurrent with the effectiveness of this registration statement. Ms. Brady is currently Executive Vice President and a member of the executive committee of Hormel Foods (NYSE: HRL) and has over 30 years of experience in the foodservice industry. Prior to her current role, Ms. Brady served in various leadership roles at Hormel Foods, including as Group Vice President CPS from October 2015 to January 2020, Group



Vice President Foodservice Division from 2013 to 2015, Vice President of Foodservice Sales from 2007 to 2013, and various sales manager roles from 1996 to 2007. Prior to her tenure at Hormel Foods, Ms. Brady served as Regional Sales Manager of Imperial Holly Sugar from 1994 to 1996, Marketing Manager of Rational Benelux from 1993 to 1994, Territory Sales Manager of Basic American Foods from 1991 to 1993, and, prior to that, served as Healthcare Account Manager of S.E. Rykoff & Company from 1989 to 1991. Ms. Brady currently serves on the board of managers of Applegate Farms, LLC and previously served on the board of directors of Hormel Foods International Corp. Ms. Brady holds a Bachelor of Science in Dietetics and Food Administration from California Polytechnic State University, San Luis Obispo, and earned a Certificate in Management from the Carlson School of Management Executive Education Program.

We believe Ms. Brady's experience as Executive Vice President of Hormel Foods and member of its board of directors and executive committee, as well as her extensive foodservice industry experience and knowledge, qualify her to serve on our board of directors.

**Gilbert B. de Cardenas.** Mr. de Cardenas is a nominee to our board of directors, compensation committee, and nominating and corporate governance committee, whose formal election will occur concurrent with the effectiveness of this registration statement. Mr. de Cardenas currently serves as a member of Nielsen-Massey Vanilla's board of directors, a member of Nielsen-Massey Vanilla's compensation committee, and a member of Cacique, Inc.'s board of directors. Since 2009, Mr. de Cardenas has served as Chief Executive Officer of Cacique, Inc., a brand in the Mexican-style cheese, cream and sausage category. Prior to that time, Mr. de Cardenas was the Chief Executive Officer of Reynaldo's Foods from 2006 to 2009, a branded meat and dessert company. Mr. de Cardenas holds a Master of Business Administration and Management from the University of Chicago.

We believe that Mr. de Cardenas' experience as Chief Executive Officer and member of the board of directors of Cacique, Inc., as well as his extensive industry experience and knowledge, qualify him to serve on our board of directors.

**Mark J. Nelson.** Mr. Nelson is a nominee to our board of directors and audit committee, whose formal election will occur concurrent with the effectiveness of this registration statement. Mr. Nelson currently serves as a member of Local Bounti Corporation's board of directors. Prior to joining us, Mr. Nelson served in various roles as Chief Financial Officer, Chief Operating Officer, Treasurer and Secretary of Beyond Meat, Inc. (Nasdaq: BYND) from December 2015 to May 2021 after briefly serving as Senior Vice President and Chief Financial Officer of Biolase, Inc. (Nasdaq: BIOL), a medical device company, from March 2017 to May 2017. Mr. Nelson served as Beyond Meat, Inc.'s Chief Operating Officer and Chief Financial Officer from 2016 to 2017, and solely as its Chief Financial Officer from 2015 to 2016. Prior to joining Beyond Meat, Inc., Mr. Nelson was Chief Financial Officer and Treasurer of Farmer Bros. Co. (Nasdaq: FARM), a manufacturer, wholesaler, and distributor of coffee, tea, spices, and culinary products, from April 2013 to November 2015. Prior to that, he served as Chief Accounting Officer (2010 to 2013), Vice President, Corporate Controller (2008 to 2010), Vice President, General Manager (2006 to 2008) and Finance Director (2004 - 2006) at Newport Corporation, a former publicly traded global supplier of advanced technology products and systems. He also served as Finance Director at Thermo Fisher Scientific Inc. (NYSE: TMO), a biotechnology product development company, from 2002 to 2004, FP&A Manager, Plant Controller, and Senior Financial Analyst at C. R. Bard, Inc. from 1998 to 2002, Chief Executive Officer and Founder of Western Energy Services, Inc. from 1993 to 1997, and Financial Management Program Trainee at the General Electric Company (NYSE: GE) from 1990 to 1993. Mr. Nelson holds a Bachelor of Business Administration with a specialty in Finance from University of Massachusetts at Amherst, Isenberg School of Management, and a Master of Business Administration from Babson College, Franklin W. Olin Graduate School of Business.

We believe that Mr. Nelson's experience as Chief Financial Officer, Treasurer, Chief Operating Officer, and Secretary of Beyond Meat, Inc., as well as his experience as member of Local Bounti Corporation's board of directors, qualify him to serve on our board of directors.

## **Board of Directors**

### **Composition**

Our board of directors will consist of six members. The number of directors is fixed by our board of directors, subject to the terms of RGF, Inc.'s amended and restated certificate of incorporation to be adopted immediately prior to the consummation of this offering (the "Certificate of Incorporation") and Bylaws. Each of our current directors will continue to serve as a director until the election and qualification of his or her successor, or until his or her earlier death, resignation, or removal.

### **Classified Board**

Our Certificate of Incorporation provides that our board of directors will be divided into three classes with staggered three-year terms. Only one class of directors will be elected at each annual meeting of stockholders, with the other two classes continuing to serve for the remainder of their respective three-year terms. Immediately following the effectiveness of the registration statement of which this prospectus is a part, our directors will be divided among the three classes as follows:

- the Class I directors are Gilbert B. de Cardenas and Mark J. Nelson, and their terms will expire at the annual meeting of stockholders to be held in 2021;
- the Class II directors are Gerard G. Law and Deanna T. Brady, and their terms will expire at the annual meeting of stockholders to be held in 2022; and
- the Class III directors are Bryan Freeman and George F. Chappelle, Jr., and their terms will expire at the annual meeting of stockholders to be held in 2023.

At each annual meeting of stockholders, upon the expiration of the term of a class of directors, the successor to each such director in the class will be elected to serve from the time of election and qualification until the third annual meeting following his or her election and until his or her successor is duly elected and qualified, in accordance with our Certificate of Incorporation. Any additional directorships resulting from an increase in the number of directors will be distributed among the three classes so that, as nearly as possible, each class will consist of one-third of our directors.

This classification of our board of directors may have the effect of delaying or preventing changes of control of our Company.

### **Leadership Structure and Role in Risk Oversight**

#### *Separation of Chief Executive Officer and Chairperson of Our Board of Directors*

Our board of directors recognizes that the leadership structure and combination or separation of the roles of the Chief Executive Officer and Chairperson of our board of directors is driven by our needs at any point in time. As a result, our board of directors does not have a fixed policy regarding the separation of the offices of Chief Executive Officer and Chairperson of the board of directors and believes it should maintain the flexibility to select the Chairperson and its leadership structure from time to time based on the criteria that it deems to be in the best interest of our Company and stockholders.

Currently, Gerard G. Law serves as our Chief Executive Officer, and Bryan Freeman serves as Chairperson of our board of directors in addition to his role as an executive officer. We believe that separating the Chief Executive Officer and Chairperson positions allows our Chief Executive Officer to focus on our day-to-day business, while allowing our Chairperson to provide strategic guidance. While our Bylaws and corporate governance policies do not require that our Chairperson and Chief Executive Officer positions be separate, our board of directors believes that having separate positions is the appropriate leadership structure for us at this time and demonstrates our commitment to good corporate governance.

#### *Lead Independent Director*

We have appointed a lead independent director. Our board of directors believes that this overall structure involving a separate Chairperson of the board of directors and Chief Executive Officer, combined with a lead independent director, will result in an effective balancing of responsibilities, experience, and independent perspectives that will meet the current corporate governance needs and oversight responsibilities of the board of directors. Because Bryan Freeman, the Chairperson of our board of directors, will not qualify as independent pursuant to Nasdaq listing standards since he is currently an executive officer, George F. Chappelle, Jr. serves as our lead independent director, ensuring our board is led with independent oversight of management.

#### *Risk Oversight*

One of the key functions of our board of directors is to oversee our risk management process. Our board of directors does not have a standing risk management committee, but rather administers this oversight function directly through our board of directors as a whole, as well as through various standing committees of our board of directors that address the risks inherent in their respective areas of oversight. In particular, our board of directors is responsible for monitoring and assessing strategic risk exposure and our audit committee has the responsibility to consider and

discuss our major financial risk exposures and the steps our management has taken to monitor and control these exposures, including guidelines and policies to govern the process by which risk assessment and management is undertaken. The audit committee also monitors compliance with legal and regulatory requirements. Our compensation committee assesses and monitors whether any of our compensation policies and programs has the potential to encourage excessive risk-taking.

### **Director Independence**

We have applied to list our Class A common stock on Nasdaq. Under Nasdaq listing standards, independent directors must comprise a majority of a listed company's board of directors within one year of the consummation of its initial public offering. In addition, the listing standards require that, subject to specified exceptions, each member of a listed company's audit, compensation, and corporate governance and nominating committees be independent. Audit committee members and compensation committee members must also satisfy the independence criteria set forth in Rule 10A-3 and Rule 10C-1, respectively, under the Securities Exchange Act of 1934, as amended (the "Exchange Act"). Further, Nasdaq listing standards provide that a director only qualifies as "independent" if, in the opinion of the listed company's board of directors, the director does not have a relationship that would interfere with the exercise of independent judgment in carrying out the responsibilities of a director with that listed company.

To be considered independent pursuant to Rule 10A-3 and Nasdaq listing standards, a member of an audit committee of a listed company may not, other than in his or her capacity as a member of the audit committee, the board of directors, or any other board committee: (i) accept, directly or indirectly, any consulting, advisory, or other compensatory fee from the listed company or any of its subsidiaries, or (ii) be an affiliated person of the listed company or any of its subsidiaries.

To be considered independent pursuant to Rule 10C-1 and Nasdaq listing standards, the board of directors must affirmatively determine that each member of the compensation committee is independent, including a consideration of all factors specifically relevant to determining whether the director has a relationship to the company which is material to that director's ability to be independent from management in connection with the duties of a compensation committee member, including, but not limited to: (i) the source of compensation of such director, including any consulting, advisory, or other compensatory fee paid by the company to such director, and (ii) whether such director is affiliated with the company, a subsidiary of the company or an affiliate of a subsidiary of the company.

Our board of directors undertook a review of its composition, the composition of its committees, and the independence of our directors and considered whether any director has a material relationship with us that could compromise his or her ability to exercise independent judgment in carrying out his or her responsibilities. Based upon information requested from and provided by each director concerning his or her background, employment, and affiliations, including family relationships, our board of directors has determined that each of Ms. Brady and Messrs. Chappelle, de Cardenas, and Nelson do not have relationships that would interfere with the exercise of independent judgment in carrying out the responsibilities of a director, and that each of these directors is "independent" as that term is defined under the applicable rules of the SEC and Nasdaq listing standards. Messrs. Freeman and Law are not independent under Nasdaq's independence standards since they are each currently an executive officer.

In making these determinations, our board of directors considered the current and prior relationships that each non-employee director has with our Company and all other facts and circumstances our board of directors deemed relevant in determining their independence, including the beneficial ownership of our capital stock by each non-employee director, and the transactions involving them described in the section entitled "*Certain Relationships and Related-Party Transactions*." There are no family relationships among any of our directors or executive officers.

### **Committees of Our Board of Directors**

Our board of directors has a compensation committee and will have an audit committee and a nominating and corporate governance committee, each of which has the composition and responsibilities described below. A copy of each committee's charter will be available on the investor relations portion of our website at [www.realgoodfoods.com](http://www.realgoodfoods.com). Members serve on these committees until their resignations or removal by our board of directors. The inclusion of our website in this prospectus does not include or incorporate by reference the information on our website into this prospectus.

### **Audit Committee**

Our audit committee will consist of Ms. Brady and Messrs. Chappelle and Nelson, each of whom meet the requirements for independence under Nasdaq listing standards and SEC rules and regulations. Mark Nelson will be the chair of our audit committee and will be our “audit committee financial expert” as such term is defined under SEC rules and regulations. Our audit committee is responsible for, among other things:

- overseeing the integrity of our financial statements and the other financial information we provide to our stockholders and other interested parties;
- monitoring the periodic reviews of the adequacy of the auditing, accounting, and financial reporting processes and systems of internal control that are conducted by our independent registered public accounting firm and management;
- being responsible for the selection, retention, compensation, and termination of our independent registered public accounting firm;
- overseeing the independence and performance of our independent registered public accounting firm;
- overseeing compliance with applicable legal and regulatory requirements as they relate to our financial statements and disclosure of financial information to our stockholders and other interested parties;
- facilitating communication among our independent registered public accounting firm, management, and the board of directors;
- preparing the audit committee report required by SEC rules and regulations to be included in our annual proxy statement; and
- perform such other duties and responsibilities as are enumerated in and consistent with the audit committee charter.

Our audit committee will operate under a written charter to be effective prior to the consummation of this offering, which satisfies the requirements of applicable SEC rules and Nasdaq listing standards.

### **Compensation Committee**

Our compensation committee currently consists of Mr. Chappelle and will consist of Messrs. Chappelle and de Cardenas, each of whom meet the requirements for independence under the Nasdaq listing standards and SEC rules and regulations. In addition, each member of our compensation committee is also a non-employee director, as defined pursuant to Rule 16b-3 of the Exchange Act. Mr. Chappelle is the chair of our compensation committee. The compensation committee is responsible for, among other things:

- assisting the board of directors in developing and reviewing compensation programs applicable to our executive officers and directors;
- overseeing our Company’s overall compensation philosophy, strategy, and objectives;
- approving the total compensation opportunity, as well as each component of compensation, paid to our executive officers and directors;
- administering our equity-based and cash-based compensation plans applicable to our directors, officers, and employees;
- preparing the report of the compensation committee required by SEC rules to be included in our annual proxy statement; and
- perform such other duties and responsibilities as an enumerated and consistent with the compensation committee charter.

Our compensation committee operates under a written charter effective as of September 2021, which satisfies the requirements of applicable SEC rules and Nasdaq listing standards.

### **Compensation Committee Interlocks and Inside Participation**

None of the members of our compensation committee is or has been an officer or employee of our Company. None of our executive officers currently serves, or in the past fiscal year has served, as a member of the board of directors or compensation committee (or other board of directors committee performing equivalent functions or, in the absence

of any such committee, the entire board of directors) of any entity that has one or more executive officers serving on our board of directors or compensation committee. For additional information, refer to the section entitled "*Certain Relationships and Related-Party Transactions*."

#### **Nominating and Corporate Governance Committee**

Our nominating and corporate governance committee will consist of Ms. Brady and Messrs. de Cardenas and Chappelle, each of whom meets the requirements for independence under Nasdaq listing standards. Ms. Brady will be the chair of our nominating and corporate governance committee. The nominating and corporate governance committee is responsible for, among other things:

- assisting the board of directors in identifying candidates qualified to serve as directors, consistent with selection criteria approved by the board of directors and the nominating and corporate governance committee;
- recommending to the board of directors the appointment of director nominees that meet the selection criteria;
- recommending to the board of directors the appointment of directors to serve on each committee of the board of directors;
- developing and recommending to the board of directors such corporate governance policies and procedures as the nominating and corporate governance committee determines is appropriate from time to time;
- overseeing the performance and evaluation of the board of directors, and of each committee of the board of directors; and
- perform such other duties and responsibilities as are consistent with the nominating and corporate governance committee charter.

Our nominating and corporate governance committee will operate under a written charter to be effective prior to the consummation of this offering, which satisfies the requirements of applicable Nasdaq listing standards.

#### **Code of Business Conduct and Ethics**

Prior to the completion of this offering, our board of directors will adopt a written code of business conduct and ethics that applies to our directors, officers, and employees, including our principal executive officer, principal financial officer, and principal accounting officer, or controller, or persons performing similar functions. The code of business conduct and ethics will be available on the investor relations portion of our website at [www.realgoodfoods.com](http://www.realgoodfoods.com) upon the completion of this offering.

We intend to disclose future amendments to such code, or any waivers of its requirements, applicable to any principal executive officer, principal financial officer, principal accounting officer, or controller, or persons performing similar functions, or our directors, on our website identified above. The inclusion of our website address in this prospectus does not include or incorporate by reference the information on our website into this prospectus.

#### **Director Compensation**

During the year ended December 31, 2020, we did not pay any compensation or make any equity awards or non-equity awards to any of the non-employee members of our board of directors. During the fiscal year ended December 31, 2020, Slingshot, of which Bryan Freeman is the managing partner, served as a member of the board of managers of RGF, LLC (the "board of managers"), but Bryan Freeman did not receive any additional compensation for his services as a member of the board of managers.

Historically, we have not had a formal compensation policy for our non-employee directors, nor have we had a formal policy of reimbursing expenses incurred by our non-employee directors in connection with their board service. However, we have reimbursed our non-employee directors for travel, lodging, and other reasonable expenses incurred in connection with their attendance at board of director or committee meetings.

Our board of directors will approve a director compensation policy that will become effective upon the consummation of this offering. Due to the relatively small size of our board of directors and our current stage of growth, we expect a high degree of director involvement in the strategic direction of our Company. As such, we have designed our

director compensation policy to provide non-employee directors an annual cash retainer of \$75,000 for service on our board of directors, which will be paid quarterly in arrears. No additional cash retainer will be paid for service on board committees or as the chairperson of a committee. In addition, no additional cash retainer will be paid for service as the chairperson of our board of directors or as our lead independent director (or equivalent position). Further, no additional amounts will be paid for attendance at any board of director or committee meetings.

In addition, upon completion of this offering, each non-employee director who commences service on our board of directors prior to or upon consummation of this offering will be eligible to receive an onboarding award consisting of RSUs with an aggregate grant date fair value of \$175,000. Each of our non-employee directors will also be eligible to receive annual RSU awards with an aggregate grant date fair value of \$125,000, which we expect to issue on or about the date of our annual meeting of stockholders. Each of these RSUs is expected to vest as to 100% of the underlying shares on the one-year anniversary of the grant date, subject to each non-employee director's continuous service as a director through such date.

Our non-employee directors will also continue to be reimbursed for reasonable travel and out-of-pocket expenses incurred in connection with attending board of director and committee meetings.

Our directors who are also our employees (including employees of any of our subsidiaries) shall receive no additional compensation for their service as directors.

#### **Director and Officer Indemnification Agreements**

Prior to the effectiveness of the registration statement, we intend to enter into separate indemnification agreements with our directors and executive officers that may be broader than the specific indemnification provisions contained in our Certificate of Incorporation and our Bylaws. These agreements, among other things, will require us to indemnify our directors and executive officers for certain expenses, including attorneys' fees, judgments, penalties, fines, and settlement amounts incurred by a director or executive officer in any action, suit, or proceeding arising out of their services as one of our directors or executive officers, or as a director or executive officer of any other company or enterprise to which the person provides services at our request.

## EXECUTIVE COMPENSATION

### Overview

This section discusses the material components of the executive compensation program offered to our executive officers who would have been “named executive officers” for the year ended December 31, 2020 and who will serve as executive officers of the Company following the consummation of this offering.

This narrative discussion of the compensation objectives, policies and arrangements that apply to our named executive officers is intended to be read in conjunction with the “Summary Compensation Table” and related disclosures set forth below. We are an “emerging growth company” as defined in the JOBS Act, and a “smaller reporting company” as defined in applicable SEC rules. In preparing the disclosure in this section, we have opted to comply with the executive compensation disclosure rules applicable to “smaller reporting companies.”

This discussion contains forward-looking statements that are based on our current plans, considerations, expectations, and determinations regarding future compensation programs. Actual compensation programs that we adopt following the consummation of this offering may differ materially from the compensation policies and arrangements summarized in this discussion.

### Named Executive Officers

Our named executive officers for the year ended December 31, 2020 were:

- Bryan Freeman, our Executive Chairman;
- Gerard G. Law, our Chief Executive Officer (Principal Executive Officer); and
- Akshay Jagdale, our Chief Financial Officer (Principal Financial Officer).

### Compensation Overview

The primary objective of our executive compensation program is to attract and retain executives with the skills necessary to lead us in pursuing our mission, achieving our strategic objectives, and creating long-term value for our stockholders. We recognize that there is significant competition for talented executives, especially within the geographic regions in which our operations are located, and it can be particularly challenging for companies with limited operating histories to recruit and retain executives, and other key employees, with the food industry experience necessary to achieve our goals.

Historically, the board of managers of RGF, LLC with significant input from Mr. Freeman in particular, has been responsible for establishing our overall compensation programs, including approving the compensation program for our named executive officers. When making compensation decisions, the board of managers has generally informed itself of, and relied on its experience with, compensation amounts paid to executives at other companies within our industry. The board of managers has also taken into account a number of other factors such as our limited operating history, our size and stage of growth, and our liquidity and capital resources. These dynamics have resulted in us historically paying our named executive officers lower amounts of total cash compensation than might otherwise be expected for executives with similar experience, titles, and responsibilities at other companies within our industry, primarily as a result of our desire to conserve the cash resources to grow our business.

Following the consummation of this offering, a compensation committee, which will be comprised solely of independent directors under the applicable Nasdaq listing standards, will make recommendations to our board of directors regarding executive compensation decisions. Such compensation committee will assist our board of directors in developing and reviewing the compensation programs and strategy applicable to our executive officers and directors, and overseeing our overall compensation philosophy. For additional information, refer to the section entitled “*Management—Committees of Our Board of Directors.*”



## Compensation Goals and Principles

Following the consummation of this offering, we expect our board of directors to establish an executive compensation program guided by the following goals and principles:

- attract, retain, and incentivize executives with the background, experience, and vision necessary to lead us in pursuing our mission, achieving our strategic objectives, and creating long-term value for our stockholders;
- provide a compensation package that is generally competitive with other companies in our industry that operate in similar geographic locations and are of a similar size and stage of growth, while taking into account our liquidity and capital resources;
- provide a compensation package that ties a meaningful portion of the cash bonus opportunity to the achievement of Company performance objectives (such as revenue or earnings before interest, taxes, depreciation and amortization ("EBITDA")) that reflect the growth and success of our business, and are important to the creation of long-term value for our stockholders; and
- align the interests of our executives with those of our stockholders by issuing a meaningful portion of total compensation opportunity in the form of equity-based awards linked to the value of our Class A common stock.

## Compensation Program

The compensation program for our named executive officers has consisted of a base salary, a cash bonus opportunity, profits interest units, and other benefits as described below.

### Base Salary

We pay base salaries to attract and retain key executives with the necessary background, experience, and vision required for our future growth and success. Base salaries generally reflect each executive officer's title and responsibility level, individual performance, business experience, Company performance, and market conditions. Base salaries are reviewed periodically and adjusted in response to similar factors.

As of December 31, 2020, the annualized base salaries for Messrs. Freeman, Law, and Jagdale were \$156,000, \$240,000, and \$240,000, respectively. The annualized base salaries for each of Messrs. Freeman and Law were subsequently increased to \$300,000. For additional information, refer to the section entitled "*—Employment Arrangements.*"

### Cash Bonus Opportunity

For the year ended December 31, 2020, we did not maintain a formal cash bonus program or pay any cash bonuses to our named executive officers primarily as a result of our desire to conserve cash resources to grow our business.

Pursuant to the Law Letter (as defined below), for the years ending December 31, 2021 and December 31, 2022, Mr. Law is eligible to receive an annual cash bonus in an amount equal to 7.5% of RGF, LLC's EBITDA as determined by an independent accounting firm. For our other named executive officers, we have not yet established a formal cash bonus program for the year ending December 31, 2021. For additional information, refer to the section entitled "*—Employment Arrangements.*"

Following the consummation of this offering, we expect our compensation committee will adopt a cash bonus program that provides for cash bonuses to each of our named executive officers based on the achievement of Company performance targets that reflect the growth and success of our business, and a review of market compensation data. This process is expected to result in changes to the annual cash bonus opportunity for our named executive officers. For additional information, refer to the section entitled "*—Market Rate Adjustments.*"

### Profits Interest Units

Our board of managers approved the grant of profits interest units to certain of our executive officers. Profits interest units generally provide the holder with the right to receive a cash payment representing a certain percentage of our profit or enterprise value for a particular period, subject to a minimum enterprise value at the time of grant. These grants align the interests of our executives with our equity holders and provide our executives with incentives to drive increased profitability and create long-term value. In some cases, the profits interest units are subject to immediate vesting to encourage an executive to accept a position with us, and in other cases they are subject to vesting over a fixed amount of time to promote the retention of our executives. No cash payments were made in respect of our

profits interest unit awards for 2020. The profits interest units were classified as liability awards and accounted for as performance bonuses in accordance with ASC 710. For additional information, refer to the section entitled “—*Employment Arrangements*.”

The profits interest units will not remain outstanding following this offering. Prior to the consummation of this offering, and in connection with the Reorganization, the RGF, LLC Members and the holders of the profits interest units will unanimously approve the exchange of the profits interest units into Class B Units of RGF, LLC and shares of Class B common stock of RGF, Inc. For additional information, refer to the section entitled “*The Reorganization*.”

### **Benefits**

We offer a standard benefits package that we believe is necessary to attract and retain key executives. Our named executive officers are currently eligible to participate in our medical, dental, vision, and other welfare benefit plans. We also pay the premiums for long-term disability insurance and life insurance for our employees, including for our named executive officers. While we have not adopted a 401(k) plan or similar retirement plan, we intend to do so in the future. Except as noted below, the benefits provided to our named executive officers generally reflect those provided to all of our employees.

For Messrs. Law and Jagdale, we initially agreed, pursuant to the terms of their respective offer letters, to pay up to \$2,800 per month to cover personal health insurance costs subject to verification of insurance coverage. However, we ceased making such payments as we commenced coverage for these executives under our health and welfare benefit plans in April 2021. We also provide Messrs. Law and Jagdale with a car allowance of \$1,000 per month. For additional information, refer to the section entitled “—*Employment Arrangements*.”

### **Stock Incentive Awards**

Prior to this offering, we have not granted any equity or equity-based awards to our named executive officers. In connection with this offering, we expect that our compensation committee will recommend, and that our board of directors will approve, the grant of RSUs to our named executive officers upon the effectiveness of the registration statement of which this prospectus is a part. These grants are expected to be as follows: Mr. Freeman, 394,333 RSUs; Mr. Law, 394,333 RSUs, and Mr. Jagdale, 239,329 RSUs. Each of these RSU awards will be granted pursuant to the 2021 Stock Incentive Plan (the “2021 Plan”), which we adopted in connection with this offering. The RSUs underlying each of the awards and expected to vest over 36 months with 1/36th of the shares vesting on the first day of each calendar month following the month in which the RSUs are initially granted, provided that the vesting of such RSUs shall accelerate upon the occurrence of certain conditions as set forth in the Employment Agreements (as defined below), and subject further to continued employment with us through the applicable vesting date.

To the extent we grant additional equity awards to our directors, executive officers, employees, and/or consultants in the future, we expect such grants will be made pursuant to the 2021 Plan, which provides for the grant of options, stock appreciation rights (“SARs”), restricted stock awards, RSUs, performance awards, and stock bonuses. Our compensation committee will have the discretion to determine the type, amount, and other terms of these awards taking into account our compensation objectives discussed above, subject to approval of our board of directors. For additional information, refer to the section entitled “—*Stock Incentive Plans*.”

### **Market Rate Adjustments**

Following the consummation of this offering, we expect our compensation committee will review our executive compensation program, including base salaries, cash bonus opportunity, equity-based compensation, and benefits, in light of market compensation amounts paid by companies that compete with us for management talent, taking into account factors such as total enterprise value, total revenue, growth rate, number of employees, and industry. This review may result in significant changes to our compensation programs as compared to the discussion of our compensation policies and arrangements described in this section.

### **Employment Arrangements**

Each of our named executive officers is an at-will employee. We have entered into employment offer letters and/or employment agreements with each of our named executive officers as described below.

## **Employment Offer Letters and Employment Agreements**

### **Bryan Freeman**

Effective January 1, 2021, RGF, LLC entered into an offer letter with Mr. Freeman (the “Freeman Letter”) pursuant to which he agreed to serve as our Executive Chairman. Mr. Freeman served as our Chief Executive Officer until August 31, 2020. Under the Freeman Letter, Mr. Freeman was initially entitled to receive a base salary of \$20,000 per month, which was subsequently increased to \$25,000 per month. Mr. Freeman was not previously granted profits interest units primarily as a result of his indirect ownership of a significant amount of Class B Units of RGF, LLC through Slingshot, of which he is the managing partner.

When in effect, the Freeman Letter provided that if Mr. Freeman was terminated for any reason other than “gross misconduct” (as defined in the Freeman Letter), Mr. Freeman would, subject to signing a release, be entitled to receive (i) 24 months of base salary, (ii) a prorated portion of his target annual bonus for the then current calendar year to the date of termination, and (iii) the cost of COBRA or personal medical insurance expenses for Mr. Freeman and his dependents over 24 months. In addition, if RGF, LLC completed a transaction to sell a majority of its membership interests or assets or that otherwise results in a Change of Control (as defined in the Freeman Letter), of RGF, LLC and, during the period commencing six months prior to and 12 months following such change-of-control transaction (the “Change-of-Control Period”) Mr. Freeman’s employment was terminated by the Company for any reason other than “gross misconduct,” Mr. Freeman would have been eligible to receive a cash severance, to be paid in installments over a three-year period, in an amount equal to three times the sum of (i) his base salary, (ii) his annual bonus, and (iii) the cost of COBRA or personal medical insurance expenses for his family over such three-year period.

The Freeman Letter has been fully restated and superseded by the terms of an Employment Agreement entered into by and between Mr. Freeman and RGF, LLC dated October 27, 2021 (the “Freeman Employment Agreement”), the terms of which are described below under the heading “*Terms of Executive Employment Agreements.*”

### **Gerard G. Law**

Effective September 1, 2020, RGF, LLC entered into an offer letter with Mr. Law (as amended, the “Law Letter”), pursuant to which he agreed to serve as our Chief Executive Officer. Under the Law Letter, Mr. Law was initially entitled to receive a base salary of \$20,000 per month during the first six months of his employment, which was subsequently increased to \$25,000 per month. The Law Letter has been fully restated and superseded by the terms of an Employment Agreement entered into by and between Mr. Law and RGF, LLC dated October 27, 2021 (the “Law Employment Agreement”), the terms of which are described below under the heading “*Terms of Executive Employment Agreements.*”

When in effect, the Law Letter provided that Mr. Law was eligible to receive an annual cash bonus for the years ending December 31, 2021 and December 31, 2022, in an amount equal to 7.5% of EBITDA for the applicable calendar year, as determined by an independent accounting firm, which was expected to be paid on February 15 of the following calendar year. Following the consummation of this offering, Mr. Law’s annual cash bonus will be determined by our compensation committee, subject to the terms of the Law Employment Agreement as described below.

Mr. Law received a profits interest unit award in an amount equal to 3.0% of RGF, LLC’s profits interests (as defined in the RGF, LLC operating agreement), subject to an initial cap on the extent to which the award may be diluted (the “Law 3.0% Award”), which vested after six months of employment. In addition, following six months of employment, Mr. Law received an additional profits interest unit award in an amount equal to 5.0% of RGF, LLC’s profits interests (the “Law 5.0% Award”), which was subject to vesting over 24 equal monthly installments beginning with the 13th month following the vesting commencement date. The Law 3.0% Award vested immediately on the date of grant, and the Law 5.0% Award was subject to vesting in 24 equal monthly installments beginning with the 13th month following the vesting commencement date. However, in connection with the Reorganization and as confirmed by the Law Employment Agreement, all of Mr. Law’s profits interests units will be exchanged into 816,380 fully vested Class B Units of RGF, LLC and 816,380 shares of Class B common stock of RGF, Inc. pursuant to an exchange that will be approved with the consent of Mr. Law, RGF, LLC, and all the Members.

The Law Letter provided that if Mr. Law was terminated for any reason other than “gross misconduct” (as defined in the Law Letter), Mr. Law would have been, subject to signing a release, be entitled to receive (i) 12 months of base

salary, (ii) a prorated portion of his target annual bonus for the then current calendar year to the date of termination, and (iii) the cost of COBRA or personal medical insurance expenses for Mr. Law's family, in approximately equal installments over a period of 12 months. In addition, if RGF, LLC completed a transaction to sell a majority of its membership interests or assets, or that otherwise results in a Change of Control of RGF, LLC and, during the Change-of-Control Period, Mr. Law's employment was terminated by the Company for any reason other than "gross misconduct," Mr. Law would have been eligible to receive a cash severance, to be paid in installments over a three-year period, in an amount equal to three times the sum of (i) his base salary, (ii) his annual bonus, and (iii) the cost of COBRA or personal medical insurance expenses for his family over such three-year period. In addition, Mr. Law's profits interest unit awards would have vested in full if Mr. Law remained employed by us within 90 days prior to the date of the change-of-control transaction. If Mr. Law would have been terminated for gross misconduct, all profits interest unit awards would have been terminated.

Pursuant to the Law Letter, we were initially required to pay up to \$2,800 per month to cover personal health insurance costs subject to verification of insurance coverage. However, starting in April 2021, we ceased providing such payments and Mr. Law is now covered by our health benefit plans.

#### *Akshay Jagdale*

Effective December 14, 2020, RGF, LLC entered into an offer letter with Mr. Jagdale (the "Jagdale Letter"), pursuant to which he agreed to serve as our Chief Financial Officer. Under the Jagdale Letter, Mr. Jagdale was entitled to receive a base salary of \$20,000 per month. The Jagdale Letter has been fully restated and superseded by the terms of the Employment Agreement entered into by and between Mr. Jagdale and RGF, LLC dated October 27, 2021 (the "Jagdale Employment Agreement"), the terms of which are described below under the heading "*Terms of Executive Employment Agreements*."

Pursuant to the Jagdale Letter, Mr. Jagdale received a profits interest unit award in an amount equal to 2.0% of RGF, LLC's profits interest units. However, in connection with the Reorganization and as confirmed by the Jagdale Employment Agreement, all of Mr. Jagdale's profits interests units will be exchanged into 210,406 Class B Units of RGF, LLC and 210,406 shares of Class B common stock of RGF, Inc. pursuant to an exchange that will be approved with the consent of Mr. Jagdale, the Company, and all the Members.

Pursuant to the Jagdale Letter, Mr. Jagdale was also entitled to receive up to an additional 2.5% of RGF, LLC's profits interest units contingent upon the successful execution of a qualified offering or other specified corporate events, and continued employment for two years thereafter. However, we expect that Mr. Jagdale will be granted RSUs in lieu of receiving these previously contemplated additional profits interest units. Refer to the section entitled "*—Stock Incentive Awards*."

The Jagdale Letter provided that if Mr. Jagdale had been terminated for any reason other than "gross misconduct" (as defined in the Jagdale Letter), Mr. Jagdale would have been, subject to signing a release, entitled to receive (i) either (a) 24 months of base salary if such termination occurs during the first 12 months of his employment, or (b) 12 months of base salary if such termination occurred after the first 12 months of his employment; (ii) a prorated portion of his target annual bonus for the then current calendar year to the date of termination; and (iii) the cost of COBRA or personal medical insurance expenses for Mr. Jagdale and his dependents over the same period that base salary would have been paid as described above. In addition, if RGF, LLC completed a transaction to sell a majority of its membership interests or assets, or that otherwise resulted in a Change of Control of RGF, LLC and, during the Change-of-Control Period, Mr. Jagdale's employment had been terminated by the Company for any reason other than "gross misconduct," Mr. Jagdale would have been eligible to receive (subject to execution of a general release of claims in favor of the Company), (i) if the enterprise value of RGF, LLC was less than \$100.0 million, cash severance, to be paid in installments over a one-year period, in an amount equal to one times the sum of (a) his base salary, (b) his annual bonus, and (c) the cost of COBRA or personal medical insurance expenses for his family over a one-year period; (ii) if the enterprise value was greater than \$100.0 million, cash severance, to be paid in installments over a three-year period in an amount equal to three times the sum of (a) his base salary, (b) his annual bonus, and (c) the cost of COBRA or personal medical insurance expenses for his family over a three-year period; and (iii) to the extent that any of Mr. Jagdale's profits interest unit awards had not yet fully vested, each of those awards would have vested in full upon the closing of the change-of-control transaction, provided that only 50% of the Jagdale 2.0% Award would have vested upon such change-of-control

transaction if this offering was not completed. Further, if Mr. Jagdale remains employed with us within the Change-of-Control Period, all of Mr. Jagdale's profits interest unit awards would have accelerated and vest in full immediately. If Mr. Jagdale was terminated for gross misconduct, all profits interest unit awards would have been terminated.

Pursuant to the Jagdale Letter, we were initially required to pay up to \$2,800 per month to cover personal health insurance costs subject to verification of insurance coverage. However, starting in April 2021, we ceased providing such payments and Mr. Jagdale is now covered by our health benefit plans.

### **Terms of Executive Employment Agreements**

Effective October 27, 2021, our compensation committee recommended, and our board of directors approved, executive employment agreements with each of Mr. Freeman, Mr. Law, and Mr. Jagdale (each, of the Freeman Employment Agreement, the Law Employment Agreement and the Jagdale Employment Agreement are collectively referred to as the "Employment Agreements") pursuant to which they agreed to continue to serve as our Executive Chairman, Chief Executive Officer, and Chief Financial Officer, respectively. Their respective Employment Agreements provide for at-will employment to which Mr. Freeman and Mr. Law report to the Board of RGF, Inc., while Mr. Jagdale reports to the Chief Executive Officer of RGF, Inc., who is currently Mr. Law.

Pursuant to the Employment Agreements, Mr. Freeman is entitled to an annual minimum base salary of \$776,000, Mr. Law is entitled to an annual minimum base salary of \$776,000, and Mr. Jagdale is entitled to an annual minimum base salary of \$434,000, with each such salary to be reviewed and re-established no less than annually by the Compensation Committee based on its review of current salaries and other compensation offered by peer group companies, subject to such salaries not decreasing below the current amounts.

Pursuant to the Employment Agreements, Mr. Freeman, Mr. Law, and Mr. Jagdale are eligible for an annual incentive cash bonus based on individual performance criteria established annually by the Compensation Committee. The amount of such target annual bonus is \$1,250,000 in the Freeman Employment Agreement, \$1,250,000 in the Law Employment Agreement, and \$393,000 in the Jagdale Employment Agreement, with the amounts of such annual incentive bonuses to be reviewed and reestablished no less than annually by the Compensation Committee based on its review of current bonus related compensation offered by peer group companies, subject to such bonus amounts not decreasing below the current amounts.

Pursuant to the Employment Agreements, Mr. Freeman, Mr. Law, and Mr. Jagdale are eligible to participate in RGF, Inc.'s 2021 Stock Incentive Plan and receive grants thereunder as may be approved by the Compensation Committee from time to time. In addition, pursuant to the Employment Agreements, Mr. Freeman, Mr. Law, and Mr. Jagdale will each be granted RSUs of RGF, Inc., subject to the terms, including with respect to vesting, set forth in each of their respective RSU grant agreements. See the section entitled "*Executive Compensation—Stock Incentive Awards*" for additional information regarding the RSU grants.

Mr. Freeman, Mr. Law, and Mr. Jagdale are also entitled to participate in all benefit and welfare programs, plans, and arrangements made available to our like-level employees. In addition, the Employment Agreement provide each named executive officer the right to a Company-leased vehicle or car allowance in an amount not greater than \$2,500 per month.

Upon termination of an applicable Employment Agreement due to (a) the death or disability of the applicable executive, (b) a termination by us for Cause (as defined in the Employment Agreements), or (c) a termination by the executive without Good Reason (as defined in the Employment Agreements), the executive is entitled to receive any accrued but unpaid base salary, pay for unused but accrued vacation days, reimbursement for expenses incurred by him, any accrued and vested benefits, and any unpaid incentive bonus earned and accrued on the date of such termination (collectively, the "Termination Benefits").

In the event of a termination of an applicable Employment Agreement by us for Cause or by the name executive officer without Good Reason, the applicable executive would have the right to exercise all vested and unexercised stock options and warrants outstanding. On the other hand, in the event of a termination of an applicable

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Employment Agreement due to death or disability, a termination by us without Cause, or a termination by the executive for Good Reason, the rights of the applicable executive (or their estate) to any unvested stock options or warrants would accelerate in vesting and be exercisable along with all previously vested and unexercised stock options and warrants outstanding.

Upon a termination of an applicable Employment Agreement by us without Cause or by the applicable executive for Good Reason, the executive, in addition to the Termination Benefits described above and the acceleration of unvested options and warrants, would be entitled to (a) a cash payment equal to the greater of (i) the applicable target bonus or (ii) the average of the bonus for the previous three years, (b) severance of 12 monthly payments each equal to one-twelfth of the executive's annual base salary, and (c) payments representing the grossed-up out-of-pocket cost, including federal, state, and all applicable employment taxes, of COBRA for the executive and his eligible beneficiaries who were enrolled in the applicable medical plan as of the date of termination for 24 months to reimburse the executive for such COBRA payments.

If during the period beginning six months prior a Change of Control (as defined in the Employment Agreements) and ending two years following a Change of Control we terminate an applicable Employment Agreement without Cause or an applicable executive terminates for Good Reason, then the applicable executive is entitled to receive, in addition to the Termination Benefits, (a) the greater of (i) three times the applicable target bonus or (ii) three times the average bonus for the previous three years, (b) severance in a lump sum payment equal to three times the executive's annual base salary, and (c) payments representing the grossed-up out-of-pocket cost, including federal, state, and all applicable employment taxes, of COBRA for the executive and his eligible beneficiaries who were enrolled in the applicable medical plan as of the date of termination for 18 months to reimburse the executive for such COBRA payments.

The payment by us to an executive of severance related payments in connection with a termination of an applicable Employment Agreement is conditioned upon the execution by the applicable Executive of a general release in favor of the Company. Their respective Employment Agreements also provide that, if their employment terminates, the executive agrees to keep all of our Confidential Information confidential in perpetuity in accordance with our policies.

### Summary Compensation Table

The following table provides information regarding the compensation awarded to, earned by, and paid to each of our named executive officers for the year ended December 31, 2020:

Name and Principal Position	YEAR	SALARY (\$)	EQUITY AWARDS \$(1)	NON-EQUITY INCENTIVE PLAN COMPENSATION \$(2)	ALL OTHER COMPENSATION \$(3)	TOTAL (\$)
Bryan Freeman, Executive Chairman	2020	\$142,000	—	—	\$ 17,574	\$159,574
Gerard G. Law, Chief Executive Officer(4)	2020	\$ 78,786	—	—	\$ 11,599	\$ 90,385
Akshay Jagdale, Chief Financial Officer(5)	2020	\$ 11,462	—	—	\$ 3,202	\$ 14,664

- (1) We did not issue any equity-based awards during the year ended December 31, 2020. The profits interest units granted during 2020 were classified as liability awards and accounted for as performance bonuses in accordance with ASC 710. Because payment with respect to the profits interest units was not deemed probable or estimable as of December 31, 2020, no compensation expense was recognized for the profits interest units for the period ended December 31, 2020. For additional information, see the section entitled "Management's Discussion and Analysis of Financial Condition and Results of Operation—Critical Accounting Policies and Estimates."
- (2) We did not adopt a non-equity incentive plan for the year ended December 31, 2020. No cash bonuses were paid to our named executive officers during 2020. In addition, no cash payments were made in respect of the profits interest units. For additional information, see the section entitled "—Compensation Program—Cash Bonus Opportunity."
- (3) The amounts in this column reflect the value of (i) a car allowance for Mr. Law in the amount of \$4,000 and for Mr. Jagdale in the amount of \$500, and (ii) the cost of health and welfare benefits reimbursed to Mr. Freeman in the amount of \$17,574; Mr. Law in the amount of \$7,599; and Mr. Jagdale in the amount of \$2,702, pursuant to the terms of their respective employment offer letters. For additional information, refer to the section entitled "—Employment Arrangements."
- (4) Mr. Law commenced employment as our Chief Executive Officer effective September 1, 2020. Mr. Law's annualized base salary for 2020 was \$240,000.
- (5) Mr. Jagdale commenced employment as our Chief Financial Officer effective December 14, 2020. Mr. Jagdale's annualized base salary for 2020 was \$240,000.

## **Outstanding Equity Awards**

We did not have any equity-based awards outstanding as of December 31, 2020. The profits interest units were classified as liability awards and accounted for as performance bonuses in accordance with ASC 710.

The profits interest units will not remain outstanding following this offering. Prior to the consummation of this offering, and in connection with the Reorganization, the RGF, LLC Members and the holders of the profits interest units will unanimously approve the exchange of the profits interest units into Class B Units of RGF, LLC and shares of Class B common stock of RGF, Inc. For additional information, refer to the section entitled “*The Reorganization*.”

## **Stock Incentive Plans**

In connection with this offering, our board of directors and stockholders have adopted the 2021 Plan and the 2021 Employee Stock Purchase Plan (the “ESPP”), which will become effective on the day immediately prior to the effective date of the registration statement of which this prospectus is a part.

The following description of each of our equity incentive plans is qualified by reference to the full text of those plans and the related award agreements, which are included as exhibits to the registration statement of which this prospectus is a part.

### **2021 Stock Incentive Plan**

#### ***Authorized Shares***

We have reserved an aggregate of 3,300,000 shares of our Class A common stock for issuance under the 2021 Plan. The number of shares reserved for issuance will increase automatically on January 1 of each calendar year beginning in 2022 by the lesser of (i) 2.0% of the number of outstanding shares of our Class A common stock as of December 31 of the preceding calendar year, or (ii) such lesser number of shares of our Class A common stock determined by our board of directors. The number of shares of our Class A common stock is also subject to adjustment in the event of a recapitalization, stock split, reclassification, stock dividend, or other change in our capitalization. In addition, the following shares of our Class A common stock will be available for grant and issuance under the 2021 Plan:

- shares subject to stock options or SARs granted under the 2021 Plan that cease to be subject to the stock option or SAR for any reason other than exercise of the stock option or SAR;
- shares subject to awards granted under the 2021 Plan that are subsequently forfeited or repurchased by us at the original issue price;
- shares subject to awards granted under the 2021 Plan that otherwise terminate without shares being issued;
- shares surrendered, canceled, or exchanged for cash or a different award (or combination thereof); and
- shares subject to awards under the 2021 Plan that are used to pay the exercise price of an award or withheld to satisfy the tax withholding obligations related to any award.

#### ***Plan Administration***

The 2021 Plan will be administered by our compensation committee, all of the members of which will be independent directors under the applicable Nasdaq listing standards, or by our board of directors acting in place of our compensation committee. Our compensation committee will have the authority to construe and interpret the 2021 Plan, grant awards, and make all other determinations necessary or advisable for the administration of the 2021 Plan.

#### ***Awards and Eligible Participants***

The 2021 Plan authorizes the award of stock options, SARs, restricted stock awards, RSUs, performance awards, and stock bonuses. The 2021 Plan provides for the grant of awards to our employees, directors, consultants, and independent contractors, subject to certain exceptions. No more than 3,300,000 shares of our Class A common stock will be issued under the 2021 Plan pursuant to the exercise of incentive stock options.



### ***Stock Options***

The 2021 Plan permits us to grant incentive stock options and non-qualified stock options. The exercise price of stock options will be determined by our compensation committee, and may not be less than 100% of the fair market value of our Class A common stock on the date of grant, subject to certain exceptions. Our compensation committee has the authority to reprice any outstanding stock option (by reducing the exercise price, or canceling the stock option in exchange for cash or another equity award) under the 2021 Plan without the approval of our stockholders. Stock options may vest based on the passage of time, or the achievement of performance conditions, or a combination thereof, in the discretion of our compensation committee. Our compensation committee may provide for stock options to be exercised only as they vest or to be immediately exercisable with any shares issued on exercise being subject to our right of repurchase that lapses as the shares vest. Our compensation committee may at any time accelerate the exercisability of all or any portion of an option award. The maximum term of stock options granted under the 2021 Plan is ten years.

### ***Stock Appreciation Rights***

SARs provide for a payment to the holder, in cash or shares of our Class A common stock, or a combination of the foregoing, based upon the difference between the fair market value of our Class A common stock on the date of exercise and the stated exercise price on the date of grant, up to a maximum amount of cash or number of shares. The exercise price of a SAR will be determined by our compensation committee but may not be less than the fair market value of our Class A common stock on the date of grant. SARs may vest based on the passage of time, or the achievement of performance conditions, or a combination thereof, in the discretion of our compensation committee. Our compensation committee has the authority to reprice any outstanding SAR (by reducing the exercise price, or canceling the SAR in exchange for cash or another equity award) under the 2021 Plan without the approval of our stockholders.

### ***Restricted Stock Awards***

A restricted stock award represents the issuance to the holder of shares of our Class A common stock, subject to the forfeiture of those shares due to failure to achieve certain performance conditions or termination of employment. The purchase price, if any, for the shares will be determined by our compensation committee. Unless otherwise determined by the administrator at the time of award, vesting will cease on the date the holder no longer provides services to us and unvested shares will be forfeited to or repurchased by us.

### ***Restricted Stock Units***

RSUs represent the right of the holder to receive shares of our Class A common stock (or its cash equivalent) at a specified date in the future, subject to forfeiture of that right due to failure to achieve certain performance conditions or termination of employment. If an RSU has not been forfeited then, on the specified date, we will deliver to the holder of the RSU shares of our Class A common stock, cash, or a combination of cash and shares of our Class A common stock.

### ***Performance Awards***

Performance awards cover a number of shares of our Class A common stock that may be settled upon achievement of performance conditions as provided in the 2021 Plan in cash or by issuance of the underlying common stock. These awards are subject to forfeiture prior to settlement due to failure to achieve certain performance conditions or termination of employment.

### ***Stock Bonuses***

Stock bonuses may be granted as additional compensation for past or future service or performance and, therefore, no payment will be required for any shares awarded under a stock bonus. Unless otherwise determined by our compensation committee at the time of award, vesting will cease on the date the holder no longer provides services to us and unvested shares will be forfeited to us.

### ***Corporate Transaction***

If we are party to a corporate transaction, outstanding awards, including any vesting provisions, may be assumed or substituted by the successor company. In the alternative, outstanding awards may be canceled in connection with a

cash payment. Outstanding awards that are not assumed, substituted or cashed out will accelerate in full and expire upon the closing of the transaction. Subject to the terms of an applicable award agreement, awards held by non-employee directors will immediately vest as to all or any portion of the shares subject to the award and will become exercisable at such times and on such conditions as our compensation committee determines.

#### ***Termination; Amendment***

The 2021 Plan will terminate ten years from the date our board of directors approved it, unless it is terminated earlier by our board of directors. Our board of directors may amend, suspend or terminate the 2021 Plan at any time, subject to compliance with applicable law and Nasdaq listing standards.

### **2021 Employee Stock Purchase Plan**

#### ***Qualified Plan***

We have adopted the ESPP in order to enable eligible employees to purchase shares of our Class A common stock at a discount following the consummation of this offering. The ESPP is intended to qualify as an employee stock purchase plan under Section 423 of the Code and will be approved by our stockholders.

#### ***Authorized Shares***

We have reserved an aggregate of 400,000 shares of our Class A common stock for issuance under the ESPP. The number of shares reserved for issuance will increase automatically on January 1 of each calendar year beginning in 2022 and continuing through 2031 by the lesser of (i) 1.0% of the number of outstanding shares of our Class A common stock as of December 31 of the preceding calendar year, or (ii) such lesser number of shares of our Class A common stock determined by our board of directors. The number of shares of our Class A common stock is also subject to adjustment in the event of a recapitalization, stock split, reclassification, stock dividend, or other change in our capitalization. The aggregate number of shares of our Class A common stock issued over the term of the ESPP will not exceed 1,000,000 shares of our Class A common stock.

#### ***Plan Administration***

The ESPP will be administered by our compensation committee, all of the members of which will be independent directors under the applicable Nasdaq listing standards, or by our board of directors acting in place of our compensation committee.

#### ***Eligible Participants***

Our employees generally are eligible to participate in the ESPP. Our compensation committee may, in its discretion, elect to exclude certain eligible employees, including highly compensated individuals, non-US employees, and officers.

Employees who are 5.0% stockholders, or would become 5.0% stockholders as a result of their participation in the ESPP, are ineligible to participate. We may impose additional restrictions on eligibility in compliance with applicable law.

#### ***Payroll Deductions***

Under the ESPP, eligible employees will be able to acquire shares of our Class A common stock by accumulating funds through payroll deductions. Eligible employees will be able to designate any whole percentage of compensation that is not less than 1% and not more than the maximum percentage specified by the administrator, or 20% if no such maximum percentage is specified.

#### ***Offering Periods***

The ESPP is implemented through a series of offering periods under which our employees who meet the eligibility requirements for participation in that offering period will automatically be granted a nontransferable option to

purchase shares of our Class A common stock in that offering period using their accumulated payroll deductions. Once an employee is enrolled, participation will be automatic in subsequent offering periods. We have not yet determined when the first offering period will begin, but it is anticipated that each offering period will run for approximately six months, commencing each of June 1 and December 1, with purchases occurring on the last day of each offering period. Our compensation committee has the discretion to change the commencement date of each offering period. In no event may an offering period exceed 27 months. An employee's participation automatically ends upon termination of employment for any reason.

***Limitation on Purchase***

No participant will have the right to purchase shares of our Class A common stock in an amount that, when aggregated with the shares subject to purchase rights under all our ESPPs that are also in effect in the same calendar year, have a fair market value of more than \$25,000, determined as of the first day of the applicable offering period.

***Purchase Price***

The purchase price for shares of our Class A common stock purchased under the ESPP will be 85.0% of the lesser of the fair market value of a share of our Class A common stock on (i) the first trading day of the applicable offering period and (ii) the last trading day of the applicable offering period.

***Change of Control***

If we experience a change-of-control transaction or any unusual or nonrecurring transaction or event, our compensation committee has the discretion to provide for the termination of any offering period that commenced prior to the closing of the transaction or event, replace outstanding purchase rights with other rights or property, make adjustments in the number and type of shares subject to outstanding purchase rights, shorten an offering period and provide for the early exercise of purchase rights, or terminate all outstanding purchase rights without being exercised.

***Amendment; Termination***

The ESPP will terminate ten years from the date our board of directors approved it, unless it is terminated earlier by our board of directors. Our board of directors may amend, suspend, or terminate the ESPP at any time, subject to compliance with applicable law and Nasdaq listing standards.

## CERTAIN RELATIONSHIPS AND RELATED-PARTY TRANSACTIONS

In addition to the compensation arrangements with our directors and executive officers, including those discussed in the sections entitled “*Management*” and “*Executive Compensation*,” the employment agreements with our executive officers described in the section entitled “*Executive Compensation—Employment Arrangements*,” and the registration rights described in the section entitled “*Description of Capital Stock—Registration Rights*,” the following is a description of each transaction since January 1, 2018 and each currently proposed transaction in which:

- we have been or are to be a participant;
- the amount involved exceeded or exceeds the lesser of \$120.0 thousand or 1% of the average of RGF, LLC’s total assets at year-end for the last two completed fiscal years, or approximately \$154.0 thousand; and
- any of our directors, executive officers, or holders of more than 5% of our outstanding capital stock, or any immediate family member of, or person sharing the household with, any of these individuals or entities, had or will have a direct or indirect material interest.

### PPZ Notes

In February 2017, RGF, LLC entered into the Initial PPZ Note with PPZ, a Member of RGF, LLC that holds more than 5% of RGF, LLC’s outstanding membership interests. RGF, LLC subsequently entered into the 2017 PPZ Note and 2018 PPZ Note with PPZ to increase our borrowings by \$400.0 thousand and \$500.0 thousand, respectively. The Initial PPZ Note bears interest at a simple rate of 8.0% per annum. The 2017 PPZ Note and 2018 PPZ Note each bears interest at a simple rate of 9.0% per annum. As of December 31, 2020, the outstanding principal related to our borrowings under the PPZ Notes totaled \$1.2 million. Our interest expense related to the PPZ Notes amounted to \$107.0 thousand for the year ended December 31, 2020, and no principal payments were made under the loans. Each of the PPZ Notes matures on December 31, 2021.

For additional information regarding the PPZ Notes, refer to “*Management’s Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources—Indebtedness—PPZ Notes*,” as well as Note 8 to our audited financial statements included elsewhere in this prospectus.

### Slingshot Note

In February 2017, RGF, LLC and Slingshot, a Member of RGF, LLC that holds more than 5% of RGF, LLC’s outstanding membership interests and of which Bryan Freeman is the managing partner, entered into a promissory note for \$25.0 thousand (the “First Slingshot Note”). The First Slingshot Note bore interest at a simple rate of 8.0% per annum and matured on February 20, 2019. In October 2017, RGF, LLC and Slingshot entered into loan and security agreements, as well as a promissory note secured by all of RGF, LLC’s assets and subordinated only to existing and future indebtedness owed by RGF, LLC to PMC and PPZ, pursuant to which Slingshot loaned RGF, LLC \$200.0 thousand (the “Second Slingshot Note” and, together with the First Slingshot Note, the “Slingshot Notes”). The Second Slingshot Note bore interest at a simple rate of 9.0% per annum and matured on December 31, 2019. RGF, LLC paid \$256.9 thousand, the total amount due under the Slingshot Notes, in full in March 2019.

### Product Placement Agreement

In February 2018, RGF, LLC entered into a product placement agreement and related membership interest purchase agreement with Divario, a wholly owned subsidiary of Albertsons Companies and a Member of RGF, LLC that holds more than 5% of RGF, LLC’s outstanding membership interests. Pursuant to the agreements, RGF, LLC agreed to issue the Divario Initial Equity in exchange for achievement and maintenance of specified distribution thresholds in retail locations operated by Albertsons Companies through October 31, 2020, resulting in Divario holding 5.2% of RGF, LLC’s membership interests. Further, Divario is entitled to the Divario Incentive Equity in the event that Albertsons Companies makes at least \$3.0 million in gross wholesale purchases of our products through October 31, 2021. As of December 31, 2020 and June 30, 2021, a total of 5,240 common units were issued and outstanding in connection with the Divario Initial Equity. In connection with the consummation of this offering, the sales achieved by Albertsons Companies will be annualized immediately prior to the offering and the Divario Incentive

Equity earned, if any, will be issued to Divario. Further, in connection with the Reorganization, the Divario Incentive Equity will be exchanged into Class B Units of RGF, LLC and shares of Class B stock common stock of RGF Inc. pursuant to an exchange that will be approved with the consent of Divario, the Company, and all the Members.

For additional information regarding the Divario Initial Equity and Divario Incentive Equity, refer to Note 1 to our audited financial statements included elsewhere in this prospectus.

### **Exchange Agreement**

In connection with the consummation of this offering, we will enter into an exchange agreement (the "Exchange Agreement") with the Members, some of whom are directors, officers, or holders of more than 5% of our outstanding capital stock, pursuant to which the holders of Class B Units (and certain permitted transferees) may, subject to the terms of the Exchange Agreement, exchange Class B Units for shares of Class A common stock on a one-for-one basis or, at our option, redeem such Class B Units for cash. The Exchange Agreement will also provide that, in connection with any such exchange or redemption, such Class B Units being so exchanged or redeemed would deliver to us an equivalent number of shares of Class B common stock, which would be canceled, and additional Class A Units, equivalent to the amount of Class B Units so exchanged or redeemed, will be issued to RGF, Inc., and, thus, RGF Inc.'s interest in RGF, LLC will be proportionally increased.

Pursuant to the terms of the Exchange Agreement, and in connection with an election by one or more Members to exchange Class B Units into shares of our Class A common stock, we will also have the option to, in lieu of issuing Class A common stock, instead make a cash payment to such Member to redeem such Class B Units equal to a volume weighted average market price of one share of Class A common stock for each Class B Unit the Member has elected to exchange (subject to customary adjustments, including for stock splits, stock dividends, and reclassifications) in accordance with the terms of the Operating Agreement. Any decision to make a cash payment to a Member would not affect such Member's continuing obligation to deliver, and the subsequent cancellation of, the equivalent amount of such Member's shares of Class B common stock. Any decision by us to make a cash payment to redeem Class B Units will be made by our independent directors (within the meaning of Nasdaq listing standards) who are disinterested. Although the actual timing and amount of any payments that we make to Members pursuant to the Exchange Agreement will vary, we expect those payments will be substantial. For additional information, refer to the section entitled "*Management's Discussion and Analysis – Liquidity.*"

### **Tax Receivable Agreement**

We expect to obtain a step-up in the tax basis of our share of RGF, LLC's assets when a Member receives cash or shares of our Class A common stock in connection with a redemption or exchange of such Member's Class B Units for cash or Class A common stock (such basis increase, the "Basis Adjustments"). We intend to treat such acquisition of Class B Units as our direct purchase of Class B Units from a Member for U.S. federal income and other applicable tax purposes, regardless of whether such Class B Units are surrendered by a Member to RGF, LLC for redemption or sold to us upon the exercise of our election to acquire such Class B Units directly. Basis Adjustments may have the effect of reducing the amounts that we would otherwise pay in the future to various tax authorities. Basis Adjustments may also decrease gains (or increase losses) on future dispositions of certain capital assets to the extent tax basis is allocated to those capital assets.

In connection with the transactions described above, RGF, Inc. will enter into the Tax Receivable Agreement with RGF, LLC and the Members, other than the Fidelity Investors, some of whom are directors, officers, or holders of more than 5% of our outstanding capital stock. The Tax Receivable Agreement will provide for the payment by us to such persons of 85% of the amount of tax benefits, if any, that we actually realize, or in some circumstances are deemed to realize, as a result of the transactions described above, including increases in the tax basis of the assets of RGF, LLC arising from such transactions, and tax basis increases attributable to payments made under the Tax Receivable Agreement and deductions attributable to imputed interest and other payments of interest pursuant to the Tax Receivable Agreement. RGF, LLC will have in effect an election under Section 754 of the U.S. Internal Revenue Code of 1986, as amended (the "Code"), effective for each taxable year in which an exchange of Class B Units for shares of our Class A common stock or cash occurs. These Tax Receivable Agreement payments are not conditioned upon any continued ownership interest in RGF, LLC or us by any Member. The rights of each Member under the Tax Receivable Agreement are assignable to permitted transferees of its Class B Units (other than RGF,

Inc. as transferee pursuant to subsequent redemptions (or exchanges) of the transferred Class B Units). We expect to benefit from the remaining 15% of tax benefits, if any, that we may actually realize.

The actual Basis Adjustments, as well as any amounts paid to the Members under the Tax Receivable Agreement, will vary depending on a number of factors, including:

- *the timing of any subsequent redemptions or exchanges*—for instance, the increase in any tax deductions will vary depending on the fair value, which may fluctuate over time, of the depreciable or amortizable assets of RGF, LLC at the time of each exchange;
- *the price of shares of our Class A common stock at the time of the redemptions or exchanges*—the Basis Adjustments, as well as any related increase in any tax deductions, is directly related to the price of shares of our Class A common stock at the time of each redemption or exchange;
- *the extent to which such redemptions or exchanges are taxable*—if a redemption or exchange is not taxable for any reason, increased tax deductions will not be available; and
- *the amount and timing of our income*—the Tax Receivable Agreement generally will require RGF, Inc. to pay 85% of the tax benefits as and when those benefits are treated as realized under the terms of the Tax Receivable Agreement. If RGF, Inc. does not have taxable income, it generally will not be required (absent a change of control or other circumstances requiring an early termination payment) to make payments under the Tax Receivable Agreement for that taxable year because no tax benefits will have been actually realized. However, any tax benefits that do not result in realized tax benefits in a given taxable year will likely generate tax attributes that may be utilized to generate tax benefits in previous or future taxable years. The utilization of any such tax attributes will result in payments under the Tax Receivable Agreement.

For purposes of the Tax Receivable Agreement, cash savings in income and franchise tax will be computed by comparing our actual income and franchise tax liability to the amount of such taxes that we would have been required to pay had there been no Basis Adjustments and had the Tax Receivable Agreement not been entered into. The Tax Receivable Agreement will generally apply to each of our taxable years, beginning with the first taxable year ending following the consummation of this offering. There is no maximum term for the Tax Receivable Agreement, and it may be terminated by us pursuant to an early termination procedure that requires us to pay the Members an agreed upon amount equal to the estimated present value of the remaining payments to be made under the agreement (calculated based on certain assumptions, including regarding tax rates and utilization of the Basis Adjustments).

The payment obligations under the Tax Receivable Agreement are obligations of RGF, Inc. and not of RGF, LLC. Although the actual timing and amount of any payments that may be made under the Tax Receivable Agreement will vary, we expect that the payments that we may be required to make to the Members could be substantial. Any payments made by us to Members under the Tax Receivable Agreement will generally reduce the amount of overall cash flow that might have otherwise been available to us or to RGF, LLC. To the extent that we are unable to make payments under the Tax Receivable Agreement for three months past the due date of payment will result in a default. The unpaid amounts following a default generally will be deferred and will accrue interest until paid by us at a rate equal to SOFR (or 0.25%, if greater), plus 500 basis points.

Decisions made by us in the course of running our business, such as with respect to mergers, asset sales, other forms of business combinations, or other changes of control, may influence the timing and amount of payments that are received by a Member under the Tax Receivable Agreement. For example, the earlier disposition of assets following a transaction that results in a Basis Adjustment will generally accelerate payments under the Tax Receivable Agreement and increase the present value of such payments.

The Tax Receivable Agreement will provide that if (i) we materially breach any of our material obligations under the Tax Receivable Agreement, (ii) certain mergers, asset sales, other forms of business combination, or other changes of control were to occur, or (iii) we elect an early termination of the Tax Receivable Agreement, then our obligations, or our successor's obligations, under the Tax Receivable Agreement would accelerate and become due and payable, based on certain assumptions, including an assumption that we would have sufficient taxable income to fully utilize all potential future tax benefits that are subject to the Tax Receivable Agreement.

As a result, (i) we could be required to make cash payments to the Members that are greater than the specified percentage of the actual benefits we ultimately realize in respect of the tax benefits that are subject to the Tax Receivable Agreement, and (ii) if we elect to terminate the Tax Receivable Agreement early, we would be required to make an immediate cash payment equal to the present value of the anticipated future tax benefits that are the subject of the Tax Receivable Agreement, which payment may be made significantly in advance of the actual realization, if any, of such future tax benefits. In these situations, our obligations under the Tax Receivable Agreement could have a material adverse effect on our liquidity and could have the effect of delaying, deferring or preventing certain mergers, asset sales, other forms of business combination, or other changes of control. There can be no assurance that we will be able to finance our obligations under the Tax Receivable Agreement.

Payments under the Tax Receivable Agreement will be based on the tax reporting positions that we determine. If any such position is subject to a challenge by a taxing authority the outcome of which would reasonably be expected to materially affect a recipient's payments under the Tax Receivable Agreement, then we will not be permitted to settle or fail to contest such challenge without the consent (not to be unreasonably withheld or delayed) of each Member that directly or indirectly owns at least 10% of the outstanding Class B Units. We will not be reimbursed for any cash payments previously made to any Member pursuant to the Tax Receivable Agreement if any tax benefits initially claimed by us are subsequently challenged by a taxing authority and ultimately disallowed. Instead, in such circumstances, any excess cash payments made by us to a Member will be netted against any future cash payments that we might otherwise be required to make under the terms of the Tax Receivable Agreement. However, we might not determine that we have effectively made an excess cash payment to the Members for a number of years following the initial time of such payment and, if our tax reporting positions are challenged by a taxing authority, we will not be permitted to reduce any future cash payments under the Tax Receivable Agreement until any such challenge is finally settled or determined. As a result, it is possible that we could make cash payments under the Tax Receivable Agreement that are substantially greater than our actual cash tax savings.

Payments will generally be due under the Tax Receivable Agreement within a specified period of time following the filing of our return for the taxable year with respect to which the payment obligations arises, although interest on such payments will begin to accrue at a rate equal to SOFR (or 0.25%, if greater), plus 100 basis points, from the due date (without extensions) of such tax return. Any payments due under the Tax Receivable Agreement for greater than three months following the due date (without extensions) for filing our return for such taxable year will continue to accrue interest at a rate equal to SOFR (or 0.25%, if greater), plus 500 basis points, until such payments are made.

### **Registration Rights Agreement**

We will enter into a Registration Rights Agreement ("Registration Rights Agreement") with the Members other than the Fidelity Investors in connection with this offering. Among the Members who will be party to the Registration Rights Agreement are Bryan Freeman, our Executive Chairman and Chairperson of our board of directors; Gerard G. Law, our Chief Executive Officer and a director; Akshay Jagdale, our Chief Financial Officer; Andrew J. Stiffelman, our Chief Marketing Officer; as well as certain other stockholders who will beneficially own shares of Class B common stock following the consummation of this offering. The Registration Rights Agreement will provide these Members with the right, at any time from and after 180 days following the date of this prospectus, but no more than twice in any period of 12 months, whether or not such requests are revoked or withdrawn, to require us to register under the Securities Act shares of Class A common stock issuable to them upon redemption or exchange of their Class B Units, subject to certain requirements and limitations set forth therein, which number of shares will be reduced by the number of shares sold by the selling stockholder in this offering, if any. Such Members are permitted to demand registration of their shares pursuant to Form S-3, or any similar short-form registration statement, if and when we are eligible to utilize such registration statement, which number of shares will be reduced by the number of shares sold by the selling stockholder in this offering, if any. Any decision to be made or approval to be granted under the Registration Rights Agreement by the Members shall be made by the Members holding a majority of all "Investor Registrable Securities" (as defined in the Registration Rights Agreement) then outstanding. In addition, for so long as a "shelf registration statement" remains in effect, but no more than twice in any period of 12 months, whether or not such requests are revoked or withdrawn, the Members will have the right to elect to sell their Investor Registrable Securities pursuant to that registration statement, subject to certain limitations set forth in the



Registration Rights Agreement. Finally, the Registration Rights Agreement will provide for customary piggyback registration rights for the Members party thereto, allowing the Members to include their shares in such registration, subject to certain limitations set forth in the Registration Rights Agreement, which number of shares will be reduced by the number of shares sold by the selling stockholder in this offering, if any.

#### **Director and Executive Officer Indemnification and Insurance**

Prior to the consummation of this offering, we expect to adopt our Certificate of Incorporation, which will become effective immediately prior to the consummation of this offering and which will contain provisions that limit the liability of our directors for monetary damages to the fullest extent permitted by the Delaware General Corporation Law ("DGCL"). Consequently, our directors will not be personally liable to us or our stockholders for monetary damages for any breach of fiduciary duties as directors, except liability for the following:

- any breach of their duty of loyalty to our Company or our stockholders;
- any act or omission not in good faith or that involves intentional misconduct or a knowing violation of law;
- unlawful payments of dividends or unlawful stock repurchases or redemptions as provided in Section 174 of the DGCL; or
- any transaction from which they derived an improper personal benefit.

Any amendment to, or repeal of, these provisions will not eliminate or reduce the effect of these provisions in respect of any act, omission or claim that occurred or arose prior to that amendment or repeal. If the DGCL is amended to provide for further limitations on the personal liability of directors of corporations, then the personal liability of our directors will be further limited to the greatest extent permitted by the DGCL.

Further, prior to the effectiveness of the registration statement, we expect to enter into indemnification agreements with each of our directors and executive officers that may be broader than the specific indemnification provisions contained in the DGCL. These indemnification agreements will require us, among other things, to indemnify our directors and executive officers against liabilities that may arise by reason of their status or service. These indemnification agreements will also require us to advance all expenses incurred by the directors and executive officers in investigating or defending any such action, suit, or proceeding. We believe that these agreements are necessary to attract and retain qualified individuals to serve as directors and executive officers.

The limitation of liability and indemnification provisions that are expected to be included in our Certificate of Incorporation, Bylaws, and indemnification agreements that we enter into with our directors and executive officers may discourage stockholders from bringing a lawsuit against our directors and executive officers for breach of their fiduciary duties. They may also reduce the likelihood of derivative litigation against our directors and executive officers, even though an action, if successful, might benefit us and other stockholders. Further, a stockholder's investment may be harmed to the extent that we pay the costs of settlement and damage awards against directors and executive officers as required by these indemnification provisions. At present, we are not aware of any pending litigation or proceeding involving any person who is or was one of our directors, officers, employees, or other agents or is or was serving at our request as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, for which indemnification is sought, and we are not aware of any threatened litigation that may result in claims for indemnification.

Prior to the consummation of this offering, we expect to obtain insurance policies under which, subject to the limitations of the policies, coverage is provided to our directors and executive officers against loss arising from claims made by reason of breach of fiduciary duty or other wrongful acts as a director or executive officer, including claims relating to public securities matters, and to us with respect to payments that may be made by us to these directors and executive officers pursuant to our indemnification obligations or otherwise as a matter of law.

Certain of our non-employee directors may, through their relationships with their employers, be insured and/or indemnified against certain liabilities incurred in their capacity as members of our board of directors.

The underwriting agreement will provide for indemnification by the underwriters of us and our officers, directors, and employees for certain liabilities arising under the Securities Act or otherwise.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers, or persons controlling our Company pursuant to the foregoing provisions, we have been informed that, in the opinion of the SEC, such indemnification is against public policy as expressed in the Securities Act and is therefore unenforceable.

## **Other Transactions**

### ***Executive Officer Profits Interest Unit Awards***

RGF, LLC's board of managers has granted profits interest units to certain of our executive officers. Pursuant to an exchange that will be approved by the holders of profits interest units and all the Members prior to the effectiveness of the registration statement of which this prospectus forms a part, all such profits interest units shall be exchanged for shares of our Class B common stock and Class B Units in connection with the reorganization. For additional information, refer to the sections entitled "*Executive Compensation—Employment Arrangements*" and "*The Reorganization*."

### ***CPG Profit Participation Agreement***

On April 1, 2017, RGF, LLC granted profits interest units to CPG Solutions LLC ("CPG") in exchange for sales and marketing services that CPG provides to us pursuant to a profit participation agreement, under which CPG shares in RGF, LLC's net profits and receives a settlement payment at the time of a liquidity event, specifically a sale of the Company. In connection with the profits interest unit award, CPG became a Member of RGF, LLC and holder of more than 5% of RGF, LLC's outstanding units. Pursuant to an exchange that will be approved by the holders of profits interest units and all the Members prior to the effectiveness of the registration statement of which this prospectus forms a part, all such profits interest units shall be exchanged for shares of Class B Common Stock of RGF, Inc. and Class B Units of RGF, LLC in connection with the reorganization. For additional information, refer to the section entitled "*The Reorganization*."

For additional information regarding the profit participation agreement and related profits interest unit grant to CPG, refer to Note 1 to our audited financial statements included elsewhere in this prospectus.

### ***Related-Party Transaction Policy***

Prior to the consummation of this offering, our board of directors will adopt a policy providing that all transactions that may constitute a "related-party transaction" must be presented to our audit committee, which shall serve as the administrator of the policy. A "related-party transaction," as defined in the policy, means any transaction that is required to be disclosed pursuant to Item 404 of Regulation S-K promulgated by the SEC, and includes any transaction, or series of similar transactions, since the beginning of our last fiscal year, or any currently proposed transaction or series of similar transactions, where (i) we or any of our affiliates is a party; (ii) the amount involved exceeds \$120,000 in the aggregate; and (iii) any related party had or will have a direct or indirect material interest. The policy was not in effect when we entered into the related-party transactions described above.

## PRINCIPAL AND SELLING STOCKHOLDERS

The following table and footnotes set forth information with respect to the beneficial ownership of our Class A common stock and Class B common stock as of October 1, 2021, assuming the consummation of the Reorganization and this offering and subject to certain assumptions set forth in the footnotes and as adjusted to reflect the sale of the shares of common stock offered by us and the selling stockholder under this prospectus for:

- each holder of 5% or more of the outstanding shares of our Class A common stock or Class B common stock;
- each of our named executive officers;
- each of our directors and director nominees;
- all of our executive officers, directors and director nominees as a group; and
- the selling stockholder.

In accordance with SEC rules, each listed person's beneficial ownership includes:

- all shares the stockholder actually owns beneficially or of record;
- all shares over which the stockholder has or shares voting or dispositive control (such as in the capacity as a general partner of an investment fund); and
- all shares the stockholder has the right to acquire beneficial ownership of within 60 days after October 1, 2021.

As described in the sections entitled "*The Reorganization*" and "*Certain Relationships and Related-Party Transactions*," each Member, including the Fidelity Investors receiving Class B Units in connection with the conversion of their 2021 Notes pursuant to the Conversion Agreement, will be entitled to have their Class B Units exchanged for Class A common stock on a one-to-one basis, or, at our option, cash equal to the market value of the applicable number of our shares of Class A common stock. In addition, at our election, upon an exchange request, we may effect a direct exchange of such Class A common stock or such cash for such Class B Units. In connection with this offering, we will issue to each Member for nominal consideration one share of Class B common stock for each Class B Unit it owns. As a result, the respective numbers of shares of Class B common stock listed in the table below correlate to the number of Class B Units each such Member will own immediately following the consummation of this offering. For additional information, refer to the section entitled "*The Reorganization*."

Our calculation of the percentage of beneficial ownership prior to this offering is based on the equity security interests of RGF, LLC outstanding as of October 1, 2021, assuming the automatic conversion of all convertible promissory notes outstanding as of October 1, 2021 into an aggregate of 6,002,575 shares of our Class A common stock, based on an assumed initial public offering price of \$15.00 per share, the midpoint of the estimated offering price range set on the cover page of this prospectus, which will occur immediately prior to the closing of this offering. Shares of common stock that a person has the right to acquire within 60 days after October 1, 2021 are deemed outstanding for purposes of computing the percentage ownership of the person holding such rights but are not deemed outstanding for purposes of computing the percentage ownership of any other person, except with respect to the percentage ownership of all directors and executive officers as a group.

Unless otherwise indicated, we believe, based on the information furnished to us, that the persons named in the table below have sole voting and investment power with respect to all securities that they beneficially own, subject to community property laws where applicable. Unless otherwise noted below, the business address of the stockholders listed below is the address of our principal executive office, 3 Executive Campus, Suite 155, Cherry Hill, NJ 08002.

NAME OF BENEFICIAL OWNER	CLASS A COMMON STOCK(1)	CLASS A BENEFICIAL OWNERSHIP(1)		CLASS B COMMON STOCK(1)(2)		CLASS B BENEFICIAL OWNERSHIP		COMBINED VOTING POWER(3)	
	NUMBER	% ASSUMING UNDERWRITERS' OPTION IS NOT EXERCISED	% ASSUMING UNDERWRITERS' OPTION IS EXERCISED	NUMBER ASSUMING UNDERWRITERS' OPTION IS NOT EXERCISED	NUMBER ASSUMING UNDERWRITERS' OPTION IS EXERCISED	% ASSUMING UNDERWRITERS' OPTION IS NOT EXERCISED	% ASSUMING UNDERWRITERS' OPTION IS EXERCISED	% ASSUMING UNDERWRITERS' OPTION IS NOT EXERCISED	% ASSUMING UNDERWRITERS' OPTION IS EXERCISED
<b>5% Stockholders and Selling Stockholder</b>									
Josh Schreider(4)	—	—	—	3,956,022	3,622,689	20.8%	19.4%	15.8%	14.1%
Slingshot Consumer LLC(5)	—	—	—	3,956,022	3,956,022	20.8%	21.2%	15.8%	15.3%
PPZ, LLC(6)	—	—	—	3,956,022	3,956,022	20.8%	21.2%	15.8%	15.3%
Divario Ventures, LLC(7)	—	—	—	999,082	999,082	5.3%	5.3%	4.0%	3.9%
Strand Equity Partners III, LLC(8)	—	—	—	1,555,776	1,555,776	8.2%	8.3%	6.2%	6.1%
CPG Solutions, LLC(9)	—	—	—	1,318,690	1,318,690	6.9%	7.1%	5.3%	5.1%
Fidelity Investors(10)	669,242	11.1%	9.8%	2,247,425	2,247,425	11.8%	12.0%	11.7%	11.1%
<b>Named Executive Officers, Directors, and Director Nominees</b>									
Bryan Freeman(11)	—	—	—	3,956,022	3,956,022	20.8%	21.2%	15.8%	15.3%
Gerard G. Law(12)	—	—	—	816,380	816,380	4.3%	4.4%	3.3%	3.2%
Akshay Jagdale(13)	—	—	—	210,406	210,406	1.1%	1.1%	*	—
Deanna T. Brady, R.D.	—	—	—	—	—	—	—	—	—
George F. Chappelle, Jr.	—	—	—	—	—	—	—	—	—
Gilbert B. de Cardenas	—	—	—	—	—	—	—	—	—
Mark J. Nelson	—	—	—	—	—	—	—	—	—
All executive officers, directors, and director nominees as a group (eight persons)(14)	—	—	—	6,301,498	6,301,498	33.1%	33.7%	25.2%	24.1%

\* Represents beneficial ownership or voting power of less than 1%.

- (1) Subject to the terms of the Exchange Agreement, immediately following the completion of this offering, the Members of RGF, LLC holding shares of our Class B common stock may exchange their Class B Units and cancel an equivalent amount of their shares of Class B common stock for newly issued shares of our Class A common stock or, at our option, redeem such Class B Units for cash. For additional information, refer to the section entitled *"The Reorganization"* and *"Certain Relationships and Related Person Transactions—Exchange Agreement."*
- (2) Represents Class B Units that are paired with an equal number of shares of Class B common stock.
- (3) Represents percentage of voting power of the Class A common stock and Class B common stock voting together as a single class. For additional information, refer to the section entitled *"Description of Capital Stock."*
- (4) Consists of 3,956,022 shares of our Class B common stock held by Mr. Schreider directly. The address of Josh Schreider is 444 East Santa Clara Street, Ventura, CA 93001. The selling stockholder will sell 333,333 shares of our Class A common stock to the purchasers in this offering if the underwriters exercise their option to purchase additional shares of our Class A common stock up to that amount.

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- (5) Consists of 3,956,022 shares of our Class B common stock. Mr. Freeman, our Executive Chairman and director, is the Managing Partner of Slingshot Consumer LLC, and possesses sole voting and dispositive power with respect to the shares held by Slingshot. The address of Slingshot is c/o Varner & Brandt LLP, 3750 University Avenue, 6th Floor, Riverside, CA 92501.
- (6) Consists of shares of 3,956,022 our Class B common stock. Rhea Lamia is the Manager of PPZ and possesses sole voting and dispositive power with respect to the shares held by PPZ. The address of PPZ is PO Box 905, Laramie, WY 82073.
- (7) Consists of 999,082 shares of our Class B common stock. Jim Foltz is the Manager of Divario and possesses sole voting and dispositive power with respect to the shares held by Divario. The address of Divario is 11555 Dublin Canyon, Pleasanton, CA 94588.
- (8) Consists of 1,555,776 shares of our Class B common stock. Kevin Chen is the Manager of Strand Equity Partners III, LLC and possesses sole voting and dispositive power with respect to the shares held by Strand Equity Partners III, LLC. The address of Strand Equity Partners III, LLC is 1888 Century Park West, Suite 1440, Los Angeles, CA 90067.
- (9) Consists of 1,318,690 shares of our Class B common stock. Andrew J. Stiffelman, our Chief Marketing Officer, and Patrick Dyer are the Managers of CPG and possess sole voting and dispositive power with respect to the shares held by CPG. The address of CPG is 6400 Bluff Creek Lane, Lohman, MO 65053.
- (10) Consists of: 669,242 shares of our Class A common stock and 2,247,425 shares of our Class B common stock issuable upon conversion of the convertible notes held by the Fidelity Investors. Chris Maher is the managing member of each of the Fidelity Investors and as such has voting and dispositive control of these shares. These accounts are managed by direct or indirect subsidiaries of FMR LLC. Abigail P. Johnson is a director, the chairman, the chief executive officer and the president of FMR LLC. Members of the Johnson family, including Abigail P. Johnson, are the predominant owners, directly or through trusts, of Series B voting common shares of FMR LLC, representing 49% of the voting power of FMR LLC. The Johnson family group and all other Series B shareholders have entered into a shareholders' voting agreement under which all Series B voting common shares will be voted in accordance with the majority vote of Series B voting common shares. Accordingly, through their ownership of voting common shares and the execution of the shareholders' voting agreement, members of the Johnson family may be deemed, under the Investment Company Act of 1940, to form a controlling group with respect to FMR LLC. Neither FMR LLC nor Abigail P. Johnson has the sole power to vote or direct the voting of the shares owned directly by the various investment companies registered under the Investment Company Act ("Fidelity Funds") advised by Fidelity Management & Research Company, a wholly owned subsidiary of FMR LLC, which power resides with the Fidelity Funds' Boards of Trustees. Fidelity Management & Research Company carries out the voting of the shares under written guidelines established by the Fidelity Funds' Boards of Trustees.
- (11) Consists of 3,956,022 shares of our Class B common stock held by Slingshot. Mr. Freeman is the Managing Partner of Slingshot and possesses sole voting and dispositive power with respect to the shares held by Slingshot.
- (12) Consists of 816,380 shares of our Class B common stock held by Mr. Law directly.
- (13) Consists of 210,406 shares of our Class B common stock held by Mr. Jagdale directly.
- (14) The number of executive officers and directors as a group includes executive officers of our subsidiaries. The amount beneficially owned by the executive officers and directors as a group consists of an aggregate of 8,938,830 shares of our Class B common stock.

## DESCRIPTION OF CAPITAL STOCK

The following is a description of the material terms of our Certificate of Incorporation and Bylaws, each as they are expected to be in effect upon the consummation of this offering. The following description may not contain all of the information that is important to you. To understand the material terms of our Class A common stock, you should read our Certificate of Incorporation and Bylaws, copies of which are or will be filed with the SEC as exhibits to the registration statement of which this prospectus is a part.

### General

At or prior to the consummation of this offering, we will file our Certificate of Incorporation and adopt our Bylaws. Our Certificate of Incorporation will authorize capital stock consisting of:

- 115,000,000 shares of Class A common stock, par value \$0.0001 per share;
- 25,000,000 shares of Class B common stock, par value \$0.0001 per share; and
- 10,000,000 shares of preferred stock, with a par value per share that may be established by our board of directors in the applicable certificate of designations.

We are selling 6,002,575 shares of Class A common stock in this offering, which includes the conversion of outstanding convertible notes (6,802,575 shares if the underwriters exercise in full their option to purchase additional shares from us and the selling stockholder). All shares of our Class A common stock outstanding upon consummation of this offering will be fully paid and non-assessable. We are issuing 19,015,824 shares of Class B common stock to the Members simultaneously with this offering (18,682,491 shares if the underwriters exercise in full their option to purchase additional shares of our Class A common stock). Immediately following the consummation of this offering, we expect to have 6,002,575 shares of Class A common stock outstanding (6,802,575 shares if the underwriters exercise in full their option to purchase additional shares) and 19,015,824 shares of Class B common stock outstanding (18,682,492 shares if the underwriters exercise in full their option to purchase additional shares), assuming the automatic conversion of all outstanding convertible promissory notes into an aggregate of 669,242 shares of our Class A common stock and 2,247,425 shares of our Class B common stock, based on an assumed initial public offering price of \$15.00 per share, the midpoint of the estimated offering price range set forth on the cover page of this prospectus, at a 20% discount to such offering price, immediately prior to the consummation of this offering.

The following summary describes the material provisions of our capital stock and is qualified in its entirety by reference to our Certificate of Incorporation and our Bylaws and to the applicable provisions of the DGCL. We urge you to read our Certificate of Incorporation and our Bylaws, which are or will be filed as exhibits to the registration statement of which this prospectus forms a part.

Certain provisions of our Certificate of Incorporation and our Bylaws summarized below may be deemed to have an anti-takeover effect and may delay or prevent a tender offer or takeover attempt that a stockholder might consider in its best interest, including those attempts that might result in a premium over the market price for the shares of our Class A common stock.

### Class A Common Stock

Holders of shares of our Class A common stock are entitled to one vote for each share held of record on all matters submitted to a vote of stockholders. The holders of our Class A common stock do not have cumulative voting rights in the election of directors.

Holders of shares of our Class A common stock will vote together with holders of our Class B common stock as a single class on all matters presented to our stockholders for their vote or approval, except for certain amendments to our Certificate of Incorporation described in the section below entitled “*Description of Capital Stock—Anti-Takeover Provisions*” or as otherwise required by applicable law or our Certificate of Incorporation.

Holders of shares of our Class A common stock are entitled to receive dividends when and if declared by our board of directors out of funds legally available therefor, subject to any statutory or contractual restrictions on the payment of dividends and to any restrictions on the payment of dividends imposed by the terms of any outstanding preferred stock.

Upon our dissolution or liquidation, or the sale of all or substantially all of our assets, after payment in full of all amounts required to be paid to creditors and to the holders of preferred stock having liquidation preferences, if any, the holders of shares of our Class A common stock will be entitled to receive pro rata our remaining assets available for distribution.

Holders of shares of our Class A common stock do not have preemptive, subscription, redemption, or conversion rights. There will be no redemption or sinking fund provisions applicable to our Class A common stock.

### **Class B Common Stock**

Shares of Class B common stock will only be issued in the future to the extent necessary to maintain a one-to-one ratio between the number of Class B Units held by RGF, LLC equity holders and the number of shares of Class B common stock issued to RGF, LLC equity holders. Shares of Class B common stock are transferable only together with an equal number of Class B Units. Shares of Class B common stock will be canceled on a one-for-one basis if we, at the election of a holder of Class B Units, redeem or exchange Class B Units of such person pursuant to the terms of the Exchange Agreement and the Operating Agreement.

Holders of shares of our Class B common stock are entitled to one vote for each share held of record on all matters submitted to a vote of stockholders. The holders of our Class B common stock do not have cumulative voting rights in the election of directors.

Holders of shares of our Class B common stock will vote together with holders of our Class A common stock as a single class on all matters presented to our stockholders for their vote or approval, except for certain amendments to our Certificate of Incorporation described in the section below entitled “*Description of Capital Stock—Anti-Takeover Provisions*” or as otherwise required by applicable law or our Certificate of Incorporation.

Holders of our Class B common stock do not have any right to receive dividends or to receive a distribution upon dissolution or liquidation or the sale of all or substantially all of our assets. Additionally, holders of shares of our Class B common stock do not have preemptive, subscription, redemption, or conversion rights. There will be no redemption or sinking fund provisions applicable to the Class B common stock.

Pursuant to the Operating Agreement, each holder of Class B common stock has agreed that (i) the holder will not transfer any shares of Class B common stock to any person unless the holder transfers an equal number of Class B Units to the same person, and (ii) in the event the holder transfers any Class B Units to any person, the holder will transfer an equal number of shares of Class B common stock to the same person. Any such transfers must be made in compliance with the terms of our Certificate of Incorporation, the Bylaws, the Exchange Agreement, and the Operating Agreement, or such transfer may result in the Corporation disregarding the purported transfer and/or canceling such shares of Class B common stock.

Immediately following the consummation of this offering, the members of RGF, LLC holding Class B common stock may exchange their Class B Units and cancel an equivalent number of their shares of Class B common stock for newly issued shares of our Class A common stock or, at our option, redeem such Class B Units for cash.

### **Amendments to Charter Documents**

Any amendment of our Certificate of Incorporation that gives holders of our Class B common stock (i) any rights to receive dividends or any other kind of distribution, (ii) any right to convert into or be exchanged for Class A common stock (excluding exchange rights with respect to Class B Units pursuant to the terms of the Exchange Agreement), or (iii) any other economic rights will require, in addition to stockholder approval, the affirmative vote of holders of our Class A common stock voting separately as a class.

Upon the consummation of this offering, the Members will own 100% of our outstanding Class B common stock.

### **Preferred Stock**

Upon the consummation of this offering, we will have no shares of preferred stock outstanding.

Under the terms of our Certificate of Incorporation that is expected to be in effect upon the consummation of this offering, our board of directors is authorized to direct us to issue shares of preferred stock in one or more series



without stockholder approval. Our board of directors will have the discretion to determine the rights, preferences, privileges and restrictions, including voting rights, dividend rights, conversion rights, redemption privileges, and liquidation preferences, of each series of preferred stock.

The purpose of authorizing our board of directors to issue preferred stock and determine its rights and preferences is to eliminate delays associated with a stockholder vote on specific issuances. The issuance of preferred stock, while providing flexibility in connection with possible acquisitions, future financings and other corporate purposes, could have the effect of making it more difficult for a third party to acquire, or could discourage a third party from seeking to acquire, a majority of our outstanding voting stock. Additionally, the issuance of preferred stock may adversely affect the holders of our Class A common stock by restricting dividends on the Class A common stock, diluting the voting power of the Class A common stock, or subordinating the liquidation rights of the Class A common stock. As a result of these or other factors, the issuance of preferred stock could have an adverse impact on the market price of our Class A common stock.

### **Forum Selection**

Our Certificate of Incorporation will provide that, unless we consent in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware will be the sole and exclusive forum for any state court action for (i) any derivative action or proceeding brought on our behalf, (ii) any action asserting a claim of breach of a fiduciary duty owed by, or other wrongdoing by, any of our directors, officers, employees, or agents to us or our stockholders, (iii) any action asserting a claim against RGF, Inc. or any director or officer thereof arising pursuant to any provision of the DGCL or as to which the DGCL confers jurisdiction on the Court of Chancery of the State of Delaware, our Certificate of Incorporation, or our Bylaws, (iv) any action to interpret, apply, enforce, or determine the validity of our Certificate of Incorporation or our Bylaws, or (v) any other action asserting a claim against us or any of our directors or officers that is governed by the internal affairs doctrine; provided that, for the avoidance of doubt, the forum selection provision that identifies the Court of Chancery of the State of Delaware as the exclusive forum for certain litigation, including any "derivative action," will not apply to suits to enforce a duty or liability created by the Securities Act, the Exchange Act or any other claim for which the federal courts have exclusive jurisdiction.

Our Certificate of Incorporation will also provide that, unless we consent in writing to the selection of an alternative forum, the federal district courts of the United States shall be the exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act.

Any person or entity purchasing or otherwise acquiring any interest in shares of our capital stock will be deemed to have notice of, and to have consented to, the provisions of our Certificate of Incorporation described above. Although we believe these provisions benefit us by providing increased consistency in the application of the DGCL, or Securities Act, as applicable, for the specified types of actions and proceedings, the provisions may have the effect of discouraging lawsuits against us or our directors and officers. Alternatively, if a court were to find any of the forum selection provisions contained in our Certificate of Incorporation to be inapplicable or unenforceable, we may incur additional costs associated with having to litigate such action in other jurisdictions, which could have an adverse effect on our business, operating results, financial condition, or prospects and result in a diversion of the time and resources of our employees, management, and board of directors.

### **Anti-Takeover Provisions**

Our Certificate of Incorporation, our Bylaws, and the DGCL contain provisions, which are summarized in the following paragraphs, that are intended to enhance the likelihood of continuity and stability in the composition of our board of directors. These provisions are intended to avoid costly takeover battles, reduce our vulnerability to a hostile change of control, and enhance the ability of our board of directors to maximize stockholder value in connection with any unsolicited offer to acquire us. However, these provisions may have an anti-takeover effect and may delay, deter, or prevent a merger or acquisition of us by means of a tender offer, a proxy contest, or other takeover attempt that a stockholder might consider in its best interest, including those attempts that might result in a premium over the prevailing market price for the shares of Class A common stock held by stockholders.

These provisions include:

#### ***Classified Board***

Our Certificate of Incorporation will provide that our board of directors will be divided into three classes of directors, with the classes as nearly equal in number as possible, and with the directors serving three-year terms. As a result,

approximately one-third of our board of directors will be elected each year. The classification of the directors will have the effect of making it more difficult for stockholders to change the composition of our board of directors. Our Certificate of Incorporation will also provide that, subject to any rights of holders of preferred stock to elect additional directors under specified circumstances, the number of directors will be fixed exclusively pursuant to a resolution adopted by our board of directors. Immediately following the consummation of this offering, we expect that our board of directors will have six members.

***No Stockholder Action by Written Consent***

Our Certificate of Incorporation will preclude stockholder action by written consent.

***Special Meetings of Stockholders***

Our Certificate of Incorporation and Bylaws will provide that, except as required by law, special meetings of our stockholders may be called at any time only by or at the direction of our board of directors or the Executive Chairman. Our Bylaws will prohibit the conduct of any business at a special meeting other than as specified in the notice for such meeting.

***Advance Notice Procedures***

Our Bylaws will establish advance notice procedures for stockholder proposals and nomination of candidates for election as directors, other than nominations made by or at the direction of our board of directors or a committee of our board of directors. Stockholders at an annual meeting will only be able to consider proposals or nominations specified in the notice of meeting or brought before the meeting by or at the direction of our board of directors, or by a stockholder who was a stockholder of record on the record date for the meeting, who is entitled to vote at the meeting and who has given our secretary timely written notice, in proper form, of the stockholder's intention to bring that business before the meeting. Although our Bylaws will not give our board of directors the power to approve or disapprove stockholder nominations of candidates or proposals regarding other business to be conducted at a special or annual meeting, the Bylaws may have the effect of precluding the conduct of certain business at a meeting if the proper procedures are not followed or may discourage or deter a potential acquirer from conducting a solicitation of proxies to elect its own slate of directors or otherwise attempting to obtain control of us.

***Removal of Directors; Vacancies***

Our Certificate of Incorporation will provide that all directors may only be removed for cause, and only by the affirmative vote of holders of at least a majority in voting power of all the then-outstanding shares of our capital stock entitled to vote thereon, voting together as a single class. In addition, our Certificate of Incorporation will also provide that, subject to the rights granted to one or more series of preferred stock then outstanding, any newly created directorship on our board of directors that results from an increase in the number of directors and any vacancies on our board of directors will be filled only by the affirmative vote of a majority of the remaining directors, even if less than a quorum, or by a sole remaining director (and not by the stockholders).

***Amendments***

Our Certificate of Incorporation and Bylaws will provide that our board of directors is expressly authorized to make, alter, amend, change, add to, rescind, or repeal, in whole or in part, our Bylaws without a stockholder vote in any matter not inconsistent with the laws of the State of Delaware and our Certificate of Incorporation. Any amendment, alteration, rescission, or repeal of our Bylaws by our stockholders will require the affirmative vote of either (i) a majority of the Board of Directors, or (ii) stockholders representing at least 66-2/3% of the votes eligible to be cast in an election of directors of RGF, Inc. to vote on such amendment, alteration, change, addition, rescission, or repeal.

***Authorized but Unissued Shares***

Our authorized but unissued shares of common stock and preferred stock will be available for future issuance without stockholder approval, subject to Nasdaq listing standards. These additional shares of capital stock may be utilized for a variety of corporate purposes, including future public offerings to raise additional capital, corporate acquisitions, and employee benefit plans. One of the effects of the existence of authorized but unissued common stock or preferred stock may be to enable our board of directors to issue shares of capital stock to persons friendly to current management, which issuance could render more difficult or discourage an attempt to obtain control of the company by means of a merger, tender offer, proxy contest, or otherwise, and thereby protect the continuity of our management and possibly deprive our stockholders of opportunities to sell their shares of common stock at prices higher than prevailing market prices.

### **Business Combinations**

We will be subject to the provisions of Section 203 of the DGCL. In general, Section 203 prohibits a publicly held Delaware corporation from engaging in a “business combination” with an “interested stockholder” for a three-year period following the time that the person becomes an interested stockholder, unless the business combination is approved in a prescribed manner. A “business combination” includes, among other things, a merger, asset or stock sale, or other transaction resulting in a financial benefit to the interested stockholder. An “interested stockholder” is a person who, together with affiliates and associates, owns, or did own within three years prior to the determination of interested stockholder status, 15% or more of the corporation’s voting stock.

Under Section 203, a business combination between a corporation and an interested stockholder is prohibited unless it satisfies one of the following conditions: (i) before the stockholder became an interested stockholder, the Board approved either the business combination or the transaction which resulted in the stockholder becoming an interested stockholder, (ii) upon consummation of the transaction which resulted in the stockholder becoming an interested stockholder, the interested stockholder owned at least 85% of the voting stock of the corporation outstanding at the time the transaction commenced, excluding for purposes of determining the voting stock outstanding, shares owned by persons who are directors and also officers, and employee stock plans, in some instances, or (iii) at or after the time the stockholder became an interested stockholder, the business combination was approved by the Board and authorized at an annual or special meeting of the stockholders by the affirmative vote of at least two-thirds of the outstanding voting stock which is not owned by the interested stockholder.

Under certain circumstances, Section 203 will make it more difficult for a person who would be an “interested stockholder” to effect various business combinations with us for a three-year period. Section 203 may encourage companies interested in acquiring us to negotiate in advance with our board of directors because the stockholder approval requirement would be avoided if our board of directors approves either the business combination or the transaction which results in the stockholder becoming an interested stockholder. Section 203 also may have the effect of preventing changes in our board of directors and may make it more difficult to accomplish transactions which stockholders may otherwise deem to be in their best interests.

### **Limitations on Liability and Indemnification of Officers and Directors**

The DGCL authorizes corporations to limit or eliminate the personal liability of directors to corporations and their stockholders for monetary damages for breaches of directors’ fiduciary duties, subject to certain exceptions. Our Certificate of Incorporation will include a provision that eliminates the personal liability of directors for monetary damages for any breach of fiduciary duty as a director, except to the extent such exemption from liability or limitation thereof is not permitted under the DGCL. The effect of these provisions will be to eliminate the rights of us and our stockholders, through stockholders’ derivative suits on our behalf, to recover monetary damages from a director for breach of fiduciary duty as a director, including breaches resulting from grossly negligent behavior. However, exculpation will not apply to any director if the director has acted in bad faith, knowingly or intentionally violated the law, authorized illegal dividends or redemptions, or derived an improper benefit from his or her actions as a director.

Our Bylaws will provide that we must indemnify and advance expenses to our directors and officers to the fullest extent authorized by the DGCL. We also will be expressly authorized to carry directors’ and officers’ liability insurance providing indemnification for our directors, officers, and certain employees for some liabilities. We believe that these indemnification and advancement provisions and insurance will be useful to attract and retain qualified directors and officers.

The limitation of liability, indemnification, and advancement provisions that will be included in our Certificate of Incorporation and Bylaws may discourage stockholders from bringing a lawsuit against directors for breaches of their fiduciary duty. These provisions also may have the effect of reducing the likelihood of derivative litigation against directors and officers, even though such an action, if successful, might otherwise benefit us and our stockholders. In addition, your investment may be adversely affected to the extent we pay the costs of settlement and damage awards against directors and officers pursuant to these indemnification provisions.

There is currently no pending material litigation or proceeding involving any of our directors, officers, or employees for which indemnification is sought.

### **Corporate Opportunity Doctrine**

The DGCL permits corporations to adopt provisions renouncing any interest or expectancy in certain opportunities that are presented to the corporation or its officers, directors, or stockholders. Our Certificate of Incorporation will, to the maximum extent permitted from time to time by the DGCL, renounce any interest or expectancy that we have in, or right to be offered an opportunity to participate in, specified business opportunities that are from time to time presented to certain of our officers, directors, or stockholders or their respective affiliates, other than those officers, directors, stockholders, or affiliates who are our or our subsidiaries' employees. Our Certificate of Incorporation will provide that, to the fullest extent permitted by law, any director who is not employed by us (including any non-employee director who serves as one of our officers in both his or her director and officer capacities) or its, his or her affiliates will have any duty to refrain from (i) engaging in a corporate opportunity in the same or similar lines of business in which we or our affiliates now engage or propose to engage, or (ii) otherwise competing with us or our affiliates. In addition, to the fullest extent permitted by law, in the event that any non-employee director acquires knowledge of a potential transaction or other business opportunity which may be a corporate opportunity for itself, himself or herself or its, his or her affiliates or for us or our affiliates, such person will have no duty to communicate or offer such transaction or business opportunity to us or any of our affiliates and they may take any such opportunity for themselves or offer it to another person or entity. Our Certificate of Incorporation will not renounce our interest in any business opportunity that is expressly offered to a non-employee director solely in his or her capacity as our director or officer. To the fullest extent permitted by law, no business opportunity will be deemed to be a potential corporate opportunity for us unless we would be permitted to undertake the opportunity under our Certificate of Incorporation, we have sufficient financial resources to undertake the opportunity and the opportunity would be in line with our business.

### **Dissenters' Rights of Appraisal and Payment**

Under the DGCL, with certain exceptions, our stockholders will have appraisal rights in connection with a merger or consolidation involving us. Pursuant to the DGCL, stockholders who properly request and perfect appraisal rights in connection with such merger or consolidation will have the right to receive payment of the fair value of their shares of capital stock as determined by the Delaware Court of Chancery.

### **Stockholders' Derivative Actions**

Under the DGCL, any of our stockholders may bring an action in our name to procure a judgment in our favor, also known as a derivative action, provided that the stockholder bringing the action is a holder of our shares of capital stock at the time of the transaction to which the action relates or such stockholder's stock thereafter devolved by operation of law.

### **Transfer Agent and Registrar**

The transfer agent and registrar for our Class A common stock will be American Stock Transfer & Trust Company, LLC.

### **Listing**

We have applied to have our Class A common stock listed on Nasdaq under the trading symbol "RGF."

## SHARES ELIGIBLE FOR FUTURE SALE

Prior to this offering, there has been no public market for our Class A common stock, and a liquid trading market for our Class A common stock may not develop or be sustained after this offering. Future sales of substantial amounts of our Class A common stock in the public market (including shares of Class A common stock issuable upon exchange of Class B Units), or the perception that such sales may occur, could adversely affect market prices prevailing from time to time and could impair our ability to raise capital through sales of equity securities. Although we have applied to list our Class A common stock on Nasdaq, we cannot assure you there will be an active public market for our Class A common stock.

Upon the closing of this offering, after giving effect to the automatic conversion of all outstanding convertible promissory notes into an aggregate of 669,242 shares of our Class A common stock and 2,247,425 shares of our Class B common stock, based on an assumed initial public offering price of \$15.00 per share, the midpoint of the estimated offering price range set forth on the cover page of this prospectus, at a 20% discount to such offering price immediately prior to the closing of this offering, we will have an aggregate of 6,002,575 shares of our Class A common stock outstanding, all of which will be offered and issued in this offering. All shares sold by us or the selling stockholder in this offering will be freely tradable without restriction or further registration under the Securities Act, except for any shares purchased by our “affiliates,” as that term is defined in Rule 144 under the Securities Act, whose sales would be subject to the Rule 144 resale restrictions described below, other than the holding period requirement. Any shares of Class A common stock purchased by our affiliates will be “restricted securities,” as that term is defined in Rule 144 under the Securities Act. These restricted securities are eligible for public sale only if they are registered under the Securities Act or if they qualify for an exemption from registration under Rule 144 under the Securities Act, which is summarized below. Other restricted securities may qualify for an exemption from registration under Rule 701 of the Securities Act, which is summarized below.

In addition, each Class B Unit held by the Members will be exchangeable, at the election of such Member, for newly issued shares of our Class A common stock on a one-to-one basis. The Members may exercise such exchange right for as long as their Class B Units remain outstanding. For additional information, refer to the section entitled “*Certain Relationships and Related-Party Transactions—Operating Agreement.*”

Upon consummation of this offering, the Members will hold 19,015,824 Class B Units, all of which will be exchangeable for shares of our Class A common stock, as well as options, for an estimated 19,015,824 shares of our Class A common stock (based on an assumed initial public offering price of \$15.00 per share, the midpoint of the estimated offering price range set forth on the cover page of this prospectus) that will be fully vested immediately following the determination of the initial public offering price for this offering. The shares of our Class A common stock we issue upon such exchanges would be “restricted securities” as defined in Rule 144 unless we register such issuances. However, we will enter into the Registration Rights Agreement with the Members that will require us to register under the Securities Act these shares of our Class A common stock. For additional information, refer to the section entitled “*Certain Relationships and Related-Party Transactions—Registration Rights Agreement.*”

### Lock-Up Agreements

We, our executive officers, directors, the selling stockholder, and holders of substantially all of our outstanding common stock and securities convertible into or exchangeable for shares of our Class A common stock outstanding upon the consummation of this offering, have agreed that, subject to certain exceptions, for a period of 180 days from the date of this prospectus, we and they will not, without the prior written consent of Jefferies, dispose of, pledge, swap, or hedge, or offer to dispose of, pledge, swap, or hedge, any shares or any securities convertible into or exchangeable for shares of our capital stock, make any demand for or exercise any right with respect to the registration of any shares of common stock or any security convertible into or exchangeable for our Class A common stock or publicly announce any intention to do any of the foregoing. Jefferies, in its sole discretion, may release any of the securities subject to these lock-up agreements at any time. For additional information, refer to the section entitled “*Underwriting.*” Upon the expiration of the applicable lock-up periods, substantially all of the shares subject to such lock-up restrictions will become eligible for sale, subject to the limitations discussed above.

## **Rule 144**

### ***Affiliate Resales of Restricted Securities***

In general, beginning 90 days after the effective date of the registration statement of which this prospectus is a part, a person who is an affiliate of ours, or who was an affiliate at any time during the 90 days before a sale, who has beneficially owned shares of our Class A common stock for at least six months would be entitled to sell in "brokers' transactions" or certain "riskless principal transactions" or to market makers a number of shares within any three-month period that does not exceed the greater of:

- 1% of the number of shares of our Class A common stock then outstanding, which will equal approximately 60,026 shares immediately after this offering; or
- the average weekly trading volume in our Class A common stock on Nasdaq during the four calendar weeks preceding the filing of a notice on Form 144 with respect to such sale.

Affiliate resales under Rule 144 are also subject to the availability of current public information about us. In addition, if the number of shares being sold under Rule 144 by an affiliate during any three-month period exceeds 5,000 shares or has an aggregate sale price in excess of \$50,000, the seller must file a notice on Form 144 with the SEC. Affiliate resales under Rule 144 are also subject to the contractual lock-up restrictions described above.

### ***Non-Affiliate Resales of Restricted Securities***

In general, beginning 90 days after the effective date of the registration statement of which this prospectus is a part, a person who is not an affiliate of ours at the time of sale, and has not been an affiliate at any time during the 90 days preceding a sale, and who has beneficially owned shares of our Class A common stock for at least six months but less than a year, is entitled to sell such shares subject only to the availability of current public information about us. If such person has held our shares for at least one year, such person can resell under Rule 144(b)(1) without regard to any Rule 144 restrictions, including the 90-day public company requirement and the current public information requirement.

Non-affiliate resales are not subject to the manner of sale, volume limitation, or notice filing provisions of Rule 144.

## **Rule 701**

In general, under Rule 701 as currently in effect, any of our employees, directors, officers, consultants, or advisors who purchased shares from us in connection with a compensatory stock or option plan or other written agreement before the effective date of this offering is entitled to resell such shares 90 days after the effective date of this offering in reliance on Rule 144, without having to comply with the holding period requirements or other restrictions contained in Rule 701.

The SEC has indicated that Rule 701 will apply to typical stock options granted by an issuer before it becomes subject to the reporting requirements of the Exchange Act, along with the shares acquired upon exercise of such options, including exercises after the date of this prospectus. Securities issued in reliance on Rule 701 are restricted securities and, subject to the contractual lock-up restrictions described above, beginning 90 days after the date of this prospectus, may be sold by persons other than "affiliates," as defined in Rule 144, subject only to the manner of sale provisions of Rule 144 and by "affiliates" under Rule 144 without compliance with its one-year minimum holding period requirement.

## **Equity Plans**

We intend to file one or more registration statements on Form S-8 under the Securities Act to register all shares of our Class A common stock issued or issuable under the 2021 Plan, including the stock options approved in connection with this offering. We expect to file the registration statement covering shares offered pursuant to our stock plans shortly after the date of this prospectus, permitting the resale of such shares by non-affiliates in the public market without restriction under the Securities Act and the sale by affiliates in the public market subject to compliance with the resale provisions of Rule 144.

## **Registration Rights**

Upon the consummation of this offering, the holders of up to 16,768,400 shares of our Class A common stock, including 16,768,400 shares of Class A common stock issuable upon the exchange of Class B Units, or their transferees,

will be entitled to various rights with respect to the registration of these shares under the Securities Act. Registration of these shares under the Securities Act would result in these shares becoming fully tradable without restriction under the Securities Act immediately upon the effectiveness of the registration. For additional information, refer to the section entitled "*Certain Relationships and Related-Party Transactions—Registration Rights Agreement*." Shares covered by a registration statement will be eligible for sale in the public market upon the expiration or release from the terms of the lock-up agreement.



## **MATERIAL U.S. FEDERAL INCOME TAX CONSIDERATIONS FOR NON-U.S. HOLDERS OF COMMON STOCK**

The following is a general discussion of material U.S. federal income and estate tax considerations relating to ownership and disposition of our Class A common stock by a non-U.S. holder. For purposes of this discussion, the term “non-U.S. holder” means a beneficial owner (other than an entity or arrangement treated as a partnership for U.S. federal income tax purposes or other pass-through entity) of our Class A common stock that is not, for U.S. federal income tax purposes, any of the following:

- an individual who is a citizen or resident of the United States;
- a corporation, or other entity treated as a corporation for U.S. federal income tax purposes, created or organized in or under the laws of the United States or of any state thereof or the District of Columbia;
- an estate the income of which is subject to U.S. federal income taxation regardless of its source; or
- a trust if (i) a U.S. court is able to exercise primary supervision over the administration of the trust and one or more U.S. persons have authority to control all substantial decisions of the trust, or (ii) the trust has a valid election in effect under applicable U.S. Treasury Regulations to be treated as a U.S. person.

This discussion does not address the tax treatment of partnerships or other entities that are pass-through (or disregarded) entities for U.S. federal income tax purposes or persons who hold their common stock through partnerships or such other pass-through or disregarded entities. The tax treatment of a partner in an entity or arrangement that is treated as a partnership for U.S. federal income tax purposes generally will depend upon the status of the partner and the activities of the partnership. A partner in a partnership or owner in another pass-through entity that will hold our Class A common stock should consult his, her or its own tax advisor regarding the tax consequences of acquiring, holding and disposing of our Class A common stock through a partnership or other pass-through entity, as applicable.

This discussion is based on current provisions of the Code, existing and proposed U.S. Treasury Regulations promulgated thereunder, and current administrative rulings and judicial decisions, all as in effect as of the date of this prospectus, and all of which are subject to change or to differing interpretation, possibly with retroactive effect. Any change could alter the tax consequences to non-U.S. holders described in this prospectus. There can be no assurance that the Internal Revenue Service (“IRS”) will not challenge one or more of the tax consequences described in this prospectus.

We assume in this discussion that each non-U.S. holder holds shares of our Class A common stock as a capital asset (generally, property held for investment) for U.S. federal income tax purposes. This discussion does not address all aspects of U.S. federal income and estate taxation that may be relevant to a particular non-U.S. holder in light of that non-U.S. holder’s individual circumstances nor does it address any aspects of U.S. state, local, or non-U.S. taxes, the alternative minimum tax, or the Medicare tax on net investment income. This discussion also does not consider any specific facts or circumstances that may apply to a non-U.S. holder and does not address the special tax rules applicable to particular non-U.S. holders, such as:

- financial institutions;
- brokers or dealers in securities;
- tax-exempt organizations;
- pension plans;
- owners that hold our Class A common stock as part of a straddle, hedge, conversion transaction, synthetic security, or other integrated investment;
- traders in securities that have elected the mark-to-market method of accounting for their securities holdings;
- insurance companies;
- controlled foreign corporations;
- passive foreign investment companies;

- persons that have a functional currency other than the U.S. dollar;
- persons who have acquired our Class A common stock pursuant to the exercise of an option or otherwise in a compensatory transaction;
- non-U.S. governments;
- certain U.S. expatriates; and
- persons who have acquired our Class A common stock upon conversion or exchange of any convertible promissory notes issued by RGF, LLC.

**PROSPECTIVE INVESTORS SHOULD CONSULT THEIR OWN TAX ADVISORS REGARDING THE U.S. FEDERAL INCOME TAX LAWS APPLICABLE TO THEIR PARTICULAR SITUATIONS AND THE U.S. FEDERAL, STATE, LOCAL, ESTATE, AND NON-U.S. INCOME AND OTHER TAX CONSIDERATIONS OF ACQUIRING, HOLDING, AND DISPOSING OF OUR CLASS A COMMON STOCK.**

**Distributions on Our Class A Common Stock**

As discussed within the section entitled “*Dividend Policy*,” we do not expect to make cash dividends to holders of our Class A common stock in the foreseeable future. Distributions, if any, on our Class A common stock generally will constitute dividends for U.S. federal income tax purposes to the extent paid from our current or accumulated earnings and profits, as determined under U.S. federal income tax principles. If a distribution exceeds our current and accumulated earnings and profits, the excess will be treated as a tax-free return of the non-U.S. holder's investment, up to the holder's tax basis in the common stock and causing a reduction in the adjusted tax basis in such common stock. Any remaining excess will be treated as capital gain, subject to the tax treatment described below under the heading “*Gain on Sale, Exchange or Other Taxable Disposition of Our Class A Common Stock*.” Any such distributions will also be subject to the discussion below under the headings “*Information Reporting and Backup Withholding*” and “*FATCA*.”

Dividends paid to a non-U.S. holder generally will be subject to withholding of U.S. federal income tax at a 30% rate of the gross amount of the dividend or such lower rate as may be specified by an applicable income tax treaty between the United States and such holder's country of residence.

Dividends that are treated as effectively connected with a trade or business conducted by a non-U.S. holder within the United States, and, if an applicable income tax treaty so provides, that are attributable to a permanent establishment or a fixed base maintained by the non-U.S. holder within the United States, are generally exempt from the 30% withholding tax if the non-U.S. holder satisfies applicable certification and disclosure requirements (generally including provision of a valid IRS Form W-8ECI (or applicable successor form) certifying that the dividends are effectively connected with the non-U.S. holder's conduct of a trade or business within the United States). However, such U.S. effectively connected income, net of specified deductions and credits, is taxed in the hands of the non-U.S. holder at the same graduated U.S. federal income tax rates applicable to United States persons (as defined in the Code). Any U.S. effectively connected income received by a non-U.S. holder that is classified as a corporation for U.S. federal income tax purposes may also be subject to an additional “branch profits tax” at a 30% rate or such lower rate as may be specified by an applicable income tax treaty between the United States and such holder's country of residence.

A non-U.S. holder of our Class A common stock who claims the benefit of an applicable income tax treaty between the United States and such holder's country of residence generally will be required to provide a properly executed IRS Form W-8BEN or W-8BEN-E (or successor form) and satisfy applicable certification and other requirements. Non-U.S. holders are urged to consult their own tax advisors regarding their entitlement to benefits under a relevant income tax treaty and the specific methods available to them to satisfy these requirements.

A non-U.S. holder that is eligible for a reduced rate of U.S. withholding tax under an income tax treaty may obtain a refund or credit of any excess amounts withheld by timely filing an appropriate claim for a refund with the IRS.

**Gain on Sale, Exchange, or Other Taxable Disposition of Our Class A Common Stock**

Subject to the discussions below under the headings “*Information Reporting and Backup Withholding*” and “*FATCA*,” a non-U.S. holder generally will not be subject to U.S. federal income tax or withholding tax on any gain realized upon such non-U.S. holder's sale, exchange, or other taxable disposition of our Class A common stock unless:

- the gain is effectively connected with the non-U.S. holder's conduct of a U.S. trade or business and, if an applicable income tax treaty so provides, the gain is attributable to a permanent establishment or fixed base maintained by the non-U.S. holder in the United States, in which case the non-U.S. holder generally will be taxed on a net income basis at the graduated U.S. federal income tax rates applicable to United States persons (as defined in the Code) and, if the non-U.S. holder is a foreign corporation, the branch profits tax described above in "*Distributions on Our Class A Common Stock*" also may apply;
- the non-U.S. holder is a non-resident alien individual present in the United States for a period or periods aggregating 183 days or more in the taxable year of the disposition and certain other conditions are met, in which case the non-U.S. holder will be subject to a 30% tax (or such lower rate as may be specified by an applicable income tax treaty between the United States and such holder's country of residence) on the net gain derived from the disposition, which may be offset by certain U.S.-source capital losses of the non-U.S. holder recognized in the taxable year of the disposition, if any; or
- we are, or have been, at any time during the five-year period preceding such disposition (or the non-U.S. holder's holding period, if shorter) a "U.S. real property holding corporation" unless our Class A common stock is regularly traded on an established securities market and the non-U.S. holder holds no more than 5% of our outstanding common stock, directly or indirectly, at any time during the shorter of the five-year period ending on the date of the disposition or the period that the non-U.S. holder held our Class A common stock. Generally, a corporation is a "U.S. real property holding corporation" if the fair market value of its "U.S. real property interests" (as defined in the Code and applicable regulations) equals or exceeds 50% of the sum of the fair market value of its worldwide real property interests plus its other assets used or held for use in a trade or business. Although there can be no assurance, we believe that we are not currently, and we do not anticipate becoming, a "U.S. real property holding corporation" for U.S. federal income tax purposes.

### Information Reporting and Backup Withholding

We must report annually to the IRS and to each non-U.S. holder the gross amount of the distributions on our Class A common stock paid to such holder and the tax withheld, if any, with respect to such distributions. Non-U.S. holders generally will have to comply with specific certification procedures to establish that the holder is not a United States person (as defined in the Code) in order to avoid backup withholding at the applicable rate with respect to dividends on our Class A common stock. Generally, a non-U.S. holder will comply with such procedures if it provides a properly executed IRS Form W-8BEN or W-8BEN-E (or other applicable Form W-8), or otherwise meets the documentary evidence requirements for establishing that it is a non-U.S. holder, or otherwise establishes an exemption (and the payor does not have actual knowledge or reason to know that such holder is a United States person). Dividends paid to non-U.S. holders subject to withholding of U.S. federal income tax, as described above under "*Distributions on Our Class A Common Stock*," will generally be exempt from U.S. backup withholding.

Information reporting and backup withholding, currently at a rate of 24%, generally will apply to the proceeds of a disposition of our Class A common stock by a non-U.S. holder effected by or through the U.S. office of any broker, whether U.S. or non-U.S., unless the holder certifies its status as a non-U.S. holder and satisfies certain other requirements, or otherwise establishes an exemption from backup withholding. Generally, information reporting and backup withholding will not apply to a payment of disposition proceeds to a non-U.S. holder where the transaction is effected outside the United States through a non-U.S. office of a broker. However, for information reporting purposes, dispositions effected through a non-U.S. office of a broker with substantial U.S. ownership or operations generally will be treated in a manner similar to dispositions effected through a U.S. office of a broker. Non-U.S. holders should consult their own tax advisors regarding the application of the information reporting and backup withholding rules to them.

Copies of information returns may be made available to the tax authorities of the country in which the non-U.S. holder resides or is incorporated under the provisions of a specific treaty or agreement.

Backup withholding is not an additional tax. Any amounts withheld under the backup withholding rules from a payment to a non-U.S. holder can be refunded or credited against the non-U.S. holder's U.S. federal income tax liability, if any, provided that an appropriate claim is timely filed with the IRS.

## FATCA

The Foreign Account Tax Compliance Act ("FATCA"), generally imposes a 30% withholding tax on dividends on, and gross proceeds from the sale or disposition of, our Class A common stock paid to a foreign entity unless (i) if the foreign entity is a "foreign financial institution" (as defined for FATCA purposes) the foreign entity undertakes certain due diligence, reporting, withholding, and certification obligations, (ii) if the foreign entity is not a "foreign financial institution," the foreign entity identifies certain of its U.S. investors, if any, or (iii) the foreign entity is otherwise exempt from FATCA.

Withholding under FATCA generally applies to payments of dividends on our Class A common stock. In the case of payments made to a "foreign financial institution" (as defined for FATCA purposes), as a beneficial owner or as an intermediary, the tax generally will be imposed, subject to certain exceptions, unless such institution (i) enters into (or is otherwise subject to) and complies with a reporting agreement with the U.S. government, or FATCA Agreement or (ii) complies with applicable foreign law enacted in connection with an intergovernmental agreement between the United States and a foreign jurisdiction in either case to, among other things, collect and provide to the U.S. or other relevant tax authorities certain information regarding U.S. account holders of such institution. In the case of payments made to a foreign entity that is not a financial institution, the tax generally will be imposed, subject to certain exceptions, unless such entity provides the withholding agent with a certification that it does not have any "substantial" U.S. owners (generally, any specified U.S. person that directly or indirectly owns more than 10% of such entity) or that identifies its "substantial" U.S. owners. If our Class A common stock is held through a foreign financial institution that enters into (or is otherwise subject to) a FATCA Agreement, such foreign financial institution (or, in certain cases, a person paying amounts to such foreign financial institution) may be required, subject to applicable exceptions, to withhold such tax on payments of dividends described above made to (i) a person (including an individual) that fails to comply with certain information requests or (ii) a foreign financial institution that has not complied with its obligations under FATCA. Each non-U.S. holder should consult its own tax advisor regarding the application of FATCA to an investment in our Class A common stock.

Under certain transitional rules (and extensions thereof), FATCA was expected to also apply to payments of gross proceeds from a sale or other disposition of stock made after a certain date. However, proposed regulations would eliminate the requirements under FATCA of withholding on gross proceeds from the sale of such stock, and the U.S. Treasury Department has indicated that taxpayers may rely on these proposed regulations pending their finalization.

## U.S. Federal Estate Tax

Shares of our Class A common stock that are beneficially owned or treated as beneficially owned at the time of death by an individual who is not a citizen or resident of the United States (as specially defined for U.S. federal estate tax purposes) are considered U.S. situs assets and will generally be included in the individual's gross estate for U.S. federal estate tax purposes. Such shares, therefore, may be subject to U.S. federal estate tax, unless an applicable estate tax or other treaty provides otherwise. A non-U.S. holder is urged to consult his, her or its tax advisor regarding the U.S. federal estate tax consequences of the ownership or disposition of our Class A common stock.

**The preceding discussion of material U.S. federal tax considerations is for general information only It is not tax advice. Prospective investors should consult their own tax advisors regarding the particular U.S. federal, state, local, and non-U.S. tax consequences of purchasing, holding, and disposing of our Class A common stock, including the consequences of any proposed changes in applicable laws.**

## UNDERWRITING

Subject to the terms and conditions set forth in the underwriting agreement, dated \_\_\_\_\_, 2021, among us, the selling stockholder, Jefferies LLC, and William Blair & Company, L.L.C., as the representatives of the underwriters named below and the joint book-running managers of this offering, we and the selling stockholder have agreed to sell to the underwriters, and each of the underwriters has agreed, severally and not jointly, to purchase from us the respective number of shares of Class A common stock shown opposite its name below, and, in the event that the underwriters exercise their option to purchase additional shares, the same proportion of additional shares as the number of shares shown opposite its name below bears to the total number of shares:

UNDERWRITER	NUMBER OF SHARES
Jefferies LLC	
William Blair & Company, L.L.C.	
Truist Securities, Inc.	
Nomura Securities International, Inc.	
Total	5,333,333

The underwriting agreement provides that the obligations of the several underwriters are subject to certain conditions precedent such as the receipt by the underwriters of officers' certificates and legal opinions and approval of certain legal matters by their counsel. The underwriting agreement provides that the underwriters will purchase all of the shares of Class A common stock if any of them are purchased. If an underwriter defaults, the underwriting agreement provides that the purchase commitments of the non-defaulting underwriters may be increased or the underwriting agreement may be terminated. We and the selling stockholder will agree to indemnify the underwriters and certain of their controlling persons against certain liabilities, including liabilities under the Securities Act, and to contribute to payments that the underwriters may be required to make in respect of those liabilities.

The underwriters have advised us that, following the consummation of this offering, they currently intend to make a market in the Class A common stock as permitted by applicable laws and regulations. However, the underwriters are not obligated to do so, and the underwriters may discontinue any market-making activities at any time without notice in their sole discretion. Accordingly, no assurance can be given as to the liquidity of the trading market for the Class A common stock, that you will be able to sell any of the Class A common stock held by you at a particular time, or that the prices that you receive when you sell will be favorable.

The underwriters are offering the shares of Class A common stock subject to their acceptance of the shares of Class A common stock from us and, if applicable, the selling stockholder and subject to prior sale. The underwriters reserve the right to withdraw, cancel, or modify offers to the public and to reject orders in whole or in part. In addition, the underwriters have advised us that they do not intend to confirm sales to any account over which they exercise discretionary authority. The underwriters may offer and sell the shares of our Class A common stock through certain of their affiliates or other registered broker-dealers or selling agents.

### Commission and Expenses

The underwriters have advised us that they propose to offer the shares of Class A common stock to the public at the initial public offering price set forth on the cover page of this prospectus and to certain dealers, which may include the underwriters, at that price less a concession not in excess of \$ \_\_\_\_\_ per share of Class A common stock. The underwriters may allow, and certain dealers may reallow, a discount from the concession not in excess of \$ \_\_\_\_\_ per share of Class A common stock to certain brokers and dealers. After the offering, the initial public offering price, concession, and reallowance to dealers may be reduced by the representatives. No such reduction will change the amount of proceeds to be received by us as set forth on the cover page of this prospectus.

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The following table shows the public offering price, the underwriting discounts and commissions that we and the selling stockholder are to pay the underwriters, and the proceeds, before expenses, to us and the selling stockholder in connection with this offering. Such amounts are shown assuming both no exercise and full exercise of the underwriters' option to purchase additional shares.

	PER SHARE		TOTAL	
	WITHOUT OPTION TO PURCHASE ADDITIONAL SHARES	WITH OPTION TO PURCHASE ADDITIONAL SHARES	WITHOUT OPTION TO PURCHASE ADDITIONAL SHARES	WITH OPTION TO PURCHASE ADDITIONAL SHARES
Public offering price	\$	\$	\$	\$
Underwriting discounts and commissions to be paid by:	\$	\$	\$	\$
Us	\$	\$	\$	\$
Selling stockholder	\$	\$	\$	\$
Proceeds, before expenses, to be paid to:	\$	\$	\$	\$
Us	\$	\$	\$	\$
Selling stockholder	\$	\$	\$	\$

We estimate expenses payable by us in connection with this offering, other than the underwriting discounts and commissions referred to above, will be approximately \$3.9 million. We have agreed to pay the filing fees incident to, and the fees and disbursements of counsel for the underwriters in connection with, the required review by the Financial Industry Regulatory Authority, Inc. in an amount up to \$25,000.

### **Determination of Offering Price**

Prior to this offering, there has not been a public market for our Class A common stock. Consequently, the initial public offering price for our Class A common stock will be determined by negotiations between us and the representatives. Among the factors to be considered in these negotiations will be prevailing market conditions, our financial information, market valuations of other companies that we and the underwriters believe to be comparable to us, estimates of our business potential, the present state of our development, and other factors deemed relevant.

We offer no assurances that the initial public offering price will correspond to the price at which the Class A common stock will trade in the public market subsequent to the offering or that an active trading market for the Class A common stock will develop and continue after the offering.

### **Listing**

We have applied to have our Class A common stock approved for listing on Nasdaq under the trading symbol "RGF." We do not intend to list the Class B common stock on any securities exchange.

### **Stamp Taxes**

If you purchase shares of Class A common stock offered in this prospectus, you may be required to pay stamp taxes and other charges under the laws and practices of the country of purchase, in addition to the offering price listed on the cover page of this prospectus.

### **Option to Purchase Additional Shares**

We and the selling stockholder have granted to the underwriters an option, exercisable for 30 days from the date of this prospectus, to purchase, from time to time, in whole or in part, up to an aggregate of 800,000 shares of Class A common stock from us and the selling stockholder at the public offering price set forth on the cover page of this prospectus, less underwriting discounts and commissions. If the underwriters exercise this option, each underwriter will be obligated, subject to specified conditions, to purchase a number of additional shares proportionate to that underwriter's initial purchase commitment as indicated in the table above. This option may be exercised only if the underwriters sell more shares than the total number set forth on the cover page of this prospectus.

## No Sales of Similar Securities

RGF, Inc., RGF, LLC, our executive officers, our directors, the selling stockholder, and holders of all or substantially all our outstanding equity securities have agreed, subject to specified exceptions, not to directly or indirectly:

- sell, offer, contract or grant any option to sell (including any short sale), pledge, transfer, establish an open “put equivalent position” within the meaning of Rule 16a-1(h) under the Exchange Act;
- otherwise dispose of any shares of Class A common stock or Class B common stock, units of RGF, LLC beneficially owned by the locked-up party, options or warrants to acquire shares of Class A common stock or units of RGF, LLC, securities exchangeable or exercisable for or convertible into shares of Class A common stock, or units of RGF, LLC currently or hereafter owned either of record or beneficially; or
- publicly announce an intention to do any of the foregoing, in each case, for a period of 180 days after the date of this prospectus without the prior written consent of Jefferies LLC.

This restriction terminates after the close of trading of the Class A common stock on and including the 180th day after the date of this prospectus.

We, our executive officers, directors, the selling stockholder, and holders of substantially all of our outstanding common stock or membership interests of RGF, LLC or any other securities convertible into or exchangeable for shares of our common stock or membership interests of RGF, LLC, have agreed that, subject to certain exceptions, for a period of 180 days from the date of this prospectus, we and they will not, without the prior written consent of Jefferies (which consent may be withheld in its sole discretion), (i) sell, offer to sell, contract to sell or lend any common stock or any options or warrants or other rights to acquire common stock or membership interests of RGF, LLC, or any other securities exchangeable or exercisable for or convertible into common stock or membership interests of RGF, LLC, or to acquire other securities or rights ultimately exchangeable or exercisable for, or convertible into, common stock or membership interests in RGF, LLC (“Related Securities”); (ii) effect any short sale, or establish or increase any “put equivalent position” (as defined in Rule 16a-1(h) under the Exchange Act) or liquidate or decrease any “call equivalent position” (as defined in Rule 16a-1(b) under the Exchange Act) of any common stock or Related Securities; (iii) pledge, hypothecate or grant any security interest in any common stock or Related Securities; (iv) in any other way transfer or dispose of any common stock or Related Securities; (v) enter into any swap, hedge or similar arrangement or agreement that transfers, in whole or in part, the economic risk of ownership of any common stock or Related Securities, regardless of whether any such transaction is to be settled in securities, in cash or otherwise; (vi) announce the offering of any common stock or Related Securities; (vii) submit or file any registration statement under the Securities Act in respect of any common stock or Related Securities (other than shares of Class A common stock sold in this offering); (viii) effect a reverse stock split, recapitalization, share consolidation, reclassification or similar transaction affecting the outstanding common stock; or (ix) publicly announce the intention to do any of the foregoing.

Notwithstanding the foregoing, and subject to certain conditions, the lock-up restrictions described above do not apply to our executive officers, directors and other holders of substantially all of our outstanding securities with respect to:

- transactions relating to common stock or Related Securities acquired in open market transactions after the completion of this offering;
- transfers of common stock or Related Securities by *bona fide* gift, including, without limitation, to a charitable organization;
- transfers of common stock or Related Securities by will or intestate succession to the legal representative, heir, beneficiary or any family member of the stockholder, or to a trust whose beneficiaries consist exclusively of one or more of the stockholder and/or a family member;
- transfers or dispositions of common stock or Related Securities to a family member, a trust exclusively formed for the direct or indirect benefit of the stockholder or a family member or any corporation, partnership, limited liability company or other entity all of the beneficial ownership interests of which, in each case, are held by the stockholder or any family member;
- transfers of common stock or Related Securities by operation of law pursuant to a qualified domestic order or other court order or in connection with a divorce settlement;



- if the stockholder is a corporation, partnership, limited liability company, trust or other business entity, distributions or transfers of common stock or Related Securities to (x) another corporation, partnership, limited liability company, trust or other business entity that is a direct or indirect affiliate (as defined in Rule 405 promulgated under the Securities Act) of the stockholder, (y) any investment fund or other entity controlling, controlled by, managing or managed by or under common control with the stockholder or affiliates of the stockholder (including, for the avoidance of doubt, where the stockholder is a partnership, to its general partner or a successor partnership or fund, or any other funds managed by such partnership), or (z) limited partners, general partners, members, managers, managing members, stockholders or other equity holders of the stockholder or of the entities described in the preceding clauses (x) and (y);
- issuances of shares of common stock to the stockholder upon exercise or conversion of outstanding Related Securities disclosed in the registration statement for this offering as described in the registration statement; and
- transfers of common stock or Related Securities pursuant to a change of control of RGF, Inc. (meaning the consummation of any bona fide third party tender offer, merger, consolidation or other similar transaction made to all holders of Common Stock the result of which is that any "person" (as defined in Section 13(d)(3) of the Exchange Act), or group of persons, becomes the beneficial owner (as defined in Rules 13d-3 and 13d-5 of the Exchange Act) of more than 50% of the voting capital stock of RGF, Inc.) after this offering that has been approved by the independent members of RGF, Inc.'s board of directors, provided, that in the event that such change of control is not completed, the common stock or Related Securities owned by the stockholder shall remain subject to the restrictions described above.

Jefferies LLC may, in its sole discretion, and at any time or from time to time before the termination of the 180-day period, release all or any portion of the securities subject to lock-up agreements. There are no existing agreements between the underwriters and any holders of our equity securities who will execute a lock-up agreement, providing consent to the sale of shares prior to the expiration of the lock-up period.

### **Stabilization**

The underwriters have advised us that they, pursuant to Regulation M under the Exchange Act, and certain persons participating in the offering may engage in short sale transactions, stabilizing transactions, syndicate covering transactions, or the imposition of penalty bids in connection with this offering. These activities may have the effect of stabilizing or maintaining the market price of the Class A common stock at a level above that which might otherwise prevail in the open market. Establishing short sales positions may involve either "covered" short sales or "naked" short sales.

"Covered" short sales are sales made in an amount not greater than the underwriters' option to purchase additional shares of our Class A common stock in this offering. The underwriters may close out any covered short position by either exercising their option to purchase additional shares of our Class A common stock or purchasing shares of our Class A common stock in the open market. In determining the source of shares to close out the covered short position, the underwriters will consider, among other things, the price of shares available for purchase in the open market as compared to the price at which they may purchase shares through the option to purchase additional shares.

"Naked" short sales are sales in excess of the option to purchase additional shares of our Class A common stock. The underwriters must close out any naked short position by purchasing shares in the open market. A naked short position is more likely to be created if the underwriters are concerned that there may be downward pressure on the price of the shares of our Class A common stock in the open market after pricing that could adversely affect investors who purchase in this offering.

A stabilizing bid is a bid for the purchase of shares of Class A common stock on behalf of the underwriters for the purpose of fixing or maintaining the price of the Class A common stock. A syndicate covering transaction is the bid for or the purchase of shares of Class A common stock on behalf of the underwriters to reduce a short position incurred by the underwriters in connection with the offering. Similar to other purchase transactions, the underwriter's purchases to cover the syndicate short sales may have the effect of raising or maintaining the market price of our Class A common stock or preventing or retarding a decline in the market price of our Class A common

stock. As a result, the price of our Class A common stock may be higher than the price that might otherwise exist in the open market. A penalty bid is an arrangement permitting the underwriters to reclaim the selling concession otherwise accruing to a syndicate member in connection with the offering if the Class A common stock originally sold by such syndicate member are purchased in a syndicate covering transaction and therefore have not been effectively placed by such syndicate member.

Neither we, the selling stockholder, nor any of the underwriters make any representation or prediction as to the direction or magnitude of any effect that the transactions described above may have on the price of our Class A common stock. The underwriters are not obligated to engage in these activities and, if commenced, any of the activities may be discontinued at any time.

The underwriters may also engage in passive market making transactions in our Class A common stock on Nasdaq in accordance with Rule 103 of Regulation M during a period before the commencement of offers or sales of shares of our Class A common stock in this offering and extending through the completion of distribution. A passive market maker must display its bid at a price not in excess of the highest independent bid of that security. However, if all independent bids are lowered below the passive market maker's bid, that bid must then be lowered when specified purchase limits are exceeded.

### **Electronic Distribution**

A prospectus in electronic format may be made available by e-mail or through online services maintained by one or more of the underwriters or their affiliates. In those cases, prospective investors may view offering terms online and may be allowed to place orders online. The underwriters may agree with us to allocate a specific number of shares of Class A common stock for sale to online brokerage account holders. Any such allocation for online distributions will be made by the underwriters on the same basis as other allocations. Other than the prospectus in electronic format, the information on the underwriters' web sites and any information contained in any other web site maintained by any of the underwriters is not part of this prospectus, has not been approved and/or endorsed by us or the underwriters, and should not be relied upon by investors.

### **Other Activities and Relationships**

The underwriters and certain of their respective affiliates are full service financial institutions engaged in various activities, which may include securities trading, commercial and investment banking, financial advisory, investment management, investment research, principal investment, hedging, financing, and brokerage activities. The underwriters and certain of their respective affiliates have, from time to time, performed, and may in the future perform, various commercial and investment banking and financial advisory services for us and our affiliates, for which they received or will receive customary fees and expenses.

In the ordinary course of their various business activities, the underwriters and certain of their respective affiliates may make or hold a broad array of investments and actively trade debt and equity securities (or related derivative securities) and financial instruments (including bank loans) for their own account and for the accounts of their customers, and such investment and securities activities may involve securities and/or instruments issued by us and our affiliates. If the underwriters or their respective affiliates have a lending relationship with us, they routinely hedge their credit exposure to us consistent with their customary risk management policies. The underwriters and their respective affiliates may hedge such exposure by entering into transactions which consist of either the purchase of credit default swaps or the creation of short positions in our securities or the securities of our affiliates, including potentially the Class A common stock offered hereby. Any such short positions could adversely affect future trading prices of the Class A common stock offered hereby. The underwriters and certain of their respective affiliates may also communicate independent investment recommendations, market color or trading ideas, and/or publish or express independent research views in respect of such securities or instruments and may at any time hold, or recommend to clients that they acquire, long and/or short positions in such securities and instruments.

### **Disclaimers About Non-U.S. Jurisdictions**

#### **Canada**

##### *Resale Restrictions*

The distribution of shares of our Class A common stock in Canada is being made only in the provinces of Ontario, Quebec, Alberta, British Columbia, Manitoba, New Brunswick, and Nova Scotia on a private placement basis exempt from the requirement that we prepare and file a prospectus with the securities regulatory authorities in each province

where trades of these securities are made. Any resale of the shares of Class A common stock in Canada must be made under applicable securities laws which may vary depending on the relevant jurisdiction, and which may require resales to be made under available statutory exemptions or under a discretionary exemption granted by the applicable Canadian securities regulatory authority. Purchasers are advised to seek legal advice prior to any resale of the securities.

#### *Representations of Canadian Purchasers*

By purchasing shares of our Class A common stock in Canada and accepting delivery of a purchase confirmation, a purchaser is representing to us and the dealer from whom the purchase confirmation is received that:

- the purchaser is entitled under applicable provincial securities laws to purchase the shares of Class A common stock without the benefit of a prospectus qualified under those securities laws as it is an “accredited investor” as defined under National Instrument 45-106—*Prospectus Exemptions* or Section 73.3(1) of the *Securities Act (Ontario)*, as applicable;
- the purchaser is a “permitted client” as defined in National Instrument 31-103—*Registration Requirements, Exemptions and Ongoing Registrant Obligations*;
- where required by law, the purchaser is purchasing as principal and not as agent; and
- the purchaser has reviewed the text above under Resale Restrictions.

#### *Conflicts of Interest*

Canadian purchasers are hereby notified that certain of the underwriters are relying on the exemption set out in section 3A.3 or 3A.4, if applicable, of National Instrument 33-105—*Underwriting Conflicts* from having to provide certain conflict of interest disclosure in this prospectus.

#### *Statutory Rights of Action*

Securities legislation in certain provinces or territories of Canada may provide a purchaser with remedies for rescission or damages if the prospectus (including any amendment thereto) such as this prospectus contains a misrepresentation, provided that the remedies for rescission or damages are exercised by the purchaser within the time limit prescribed by the securities legislation of the purchaser’s province or territory. The purchaser of these securities in Canada should refer to any applicable provisions of the securities legislation of the purchaser’s province or territory for particulars of these rights or consult with a legal advisor.

#### *Enforcement of Legal Rights*

All of our directors and officers as well as the experts named herein may be located outside of Canada and, as a result, it may not be possible for Canadian purchasers to effect service of process within Canada upon us or those persons. All or a substantial portion of our assets and the assets of those persons may be located outside of Canada and, as a result, it may not be possible to satisfy a judgment against us or those persons in Canada or to enforce a judgment obtained in Canadian courts against us or those persons outside of Canada.

#### *Taxation and Eligibility for Investment*

Canadian purchasers of our shares of Class A common stock should consult their own legal and tax advisors with respect to the tax consequences of an investment in the shares in their particular circumstances and about the eligibility of the shares for investment by the purchaser under relevant Canadian legislation.

#### **Australia**

This prospectus is not a disclosure document for the purposes of Australia’s Corporations Act 2001 (Cth) of Australia, or Corporations Act, has not been lodged with the Australian Securities & Investments Commission and is only directed to the categories of exempt persons set out below. Accordingly, if you receive this prospectus in Australia:

You confirm and warrant that you are either:

- a “sophisticated investor” under section 708(8)(a) or (b) of the Corporations Act;
- a “sophisticated investor” under section 708(8)(c) or (d) of the Corporations Act and that you have provided an accountant’s certificate to the company which complies with the requirements of section 708(8)(c)(i) or (ii) of the Corporations Act and related regulations before the offer has been made; or
- a “professional investor” within the meaning of section 708(11)(a) or (b) of the Corporations Act.

To the extent that you are unable to confirm or warrant that you are an exempt sophisticated investor or professional investor under the Corporations Act any offer made to you under this prospectus is void and incapable of acceptance.

You warrant and agree that you will not offer any of the shares issued to you pursuant to this prospectus for resale in Australia within 12 months of those securities being issued unless any such resale offer is exempt from the requirement to issue a disclosure document under section 708 of the Corporations Act.

#### **European Economic Area**

In relation to each Member State of the European Economic Area (each, a “Relevant State”), no shares have been offered or will be offered pursuant to the offering to the public in that Relevant State prior to the publication of a prospectus in relation to the shares which have been approved by the competent authority in that Relevant State or, where appropriate, approved in another Relevant State and notified to the competent authority in that Relevant State, all in accordance with the Prospectus Regulation, except that the shares may be offered to the public in that Relevant State at any time:

- to any legal entity which is a “qualified investor” as defined under Article 2(e) of the Prospectus Regulation;
- to fewer than 150 natural or legal persons (other than qualified investors as defined under Article 2 of the Prospectus Regulation), subject to obtaining the prior consent of representatives for any such offer; or
- in any other circumstances falling within Article 1(4) of the Prospectus Regulation,

provided that no such offer of the shares shall require the Company or any of the representatives to publish a prospectus pursuant to Article 3 of the Prospectus Regulation or supplement a prospectus pursuant to Article 23 of the Prospectus Regulation.

For the purposes of this provision, the expression an “offer to the public” in relation to the shares in any Relevant State means the communication in any form and by any means of sufficient information on the terms of the offer and any shares to be offered so as to enable an investor to decide to purchase or subscribe for any shares, and the expression “Prospectus Regulation” means Regulation (EU) 2017/1129 (as amended).

This European Economic Area selling restriction is in addition to any other selling restrictions set out herein.

#### **PRC**

This prospectus has not been and will not be circulated or distributed in the PRC, and no securities may be offered or sold, or will be offered or sold, to any person for re-offering or resale, directly or indirectly, to any resident of the PRC except pursuant to applicable laws and regulations of the PRC.

#### **Hong Kong**

No securities have been offered or sold, and no securities may be offered or sold, in Hong Kong, by means of any document, other than to persons whose ordinary business is to buy or sell shares or debentures, whether as principal or agent; or to “professional investors” as defined in the Securities and Futures Ordinance (Cap. 571) of Hong Kong (“SFO”) and any rules made under that Ordinance; or in other circumstances which do not result in the document being a “prospectus” as defined in the Companies Ordinance (Cap. 32) of Hong Kong; or which do not constitute an offer to the public for the purpose of the CO or the SFO. No document, invitation, or advertisement relating to the securities has been issued or may be issued or may be in the possession of any person for the purpose of issue (in each case whether in Hong Kong or elsewhere), which is directed at, or the contents of which are likely to be accessed or read by, the public of Hong Kong (except if permitted under the securities laws of Hong Kong) other than with respect to securities which are or are intended to be disposed of only to persons outside Hong Kong or only to “professional investors” as defined in the SFO and any rules made under that Ordinance.

This prospectus has not been registered with the Registrar of Companies in Hong Kong. Accordingly, this prospectus may not be issued, circulated, or distributed in Hong Kong, and the securities may not be offered for subscription to members of the public in Hong Kong. Each person acquiring the securities will be required, and is deemed by the acquisition of the securities, to confirm that he is aware of the restriction on offers of the securities described in this prospectus and the relevant offering documents and that he is not acquiring, and has not been offered any securities in circumstances that contravene any such restrictions.

### **Israel**

This prospectus does not constitute a prospectus under the Israeli Securities Law, 5728-1968 ("Securities Law"), and has not been filed with or approved by the Israel Securities Authority. In the State of Israel, this prospectus is being distributed only to, and is directed only at, and any offer of the shares is directed only at, (i) a limited number of persons in accordance with section 15A of the Securities Law, and (ii) investors listed in the first addendum to the Securities Law ("Addendum"), consisting primarily of joint investment in trust funds, provident funds, insurance companies, banks, portfolio managers, investment advisors, members of the Tel Aviv Stock Exchange, underwriters, venture capital funds, entities with equity in excess of NIS 50 million, and "qualified individuals," each as defined in the Addendum (as it may be amended from time to time), collectively referred to as qualified investors (in each case purchasing for their own accounts or, where permitted under the Addendum, for the accounts of their respective clients who are investors listed in the Addendum). Qualified investors will be required to submit written confirmation that they fall within the scope of the Addendum, are aware of the meaning of same and agree to it.

### **Japan**

The offering has not been and will not be registered under the Financial Instruments and Exchange Law of Japan (Law No. 25 of 1948 of Japan, as amended, or "FIEL"), and the underwriters will not offer or sell any securities, directly or indirectly, in Japan or to, or for the benefit of, any resident of Japan (which term as used herein means, unless otherwise provided herein, any person resident in Japan, including any corporation or other entity organized under the laws of Japan), or to others for re-offering or resale, directly or indirectly, in Japan or to a resident of Japan, except pursuant to an exemption from the registration requirements of, and otherwise in compliance with, the FIEL and any other applicable laws, regulations, and ministerial guidelines of Japan.

### **Singapore**

This prospectus has not been registered as a prospectus with the Monetary Authority of Singapore. Accordingly, this prospectus and any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of the shares may not be circulated or distributed, nor may the shares be offered or sold, or be made the subject of an invitation for subscription or purchase, whether directly or indirectly, to persons in Singapore other than (i) to an institutional investor (as defined under Section 4A of the Securities and Futures Act, Chapter 289 of Singapore, or "SFA") under Section 274 of the SFA, (ii) to a relevant person (as defined in Section 275(2) of the SFA) pursuant to Section 275(1) of the SFA, or any person pursuant to Section 275(1A) of the SFA, and in accordance with the conditions specified in Section 275 of the SFA, or (iii) otherwise pursuant to, and in accordance with the conditions of, any other applicable provision of the SFA, in each case subject to conditions set forth in the SFA.

Where the shares are subscribed or purchased under Section 275 of the SFA by a relevant person which is a corporation (which is not an accredited investor (as defined in Section 4A of the SFA)) the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor, the securities (as defined in Section 239(1) of the SFA) of that corporation shall not be transferable for 6 months after that corporation has acquired the shares under Section 275 of the SFA except: (i) to an institutional investor under Section 274 of the SFA or to a relevant person (as defined in Section 275(2) of the SFA), (ii) where such transfer arises from an offer in that corporation's securities pursuant to Section 275(1A) of the SFA, (iii) where no consideration is or will be given for the transfer, (iv) where the transfer is by operation of law, (v) as specified in Section 276(7) of the SFA, or (vi) as specified in Regulation 32 of the Securities and Futures (Offers of Investments) (Shares and Debentures) Regulations 2005 of Singapore ("Regulation 32").

Where the shares are subscribed or purchased under Section 275 of the SFA by a relevant person which is a trust (where the trustee is not an accredited investor (as defined in Section 4A of the SFA)) whose sole purpose is to hold investments and each beneficiary of the trust is an accredited investor, the beneficiaries' rights and interest (howsoever described) in that trust shall not be transferable for 6 months after that trust has acquired the shares under Section 275 of the SFA except: (i) to an institutional investor under Section 274 of the SFA or to a relevant person (as defined in Section 275(2) of the SFA), (ii) where such transfer arises from an offer that is made on terms that such rights or interest are acquired at a consideration of not less than S\$200,000 (or its equivalent in a foreign currency) for each transaction (whether such amount is to be paid for in cash or by exchange of securities or other assets), (iii) where no consideration is or will be given for the transfer, (iv) where the transfer is by operation of law, (v) as specified in Section 276(7) of the SFA, or (vi) as specified in Regulation 32.

Solely for the purposes of its obligations pursuant to Section 309B of the SFA, we have determined, and hereby notify all relevant persons (as defined in the CMP Regulations 2018), that the shares are “prescribed capital markets products” (as defined in the CMP Regulations 2018) and Excluded Investment Products (as defined in MAS Notice SFA 04-N12: Notice on the Sale of Investment Products and MAS Notice FAA-N16: Notice on Recommendations on Investment Products).

#### **Switzerland**

The securities may not be publicly offered in Switzerland and will not be listed on the SIX Swiss Exchange (“SIX”) or on any other stock exchange or regulated trading facility in Switzerland. This prospectus has been prepared without regard to the disclosure standards for issuance prospectuses under art. 652a or art. 1156 of the Swiss Code of Obligations or the disclosure standards for listing prospectuses under art. 27 ff. of the SIX Listing Rules or the listing rules of any other stock exchange or regulated trading facility in Switzerland. Neither this prospectus nor any other offering or marketing material relating to the securities or the offering may be publicly distributed or otherwise made publicly available in Switzerland.

Neither this prospectus nor any other offering or marketing material relating to the offering, the Company or the securities have been or will be filed with or approved by any Swiss regulatory authority. In particular, this prospectus will not be filed with, and the offer of securities will not be supervised by, the Swiss Financial Market Supervisory Authority FINMA and the offer of securities has not been and will not be authorized under the Swiss Federal Act on Collective Investment Schemes (“CISA”). The investor protection afforded to acquirers of interests in collective investment schemes under the CISA does not extend to acquirers of securities.

#### **United Kingdom**

No shares have been offered or will be offered pursuant to the offering to the public in the United Kingdom prior to the publication of a prospectus in relation to the Shares which has been approved by the Financial Conduct Authority, except that the shares may be offered to the public in the United Kingdom at any time:

- to any legal entity which is a qualified investor as defined under Article 2 of the UK Prospectus Regulation;
- to fewer than 150 natural or legal persons (other than qualified investors as defined under Article 2 of the UK Prospectus Regulation), subject to obtaining the prior consent of the representatives for any such offer; or
- in any other circumstances falling within Section 86 of the Financial Services and Markets Act 2000 (“FSMA”),

provided that no such offer of the shares shall require the Issuer or any Manager to publish a prospectus pursuant to Section 85 of the FSMA or supplement a prospectus pursuant to Article 23 of the UK Prospectus Regulation. For the purposes of this provision, the expression an “offer to the public” in relation to the shares in the United Kingdom means the communication in any form and by any means of sufficient information on the terms of the offer and any shares to be offered so as to enable an investor to decide to purchase or subscribe for any shares and the expression “UK Prospectus Regulation” means Regulation (EU) 2017/1129 as it forms part of domestic law by virtue of the European Union (Withdrawal) Act 2018.

## **LEGAL MATTERS**

The validity of the shares of common stock offered hereby will be passed upon for us by Stradling Yocca Carlson & Rauth, P.C., Newport Beach, California. Goodwin Procter LLP, Redwood City, California, is acting as counsel for the underwriters in connection with this offering. Stradling Yocca Carlson & Rauth, P.C., Newport Beach, California is acting as counsel for the selling stockholder in connection with this offering.



## EXPERTS

The audited financial statements of The Real Good Food Company LLC included in this prospectus and elsewhere in the registration statement have been so included in reliance upon the reports of Grant Thornton LLP, independent registered public accountants, upon the authority of said firm as experts in accounting and auditing.

The audited balance sheet of Project Clean, Inc. included in this prospectus and elsewhere in the registration statement have been so included in reliance upon the report of Grant Thornton LLP, independent registered public accountants, upon the authority of said firm as experts in accounting and auditing.

The audited statement of assets acquired and liabilities assumed of the Food Manufacturing Business of SSRE Holdings, LLC included in this prospectus and elsewhere in the registration statement have been so included in reliance upon the report of Grant Thornton LLP, independent certified public accountants, upon the authority of said firm as experts in accounting and auditing.

## WHERE YOU CAN FIND MORE INFORMATION

We have filed with the SEC a registration statement on Form S-1 under the Securities Act with respect to the shares of Class A common stock offered hereby. This prospectus, which constitutes a part of the registration statement, does not contain all of the information set forth in the registration statement or the exhibits filed therewith. For further information about us and the Class A common stock offered hereby, reference is made to the registration statement and the exhibits filed therewith. Statements contained in this prospectus concerning the contents of any contract or any other document are not necessarily complete, please see the copy of the contract or document that has been filed as an exhibit for the complete contents of that contract or document. Each statement in this prospectus relating to a contract or document filed as an exhibit is qualified in all respects by the filed exhibit.

Immediately following the consummation of this offering, we will be subject to the informational requirements of the Exchange Act and, in accordance therewith, will be required to file annual, quarterly and current reports, proxy and information statements, and other information with the SEC. We plan to fulfill our obligations with respect to such requirements by filing periodic reports and other information with the SEC. The SEC maintains a website, which is located at <http://www.sec.gov>, which contains reports, proxy and information statements, and other information regarding issuers that file electronically with the SEC. You may access the registration statement of which this prospectus forms a part at the SEC's website.

Such information will also become available on the investors section of our website, which will be located at [www.realgoodfoods.com](http://www.realgoodfoods.com). Upon consummation of this offering, you may access these materials free of charge as soon as reasonably practicable after they are electronically filed with, or furnished to, the SEC. **However, the information contained on or accessible through our website is not part of this prospectus or the registration statement of which this prospectus forms a part, and potential investors should not rely on such information in deciding to purchase our Class A common stock in this offering.**

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### THE REAL GOOD FOOD COMPANY LLC

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## REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

Board of Directors and Stockholders  
Project Clean, Inc.

### Opinion on the financial statement

We have audited the accompanying balance sheet of Project Clean, Inc. (a Delaware corporation) ("the "Company") as of June 2, 2021, and the related notes (collectively referred to as the "financial statement"). In our opinion, the financial statement presents fairly, in all material respects, the financial position of the Company as of June 2, 2021, in conformity with accounting principles generally accepted in the United States of America.

### Basis for opinion

This financial statement is the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's financial statement based on our audit. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) ("PCAOB") and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audit in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audit we are required to obtain an understanding of internal control over financial reporting but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion.

Our audit included performing procedures to assess the risks of material misstatement of the financial statement, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statement. Our audit also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statement. We believe that our audit provides a reasonable basis for our opinion.

/s/ GRANT THORNTON LLP

We have served as the Company's auditor since 2021.

Newport Beach, California  
October 12, 2021

**PROJECT CLEAN, INC.****Balance Sheets**  
(In USD)

	AS OF JUNE 2, 2021	AS OF JUNE 30, 2021 (UNAUDITED)
<b>ASSETS</b>		
Cash and cash equivalents	\$ 1	\$ 1
Total assets	<u>\$ 1</u>	<u>\$ 1</u>
<b>LIABILITIES AND STOCKHOLDER'S EQUITY</b>		
Total liabilities	\$ —	\$ —
Stockholder's equity:		
Common stock, \$0.0001 par value per share, 10,000 authorized, 10,000 shares issued and outstanding	1	1
Additional paid-in capital	—	—
Total liabilities and stockholder's equity	<u>\$ 1</u>	<u>\$ 1</u>

See accompanying notes to the Financial Statements.

**PROJECT CLEAN, INC.**  
**NOTES TO FINANCIAL STATEMENTS**

**NOTE 1. DESCRIPTION OF THE BUSINESS AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

***Background and Nature of Operations***

Project Clean, Inc. (the "Company") was formed as a Delaware corporation on June 2, 2021. The Company intends to change its name to The Real Good Food Company, Inc. prior to the consummation of the initial public offering discussed below. The Company was formed for the purpose of completing a public offering and related transactions (the "Transactions") in order to carry on the business of The Real Good Food Company LLC ("RGF, LLC"), which is an entity that manufactures gluten- and grain-free breakfast sandwiches, entrées, and other products within the frozen food category, and will serve as the issuer of the Class A common stock offered in this offering.

***Basis of Presentation***

The accompanying financial statements are presented in conformity with accounting principles generally accepted in the United States of America ("GAAP") and pursuant to the rules and regulations of the Securities and Exchange Commission (the "SEC"). Separate statements of income and comprehensive income, changes in stockholder's equity, and cash flows have not been presented because there have been no activities in this entity for the period from its formation through June 30, 2021 (unaudited).

***Use of Estimates***

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the amounts reported in the Company's financial statements and the accompanying notes. Actual results may differ materially from the Company's estimates.

***Subsequent Events***

We evaluated subsequent events through October 12, 2021, which are the dates the financial statements were available to be issued.

**NOTE 2. STOCKHOLDER'S EQUITY**

As of June 2, 2021 and June 30, 2021 (unaudited), the Company was authorized to issue 10,000 shares of common stock, par value \$0.0001 per share, and had issued 10,000 shares of common stock to RGF, LLC.

## REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

Board of Managers and Members  
The Real Good Food Company LLC

### Opinion on the financial statements

We have audited the accompanying balance sheets of The Real Good Food Company LLC (a California limited liability company) (the "Company") as of December 31, 2019 and 2020, the related statements of operations, members' deficit, and cash flows for each of the two years in the period ended December 31, 2020, and the related notes (collectively referred to as the "financial statements"). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2019 and 2020, and the results of its operations and its cash flows for each of the two years in the period ended December 31, 2020, in conformity with accounting principles generally accepted in the United States of America.

### Basis for opinion

These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's financial statements based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) ("PCAOB") and are required to be independent with respect to the Company in accordance with U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB and in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audits we are required to obtain an understanding of internal control over financial reporting but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion.

Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

/s/ GRANT THORNTON LLP

We have served as the Company's auditor since 2020.  
Newport Beach, California  
October 12, 2021



# THE REAL GOOD FOOD COMPANY LLC

## Balance Sheets

(In thousands, except unit and liquidation preference data)

	As of December 31,	
	2019	2020
<b>ASSETS</b>		
Current assets:		
Cash	\$ 388	\$ 28
Accounts receivable, net	2,528	3,533
Inventories	8,972	8,374
Prepaid slotting fees	332	—
Other current assets	23	37
Total current assets	12,243	11,972
Property and equipment, net	2,030	1,745
Operating lease right-of-use assets	132	100
Deferred loan cost	839	1,584
Other noncurrent assets	54	69
Total assets	<u>\$ 15,298</u>	<u>\$ 15,470</u>
<b>LIABILITIES AND MEMBERS' DEFICIT</b>		
Current liabilities:		
Accounts payable	\$ 2,689	\$ 4,818
Customer deposit liability	320	—
Operating lease liabilities	32	36
Finance lease liabilities	242	99
Accrued and other current liabilities	594	667
Loan with PPZ, LLC, a related party	1,078	1,180
Current portion of long-term debt	195	1,763
Total current liabilities	5,150	8,563
Long-term debt	24,755	36,936
Long-term operating lease liabilities	103	66
Long-term finance lease liabilities	38	72
Total Liabilities	30,046	45,637
Commitments and contingencies (Note 12)		
Members' deficit:		
Common units: 62,097 units issued and outstanding as of December 31, 2019; 62,957 units authorized, issued and outstanding as of December 31, 2020	870	1,013
Series A preferred units: 11,798 units authorized, issued and outstanding as of December 31, 2019 and 2020; liquidation preference of \$7.8 million and \$8.4 million as of December 31, 2019 and 2020	7,337	7,337
Series Seed preferred units: 28,428 units authorized, issued and outstanding as of December 31, 2019 and 2020; liquidation preference of \$715 thousand as of December 31, 2019 and 2020	715	715
Accumulated deficit	(23,670)	(39,232)
Total members' deficit	(14,748)	(30,167)
Total liabilities and members' deficit	<u>\$ 15,298</u>	<u>\$ 15,470</u>

See accompanying notes to the Financial Statements.

**THE REAL GOOD FOOD COMPANY LLC****Statements of Operations**

(In thousands, except unit and per unit data)

	YEAR ENDED DECEMBER 31,	
	2019	2020
Net sales	\$ 38,743	\$ 38,984
Cost of sales	32,919	36,306
Gross profit	5,824	2,678
Operating expenses:		
Selling and distribution	8,025	7,593
Marketing	4,145	2,351
Administrative	2,409	2,592
Total operating expenses	14,579	12,536
Loss from operations	(8,755)	(9,858)
Interest expense	5,382	5,682
Other expense	51	—
Loss before income taxes	(14,188)	(15,540)
Income tax expense	—	(22)
Net loss	\$(14,188)	\$(15,562)
Preferred return on Series A preferred units	418	546
Net loss attributable to common unitholders	\$(14,606)	\$(16,108)
Net loss per common unit (basic and diluted)	\$(235.21)	\$(258.82)
Weighted-average common units outstanding (basic and diluted)	62,097	62,238

See accompanying notes to the Financial Statements.

# THE REAL GOOD FOOD COMPANY LLC

## Statements of Members' Deficit

(In thousands, except number of units)

The Real Good Food Company LLC Members

	COMMON UNITS		SERIES A PREFERRED UNITS		SERIES SEED PREFERRED UNITS		ACCUMULATED DEFICIT	TOTAL MEMBERS' DEFICIT
	SHARES	AMOUNT	SHARES	AMOUNT	SHARES	AMOUNT		
Balance, January 1, 2019	62,097	\$ 870	—	\$ —	28,428	\$ 715	\$ (9,482)	\$ (7,897)
Issuance of Series A Preferred Units	—	—	11,798	7,337	—	—	—	7,337
Net loss	—	—	—	—	—	—	(14,188)	(14,188)
Balance, December 31, 2019	62,097	\$ 870	11,798	\$ 7,337	28,428	\$ 715	\$ (23,670)	\$ (14,748)
Net loss	—	—	—	—	—	—	(15,562)	(15,562)
Issuance of Common Units	860	143	—	—	—	—	—	143
Balance, December 31, 2020	62,957	\$ 1,013	11,798	\$ 7,337	28,428	\$ 715	\$ (39,232)	\$ (30,167)

See accompanying notes to the Financial Statements.

**THE REAL GOOD FOOD COMPANY LLC**

**Statements of Cash Flows**

(In thousands)

	<b>YEAR ENDED DECEMBER 31,</b>	
	<b>2019</b>	<b>2020</b>
<b>Cash flows from operating activities:</b>		
Net loss	\$(14,188)	\$(15,562)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	516	590
Amortization of loan costs	2,722	1,055
Bad debt expense	8	10
Non-cash interest expense and debt fees	2,258	4,254
Changes in operating assets and liabilities:		
Accounts receivable	1,393	(1,016)
Inventories	(3,066)	599
Other assets	399	335
Accounts payable and accrued and lease liabilities	(958)	1,981
Net cash used in operating activities	(10,916)	(7,754)
<b>Cash flows from investing activities:</b>		
Purchase of property and equipment	(498)	(149)
Net cash used in investing activities	(498)	(149)
<b>Cash flows from financing activities:</b>		
Proceeds from debt	11,998	7,991
Payments on debt	(7,387)	(195)
Capital contributions	7,337	—
Payments on finance lease liabilities	(287)	(253)
Net cash provided by financing activities	11,661	7,543
<b>Net (decrease) increase in cash</b>	<b>\$ 247</b>	<b>\$ (360)</b>
<b>Beginning cash</b>	<b>\$ 141</b>	<b>\$ 388</b>
<b>Ending cash</b>	<b>\$ 388</b>	<b>\$ 28</b>
<b>Supplemental disclosures of cash flow information:</b>		
Cash paid for interest	\$ 241	\$ 201
Non-cash equity compensation	\$ —	\$ 143
<b>Supplemental disclosures of noncash activities:</b>		
Seller-financed equipment	\$ (209)	\$ (144)

See accompanying notes to the Financial Statements.

**THE REAL GOOD FOOD COMPANY LLC**  
**NOTES TO FINANCIAL STATEMENTS**

**NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

The term “RGF, LLC” refers to The Real Good Food Company LLC.

***Description of Business***

RGF, LLC is a frozen food company that develops, markets, and manufactures foods that are designed to be high in protein, low in sugar, and gluten- and grain-free. RGF, LLC and its co-manufacturers produce breakfast sandwiches, entrées, and other products, which are primarily sold in the U.S. frozen food category, excluding frozen and refrigerated meat. RGF, LLC’s customers include retailers, which primarily sell its products through natural and conventional grocery, drug, club, and mass merchandise stores throughout the United States. Products are also sold through RGF, LLC’s e-commerce channel, which includes direct-to-consumer sales through its website, as well as sales through its retail customers’ online platforms.

RGF, LLC was formed under the laws of the State of California in February 2016.

***Basis of Presentation***

The accompanying financial statements of RGF, LLC have been prepared by RGF, LLC’s management in accordance with generally accepted accounting principles in the United States of America (“GAAP”).

***Liquidity and Capital Resources***

Historically, RGF, LLC has financed its operations through issuances of equity securities, sales of its products, and borrowings under its credit agreements. RGF, LLC’s principal liquidity requirements are to meet working capital needs, make debt service payments, and fund capital expenditures.

RGF, LLC has experienced net losses in every period since its inception. In the years ended December 31, 2019 and 2020, RGF, LLC incurred net losses of \$14.2 million and \$15.6 million, respectively. As of December 31, 2020, RGF, LLC had \$28.0 thousand in cash, aggregate current debt obligations of \$2.9 million, long-term debt obligations of \$36.9 million, and a working capital balance of \$3.4 million.

The accompanying financial statements as of December 31, 2019 and 2020 have been presented on the basis that we are a going concern, which contemplates the realization of assets and satisfaction of liabilities in the normal course of business. As a result, these financial statements do not include any adjustments that might result from the outcome of going concern uncertainty. In addition, the audit report rendered with respect to the financial statements is unqualified as to audit scope.

As of December 31, 2020, RGF, LLC’s recurring net losses and the amount of its indebtedness raised doubts regarding its ability to continue as a going concern. However, subsequent to December 31, 2020, in addition to pursuing this initial public offering (“IPO”) of the Class A common stock of The Real Good Food Company, Inc. (the “Class A common stock”), RGF, LLC has taken a number of actions designed to enhance its liquidity and alleviate doubt regarding its ability to continue as a going concern, including reducing costs, extending the maturity date of certain existing indebtedness, and acquiring additional borrowing capacity. Specifically, RGF, LLC completed the following actions:

- On February 1, 2021, RGF, LLC and PPZ, LLC amended the PPZ Notes to extend the maturity dates of the notes to December 31, 2021.
- On March 29, 2021, RGF, LLC entered into an amendment to the PMC Credit Facility to extend the maturity date of the PMC Revolver from June 30, 2021 to January 31, 2023, excluding a \$1.25 million fee, which RGF, LLC paid in June, 2021.
- During the three months ended March 31, 2021, RGF, LLC entered into a series of agreements pursuant to which it agreed to operate a manufacturing facility located in City of Industry, California (“City of Industry Facility”) to produce its products, which included leasing the facility, acquiring certain equipment required

to operate the facility and inventory located at the facility, and hiring certain employees. The transactions closed in March 2021. Management believes that directly operating the City of Industry Facility will enable RGF, LLC to expand its production capacity, improve quality control, and enhance its gross margin.

- On May 7, 2021, RGF, LLC entered into a note purchase agreement (the “2021 Notes Agreement”) with various Fidelity investment funds (collectively, the “Fidelity Investors”), pursuant to which the Fidelity Investors purchased convertible promissory notes of RGF, LLC with an aggregate principal amount of \$35.0 million (the “2021 Notes”), of which \$34.1 million was used to repay amounts owed pursuant to the PMC Credit Facility. In the event the IPO constitutes a Qualified Public Transaction as defined in the 2021 Notes Agreement and described in Note 8 below, the outstanding amount under the 2021 Notes will automatically convert into shares of Class A common stock. The 2021 Notes bear an interest rate of 1.0% per annum compounded annually on the unpaid principal balance. The principal and any accrued and unpaid interest are due on the first anniversary of the closing date of the 2021 Notes.

For additional information regarding RGF, LLC’s indebtedness, including references to certain defined terms contained herein, refer to Note 8, *Debt*.

RGF, LLC has also taken a number of other actions, including adopting a continuous improvement cost savings program that focuses on process improvements throughout RGF, LLC’s supply chain and manufacturing operations to mitigate costs; implementing an enterprise resource planning system to streamline operations, and improve inventory management and cost efficiencies; and accelerating capital expenditures to reduce labor costs at the City of Industry Facility, including through the purchase of machinery to automate certain manual labor tasks.

In the event a Qualified Public Transaction or a Qualified Financing, as defined in the 2021 Notes Agreement and described in Note 8 below, does not occur prior to the maturity date of the 2021 Notes, RGF, LLC’s ability to continue as a going concern would be contingent upon its ability to repay the 2021 Notes or extend the maturity date of the notes. While RGF, LLC believes that it is probable that the Fidelity Investors would agree to extend the maturity date of the 2021 Notes if no Qualified Public Transaction or Qualified Financing occurs prior to the maturity date, there can be no assurance this will occur. If the maturity date is not extended, RGF, LLC would be required to repay or refinance the amounts owed pursuant to the 2021 Notes. If RGF, LLC is unable to generate sufficient cash flows from operations to repay the 2021 Notes, it may need to seek to borrow additional funds, dispose of its assets, or reduce or delay capital expenditures. RGF, LLC may not be able to accomplish any of these alternatives on acceptable terms, or at all. The failure to generate sufficient cash flows from operations, or to accomplish any of these alternatives, could have a material adverse impact on the Company.

If RGF, LLC is successful in consummating the IPO, the net proceeds from the offering will generate additional liquidity to fund its working capital requirements and pursue its business plan. Assuming the IPO constitutes a Qualified Public Transaction, the 2021 Notes will convert into Class A common stock upon consummation of the offering. However, there can be no assurance that RGF, LLC will be successful in consummating the IPO or that the IPO, if consummated, would constitute a Qualified Public Transaction. Further, even if RGF, LLC is successful, it may be required to seek additional equity or debt financing in order to meet its future liquidity requirements and pursue its strategic objectives. If RGF, LLC is unable to raise additional capital when desired, or on terms that are acceptable to RGF, LLC, its business, operating results, and financial condition could be adversely affected.

In light of the foregoing, and based on RGF, LLC’s current level of operations and business plans, management believes that RGF, LLC’s cash and cash equivalents balance, cash flows from operating activities, available borrowings under its credit agreements, and anticipated net proceeds from the IPO will be sufficient to meet its liquidity requirements for at least the next 12 months.

#### **COVID-19 Pandemic**

In March 2020, the World Health Organization declared the global novel coronavirus (“COVID-19”) outbreak a pandemic. The COVID-19 pandemic has resulted in challenging operating environments and affected regions where RGF, LLC operates its business and in which RGF, LLC’s products are made, manufactured, distributed, and sold. The ongoing impacts of the COVID-19 pandemic may continue to affect the ability of RGF, LLC and its co-manufacturers, suppliers, and customers to operate in certain regions, delay the development or launch of new

products, disrupt the supply chain and manufacture or shipment RGF, LLC's ingredients, raw materials, or products, or have other adverse effects on RGF, LLC's business, financial condition, results of operations, and prospects. In addition, the impacts of the COVID-19 pandemic have caused substantial disruption in the financial markets and may adversely impact economies worldwide, both of which could result in adverse effects on RGF, LLC's business and operations and its ability to raise additional funds to support its operations.

In connection with the ongoing impacts of the COVID-19 pandemic, many of RGF, LLC's retail customers canceled or postponed shelf-sets, which significantly impacted RGF, LLC's net sales in the year ended December 31, 2020. Further, one of RGF, LLC's key co-manufacturers experienced financial hardship as a result of the impacts of the COVID-19 pandemic, which resulted in RGF, LLC's inability to meet demand for certain of its products in the year ended December 31, 2020 and negatively impacted RGF, LLC's financial condition and results of operations. Although RGF, LLC has taken actions to mitigate the impacts of the COVID-19 pandemic on its business, it cannot at this time predict the specific extent, duration, or full impact that the COVID-19 pandemic will have on its business, financial condition, and operations, including its ability to successfully implement its growth strategy and to obtain additional financing to achieve its strategic objectives. The impacts of the COVID-19 pandemic on RGF, LLC's financial performance will depend on future developments, including the duration and spread of the pandemic; its impact on RGF, LLC's business, including its manufacturing capacity, and other third parties with whom it does business; progress of vaccination efforts; and related governmental advisories and restrictions. These developments and the impact of the COVID-19 pandemic on the financial markets and the overall economy are highly uncertain and cannot be predicted. If the financial markets or the overall economy are impacted for an extended period, RGF, LLC's business may be materially adversely affected.

#### ***Use of Estimates***

The preparation of RGF, LLC's financial statements in conformity with GAAP requires management to use its judgment to make estimates and assumptions that affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities as of the date of the financial statements, and the reported amounts of net sales and expenses during the reporting period. Significant estimates and assumptions reflected in the financial statements include, but are not limited to, the allowance for credit losses, the write down of obsolete or excess inventory, and revenue recognition, including variable consideration for estimated reserves for discounts, incentives, and other allowances. Management bases its estimates on historical experience and on assumptions that it believes to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying value of assets and liabilities that are not readily apparent from other sources. Due to the inherent uncertainty involved in making assumptions and estimates, changes in circumstances could result in actual results differing from those estimates, and such differences could be material to RGF, LLC's balance sheet and statements of operations.

Management considered the impact of COVID-19 on the assumptions and estimates used to prepare RGF, LLC's financial statements and determined that there were no material adverse impacts on the financial statements for the years ended December 31, 2019 and 2020. As events continue to evolve and additional information becomes available, management's assumptions and estimates may change materially in future periods.

#### ***Segment Reporting and Geographical Information***

For the years ended December 31, 2019 and 2020, RGF, LLC was managed as a single operating segment. The Chief Executive Officer, who is the Chief Operating Decision Maker, reviews financial information on an aggregate basis for purposes of allocating resources and assessing financial performance, as well as for making strategic operational decisions and managing the organization. All of RGF, LLC's assets are maintained in the United States.

#### ***Cash and Cash Equivalents***

RGF, LLC considers all highly liquid investments with a maturity period of three months or less, when acquired, to be cash equivalents. There were no cash equivalents as of December 31, 2019 and 2020.

#### ***Significant Risks and Uncertainties***

RGF, LLC is subject to those risks common to brands within the frozen food category within the health and wellness industry. Various factors could negatively impact its business, including RGF, LLC's need to increase its net sales from existing customers and acquire new customers in order to execute its growth strategy; ability to introduce or



market new or successfully improve existing products; ability to compete successfully within its highly competitive market; dependence on key personnel, suppliers, and co-manufacturers; customer concentration risk, or the loss of a single significant customer; compliance with government regulations; and indebtedness, including the financial restrictions and operating covenants included in the agreements governing such indebtedness, as well as a possibility of being unable to obtain additional financing at terms satisfactory to RGF, LLC when needed.

Further, changes in any of the following areas could have a significant negative effect on RGF, LLC, its financial position, results of operations, and cash flows: rates of revenue growth; its ability to manage inventory or pricing; engagement and usage of its products; effectiveness of its investment of resources to pursue strategies; competition in its market; the stability of food prices; impact of interest rate changes on demand and its costs; and addition or loss of significant customers.

#### **Concentration of Credit Risk**

Financial instruments which potentially subject RGF, LLC to concentrations of credit risk consist of cash, accounts receivable, and accounts payable. RGF, LLC maintains its cash balances in highly rated financial institutions. From time to time RGF, LLC's cash balances exceed the Federal Deposit Insurance Corporation limit. RGF, LLC has not experienced any loss relating to cash in these accounts and management believes RGF, LLC is not exposed to significant risks on such accounts.

In addition, RGF, LLC's net sales and receivables are concentrated among a small number of customers. As of December 31, 2019, RGF, LLC's three largest customers accounted for 48% of its total accounts receivable balance, or 23%, 15%, and 10%, respectively. As of December 31, 2020, RGF, LLC's three largest customers accounted for a total of 46% of its accounts receivable balance, or 16%, 19%, and 11%, respectively. Under Financial Accounting Standards Board ("FASB") Accounting Standards Codification ("ASC") Topic 606, *Revenue from Contracts with Customers* ("ASC 606"), RGF, LLC's customers are considered to be retailers who sell RGF, LLC's products to end consumers. RGF, LLC does not identify a significant risk in the recoverability of the trade account receivables considering its customers are major retailers within United States. See Note 4, *Significant Customers*, for further discussion of RGF, LLC's significant customers.

#### **Accounts Receivable**

Accounts receivable are recorded at the invoiced amount, net of allowances for estimated variable consideration and amounts payable to customers for slotting, which are fees assessed by customers for the cost of accepting new products into their store. Estimated product returns are immaterial. Management assesses the collectability of outstanding customer invoices, and if it deems necessary, maintains an allowance for credit losses resulting from the non-collection of customer receivables. In estimating this reserve, management considers factors such as historical collection experience, customer creditworthiness, specific customer risk, trends specific to the customer, and current and expected general economic conditions that may affect a customer's ability to pay. Customer balances are written off after all collection efforts are exhausted. RGF, LLC has recorded a reserve for credit losses of \$0.0 and \$29 thousand as of December 31, 2019 and 2020, respectively.

#### **Inventories**

Inventories are stated at the lower of cost or net realizable value. RGF, LLC records sales and other reductions in inventory through cost of sales using the first-in, first-out method. The cost of finished goods inventories include ingredients, direct labor, freight-in for ingredients, and indirect production and overhead costs.

RGF, LLC monitors its inventory to identify excess or obsolete items on hand. RGF, LLC writes down its inventories for estimated excess and obsolescence in an amount equal to the difference between the cost of inventories and estimated net realizable value. These estimates are based on management's judgment about future demand and market conditions. Once established, these adjustments are considered permanent and are not revised until the related inventory is sold or disposed of. Inventory written down was \$0.5 million and \$1.2 million as of December 31, 2019 and 2020, respectively.

#### **Property and Equipment**

Property and equipment are stated at acquisition cost, net of accumulated depreciation. Property and equipment are capitalized and depreciated. Depreciation is calculated using the straight-line method typically over the following range of estimated useful lives of the assets as follows:

	<u>ESTIMATED USEFUL LIVES</u>
Computers	3 years
Office equipment	3 years
Machinery equipment	5 years

Leasehold improvements are capitalized and amortized over the shorter of the useful life of the asset or the remaining term of the lease.

RGF, LLC reviews the recoverability of property and equipment when circumstances indicate that the carrying value may not be recoverable. Indicators of impairment could include, among other factors, significant changes in the business environment, the planned closure of a facility, or deteriorations in operating cash flows. Considerable management judgment is necessary to evaluate the impact of operating changes and to estimate future cash flows. Expenditures for repairs and maintenance which do not improve or extend the life of the assets are expensed as incurred.

#### **Leases**

RGF, LLC's leases consist of the following types of assets: corporate office space, warehouse, and equipment.

RGF, LLC determines whether a contract is or contains a lease at the time of the contract's inception based on the presence of identified assets and RGF, LLC's right to obtain substantially all the economic benefit from or to direct the use of such assets. When RGF, LLC determines a lease exists, it records a right-of-use ("ROU") asset and corresponding lease liability on its balance sheet. ROU assets represent RGF, LLC's right to use an underlying asset for the lease term. Lease liabilities represent RGF, LLC's obligation to make lease payments arising from the lease. ROU assets are recognized at the lease commencement date at the value of the lease liabilities. Lease liabilities represent RGF, LLC's obligation to make lease payments arising from the lease. ROU assets are recognized at the lease commencement date at the value of the lease liability and are adjusted for any prepayments, lease incentives received, and initial direct costs incurred. Lease liabilities are recognized at the lease commencement date based on the present value of remaining lease payments over the lease term. As the discount rate implicit in the lease is not readily determinable in most of RGF, LLC's leases, RGF, LLC uses its incremental borrowing rate based on the information available at the lease commencement date in determining the present value of lease payments. RGF, LLC's lease terms include options to extend the lease when it is reasonably certain that RGF, LLC will exercise that option.

RGF, LLC does not record lease contracts with a term of 12 months or less on its balance sheet. Expense for these short-term leases is recognized on a straight-line basis over the lease term.

RGF, LLC recognizes fixed-lease expense for operating leases on a straight-line basis over the lease term. For finance leases, RGF, LLC recognizes amortization expense over the shorter of (i) the estimated useful life of the underlying assets, or (ii) the lease term. In instances of title transfer, expense is recognized over the useful life. Interest expense on a finance lease is recognized using the effective interest method over the lease term.

RGF, LLC has lease agreements with non-lease components, such as maintenance- and utility-related charges. RGF, LLC accounts for each lease and any non-lease components associated with that lease as a single-lease component for all underlying asset classes. Accordingly, all costs associated with a lease contract are accounted for as lease costs.

Certain leasing arrangements require variable payments that are dependent on usage or output or may vary for other reasons, such as insurance and tax payments. Variable lease payments that do not depend on an index or rate are excluded from lease payments in the measurement of the ROU asset and lease liability and are recognized as expense in the period in which the payment occurs.

RGF, LLC's lease agreements do not include significant restrictions or covenants, and residual value guarantees are generally not included within its leases.

#### **Fair Value of Financial Instruments**

Fair value is an exit price, representing the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. As such, fair value is a market-based

measurement that should be determined based on assumptions that market participants would use in pricing an asset or liability. Fair value measurements of assets and liabilities are categorized based on the following hierarchy:

- Level 1—Quoted prices for identical instruments in active markets.
- Level 2—Quoted prices for similar instruments in active markets or quoted prices for identical or similar instruments in markets that are not active and model-derived valuations, in which all significant inputs are observable in active markets.
- Level 3—Unobservable inputs in which there is little or no market data, which require the reporting entity to develop its own assumptions.

The carrying value of RGF, LLC's short-term financial instruments, such as cash, accounts receivable, notes payable, and accounts payable, approximate fair value due to the immediate or short-term maturity of these instruments. The interest rate on RGF, LLC's secured credit facility and certain other debt has a variable component, which is reflective of the market. Further, RGF, LLC has amended one of its debt agreements to reflect the same interest rate during the years ended December 31, 2019 and 2020 and believes that the fair value of debt approximates its carrying value. Cash is categorized as Level 1 fair value measurements. At fair value, receivables and payables, including debt, is categorized as Level 2 fair value measurements.

#### **Profits Interest Units**

On April 1, 2017, the board of managers of RGF, LLC granted profits interest units to CPG Solutions, LLC ("CPG") in exchange for sales and marketing services. CPG is entitled to share in RGF, LLC's net profits and to receive a settlement payment at the time of a liquidity event, including a sale transaction. A sale is defined as a sale or transfer of substantially all of the assets or membership interests in RGF, LLC. Upon the sale of RGF, LLC, CPG will receive 10.0% of the profit on the sale based on the value of RGF, LLC at the end of the term ("Capped Value"). The Capped Value will be determined by multiplying the net sale price in connection with the RGF, LLC sale (purchase price less debt and capital contributions) by a fraction of which the numerator shall be the net revenue for the 12 months prior to the end of the termination of the services to RGF, LLC, and the denominator of which shall be net revenue for the 12 months prior to the determination of the purchase price.

While the profits interest units issued to CPG have features that are similar to both equity and liabilities, they have been determined to be primarily liability-like due to the following considerations: (i) value can be realized in connection with the profits interest units, either through distributions in the normal course of business or upon a liquidity event, to the extent that there are deemed profits as a result of the transaction; (ii) ordinary distributions are payable only while the grantee is providing service; (iii) distributions associated with a liquidity event are capped by a formula which is linked to the grantee's period of service; (iv) the profits interest units are not transferrable; and (v) the profits interest units do not convey voting rights. Based upon these factors, RGF, LLC concluded that the CPG profits interest units should be accounted for in accordance with ASC Topic 710, *Compensation, General* ("ASC 710"), similar to a performance bonus, and has classified such profits interest units as liabilities. As of December 31, 2020, no compensation expense has been recognized with respect to these profits interest units.

On October 9, 2020, the board of managers of RGF, LLC approved a profits interest unit award to its Chief Executive Officer ("CEO") constituting a profit distribution percentage equal to 3%, subject to dilution down to 2.0%, fully vesting after six months of employment. Additionally, after six months of employment, the CEO has the right to receive an additional profits interest unit award in an amount equal to 5.0%, vesting in 24 equal monthly installments beginning with the 13th month following the vesting commencement date.

While the profits interest units issued to the CEO have features that are similar to both equity and liabilities, they have been determined to be primarily liability-like due to the following considerations: (i) the profits interests entitle the CEO to a payout upon a sale of RGF, LLC based on continued service through the date of an initial public offering and based upon the excess of distributable profits of RGF, LLC above a contractually agreed baseline; (ii) the profits interest units will be forfeited upon voluntary or involuntary termination of services; (iii) the profits interest units are not transferrable; and (iv) the profits interest units do not convey voting rights. Based upon these factors, RGF, LLC concluded that the CEO profits interest units should be classified as liability awards and accounted for as a performance bonus in accordance with ASC 710. Because payment with respect to the CEO profits interest units was not deemed probable or estimable as of December 31, 2020, no compensation expense was recognized for the period ended December 31, 2020.

## Common Units Issued to Divario

In February 2018, RGF, LLC entered into a product placement agreement (“PPA”) with Divario Ventures, LLC (“Divario”), a subsidiary of Albertsons Companies, Inc. (“Albertsons Companies”), pursuant to which RGF, LLC agreed to issue Divario common units (the “Divario Initial Equity”) in exchange for achievement and maintenance of specified distribution thresholds in retail locations operated by Albertsons Companies through October 31, 2020. Additionally, Divario may be entitled to additional common units (the “Divario Incentive Equity”) as incentive awards upon achievement of specified annual sales targets with Albertsons Companies through October 31, 2021. RGF, LLC paid \$35 thousand to Divario in connection with the execution of the PPA in February 2018. The PPA authorized the issuance of up to 5,240 common units of RGF, LLC in connection with the Divario Initial Equity. Additionally, the PPA authorized issuance of a variable number of common units in connection with the Divario Incentive Equity.

As both the Divario Initial Equity and Divario Incentive Equity represent consideration due to a customer under ASC 606, the grant date fair value of the awards, measured in accordance with ASC Topic 718, *Stock Compensation*, is recognized in earnings as contra-revenue over the term of the slotting arrangements based upon the relative volume of gross sales to Albertsons Companies during each fiscal period for the duration of the agreement.

A total of 5,240 common units were issued and outstanding as of December 31, 2019 and 2020 in connection with the Divario Initial Equity. RGF, LLC estimates that 1,000 common units may be issuable in connection with the Divario Incentive Equity, of which 860 units and zero units were earned as of December 31, 2019 and 2020, respectively. RGF, LLC recognized contra-revenue of \$369 and \$384 thousand related to the Divario equity awards during the years ended December 31, 2019 and 2020, respectively. Total unrecognized consideration to Divario in connection with these awards was \$42 thousand as of December 31, 2020.

The unamortized portion of the Divario Initial Equity and up-front cash payment made in connection with this program has been recorded within prepaid slotting fees, amounting to \$332 thousand and \$0.0 and as of December 31, 2019 and 2020, respectively. The estimated unearned amount of Divario Incentive Equity attributable to sales to Albertsons Companies during the term of the arrangement has been treated as constrained contract consideration under ASC 606 and recorded within other current liabilities, amounting to \$73 thousand and \$0.0 as of December 31, 2019 and 2020, respectively.

Additionally, in connection with this arrangement, Divario agreed to reimburse RGF, LLC for a portion of cash slotting fees that were paid to Albertsons Companies during the program term. These reimbursements represent a reduction to the consideration due to Albertsons Companies in connection with RGF, LLC’s contract and have been amortized as adjustment to the contract price over the term of the arrangement. The portion of reimbursements received to date that are attributable to future sales has been recorded within customer deposit liabilities, amounting to \$320 thousand and \$0.0 and as of December 31, 2019 and 2020, respectively. Reimbursements received from Divario totaled \$241 thousand and \$0.0 for the years ended December 31, 2019 and 2020, respectively. No further reimbursements are expected from Divario under this program as of December 31, 2020.

## Revenue Recognition

RGF, LLC’s revenue is principally derived from selling goods to retailers. Revenue is recognized when performance obligations under the terms of a contract with a customer are satisfied and promised goods have been transferred to the customer. Control transfers to the customer when the product is shipped or delivered to the customer based upon applicable shipping terms. For each contract, RGF, LLC considers the transfer of products, each of which is distinct, to be the identified performance obligation. Although some payment terms may be more extended, presently the majority of RGF, LLC’s payment terms range from payment due immediately upon invoice to up to 60 days.

Variable consideration is included in revenue for trade promotions, off-invoice discounts, shrinkages and shortages, and other discounts and sales incentives. RGF, LLC uses a reserve to constrain revenue for the expected variable consideration at each period. See Note 3, *Revenue Recognition*, for additional information. Any taxes collected on behalf of government authorities are excluded from net sales.

### **Shipping and Handling Costs**

RGF, LLC's shipping and handling costs are included in both cost of sales and selling and distribution expense, depending on the nature of such costs. Cost of sales reflects cost incurred for inbound freight on ingredients to be used in production. Internal freight costs included in selling and distribution expenses consist primarily of those costs associated with moving products from production facilities through RGF, LLC's distribution network. Total internal freight costs recorded within selling and distribution expenses were \$2.7 million and \$1.7 million during the years ended December 31, 2019 and 2020, respectively.

Shipping and handling costs associated with outbound freight are included within selling and distribution expenses and are accounted for as a fulfillment cost as incurred. Total of these costs recorded within selling and distribution expenses were \$3.8 million and \$4.3 million during the years ended December 31, 2019 and 2020, respectively.

### **Marketing Expenses**

Marketing costs are expensed as incurred. RGF, LLC incurred \$4.1 million and \$2.4 million for the years ended December 31, 2019 and 2020, respectively. Advertising and marketing costs are recorded in general and administrative expense in RGF, LLC's statement of operations.

### **Income Taxes**

RGF, LLC is a pass-through entity for federal income tax purposes, and such taxes are the responsibility of the partners. As such, RGF, LLC does not record federal income taxes, and there are no deferred taxes related to state and local level income taxes.

When applicable, RGF, LLC recognizes the income tax benefit from an uncertain tax position when it is more likely than not that, based on technical merits, the position will be sustained upon examination, including resolutions of any related appeals or litigation processes. RGF, LLC recognizes accrued interest related to uncertain tax positions as a component of income tax expense, and penalties, if incurred, are recognized as a component of income taxes.

RGF, LLC has recorded in the statement of operations income tax expense of \$0 and \$22 thousand for the years ended December 31, 2019 and 2020, respectively, related to certain minimum state taxes as income taxes.

### **Loss per Unit**

Loss per unit is computed by dividing RGF, LLC's net loss, after deducting any dividends on preferred units or accumulated on cumulative preferred units, by the weighted-average number of common units outstanding during the period, adjusted for the dilutive effect of any outstanding dilutive securities. As the Series Seed preferred units are participating, RGF, LLC utilizes the two-class method in computing loss per unit. The preferred unit holders participate in income but are not obligated to participate in losses. The two-class method did not impact the loss per unit calculation for the periods presented due to the net losses incurred in the years ended December 31, 2019 and 2020.

## **NOTE 2. RECENTLY ADOPTED ACCOUNTING PRONOUNCEMENTS**

ASU No. 2016-02—In February 2016, the FASB issued Accounting Standards Update ("ASU") No. 2016-02, *Leases (Topic 842)* ("ASC 842"), to increase transparency and comparability by recognizing lease assets and lease liabilities on the balance sheet and disclosing key information about leasing arrangements. The standard requires that entities apply the effects of these changes using a modified retrospective approach, which includes a number of optional practical expedients. In July 2018, the FASB issued ASU No. 2018-11, *Leases (Topic 842), Targeted Improvements*, which provides an additional transition election to not restate comparative periods for the effects of applying the new standard. This transition election permits entities to apply ASU No. 2016-02 on the adoption date and recognize a cumulative-effect adjustment to the opening balance of retained earnings. RGF, LLC adopted these ASUs under the modified retrospective transition method prescribed by ASU No. 2018-11 as of January 1, 2019. RGF, LLC elected to implement the optional practical expedients permitted by the transition guidance. The adoption of these ASUs did not have a material impact on RGF, LLC's statements of operations or cash flows. See Note 6, *Leases*.

ASU No. 2016-13—In June 2016, the FASB issued ASU No. 2016-13, *Financial Instruments – Credit Losses (Topic 326)—Measurement of Credit Losses on Financial Instruments*, which requires financial assets measured at amortized cost to be presented at the net amount expected to be collected using an allowance for expected credit

losses, to be estimated by management based on historical experience, current conditions and reasonable and supportable forecasts. The movement from an incurred loss model, required under previous GAAP, to an expected loss model will result in earlier recording of expected credit losses than the incurred loss model. RGF, LLC adopted this guidance as of January 1, 2020, using the modified retrospective approach. The movement from an incurred loss model to an expected credit loss model will primarily result in earlier recording of expected credit losses for RGF, LLC's accounts receivable. However, due to the relatively short-term nature of RGF, LLC's accounts receivable and history of limited bad debt expense, the impact of this guidance to its financial statements as of the January 1, 2020 adoption date was immaterial.

ASU No. 2018-13—The FASB issued ASU No. 2018-13, *Fair Value Measurement (Topic 820)* in August 2018 to modify disclosure requirements related to fair value measurement. The amendments in this ASU are effective for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2019. Implementation on a prospective or retrospective basis varies by specific disclosure requirement. RGF, LLC early adopted ASU 2018-13 on January 1, 2020, with no impact to its financial statements.

### NOTE 3. REVENUE RECOGNITION

#### *Disaggregation of Net Sales*

The following table presents a disaggregation of RGF, LLC's net sales by revenue source. RGF, LLC believes that these revenue streams most appropriately depict the nature, amount, timing, and uncertainty of revenue and cash flows arising from contracts with its customers.

(In thousands)	YEAR ENDED DECEMBER 31,	
	2019	2020
Entrees	\$12,059	\$19,562
Breakfast Sandwiches	2,491	4,453
Other Frozen	24,193	14,969
<b>Total net sales</b>	<b>\$38,743</b>	<b>\$38,984</b>

#### *Revenue Recognition, Sales Incentives, and Accounts Receivable*

Revenue is recognized upon transfer of title and risk of inventory loss to the customer. The customer can direct the use and obtain substantially all of the remaining benefits from the asset at this point in time. Revenue is recognized in an amount that reflects the consideration that RGF, LLC expects to ultimately receive in exchange for those promised goods, net of expected discounts for sales promotions and customary allowances. RGF, LLC offers sales promotions through various regional and national programs to its customers. These programs include in-store discounts as well as product coupons offered direct to consumers which may be redeemed at the point of sale. Customary allowances for early invoice payment and shrinkage are also applied by customers. The costs associated with these programs are accounted for as variable consideration as defined under ASC 606 and are reductions to the transaction price of the products. Depending on the specific type of sales incentive and other promotional program, the expected value method is used to determine the variable consideration. RGF, LLC reviews and updates its estimates and related accruals of variable consideration each period based on the terms of the agreements, historical experience, and expected levels of performance of the trade promotion or other programs. Any uncertainties in the ultimate resolution of variable consideration due to factors outside RGF, LLC's influence are typically resolved within a short timeframe therefore not requiring any additional constraint on the variable consideration. RGF, LLC also offers compensation to customers for access to shelf space in stores; associated payments are recognized as reductions to the transaction price received from the customer on sale of associated products.

Payment terms and conditions are generally consistent for customers, including credit terms to customers ranging from 30 to 60 days, and RGF, LLC's contracts do not include any significant financing component. RGF, LLC performs credit evaluations of customers and evaluates the need for allowances for potential credit losses based on historical experience, as well as current and expected general economic conditions. Accordingly, RGF, LLC has recorded immaterial losses within accounts receivable during the years ended December 31, 2019 and 2020.

RGF, LLC applies the practical expedient that allows it to exclude disclosure of performance obligations that are part of a contract that has an expected duration of one year or less. All contracts are short term in nature, and there are no unsatisfied performance obligations requiring disclosure.

#### **Contract Assets and Liabilities**

Contract assets are rights to consideration in exchange for goods or services that RGF, LLC has transferred to a customer when that right is conditional on something other than the passage of time. Contract liabilities are obligations to transfer goods or services to a customer for which RGF, LLC has received consideration, or for which an amount of consideration is due from the customer. RGF, LLC continually evaluates whether its contractual arrangements with customers result in the recognition of contract assets or liabilities. No contract assets or liabilities existed as of December 31, 2019 or December 31, 2020.

#### **NOTE 4. SIGNIFICANT CUSTOMERS**

During the years ended December 31, 2019 and December 31, 2020 RGF, LLC had three customers, respectively, which each individually comprised greater than 10% of net sales. These customers represented 66% and 57% of RGF, LLC's net sales during the years ended December 31, 2019 and 2020, respectively. RGF, LLC's largest customer accounted for approximately 37% and 28% of net sales during the years ended December 31, 2019 and 2020, respectively. RGF, LLC's second largest customer accounted for approximately 19% and 17% of net sales for the years ended December 31, 2019 and 2020, respectively. RGF, LLC's third largest customer generated approximately 0% and 12% of net sales for the years ended December 31, 2019 and 2020, respectively. RGF, LLC's fourth largest customer accounted for approximately 10% and 8% of net sales for the years ended December 31, 2019, and 2020, respectively. No other customer accounted for more than 10% of net sales during the periods presented.

#### **NOTE 5. INVENTORIES**

Inventories as of December 31, 2019 and 2020 consisted of the following:

	AS OF DECEMBER 31,	
	2019	2020
(In thousands)		
Ingredients and supplies	\$1,543	\$2,428
Finished goods	7,429	5,946
<b>Total inventories</b>	<b>\$8,972</b>	<b>\$8,374</b>

#### **NOTE 6. PROPERTY AND EQUIPMENT**

Property and equipment as of December 31, 2019 and 2020 consisted of the following:

	AS OF DECEMBER 31,	
	2019	2020
(In thousands)		
Computer equipment	\$ 11	\$ 11
Machinery and equipment	2,851	3,155
Leasehold improvements	14	14
Total property and equipment	2,876	3,180
Less: accumulated depreciation	(846)	(1,435)
<b>Property and equipment, net</b>	<b>\$2,030</b>	<b>\$ 1,745</b>

Depreciation expense was \$516 thousand and \$589 thousand for the years ended December 31, 2019 and 2020, respectively.



## NOTE 7. LEASES

On January 1, 2019, RGF, LLC adopted ASC 842, which amends the guidance for the accounting and reporting for leases. The determination of whether an arrangement is, or contains, a lease is performed at the inception of the arrangement. RGF, LLC has operating and finance leases for equipment and warehouse space. RGF, LLC's lease agreements do not contain any material residual value guarantees, variable lease costs, bargain purchase options, or restrictive covenants. Leases with an initial term of 12 months or less are generally not recorded on the balance sheet, and the related expense for these leases is recognized on a straight-line basis over the lease term. RGF, LLC's lease terms include options to extend the lease when it is reasonably certain that RGF, LLC will exercise that option.

ROU assets represent RGF, LLC's right to use an underlying asset for the lease term, and lease liabilities represent RGF, LLC's obligation to make lease payments arising from the lease contract. Operating lease liabilities and their corresponding ROU assets are recorded based on the present value of fixed lease payments over the expected lease term. The interest rate implicit in lease contracts was not readily determinable. As such, RGF, LLC used an incremental borrowing rate based on the information available at commencement date. In the development of the discount rate, RGF, LLC considered its internal borrowing rate, treasury security rates, collateral, and credit risk specific to it, and its lease portfolio characteristics. As of December 31, 2019 and 2020, the weighted-average discount rate of RGF, LLC's operating and finance leases was 12%.

The components of lease expense were as follows:

(In thousands)	Statement of Operations Location	YEAR ENDED DECEMBER 31,	
		2019	2020
Operating lease costs	Cost of sales	\$ 47	\$ 47
Finance lease costs			
Amortization of right-of-use assets	Cost of sales	136	157
Interest on lease liabilities	Interest expense	43	19
Short-term lease costs	Cost of sales	229	825
Total lease costs		<u>\$ 455</u>	<u>\$ 1,048</u>

Supplemental balance sheet information related to leases is as follows:

(In thousands)	Balance Sheet Location	AS OF DECEMBER 31,	
		2019	2020
<b>Assets</b>			
Operating lease right-of-use assets	Operating lease right-of-use assets	\$ 132	\$ 100
Finance lease right-of-use assets	Property and equipment, net	587	592
Total lease assets		<u>\$ 719</u>	<u>\$ 692</u>
<b>Liabilities</b>			
Current:			
Operating lease liabilities	Operating lease liabilities	\$ 32	\$ 36
Finance lease liabilities	Finance lease liabilities	242	99
Noncurrent:			
Operating lease liabilities	Long term operating lease liabilities	103	66
Finance lease liabilities	Long term finance lease liabilities	38	72
Total lease liabilities		<u>\$ 415</u>	<u>\$ 273</u>

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Supplemental cash flow information related to leases is as follows:

(In thousands)	YEAR ENDED DECEMBER 31,	
	2019	2020
<b>Supplemental Cash Flow Information:</b>		
Cash paid for amounts included in the measurement of lease liabilities		
Operating cash flows from operating leases	\$ 45	\$ 46
Operating cash flows from finance leases	43	19
Financing cash flows from finance leases	287	253
Supplemental noncash information on lease liabilities arising from obtaining right-of-use assets	209	144

The maturities of RGF, LLC's operating and finance lease liabilities as of December 31, 2020 were as follows:

(In thousands)	OPERATING LEASES	FINANCE LEASES
2021	\$ 46	\$ 113
2022	48	64
2023	24	13
2024 and thereafter	—	—
Total future lease payments	118	190
Less: Interest	(16)	(19)
Present value of lease obligations	<u>\$ 102</u>	<u>\$ 171</u>

As of December 31, 2019 and 2020, the weighted-average remaining term of RGF, LLC's operating and finance leases was 1.6 years and 2.5 years, respectively.

#### NOTE 8. DEBT

Long-term debt consisted of the following as of December 31, 2019 and 2020:

(In thousands)	MATURITY DATE	INTEREST RATE	AS OF DECEMBER 31,	
			2019	2020
PMC Revolver	January 2023	Prime rate plus 8.5%	\$23,236	\$36,871
PMC CapEx line	March 2025	Prime rate plus 8.5%	1,714	1,519
Related-party loan arrangement—PPZ Loan	December 2021	8.0% to 9.0%	1,078	1,180
PPP Loan	May 2022	1.0%	—	309
			26,028	39,879
Less: Current maturities of long-term debt			1,273	2,943
Long-term debt			<u>\$24,755</u>	<u>\$36,936</u>

#### PMC Credit Facility

On June 30, 2016, RGF, LLC entered into a loan and security agreement (the "PMC Credit Facility") with PMC Financial Services Group, LLC ("PMC"). As of December 31, 2020, the PMC Credit Facility, as amended, provided RGF, LLC with a \$36.5 million line of credit repayable on June 30, 2021 (the "PMC Revolver"), and permitted RGF, LLC to make repayments without penalty. As amended, the PMC Credit Facility also provides for a \$2.0 million capital expenditure line of credit, which matures on March 31, 2025 (the "PMC CapEx Line"). The PMC Revolver

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and the PMC CapEx Line outstanding balances shall bear interest at an annual rate equal to the greater of the prime rate announced by Wells Fargo Bank, N.A. or 3.5%, plus 8.5% per annum. The PMC Credit Facility contains no financial covenants and is collateralized by RGF, LLC's accounts receivable, inventory, equipment, deposit accounts, and general intangibles.

As of December 31, 2019 and 2020, there was \$23.2 million and \$36.9 million outstanding on the PMC Revolver, respectively, which included the unpaid loan balance and fees. The balance outstanding as of December 31, 2020 is inclusive of a \$1.25 million "success fee" payable upon the earlier (i) June 30, 2021, (ii) payment in full of the PMC Revolver balance, or (iii) sale of the Company. The success fee does not count toward available capacity on the PMC Credit Facility.

Effective as of March 29, 2021, RGF, LLC entered into an amendment to the PMC Credit Facility to extend the maturity date of the PMC Revolver from June 30, 2021 to January 31, 2023, excluding the \$1.25 million success fee, which remained payable on June 30, 2021. In addition, effective as of June 30, 2021, RGF, LLC entered into an amendment to the PMC Credit Facility to reduce the revolving limit of the PMC Revolver from \$36.5 million to 15.0 million. Refer to Note 13, *Subsequent Events*, for additional information.

Since the inception of the PMC Credit Facility, loan costs, anniversary fees, and success fees that RGF, LLC incurred associated with the PMC Revolver have been paid in kind. These fees were aggregated into RGF, LLC's debt balance and increased RGF, LLC's outstanding PMC Revolver balance, and were recorded in a deferred loan cost asset account classified in non-current assets. The presentation in the table above represents debt, including unpaid loan costs, anniversary, and success fees. The total amount of these fees included in debt for the years ended December 31, 2019 and 2020 is \$4.8 million and \$6.9 million, respectively. The fees assessed in connection with the PMC Revolver are capitalized and amortized over the life of the PMC Credit Facility on a straight-line basis. If the PMC Revolver is retired before its maturity date, any remaining costs would be expensed in the same period. For loan fees and success fees, the deferred loan cost asset amounts for the years ended December 31, 2019 and 2020 were \$0.9 million and \$1.6 million, respectively, and reported in other non-current assets. The amortization of loan costs was \$2.7 million and \$1.1 million for the years ended December 31, 2019 and 2020, respectively and is recorded as a part of interest expense.

As noted above, the PMC Credit Facility also provides for \$2.0 million in borrowing capacity under the PMC CapEx Line. As of December 31, 2019, and 2020, the outstanding balances on the PMC CapEx Line were \$1.7 million and \$1.5 million, respectively. As of December 31, 2020, monthly payments of \$38 thousand are due on the PMC CapEx Line until its March 31, 2025 maturity.

### **PPZ Loan**

RGF, LLC has entered into a series of loan arrangements with PPZ, LLC, a member of RGF, LLC (collectively the "PPZ Loan"). The PPZ Loan was initially entered into on February 21, 2017, pursuant to which RGF, LLC issued to PPZ, LLC a promissory note in the principal amount of \$40.0 thousand. Subsequently, RGF, LLC increased borrowings on the PPZ Loan on June 1, 2017 and October 25, 2018 by \$400.0 thousand and \$500.0 thousand, respectively. The \$40.0 thousand borrowing on the PPZ Loan bears interest at a rate of 8.0% per annum, and the \$400.0 thousand and \$500.0 thousand borrowings on the PPZ Loan each bear interest at a rate of 9.0% per annum. The PPZ Loan is collateralized by RGF, LLC's assets, including its deposit accounts, inventory, accounts receivable, property, plant, and equipment. RGF, LLC was in compliance with the covenants as of December 31, 2020. As of December 31, 2019 and 2020, the outstanding balance on the PPZ Loan was \$1.1 million and \$1.2 million, respectively. The PPZ Loan balance has been included in current liabilities as of December 31, 2019 and 2020 as all borrowings were due within one year based on the respective agreements in effect as of the balance sheet date. The PPZ Loan matures on December 31, 2021.

### **PPP Loan**

On May 9, 2020, RGF, LLC received loan proceeds in the amount of \$309 thousand under the Paycheck Protection Program ("PPP") from Carter Federal Credit Union (the "PPP Loan"). The PPP, established as part of the Coronavirus Aid, Relief and Economic Security Act, provides for loans to qualifying businesses for amounts of up to 2.5 times the average monthly payroll expenses of the qualifying business. Under the terms of the PPP Loan, the entire amount of principal and accrued interest may be forgiven to the extent the borrower uses the proceeds for

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qualifying expenses as determined by the U.S. Small Business Administration ("SBA") under the PPP, including payroll, benefits, rent and utilities, and maintains its payroll levels. As of December 31, 2020, the outstanding balance on the PPP Loan was \$309 thousand. The unforgiven portion of the PPP Loan, if any, is payable over two years at an interest rate of 1.0% per annum, with a payment deferral for the first six months, and fully repayable on May 9, 2022. RGF, LLC believes that it used the proceeds for purposes consistent with the PPP. There can be no assurance, however, that the PPP Loan will be forgiven in whole or in part. In March 2021 RGF, LLC applied for forgiveness of the full \$309 thousand principal amount and \$3.6 thousand of accrued interest payable. As of July 30, 2021, this forgiveness application remains under view by the SBA and lender.

### **Interest Expense**

Interest expense was \$5.4 million and \$5.7 million for the years ended December 31, 2019 and 2020, including amortization expense related to deferred loan and success fees in the amounts of \$2.7 million and \$1.1 million, respectively.

The effective weighted-average interest rate represents the aggregate rate of interest incurred (including loan costs included in interest expense) on outstanding debt and is substantially greater than the stated interest rate due to the fees discussed above. The effective weighted-average interest rate as of December 31, 2019 and 2020 was as follows:

	WEIGHTED AVERAGE INTEREST RATE	
	2019	2020
PMC Revolver	25.0%	17.0%
PMC CapEx Line	16.0%	22.0%
PPZ Loan Arrangement	9.0%	9.0%
PPP Loan	N/A	1.0%

### **Debt Maturities**

Contractual future payments for all borrowings as of December 31, 2020 are as follows:

For the Year Ending December 31:  
(In thousands)

2021	\$ 2,943
2022	415
2023 and thereafter	36,521
Total payment outstanding	<u>\$39,879</u>

## **NOTE 9. EQUITY**

Membership interests in RGF, LLC consist of common units, Series A preferred units, and Series Seed preferred units. All units have equal voting rights.

### **Common Units**

Common units outstanding as of December 31, 2019 and 2020 were 62,097 and 62,957, respectively. As a limited liability company, the liability of each member and manager of RGF, LLC to third parties for obligations of RGF, LLC are limited.

### **Series A Preferred Units**

In March 2019, RGF, LLC issued 11,798 units of Series A preferred units at a price of \$626.12 per unit. Such units are not convertible and are redeemable only upon contingent events. The Series A preferred units are participating securities in periods of income, as the Series A preferred unit holders participate in undistributed earnings on a pro rata basis in accordance with the percentage of total membership units held. The Series A preferred unit holders do not share in losses.

The Series A preferred units provide for a cumulative annual return at a rate of 7.0%, and they receive liquidation preference over holders of common units and Series Seed preferred units after the Series Seed preferred unit holder receives payout of its capital contribution. As of December 31, 2019 and 2020, undeclared cumulative unpaid preferred returns were approximately \$418 thousand and \$964 thousand, respectively. Cumulative unpaid preferred returns increase the liquidation preference attributable to Series A preferred units.

#### **Series Seed Preferred Units**

The Series Seed preferred units are participating securities in periods of income, as the Series Seed preferred unit holders participate in undistributed earnings on a pro rata basis in accordance with the percentage of total membership units held. The Series Seed preferred unit holders do not share in losses. In the event of a deemed liquidation event, the Series Seed preferred unit holder receives payout of its capital contribution before other members.

#### **NOTE 10. LOSS PER UNIT**

The following table sets forth the computation of loss per unit:

(In thousands, except unit and per unit data)	YEAR ENDED DECEMBER 31,	
	2019	2020
Numerator:		
Net loss	\$(14,188)	\$(15,562)
Less: Series A cumulative preferred dividends	418	546
Net loss available to common members	<u>\$(14,606)</u>	<u>\$(16,108)</u>
Denominator:		
Weighted-average common units outstanding (basic and diluted)	62,097	62,238
Net loss per common unit (basic and diluted)	<u><u>\$(235.21)</u></u>	<u><u>\$(258.82)</u></u>

#### **NOTE 11. RELATED-PARTY TRANSACTIONS**

RGF, LLC entered into multiple related-party loan arrangements in 2017 and 2018 with a member of RGF, LLC who holds the Series Seed membership units and is a holder of more than 5% of RGF, LLC's membership interests. The outstanding balance of the debt from related parties was \$1.1 million and \$1.2 million as of December 31, 2019 and 2020, respectively, and the interest expense was \$100 thousand and \$90 thousand for the years ended December 31, 2019 and 2020, respectively. See Note 8, *Debt*, for discussion of RGF, LLC's debt.

RGF, LLC also obtained marketing services from one of RGF, LLC's members that holds 28,428 common units during May 2020 totaling \$22 thousand for the year ended December 31, 2020.

Additionally, four members of RGF, LLC's Board of Directors each hold more than 10% ownership of the common units, Series A preferred units, and Series Seed preferred units of the Company.

#### **NOTE 12. COMMITMENTS AND CONTINGENCIES**

##### **Purchase Commitments**

RGF, LLC has entered into various contracts, in the normal course of business, obligating it to purchase minimum quantities of ingredients used in its production and distribution processes, including cheese, chicken, and other ingredients that are inputs into its finished products. RGF, LLC entered into these contracts from time to time to ensure a sufficient supply of raw ingredients. None of these commitments are for durations greater than a year.

##### **Legal Matters**

RGF, LLC is party in the ordinary course of business to certain claims, litigation, audits, and investigations. RGF, LLC records an accrual for a loss contingency when it is probable that a loss has been incurred and the amount of the loss can be reasonably estimated. RGF, LLC believes that it has adequate accruals for liabilities with any such currently pending or threatened matter, none of which are significant. In RGF, LLC's opinion, the settlement of any such currently pending or threatened matter is not expected to have a material impact on RGF, LLC's financial position, results of operations, or cash flows.

### **NOTE 13. SUBSEQUENT EVENTS**

RGF, LLC has evaluated subsequent events through October 12, 2021, the date these financial statements are available to be issued. RGF, LLC believes there were no material events or transactions discovered during this evaluation that requires recognition or disclosure in the financial statements other than the items discussed below.

#### ***Acquisition of Co-Manufacturing Operation***

During the year ended December 31, 2020, the original sublessor of the City of Industry Facility, one of RGF, LLC's largest co-manufacturers during such period, experienced financial hardship as a result of the impacts of the COVID-19 pandemic, which resulted in a default under the facility lease, as well as a default pursuant to a credit agreement with PMC, under which the co-manufacturer had secured its borrowings with its assets, including equipment and inventory. In January 2021, RGF, LLC entered into a transfer agreement to sublease the premise and take possession of such equipment and inventory in the premise for \$12.5 million. Of this amount, \$10.0 million is payable upon the sale, liquidation, or disposition of substantially all of RGF, LLC's membership, with the remaining \$2.5 million payable in installments through July 2022. In connection with the sublease, in February 2021 RGF, LLC entered into a purchase agreement with PMC to consummate the purchase of such equipment and inventory for an estimated purchase price of \$6.5 million, of which \$4.5 million was payable in cash at the close of the transaction.

These agreements (collectively the "Transaction") represent the acquisition of a co-manufacturing business belonging to one of RGF, LLC's former suppliers. The Transaction closed in March 2021. To partially fund the Transaction, RGF, LLC entered into an agreement with PMC during February 2021 to obtain a term loan of \$4.5 million with payments due over 54 months commencing on September 30, 2021. The term loan shall bear interest at an annual rate equal to the greater of the prime rate announced by Wells Fargo Bank, N.A., or 3.25%, plus 8.60% per annum.

#### ***Extension of Debt Maturity***

On March 29, 2021, RGF, LLC entered into an amendment to the PMC Credit Facility which extended the maturity date for amounts due under the PMC Revolver to January 31, 2023, excluding the \$1.25 million success fee which remained payable on June 30, 2021.

#### ***Profits Interest***

On January 24, 2021, the board of managers of RGF, LLC approved a profits interest unit award to its Chief Financial Officer constituting a profit distribution percentage equal to 2.0%. An additional 2.5% profits interest unit grant was also made, vesting contingent upon the successful execution of an initial public offering or other specified corporate events, and continued employment for two years thereafter.

#### ***Fidelity Secured Financing***

On May 7, 2021, RGF, LLC entered into the 2021 Notes Agreement with the Fidelity Investors, pursuant to which the Fidelity Investors purchased the 2021 Notes from RGF, LLC in the amount of \$35.0 million. The 2021 Notes bear an interest rate of 1.0% per annum compounded annually on the unpaid principal balance. The principal and any accrued and unpaid interest are due on the first anniversary of the closing date of the 2021 Notes.

According to the terms of the 2021 Notes, upon the occurrence of a Qualified Financing, the notes convert into fully paid and non-assessable preferred units of RGF, LLC. A "Qualified Financing" is defined in the 2021 Notes Agreement as a transaction or series of related transactions, conducted with the principal purpose of raising capital, pursuant to which RGF, LLC issues and sells its preferred units (as may be adjusted for any security split, security dividend, combination, or other recapitalization or reclassification effected after May 7, 2021), with aggregate gross proceeds to RGF, LLC of at least \$50.0 million (excluding all proceeds from the 2021 Notes and from any incurrence, conversion, or cancellation of other indebtedness or other securities converting into Units in the financing). The discount rate in connection with a Qualified Financing is 20.0%.

Further, pursuant to the terms of the 2021 Notes, the notes convert into common units of RGF, LLC upon the occurrence of a Qualified Public Transaction. A "Qualified Public Transaction" includes the closing of the issuance and sale of equity securities RGF, LLC in RGF, LLC's first firmly underwritten public offering with gross proceeds to RGF, LLC of not less than \$75.0 million pursuant to an effective registration statement under the Securities Act, and in connection with such offering, RGF, LLC's common units (as may be adjusted for any security split, security

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dividend, combination or other recapitalization or reclassification effected after May 7, 2021) are listed for trading on Nasdaq or the New York Stock Exchange. The discount rate in connection with a Qualified Public Transaction is 20.0%.



**THE REAL GOOD FOOD COMPANY LLC**

**Balance Sheets**

(In thousands, except unit and liquidation preference data)

	<b>AS OF</b>	
	<b>DECEMBER 31, 2020</b>	<b>JUNE 30, 2021 (Unaudited)</b>
<b>ASSETS</b>		
Current assets:		
Cash	\$ 28	\$ 654
Accounts receivable, net	3,533	4,601
Inventories	8,374	5,197
Other current assets	37	208
Total current assets	11,972	10,660
Property and equipment, net	1,745	5,883
Operating lease right of use assets	100	4,407
Deferred loan cost	1,584	281
Goodwill	—	12,486
Deferred transaction costs	—	761
Other noncurrent assets	69	178
Total assets	\$ 15,470	\$ 34,656
<b>LIABILITIES AND MEMBERS' DEFICIT</b>		
Current liabilities:		
Accounts payable	\$ 4,818	\$ 5,965
Operating lease liabilities	36	389
Finance lease liabilities	99	65
Business acquisition liabilities	—	1,515
Accrued and other current liabilities	667	2,653
Loan with PPZ, LLC, a related party	1,180	1,215
Convertible debt	—	35,370
Current portion of long-term debt	1,763	617
Total current liabilities	8,563	47,789
Long-term debt	36,936	9,764
Long-term operating lease liabilities	66	3,873
Long-term finance lease liabilities	72	38
Long-term business acquisition liabilities, net of current portion	—	13,694
Total Liabilities	45,637	75,158
Commitments and contingencies (Note 12)		
Members' deficit:		
Common units: 62,957 units issued and outstanding as of December 31, 2020 and June 30, 2021	1,013	1,013
Series A preferred units: 11,798 units issued and outstanding as of December 31, 2020 and June 30, 2021; liquidation preference of \$8.4 million as of December 31, 2020 and June 30, 2021	7,337	7,337
Series Seed preferred units: 28,428 units issued and outstanding as of December 31, 2020 and June 30, 2021; liquidation preference of \$715 thousand as of December 31, 2020 and June 30, 2021	715	715
Accumulated deficit	(39,232)	(49,567)
Total members' deficit	(30,167)	(40,502)
Total liabilities and members' deficit	\$ 15,470	\$ 34,656

See accompanying notes to the Financial Statements.

**THE REAL GOOD FOOD COMPANY LLC**

**Unaudited Statements of Operations**  
(In thousands, except unit and per unit data)

	<b>SIX MONTHS ENDED</b>	
	<b>JUNE 30,</b>	
	<b>2020</b>	<b>2021</b>
Net sales	\$ 18,054	\$ 35,463
Cost of sales	16,439	28,788
Gross profit	1,615	6,675
Operating expenses:		
Selling and distribution	3,949	5,968
Marketing	1,580	1,387
Administrative	1,073	5,802
Total operating expenses	6,602	13,157
Loss from operations	(4,987)	(6,482)
Interest expense	2,482	3,483
Change in fair value of convertible debt	—	370
Loss before income taxes	(7,469)	(10,335)
Income tax expense	(13)	—
Net loss	\$ (7,482)	\$ (10,335)
Preferred return on Series A preferred units	273	292
Net loss attributable to common unitholders	\$ (7,755)	\$ (10,627)
Net loss per common unit (basic and diluted)	\$ (124.89)	\$ (168.80)
Weighted-average common units outstanding (basic and diluted)	62,097	62,957

See accompanying notes to the Financial Statements.

**THE REAL GOOD FOOD COMPANY LLC**

**Unaudited Statements of Members' Deficit**

(In thousands, except number of units)

	COMMON UNITS		SERIES A PREFERRED UNITS		SERIES SEED PREFERRED UNITS		ACCUMULATED DEFICIT	TOTAL MEMBERS' DEFICIT
	SHARES	AMOUNT	SHARES	AMOUNT	SHARES	AMOUNT		
Balance, December 31, 2019	62,097	\$ 870	11,798	\$ 7,337	28,428	\$ 715	\$ (23,670)	\$ (14,748)
Net loss	—	—	—	—	—	—	(7,482)	(7,482)
Balance, June 30, 2020	62,097	\$ 870	11,798	\$ 7,337	28,428	\$ 715	\$ (31,152)	\$ (22,230)
Balance, December 31, 2020	62,957	\$ 1,013	11,798	\$ 7,337	28,428	\$ 715	\$ (39,232)	\$ (30,167)
Net loss	—	—	—	—	—	—	(10,335)	(10,335)
Balance, June 30, 2021	62,957	\$ 1,013	11,798	\$ 7,337	28,428	\$ 715	\$ (49,567)	\$ (40,502)

See accompanying notes to the Financial Statements.

**THE REAL GOOD FOOD COMPANY LLC**

**Unaudited Statements of Cash Flows**

(In thousands)

	<b>SIX MONTHS ENDED JUNE 30,</b>	
	<b>2020</b>	<b>2021</b>
<b>Cash flows from operating activities:</b>		
Net loss	\$ (7,482)	\$ (10,335)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	296	447
Amortization of loan costs	375	1,303
Non-cash interest expense and debt fees	1,938	1,773
Remeasurement of contingent consideration in business combinations	—	73
Change in fair value of convertible debt	—	370
Changes in operating assets and liabilities:		
Accounts receivable	(3,670)	(1,068)
Inventories	1,774	3,677
Other assets	175	(279)
Accounts payable and accrued and lease liabilities	2,600	2,803
Net cash used in operating activities	<u>(3,994)</u>	<u>(1,236)</u>
<b>Cash flows from investing activities:</b>		
Acquisition of business, net of cash acquired	—	(1,633)
Purchase of property and equipment	<u>(16)</u>	<u>(895)</u>
Net cash used in investing activities	<u>(16)</u>	<u>(2,528)</u>
<b>Cash flows from financing activities:</b>		
Proceeds from debt	4,516	4,186
Proceeds from convertible notes	—	35,000
Payments on debt	(64)	(34,242)
Payments of deferred offering cost	—	(478)
Payments on finance lease liabilities	<u>(154)</u>	<u>(76)</u>
Net cash provided by financing activities	<u>4,298</u>	<u>4,390</u>
<b>Net increase in cash</b>	<b>\$ 288</b>	<b>\$ 626</b>
<b>Beginning cash</b>	<b>\$ 388</b>	<b>\$ 28</b>
<b>Ending cash</b>	<b>\$ 676</b>	<b>\$ 654</b>
<b>Supplemental disclosures of cash flow information:</b>		
Cash paid for interest	\$ 103	\$ 305
<b>Supplemental disclosures of noncash activities:</b>		
Net liabilities incurred from business combination	—	\$ 15,209
Lease liabilities arising from obtaining right-of-use-assets	—	\$ 4,250
Purchase of property and equipment in AP and accrued liabilities	—	\$ 77
Deferred offering costs in AP and accrued liabilities	—	\$ 283

See accompanying notes to the Financial Statements.

**THE REAL GOOD FOOD COMPANY LLC**  
**NOTES TO UNAUDITED FINANCIAL STATEMENTS**

**NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

The term “RGF, LLC” refers to The Real Good Food Company LLC.

***Description of Business***

RGF, LLC is a frozen food company that develops, markets, and manufactures foods that are designed to be high in protein, low in sugar, and gluten- and grain-free. RGF, LLC and its co-manufacturers produce breakfast sandwiches, entrées, and other products, which are primarily sold in the U.S. frozen food category, excluding frozen and refrigerated meat. RGF, LLC’s customers include retailers, which primarily sell its products through natural and conventional grocery, drug, club, and mass merchandise stores throughout the United States. Products are also sold through RGF, LLC’s e-commerce channel, which includes direct-to-consumer sales through its website, as well as sales through its retail customers’ online platforms.

RGF, LLC was formed under the laws of the State of California in February 2016.

***Basis of Presentation***

The accompanying financial statements of RGF, LLC have been prepared by RGF, LLC’s management in accordance with generally accepted accounting principles in the United States of America (“GAAP”).

***Unaudited Interim Financial Information***

The accompanying balance sheets as of June 30, 2021, the statements of operations, the statements of member’s deficit and statements of cash flows for the six months ended June 30, 2020 and 2021 are unaudited. The unaudited interim financial statements have been prepared on the same basis as the audited annual financial statements and, in the opinion of management, reflect all adjustments, which include only normal recurring adjustments, necessary to present fairly RGF, LLC’s financial position as of June 30, 2021 and the results of its operations and its cash flows for the six months ended June 30, 2020 and 2021. The financial data and other information disclosed in these notes related to the six months ended June 30, 2020 and 2021 are also unaudited. The results for the six months ended June 30, 2021 are not necessarily indicative of results to be expected for the year ending December 31, 2021, any other interim periods, or any future year or period. The balance sheet as of December 31, 2020 included herein was derived from the audited financial statements as of that date. Certain disclosures have been condensed or omitted from the interim financial statements in accordance with Regulation S-X of the Securities and Exchange Commission (“SEC”). These financial statements should be read in conjunction with the Company’s audited financial statements.

***Liquidity and Capital Resources***

Historically, RGF, LLC has financed its operations through issuances of equity securities, sales of its products, and borrowings under its credit agreements. RGF, LLC’s principal liquidity requirements are to meet working capital needs, make debt service payments, and fund capital expenditures.

RGF, LLC has experienced net losses in every period since its inception. As of June 30, 2021, RGF, LLC had an accumulated deficit of approximately \$49.6 million. In the six months ended June 30, 2020 and 2021, RGF, LLC incurred net losses of \$7.5 million and \$10.3 million, respectively. As of June 30, 2021, RGF, LLC had \$654 thousand in cash, current debt obligations of \$0.6 million, convertible debt obligations of \$35.4 million, and long-term debt obligations of \$9.8 million. Additionally, as of June 30, 2021, RGF, LLC had current and long-term business acquisition liabilities of \$1.5 million and \$13.7 million, respectively.

The accompanying financial statements as of December 31, 2020 and as of June 30, 2021 have been presented on the basis that RGF, LLC is a going concern, which contemplates the realization of assets and satisfaction of liabilities in the normal course of business. As a result, these financial statements do not include any adjustments that might result from the outcome of going concern uncertainty.

As of December 31, 2020, RGF, LLC’s recurring net losses and the amount of its indebtedness raised doubts regarding its ability to continue as a going concern. However, during the six months ended June 30, 2021, in

addition to pursuing an initial public offering ("IPO") of the Class A common stock of The Real Good Food Company, Inc. (the "Class A common stock"), through which the Company anticipates raising additional funds, RGF, LLC has taken a number of actions designed to enhance its liquidity and alleviate doubt regarding its ability to continue as a going concern, including reducing costs, extending the maturity date of certain existing indebtedness, and acquiring additional borrowing capacity. Specifically, RGF, LLC completed the following actions:

- On February 1, 2021, RGF, LLC and PPZ, LLC amended the PPZ Notes to extend the maturity dates of the notes to December 31, 2021.
- On March 29, 2021, RGF, LLC entered into an amendment to the PMC Credit Facility to extend the maturity date of the PMC Revolver from June 30, 2021 to January 31, 2023, excluding a \$1.25 million fee, which RGF, LLC paid in May 2021.
- During the three months ended March 31, 2021, RGF, LLC entered into a series of agreements pursuant to which it agreed to operate a manufacturing facility located in City of Industry, California ("City of Industry Facility") to produce its products, which included leasing the facility, acquiring certain equipment required to operate the facility and inventory located at the facility, and hiring certain employees. The transactions closed in March 10, 2021 and are further discussed in Note 4, *Business Combination*, below. Management believes that directly operating the City of Industry Facility will enable RGF, LLC to expand its production capacity, improve quality control, and enhance its gross margin.
- On May 7, 2021, RGF, LLC entered into a note purchase agreement (the "2021 Notes Agreement") with various Fidelity investment funds (collectively, the "Fidelity Investors"), pursuant to which the Fidelity Investors purchased convertible promissory notes of RGF, LLC with an aggregate principal amount of \$35.0 million (the "2021 Notes"), of which \$34.1 million was used to repay amounts owed pursuant to the PMC Credit Facility. In the event the IPO constitutes a Qualified Public Transaction as defined in the 2021 Notes Agreement and described in Note 8 below, the outstanding amount under the 2021 Notes will automatically convert into shares of Class A common stock. The 2021 Notes bear an interest rate of 1.0% per annum compounded annually on the unpaid principal balance. The principal and any accrued and unpaid interest are due on the first anniversary of the closing date of the 2021 Notes.

For additional information regarding RGF, LLC's indebtedness, including references to certain defined terms contained herein, refer to Note 8, *Debt* and Note 13, *Subsequent Events*.

RGF, LLC has also taken a number of other actions, including adopting a continuous improvement cost savings program that focuses on process improvements throughout RGF, LLC's supply chain and manufacturing operations to mitigate costs; implementing an enterprise resource planning system to streamline operations, and improve inventory management and cost efficiencies; and accelerating capital expenditures to reduce labor costs at the City of Industry Facility, including through the purchase of machinery to automate certain manual labor tasks.

In the event a Qualified Public Transaction or a Qualified Financing, as defined in the 2021 Notes Agreement and described in Note 8 below, does not occur prior to the maturity date of the 2021 Notes, RGF, LLC's ability to continue as a going concern would be contingent upon its ability to repay the 2021 Notes or extend the maturity date of the notes. While RGF, LLC believes that it is probable that the Fidelity Investors would agree to extend the maturity date of the 2021 Notes if no Qualified Public Transaction or Qualified Financing occurs prior to the maturity date, there can be no assurance this will occur. If the maturity date is not extended, RGF, LLC would be required to repay or refinance the amounts owed pursuant to the 2021 Notes. If RGF, LLC is unable to generate sufficient cash flows from operations to repay the 2021 Notes, it may need to seek to borrow additional funds, dispose of its assets, or reduce or delay capital expenditures. RGF, LLC may not be able to accomplish any of these alternatives on acceptable terms, or at all. The failure to generate sufficient cash flows from operations, or to accomplish any of these alternatives, could have a material adverse impact on the Company.

If RGF, LLC is successful in consummating the IPO, the net proceeds from the offering will generate additional liquidity to fund its working capital requirements and pursue its business plan. Assuming the IPO constitutes a Qualified Public Transaction, the 2021 Notes will convert into Class A common stock upon consummation of the

offering. However, there can be no assurance that RGF, LLC will be successful in consummating the IPO or that the IPO, if consummated, would constitute a Qualified Public Transaction. Further, even if RGF, LLC is successful, it may be required to seek additional equity or debt financing in order to meet its future liquidity requirements and pursue its strategic objectives. If RGF, LLC is unable to raise additional capital when desired, or on terms that are acceptable to RGF, LLC, its business, operating results, and financial condition could be adversely affected.

In light of the foregoing, and based on RGF, LLC's current level of operations and business plans, management believes that RGF, LLC's cash and cash equivalents balance, cash flows from operating activities, available borrowings under its credit agreements, and anticipated net proceeds from the IPO will be sufficient to meet its liquidity requirements for at least the next 12 months.

#### **COVID-19 Pandemic**

In March 2020, the World Health Organization declared the global novel coronavirus ("COVID-19") outbreak a pandemic. The COVID-19 pandemic has resulted in challenging operating environments and affected regions where RGF, LLC operates its business and in which RGF, LLC's products are made, manufactured, distributed, and sold. The ongoing impacts of the COVID-19 pandemic may continue to affect the ability of RGF, LLC and its co-manufacturers, suppliers, and customers to operate in certain regions, delay the development or launch of new products, disrupt the supply chain and manufacture or shipment RGF, LLC's ingredients, raw materials, or products, or have other adverse effects on RGF, LLC's business, financial condition, results of operations, and prospects. In addition, the impacts of the COVID-19 pandemic have caused substantial disruption in the financial markets and may adversely impact economies worldwide, both of which could result in adverse effects on RGF, LLC's business and operations and its ability to raise additional funds to support its operations.

In connection with the ongoing impacts of the COVID-19 pandemic, many of RGF, LLC's retail customers canceled or postponed shelf-resets, which significantly impacted RGF, LLC's net sales in the six months ended June 30, 2020. Further, one of RGF, LLC's key co-manufacturers experienced financial hardship as a result of the impacts of the COVID-19 pandemic, which resulted in RGF, LLC's inability to meet demand for certain of its products during the year ended December 31, 2020, and negatively impacted RGF, LLC's financial condition and results of operations. As discussed in Note 4 below, RGF, LLC sought to acquire the manufacturing operations of the co-manufacturer and completed a business combination transaction effective as of March 10, 2021. Although RGF, LLC has taken actions to mitigate the impacts of the COVID-19 pandemic on its business, it cannot at this time predict the specific extent, duration, or full impact that the COVID-19 pandemic will have on its business, financial condition, and operations, including its ability to successfully implement its growth strategy and to obtain additional financing to achieve its strategic objectives. The impacts of the COVID-19 pandemic on RGF, LLC's financial performance will depend on future developments, including the duration and spread of the pandemic; its impact on RGF, LLC's business, including its manufacturing capacity, and other third parties with whom it does business; progress of vaccination efforts; and related governmental advisories and restrictions. These developments and the impact of the COVID-19 pandemic on the financial markets and the overall economy are highly uncertain and cannot be predicted. If the financial markets or the overall economy are impacted for an extended period, RGF, LLC's business may be materially adversely affected.

#### **Use of Estimates**

The preparation of RGF, LLC's financial statements in conformity with GAAP requires management to use its judgment to make estimates and assumptions that affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities as of the date of the financial statements, and the reported amounts of net sales and expenses during the reporting period. Significant estimates and assumptions reflected in the financial statements include, but are not limited to, the allowance for credit losses, the write down of obsolete or excess inventory, valuation of business combination contingent consideration, and revenue recognition, including variable consideration for estimated reserves for discounts, incentives, and other allowances. Management bases its estimates on historical experience and on assumptions that it believes to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying value of assets and liabilities that are not readily apparent from other sources. Due to the inherent uncertainty involved in making assumptions and estimates, changes in circumstances could result in actual results differing from those estimates, and such differences could be material to RGF, LLC's balance sheets and statements of operations.



Management considered the impact of COVID-19 on the assumptions and estimates used to prepare RGF, LLC's financial statements and determined that there were no material adverse impacts on the financial statements for the year ended December 31, 2020 and six months ended June 30, 2021. As events continue to evolve and additional information becomes available, management's assumptions and estimates may change materially in future periods.

**Segment Reporting and Geographical Information**

For the six months ended June 30, 2021 and 2020, RGF, LLC was managed as a single operating segment. The Chief Executive Officer, who is the Chief Operating Decision Maker, reviews financial information on an aggregate basis for purposes of allocating resources and assessing financial performance, as well as for making strategic operational decisions and managing the organization. All of RGF, LLC's assets are maintained in the United States.

**Cash and Cash Equivalents**

RGF, LLC considers all highly liquid investments with a maturity period of three months or less, when acquired, to be cash equivalents. There were no cash equivalents as of December 31, 2020 and June 30, 2021.

**Significant Risks and Uncertainties**

RGF, LLC is subject to those risks common to brands within the frozen food category within the health and wellness industry. Various factors could negatively impact its business, including RGF, LLC's need to increase its net sales from existing customers and acquire new customers in order to execute its growth strategy; ability to introduce or market new or successfully improve existing products; ability to compete successfully within its highly competitive market; dependence on key personnel, suppliers, and co-manufacturers; customer concentration risk, or the loss of a single significant customer; compliance with government regulations; and indebtedness, including the financial restrictions and operating covenants included in the agreements governing such indebtedness, as well as a possibility of being unable to obtain additional financing at terms satisfactory to RGF, LLC when needed.

Further, changes in any of the following areas could have a significant negative effect on RGF, LLC, its financial position, results of operations, and cash flows: rates of revenue growth; its ability to manage inventory or pricing; engagement and usage of its products; effectiveness of its investment of resources to pursue strategies; competition in its market; the stability of food prices; impact of interest rate changes on demand and its costs; and addition or loss of significant customers.

**Concentration of Credit Risk**

Financial instruments which potentially subject RGF, LLC to concentrations of credit risk consist of cash, accounts receivable, and accounts payable. RGF, LLC maintains its cash balances in highly rated financial institutions. From time to time RGF, LLC's cash balances exceed the Federal Deposit Insurance Corporation limit. RGF, LLC has not experienced any loss relating to cash in these accounts and management believes RGF, LLC is not exposed to significant risks on such accounts.

In addition, RGF, LLC's net sales and receivables are concentrated among a small number of customers. For the six months ended June 30, 2020, RGF, LLC's three largest customers constituted 30%, 24% and 11% of net sales, respectively. Three customers make up 65% of net sales and are the only customers constituting greater than 10% of net sales for the six months ended June 30, 2020. For the six months ended June 30, 2021, the Company's two largest customers constituted 57% and 19% of net sales, respectively. Two customers make up 76% of net sales and are the only customers constituting greater than 10% of net sales for the six months ended June 30, 2021. The loss of any one of the Company's top two customers could have a materially adverse effect on the net sales and profits of the Company.

As of December 31, 2020, three customers accounted for a total of 46% of RGF, LLC's accounts receivable balance, or 16%, 19%, and 11%, respectively. As of June 30, 2021, three customers accounted for 65% of RGF, LLC's accounts receivable balance, or 30%, 20%, and 15%, respectively. No other customers accounted for more than 10% of total accounts receivable. Under Financial Accounting Standards Board ("FASB") Accounting Standards Codification ("ASC") Topic 606, *Revenue from Contracts with Customers* ("ASC 606"), RGF, LLC's customers are considered to be retailers who sell RGF, LLC's products to end consumers. RGF, LLC does not identify a significant risk in the recoverability of the trade account receivables considering its customers are major retailers within United States.

**Accounts Receivable**

Accounts receivable are recorded at the invoiced amount, net of allowances for estimated variable consideration and amounts payable to customers for slotting, which are fees assessed by customers for the cost of accepting new products into their store. Estimated product returns are immaterial. Management assesses the collectability of outstanding customer invoices, and if it deems necessary, maintains an allowance for credit losses resulting from the non-collection of customer receivables. In estimating this reserve, management considers factors such as historical collection experience, customer creditworthiness, specific customer risk, trends specific to the customer, and current and expected general economic conditions that may affect a customer's ability to pay. Customer balances are written off after all collection efforts are exhausted. RGF, LLC has recorded a reserve for credit losses of \$29 thousand and \$21 thousand as of December 31, 2020 and June 30, 2021, respectively.

**Inventories**

Inventories are stated at the lower of cost or net realizable value. RGF, LLC records sales and other reductions in inventory through cost of sales using the first-in, first-out method. The cost of finished goods inventories includes ingredients, direct labor, freight-in for ingredients, and indirect production and overhead costs.

RGF, LLC monitors its inventory to identify excess or obsolete items on hand. RGF, LLC writes down its inventories for estimated excess and obsolescence in an amount equal to the difference between the cost of inventories and estimated net realizable value. These estimates are based on management's judgment about future demand and market conditions. Once established, these adjustments are considered permanent and are not revised until the related inventory is sold or disposed of. Inventory write downs were \$0.5 million and \$0.6 million for the six months ended June 30, 2020 and 2021, respectively.

**Property and Equipment**

Property and equipment are stated at acquisition cost, net of accumulated depreciation. Property and equipment are capitalized and depreciated. Depreciation is calculated using the straight-line method typically over the following range of estimated useful lives of the assets as follows:

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	<b>ESTIMATED USEFUL LIVES</b>
Computer equipment	3 years
Office equipment	3 years
Machinery equipment	5-10 years

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Leasehold improvements are capitalized and amortized over the shorter of the useful life of the asset or the remaining term of the lease.

RGF, LLC reviews the recoverability of property and equipment when circumstances indicate that the carrying value may not be recoverable. Indicators of impairment could include, among other factors, significant changes in the business environment, the planned closure of a facility, or deteriorations in operating cash flows. Considerable management judgment is necessary to evaluate the impact of operating changes and to estimate future cash flows. Expenditures for repairs and maintenance which do not improve or extend the life of the assets are expensed as incurred.

**Leases**

RGF, LLC's leases consist of the following types of assets: corporate office space, warehouse, and equipment.

RGF, LLC determines whether a contract is or contains a lease at the time of the contract's inception based on the presence of identified assets and RGF, LLC's right to obtain substantially all the economic benefit from or to direct the use of such assets. When RGF, LLC determines a lease exists, it records a right-of-use ("ROU") asset and corresponding lease liability on its balance sheet. ROU assets represent RGF, LLC's right to use an underlying asset for the lease term. Lease liabilities represent RGF, LLC's obligation to make lease payments arising from the lease. Lease liabilities represent RGF, LLC's obligation to make lease payments arising from the lease. ROU assets are recognized at the lease commencement date at the value of the lease liability and are adjusted for any prepayments, lease incentives received, and initial direct costs incurred. Lease liabilities are recognized at the lease commencement

date based on the present value of remaining lease payments over the lease term. As the discount rate implicit in the lease is not readily determinable in most of RGF, LLC's leases, RGF, LLC uses its incremental borrowing rate based on the information available at the lease commencement date in determining the present value of lease payments. RGF, LLC's lease terms include options to extend the lease when it is reasonably certain that RGF, LLC will exercise that option.

RGF, LLC does not record lease contracts with a term of 12 months or less on its balance sheet. Expense for these short-term leases is recognized on a straight-line basis over the lease term.

RGF, LLC recognizes fixed-lease expense for operating leases on a straight-line basis over the lease term. For finance leases, RGF, LLC recognizes amortization expense over the shorter of (i) the estimated useful life of the underlying assets, or (ii) the lease term. In instances of title transfer, expense is recognized over the useful life. Interest expense on a finance lease is recognized using the effective interest method over the lease term.

RGF, LLC has lease agreements with non-lease components, such as maintenance- and utility-related charges. RGF, LLC accounts for each lease and any non-lease components associated with that lease as a single-lease component for all underlying asset classes. Accordingly, all costs associated with a lease contract are accounted for as lease costs.

Certain leasing arrangements require variable payments that are dependent on usage or output or may vary for other reasons, such as insurance and tax payments. Variable lease payments that do not depend on an index or rate are excluded from lease payments in the measurement of the ROU asset and lease liability and are recognized as expense in the period in which the payment occurs.

RGF, LLC's lease agreements do not include significant restrictions or covenants, and residual value guarantees are generally not included within its leases.

#### ***Fair Value of Financial Instruments***

Fair value is an exit price, representing the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. As such, fair value is a market-based measurement that should be determined based on assumptions that market participants would use in pricing an asset or liability. Fair value measurements of assets and liabilities are categorized based on the following hierarchy:

- Level 1—Quoted prices for identical instruments in active markets.
- Level 2—Quoted prices for similar instruments in active markets or quoted prices for identical or similar instruments in markets that are not active and model-derived valuations, in which all significant inputs are observable in active markets.
- Level 3—Unobservable inputs in which there is little or no market data, which require the reporting entity to develop its own assumptions.

The carrying value of RGF, LLC's short-term financial instruments, such as cash, accounts receivable, notes payable, and accounts payable, approximate the fair value due to the immediate or short-term maturity of these instruments. The interest rate on RGF, LLC's secured credit facility and certain other debt has a variable component, which is reflective of the market. Further, RGF, LLC has amended one of its debt agreements, comprising the line of credit with PMC Financial Services Group, LLC, to reflect the same interest rate during the year ended December 31, 2020 and six months ended June 30, 2021 and believes that the fair value of debt approximates its carrying value. Cash is categorized as Level 1 fair value measurements. At fair value, receivables and payables, including debt due to PMC and PPZ, is categorized as Level 2 fair value measurements.

RGF, LLC measures contingent consideration liabilities using unobservable inputs by applying an income approach, such as the probability-weighted scenario method. Various key assumptions, such as the probability and timing of achievement of the agreed milestones, are used in the determination of fair value of contingent consideration arrangements and are not observable in the market, thus representing a Level 3 measurement within the fair value hierarchy. See Note 4, *Business Combination*, for additional information.

RGF, LLC also had Level 3 instruments consisting of RGF, LLC's Fidelity Secured Financing convertible notes, see Note 8, *Debt*, for additional information.

#### **Profits Interest Units**

On April 1, 2017, the board of managers of RGF, LLC granted profits interest units to CPG Solutions, LLC ("CPG") in exchange for sales and marketing services. CPG is entitled to share in RGF, LLC's net profits and to receive a settlement payment at the time of a liquidity event, including a sale transaction. A sale is defined as a sale or transfer of substantially all of the assets or membership interests in RGF, LLC. Upon the sale of RGF, LLC, CPG will receive 10.0% of the profit on the sale based on the value of RGF, LLC at the end of the term ("Capped Value"). The Capped Value will be determined by multiplying the net sale price in connection with the RGF, LLC sale (purchase price less debt and capital contributions) by a fraction of which the numerator shall be the net revenue for the 12 months prior to the end of the termination of the services to RGF, LLC, and the denominator of which shall be net revenue for the 12 months prior to the determination of the purchase price.

While the profits interest units issued to CPG have features that are similar to both equity and liabilities, they have been determined to be primarily liability-like due to the following considerations: (i) value can be realized in connection with the profits interest units, either through distributions in the normal course of business or upon a liquidity event, to the extent that there are deemed profits as a result of the transaction; (ii) ordinary distributions are payable only while the grantee is providing service; (iii) distributions associated with a liquidity event are capped by a formula which is linked to the grantee's period of service; (iv) the profits interest units are not transferrable; and (v) the profits interest units do not convey voting rights. Based upon these factors, RGF, LLC concluded that the CPG profits interest units should be accounted for in accordance with ASC Topic 710, *Compensation, General* ("ASC 710"), similar to a performance bonus, and has classified such profits interest units as liabilities. As of June 30, 2021, no compensation expense had been recognized with respect to these profits interest units.

On October 9, 2020, the board of managers of RGF, LLC approved a profits interest unit award to its Chief Executive Officer ("CEO") constituting a profit distribution percentage equal to 3.0%, subject to dilution down to 2.0%, fully vesting after six months of employment. Additionally, after six months of employment, the CEO received an additional profits interest unit award in an amount equal to 5.0%, vesting in 24 equal monthly installments beginning with the 13th month following the vesting commencement date.

While the profits interest units issued to the CEO have features that are similar to both equity and liabilities, they have been determined to be primarily liability-like due to the following considerations: (i) the profits interests entitle the CEO to a payout upon a sale of RGF, LLC based on continued service through the date of an initial public offering and based upon the excess of distributable profits of RGF, LLC above a contractually agreed baseline; (ii) the profits interest units will be forfeited upon voluntary or involuntary termination of services; (iii) the profits interest units are not transferrable; and (iv) the profits interest units do not convey voting rights. Based upon these factors, RGF, LLC concluded that the CEO profits interest units should be classified as liability awards and accounted for as a performance bonus in accordance with ASC 710. Because payment with respect to the CEO profits interest units was not deemed probable or estimable as of June 30, 2021, no compensation expense has been recognized as of June 30, 2021.

On January 24, 2021, the board of managers of RGF, LLC approved a profits interest unit award to its Chief Financial Officer ("CFO") constituting a profit distribution percentage equal to 2.0%, vested immediately. An additional 2.5% profits interest unit grant was also made on the same date, vesting contingent upon the successful execution of an initial public offering or other specified corporate events, and continued employment for two years thereafter. While the profits interest units issued to the CFO have features that are similar to both equity and liabilities, they have been determined to be primarily liability-like due to the following considerations: (i) the profits interests entitle the CFO to a payout upon a sale of RGF, LLC based on continued service through the date of an initial public offering and based upon the excess of distributable profits of RGF, LLC above a contractually agreed baseline; (ii) the profits interest units will be forfeited upon voluntary or involuntary termination of services; (iii) the profits interest units are not transferrable; and (iv) the profits interest units do not convey voting rights. Based upon these factors, RGF, LLC concluded that the CFO profits interest units should be classified as liability awards and accounted for as a performance bonus in accordance with ASC 710. Because payment with respect to the CFO

profits interest units was not deemed probable or estimable as of June 30, 2021, no compensation expense has been recognized as of June 30, 2021.

### **Common Units Issued to Divario**

In February 2018, RGF, LLC entered into a product placement agreement (“PPA”) with Divario Ventures, LLC (“Divario”), a subsidiary of Albertsons Companies, Inc. (“Albertsons Companies”), pursuant to which RGF, LLC agreed to issue Divario common units (the “Divario Initial Equity”) in exchange for achievement and maintenance of specified distribution thresholds in retail locations operated by Albertsons Companies through October 31, 2020. Additionally, Divario may be entitled to additional common units (the “Divario Incentive Equity”) as incentive awards upon achievement of specified annual sales targets with Albertsons Companies through October 31, 2021. RGF, LLC paid \$35 thousand to Divario in connection with the execution of the PPA in February 2018. The PPA authorized the issuance of up to 5,240 common units of RGF, LLC in connection with the Divario Initial Equity. Additionally, the PPA authorized issuance of a variable number of common units in connection with the Divario Incentive Equity.

As both the Divario Initial Equity and Divario Incentive Equity represent consideration due to a customer under ASC 606, the grant date fair value of the awards, measured in accordance with ASC Topic 718, *Stock Compensation*, is recognized in earnings as contra-revenue over the term of the slotting arrangements based upon the relative volume of gross sales to Albertsons Companies during each fiscal period for the duration of the agreement.

A total of 5,240 common units were issued and outstanding as of December 31, 2020 and June 30, 2021 in connection with the Divario Initial Equity. RGF, LLC estimates that 1,294 common units may be issuable in connection with the Divario Incentive Equity, of which 860 units and 1,077 units were earned as of December 31, 2020 and June 30, 2021, respectively. RGF, LLC recognized contra-revenue of \$199 thousand and \$36 thousand related to the Divario equity awards during the six months ended June 30, 2020 and 2021, respectively. Total unrecognized consideration to Divario in connection with these awards was \$36 thousand as of June 30, 2021.

The estimated unearned amount of Divario Incentive Equity attributable to sales to Albertsons Companies during the term of the arrangement has been treated as constrained contract consideration under ASC 606 and recorded within other current liabilities, amounting to zero and \$36 thousand as of December 31, 2020 and June 30, 2021, respectively.

Additionally, in connection with this arrangement, Divario agreed to reimburse RGF, LLC for a portion of cash slotting fees that were paid to Albertsons Companies during the program term. These reimbursements represented a reduction to the consideration due to Albertsons Companies in connection with RGF, LLC's contract and have been amortized as adjustment to the contract price over the term of the arrangement. There were no reimbursements received from Divario for the six months ended June 30, 2020 and 2021. None of the reimbursements received to date were attributable to future sales, and no further reimbursements were expected from Divario under this program as of June 30, 2021.

### **Revenue Recognition**

The Company recognizes revenue in accordance with Accounting Standards Update (“ASU”) 2014-09, “Revenue from Contracts with Customers” (“Topic 606”).

RGF, LLC's revenue is principally derived from selling goods to retailers. Revenue is recognized when performance obligations under the terms of a contract with a customer are satisfied and promised goods have been transferred to the customer. Control transfers to the customer when the product is shipped or delivered to the customer based upon applicable shipping terms. For each contract, RGF, LLC considers the transfer of products, each of which is distinct, to be the identified performance obligation. Although some payment terms may be more extended, presently the majority of RGF, LLC's payment terms range from seven days to 60 days.

Variable consideration is included in revenue for trade promotions, off-invoice discounts, shrinkages and shortages, and other discounts and sales incentives. RGF, LLC uses a reserve to constrain revenue for the expected variable consideration at each period. See Note 3, *Revenue Recognition*, for additional information. Any taxes collected on behalf of government authorities are excluded from net sales.

### **Shipping and Handling Costs**

RGF, LLC's shipping and handling costs are included in both cost of sales and selling and distribution expense, depending on the nature of such costs. Cost of sales reflects cost incurred for inbound freight on ingredients to be used in production. Internal freight costs included in selling and distribution expenses consist primarily of those costs associated with moving products from production facilities through RGF, LLC's distribution network. Total internal freight costs recorded within selling and distribution expenses were \$0.8 million and \$1.0 million during the six months ended June 30, 2020 and 2021, respectively.

Shipping and handling costs associated with outbound freight are included within selling and distribution expenses and are accounted for as a fulfillment cost as incurred. Total of these costs recorded within selling and distribution expenses were \$2.3 million and \$3.2 million during the six months ended June 30, 2020 and 2021, respectively.

### **Marketing Expenses**

Marketing costs are expensed as incurred. RGF, LLC incurred \$1.6 million and \$1.4 million for the six months ended June 30, 2020 and 2021, respectively. Advertising and marketing costs are recorded in general and administrative expense in RGF, LLC's statements of operations.

### **Research and Development Expenses**

Research and development expenses are recorded in administrative expense in the statements of operations as incurred. During the six months ended June 30, 2021, RGF, LLC incurred \$1.5 million of research and development expenses. For the six months ended June 30, 2020, research and development expenses were not material.

### **Business Combination**

RGF, LLC accounts for business combinations under the acquisition method of accounting ASC Topic 805, *Business Combinations*, which requires the Company to recognize separately from goodwill the assets acquired, and the liabilities assumed at their acquisition date fair values. While RGF, LLC uses its best estimates and assumptions to accurately value assets acquired, and liabilities assumed at the acquisition date as well as contingent consideration, where applicable, the estimates are inherently uncertain and subject to refinement. As a result, during the measurement period, which may be up to one year from the acquisition date, RGF, LLC records adjustments to the identifiable assets acquired and liabilities assumed with the corresponding offset to goodwill. Upon the conclusion of the measurement period or final determination of the values of assets acquired or liabilities assumed, whichever comes first, any subsequent adjustments are recorded to the statements of operations. The amount by which the fair value of consideration transferred exceeds the fair value of the identifiable net assets acquired is recorded as goodwill.

### **Acquisition-Related Contingent Consideration**

Contingent consideration in a business combination is included as part of the purchase consideration and is recognized at fair value as of the acquisition date. For contingent consideration, management is responsible for determining the appropriate valuation model and estimated fair value, and in doing so, considers a number of factors, including information provided by valuation advisors. Contingent consideration liabilities are reported at their estimated fair values based on probability-adjusted present values of the consideration expected to be paid, using significant inputs and estimates. Key assumptions used in these estimates include probability assessments with respect to the likelihood of achieving certain milestones and discount rates consistent with the level of risk of achievement. The fair value of these contingent consideration liabilities are remeasured each reporting period, with changes in the fair value included in current operations. The remeasured liability amount could be significantly different from the amount at the acquisition date, resulting in material charges or credits in future reporting periods.

### **Goodwill**

Goodwill represents the excess of the aggregate fair value of the consideration transferred in a business combination over the fair value of the identifiable net assets acquired, net of liabilities assumed. RGF, LLC performs its annual goodwill impairment test as of the first day of the fourth quarter or more frequently if events or changes in circumstances indicate that the goodwill may be impaired.

RGF, LLC's goodwill is accounted for in a single reporting unit representing the company as a whole. As part of its annual impairment testing of goodwill, RGF, LLC may elect to assess qualitative factors as a basis for determining

whether it is necessary to perform the traditional quantitative impairment testing. If RGF, LLC's assessment of these qualitative factors indicates that it is more likely than not that the fair value of the reporting unit exceeds its carrying value, then no further testing is required. Otherwise, the goodwill reporting unit, must be quantitatively tested for impairment.

The quantitative impairment test for goodwill involves a comparison of the fair value of the reporting unit with its carrying amount, including goodwill. RGF, LLC determines the fair value of its reporting unit by using a market approach and a discounted cash flow ("DCF") analysis. Determining fair value using a DCF analysis requires the exercise of significant judgments, including judgments about appropriate discount rates, perpetual growth rates and the amount and timing of expected future cash flows. If the fair value of a reporting unit exceeds its carrying amount, goodwill of the reporting unit is not impaired. If the carrying amount of a reporting unit exceeds its fair value, an impairment loss is recognized in an amount equal to that excess. There were no goodwill impairment charges recorded during the six months ended June 30, 2020 and 2021.

#### **Convertible Promissory Note**

RGF, LLC accounts for convertible promissory notes under ASC Topic 815, *Derivatives and Hedging* ("ASC 815"). Under ASC 815-15-25, an election can be at the inception of a financial instrument to account for the instrument at fair value. RGF, LLC has made such election for convertible promissory notes issued in connection with the Fidelity Secured Financing; refer to Note 8, *Debt* for additional discussion. Under the fair value option, the convertible promissory notes are required to be recorded at their initial fair value on the date of issuance, and each balance sheet date thereafter. All subsequent changes in fair value, excluding the impact of the change in fair value related to the RGF, LLC's own credit risk, are recorded within change in fair value of convertible debt in the statements of operations. The changes in fair value related to the RGF LLC's own credit risk are recorded through other comprehensive income (loss).

#### **Income Taxes**

RGF, LLC is a pass-through entity for federal income tax purposes, and such taxes are the responsibility of the partners. Accordingly, RGF, LLC does not record federal income taxes, and there are no deferred taxes related to state and local level income taxes.

When applicable, RGF, LLC recognizes the income tax benefit from an uncertain tax position when it is more likely than not that, based on technical merits, the position will be sustained upon examination, including resolutions of any related appeals or litigation processes. RGF, LLC recognizes accrued interest related to uncertain tax positions as a component of income tax expense, and penalties, if incurred, are recognized as a component of income taxes.

RGF, LLC has recorded in the statements of operations income tax expense of \$13 thousand and zero for the six months ended June 30, 2020 and 2021, respectively, related to certain minimum state taxes as income taxes.

#### **Loss per Unit**

Loss per unit is computed by dividing RGF, LLC's net loss, after deducting any dividends on preferred units or accumulated on cumulative preferred units, by the weighted-average number of common units outstanding during the period, adjusted for the dilutive effect of any outstanding dilutive securities. As the Series Seed preferred units are participating, RGF, LLC utilizes the two-class method in computing loss per unit. The preferred unit holders participate in income but are not obligated to participate in losses. The two-class method did not impact the loss per unit calculation for the periods presented due to the net losses incurred in the six months ended June 30, 2020 and 2021. RGF, LLC's convertible promissory notes are included in the calculation of diluted earnings per share if the assumed conversion into common shares is dilutive, using the "if-converted" method. This calculation involves adding back the periodic interest expense associated with the convertible promissory notes to the numerator and by adding the shares that would be issued in an assumed conversion (regardless of whether the conversion option is in or out of the money) to the denominator for the purposes of calculating diluted earnings per share. See Note 10, *Loss per Unit* for additional information.

## **NOTE 2. RECENTLY ADOPTED ACCOUNTING PRONOUNCEMENTS**

ASU 2020-06—In August 2020, the FASB issued ASU No. 2020-06, *Debt—Conversion and Other Options (Subtopic 470-20) and Derivatives and Hedging—Contracts in Entity's Own Equity (Subtopic 815-40)*, amending an



issuer's accounting for convertible instruments and its application of the derivatives scope exception for contracts in its own equity. Early adoption is permitted for all entities for fiscal periods beginning after December 15, 2020, including interim periods within the same fiscal year. RGF, LLC early adopted ASU 2020-06 as of January 1, 2021 with no impact to its financial statements as RGF, LLC did not have any outstanding convertible debt or contracts in the Company's equity outstanding which failed the settlement criteria for equity classification as of the date of adoption.

### NOTE 3. REVENUE RECOGNITION

#### *Disaggregation of Net Sales*

The following table presents a disaggregation of RGF, LLC's net sales by revenue source. RGF, LLC believes that these revenue streams most appropriately depict the nature, amount, timing, and uncertainty of revenue and cash flows arising from contracts with its customers.

(In thousands)	SIX MONTHS ENDED JUNE 30,	
	2020	2021
Entrees	\$ 7,623	\$27,410
Breakfast Sandwiches	1,818	3,201
Other Frozen	8,613	4,852
<b>Total net sales</b>	<b>\$18,054</b>	<b>\$35,463</b>

#### *Revenue Recognition, Sales Incentives, and Accounts Receivable*

Revenue is recognized when the performance obligation is satisfied, as evidenced by the transfer of control of the promised good to the customer. This transfer occurs upon shipment of goods, as the customer can direct the use and obtain substantially all of the remaining benefits from the asset at this point in time. Revenue is recognized in an amount that reflects the consideration that RGF, LLC expects to ultimately receive in exchange for those promised goods, net of expected discounts for sales promotions and customary allowances. RGF, LLC offers sales promotions through various regional and national programs to its customers. These programs include in-store discounts as well as product coupons offered direct to consumers which may be redeemed at the point of sale. Customary allowances for early invoice payment and shrinkage are also applied by customers. The costs associated with these programs are accounted for as variable consideration as defined under ASC 606 and are reductions to the transaction price of the products. Depending on the specific type of sales incentive and other promotional program, the expected value method is used to determine the variable consideration. RGF, LLC reviews and updates its estimates and related accruals of variable consideration each period based on the terms of the agreements, historical experience, and expected levels of performance of the trade promotion or other programs. Any uncertainties in the ultimate resolution of variable consideration due to factors outside RGF, LLC's influence are typically resolved within a short timeframe therefore not requiring any additional constraint on the variable consideration. RGF, LLC also offers compensation to customers for access to shelf space in stores; associated payments are recognized as reductions to the transaction price received from the customer on sale of associated products.

Payment terms and conditions are generally consistent for customers, including credit terms to customers ranging from seven days to 60 days, and RGF, LLC's contracts do not include any significant financing component. RGF, LLC performs credit evaluations of customers and evaluates the need for allowances for potential credit losses based on historical experience, as well as current and expected general economic conditions. Accordingly, RGF, LLC has recorded immaterial losses within accounts receivable during the six months ended June 30, 2020 and 2021.

RGF, LLC applies the practical expedient that allows it to exclude disclosure of performance obligations that are part of a contract that has an expected duration of one year or less. All contracts are short term in nature, and there are no unsatisfied performance obligations requiring disclosure.

#### *Contract Assets and Liabilities*

Contract assets are rights to consideration in exchange for goods or services that RGF, LLC has transferred to a customer when that right is conditional on something other than the passage of time. Contract liabilities are



obligations to transfer goods or services to a customer for which RGF, LLC has received consideration, or for which an amount of consideration is due from the customer. RGF, LLC continually evaluates whether its contractual arrangements with customers result in the recognition of contract assets or liabilities. No contract assets or liabilities existed as of December 31, 2020 or June 30, 2021.

#### **NOTE 4. BUSINESS COMBINATION**

During the year ended December 31, 2020, SSRE Holdings, LLC ("SSRE"), the previous lessee of the City of Industry Facility, and one of RGF, LLC's largest co-manufacturers during the year ended December 31, 2020, experienced financial hardship as a result of the impacts of the COVID-19 pandemic, which resulted in a default under the facility lease, as well as a default pursuant to a credit agreement with PMC Financial Services, LLC ("PMC"), under which SSRE had secured its borrowings with certain assets, including food manufacturing equipment, raw materials, and finished goods inventory. The lease was subsequently reassigned by the landlord to LO Entertainment, LLC ("LO Entertainment"), and on January 4, 2021, RGF, LLC entered into a transfer agreement with LO Entertainment to sublease the premises and take possession of equipment and inventory on the premises in exchange for deferred payments totaling \$12.5 million. Of this amount, the contingent consideration of \$10.0 million is payable upon the sale, liquidation, or disposition of substantially all of RGF, LLC's membership. If the contingent consideration of \$10 million has not been paid within 12 months following the closing, the contingent consideration shall accrue interest at an annual rate of 9.0% and RGF, LLC shall make monthly payments of accrued interest only commencing the 13-month following the closing. For additional information, refer to the section entitled "*Contingent Consideration*," below. The remaining \$2.5 million is payable in instalments through June 2022 of which \$852 thousand is outstanding as of June 30, 2021 and is recorded within business acquisition liabilities in the accompanying balance sheet.

Additionally, on February 16, 2021, RGF, LLC entered into a purchase agreement with PMC to purchase equipment and inventory used in the food manufacturing operations at the City of Industry Facility for a purchase price of up to \$6.5 million, of which \$4.5 million was payable in cash at the close of the transaction. The remaining \$2.0 million represents contingent consideration for which RGF, LLC, has determined payments are not expected, and as such this amount was excluded from the measurement of purchase consideration.

These agreements (collectively the "Transaction") represent the acquisition the co-manufacturing business belonging to SSRE. The Transaction closed on March 10, 2021. To finance the PMC portion of the Transaction, RGF, LLC entered into an agreement with PMC in February 2021 to obtain a term loan of \$4.5 million (the "PMC Term Loan") with payments due over 54 months commencing on September 30, 2021 and interest-only payments commencing at the close of the Transaction. The PMC Term Loan shall bear interest at an annual rate equal to the greater of the prime rate announced by Wells Fargo Bank, N.A., or 3.3%, plus 8.6% per annum. Amounts outstanding under the PMC Term Loan are recorded within business acquisition liabilities and long-term business acquisition liabilities, net of current portion in the accompanying balance sheet. Related interest expense was \$199 thousand for the six months ended June 30, 2021, which is included in total interest expense as disclosed in Note 8, *Debt*.

The Transaction was accounted for under the acquisition method of accounting. Accordingly, the fair value of the purchase consideration was measured and subsequently allocated to the assets acquired and liabilities assumed based on their estimated fair values as of the date of acquisition. The excess of the purchase price over the estimated fair value of the net assets acquired was recorded as goodwill.

In determining the fair value of the purchase consideration as of March 10, 2021, RGF, LLC determined the PMC Term Loan to be at market terms, and therefore the fair value to be equal to the stated contractual value of \$4.5 million. With respect to the agreement with LO Entertainment, the \$2.5 million in deferred payments and \$10.0 million in contingent consideration was estimated to have a total fair value of \$12.3 million, comprising \$9.8 million of contingent consideration and \$2.5 million of deferred payments to LO Entertainment as of the transaction date. See *Contingent Consideration* below for additional information.

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The following table summarizes the allocation of the fair market value of the purchase consideration to the assets acquired and liabilities assumed as of March 10, 2021:

(In thousands)	AS OF MARCH 10, 2021
Inventories	\$ 500
Property and equipment	3,577
Operating leases right-of-use assets	3,158
Total identifiable assets	\$ 7,235
Operating lease liabilities – current	\$ 174
Operating lease liabilities – non-current	2,777
Total liabilities assumed	\$ 2,951
Net identifiable assets acquired	\$ 4,284
Goodwill	12,486
<b>Total purchase price allocation</b>	<b>\$ 16,770</b>

The goodwill recorded in this transaction is not tax deductible. The results of operations of the acquired co-manufacturing business from March 11, 2021 through June 30, 2021 have been reflected within the financial statements.

For the six months ended June 30, 2021, RGF, LLC recorded acquisition-related expenses associated with the Transaction of \$34 thousand, within administrative expense on the statement of operations.

Disclosure of supplemental pro forma information for revenue and earnings related to the acquisition, assuming the acquisition was made at the beginning of the earliest period presented, has not been included herein since the effects of the acquisition would not have been material to the results of operations for the periods presented given the intercompany nature of a substantial portion of the acquired business.

### Contingent Consideration

As of June 30, 2021, the estimated fair value of the contingent consideration totaled \$9.9 million, which is reported within long-term business acquisition liabilities, net of current portion in the accompanying balance sheet. The estimated fair value of the contingent consideration payments, all of which relate to contingent payments to LO Entertainment, is determined using a probability-weighted scenario method based on the timing of achievement and the probability of sale, liquidation, or disposition of substantially, all of RGF, LLC's membership. The estimated value of the contingent consideration is based upon available information and certain assumptions, known at the time of this report, which management believes are reasonable. Any difference in the actual contingent consideration payment will be recorded in operating income in the statements of operations.

The recurring Level 3 fair value measurements of the contingent consideration liabilities include the following significant inputs as of June 30, 2021:

Input	RANGE	WEIGHTED AVERAGE BY RELATIVE FAIR VALUE
Discount rate	2.5%	2.5%
Term (in years)	0.25 - 1.25	0.52
Probability of payment	4.0% - 50.0%	45.8%

As of June 30, 2021, the estimated contingent consideration was re-evaluated and measured at fair value on a recurring basis using unobservable inputs (Level 3) as defined in ASC Topic 820, *Fair Value Measurement*. The

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resulting net change in the estimated contingent consideration for the six months ended June 30, 2021 was recorded in interest expense in the statements of operations and consisted of the following:

	AS OF JUNE 30, 2021
(In thousands)	
Opening balance	\$ 9,795
Change in fair value of estimated contingent consideration	62
<b>Closing balance</b>	<b>\$ 9,857</b>

**NOTE 5. INVENTORIES**

Inventories as of December 31, 2020 and June 30, 2021 consisted of the following:

	AS OF DECEMBER 31, 2020	JUNE 30, 2021
(In thousands)		
Ingredients and supplies	\$ 2,428	\$ 2,396
Finished goods	5,946	2,801
<b>Total inventories</b>	<b>\$ 8,374</b>	<b>\$ 5,197</b>

**NOTE 6. PROPERTY AND EQUIPMENT**

Property and equipment as of December 31, 2020 and June 30, 2021 consisted of the following:

	AS OF DECEMBER 31, 2020	JUNE 30, 2021
(In thousands)		
Computer equipment	\$ 11	\$ 36
Machinery and equipment	3,155	7,644
Leasehold improvements and office equipment	14	85
Total property and equipment	3,180	7,765
Less: accumulated depreciation	(1,435)	(1,882)
<b>Property and equipment, net</b>	<b>\$ 1,745</b>	<b>\$ 5,883</b>

Depreciation expense was \$296 thousand and \$447 thousand for the six months ended June 30, 2020 and 2021, respectively.

**NOTE 7. LEASES**

RGF, LLC has operating and finance leases for the City of Industry Facility, equipment, and warehouse space, with lease classification determined at the inception of the arrangement. RGF, LLC's lease agreements do not contain any material residual value guarantees, bargain purchase options, or restrictive covenants. Leases with an initial term of 12 months or less are generally not recorded on the balance sheet, and the related expense for these leases is recognized on a straight-line basis over the lease term. RGF, LLC's lease terms include options to extend the lease when it is reasonably certain that RGF, LLC will exercise that option. Variable lease costs were not significant for the six months ended June 30, 2020 and 2021, respectively.

ROU assets represent RGF, LLC's right to use an underlying asset for the lease term, and lease liabilities represent RGF, LLC's obligation to make lease payments arising from the lease contract. Operating lease liabilities and their

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corresponding ROU assets are recorded based on the present value of fixed lease payments over the expected lease term. The interest rate implicit in lease contracts was not readily determinable. As such, RGF, LLC used an incremental borrowing rate based on the information available at commencement date. In the development of the discount rate, RGF, LLC considered its internal borrowing rate, treasury security rates, collateral, and credit risk specific to it, and its lease portfolio characteristics. As of December 31, 2020, and June 30, 2021, the weighted-average discount rate of RGF, LLC's operating and finance leases was 12%. The components of lease expense were as follows:

(In thousands)	Statements of Operations Location	SIX MONTHS ENDED JUNE 30,	
		2020	2021
Operating lease costs	Cost of sales	\$ 23	\$ 299
Finance lease costs			
Amortization of right-of-use assets	Cost of sales	76	94
Interest on lease liabilities	Interest expense	13	8
Short-term lease costs	Cost of sales	114	214
Total lease costs		<u>\$ 226</u>	<u>\$ 615</u>

Supplemental balance sheet information related to leases is as follows:

(In thousands)	Balance Sheet Location	AS OF	
		DECEMBER 31, 2020	JUNE 30, 2021
<b>Assets</b>			
Operating lease right-of-use assets	Operating lease right-of-use assets	\$ 100	\$ 4,407
Finance lease right-of-use assets	Property and equipment, net	592	509
Total lease assets		<u>\$ 692</u>	<u>\$ 4,916</u>
<b>Liabilities</b>			
Current:			
Operating lease liabilities	Operating lease liabilities	\$ 36	\$ 389
Finance lease liabilities	Finance lease liabilities	99	65
Noncurrent:			
Operating lease liabilities	Long term operating lease liabilities	66	3,873
Finance lease liabilities	Long term finance lease liabilities	72	38
Total lease liabilities		<u>\$ 273</u>	<u>\$ 4,365</u>

Supplemental cash flow information related to leases is as follows:

(In thousands)	SIX MONTHS ENDED JUNE 30,	
	2020	2021
<b>Supplemental Cash Flow Information:</b>		
Cash paid for amounts included in the measurement of lease liabilities		
Operating cash flows from operating leases	\$ 23	\$ 212
Operating cash flows from finance leases	13	8
Financing cash flows from finance leases	154	76
Supplemental noncash information on lease liabilities arising from obtaining right-of-use assets	—	4,250

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The maturities of RGF, LLC's operating and finance lease liabilities as of June 30, 2021 were as follows:

	OPERATING LEASES	FINANCE LEASES
(In thousands)		
2021 (Remaining six months)	\$ 418	\$ 37
2022	937	64
2023	940	13
2024	934	—
2025 and thereafter	3,156	—
Total future lease payments	6,385	114
Less: Interest	(2,123)	(11)
Present value of lease obligations	<u>\$ 4,262</u>	<u>\$ 103</u>

As of June 30, 2021, the weighted-average remaining term of RGF, LLC's operating leases and finance leases were 7.0 and 1.6 years, respectively.

#### NOTE 8. DEBT

Long-term debt consisted of the following as of December 31, 2020 and June 30, 2021:

			AS OF	
(In thousands)	MATURITY DATE	INTEREST RATE	DECEMBER 31, 2020	JUNE 30, 2021
PMC Revolver	January 2023	Prime rate plus 8.5%	\$ 36,871	\$ 8,009
PMC CapEx line	March 2025	Prime rate plus 8.5%	1,519	2,063
Related-party loan arrangement—PPZ Loan	December 2021	8.0% to 9.0%	1,180	1,215
PPP Loan	May 2022	1.0%	309	309
Fidelity Secured Financing	May 2022	1.0%	—	35,370
			39,879	46,966
Less: Current maturities of long-term debt			2,943	37,202
Long-term debt			<u>\$ 36,936</u>	<u>\$ 9,764</u>

#### PMC Credit Facility

On June 30, 2016, RGF, LLC entered into a loan and security agreement (the "PMC Credit Facility") with PMC Financial Services Group, LLC ("PMC"). As of December 31, 2020, the PMC Credit Facility, as amended, provided RGF, LLC with a \$36.5 million line of credit repayable on June 30, 2021 (the "PMC Revolver"), and permitted RGF, LLC to make repayments without penalty. Effective as of March 29, 2021, RGF, LLC entered into an amendment to the PMC Credit Facility to extend the maturity date of the PMC Revolver from June 30, 2021 to January 31, 2023, excluding the \$1.25 million "success fee," which was paid in May 2021. Accumulated borrowings on the PMC Revolver were partially repaid in May 2021 utilizing proceeds of the 2021 Notes Agreement as further discussed below in *Fidelity Secured Financing*. In addition, effective as of June 30, 2021, RGF, LLC entered into an amendment to the PMC Credit Facility to reduce the revolving limit of the PMC Revolver from \$36.5 million to \$15.0 million. Subsequently, on September 1, 2021, RGF, LLC entered into another amendment to the PMC Credit Facility to increase the revolving limit of the PMC Revolver from \$15.0 million to \$18.5 million; refer to Note 13, *Subsequent Events*. As amended, the PMC Credit Facility also provides for a \$3.0 million capital expenditure line of credit, which matures on March 31, 2025 (the "PMC CapEx Line"). The PMC CapEx Line was amended to increase borrowing capacity from \$2.0 million to \$3.0 million effective as of September 1, 2021; refer to Note 13,

*Subsequent Events.* The PMC Revolver and the PMC CapEx Line outstanding balances shall bear interest at an annual rate equal to the greater of the prime rate announced by Wells Fargo Bank, N.A. or 3.5%, plus 8.5% per annum. The PMC Credit Facility contains no financial covenants and is collateralized by RGF, LLC's accounts receivable, inventory, equipment, deposit accounts, and general intangibles.

As of December 31, 2020, and June 30, 2021, there was \$36.9 million and \$8.0 million outstanding on the PMC Revolver, respectively, which included the unpaid loan balance and fees. The balance outstanding as of December 31, 2020 was inclusive of the \$1.25 million "success fee" paid in May 2021. The success fee did not count toward available capacity on the PMC Credit Facility.

Since the inception of the PMC Credit Facility, loan costs, anniversary fees, and success fees that RGF, LLC incurred associated with the PMC Revolver have been paid in kind. These fees were aggregated into RGF, LLC's debt balance and increased RGF, LLC's outstanding PMC Revolver balance, and were recorded in a deferred loan cost asset account classified in non-current assets. The presentation in the table above represents debt, including unpaid loan costs, anniversary, and success fees. The total amount of these fees included in debt for the year ended December 31, 2020 and six months ended June 30, 2021 is \$6.9 million and zero, respectively. The fees assessed in connection with the PMC Revolver are capitalized and amortized over the life of the PMC Credit Facility on a straight-line basis. If the PMC Revolver is retired before its maturity date, any remaining costs would be expensed in the same period. For loan fees and success fees, the deferred loan cost asset amounts for the year ended December 31, 2020 and six months ended June 30, 2021 were \$1.6 million and \$684 thousand, respectively, and reported in other non-current assets. The amortization of loan costs was \$375 thousand and \$1.3 million for the six months ended June 30, 2020 and 2021, respectively and is recorded as a part of interest expense. The amortization of loan cost for the six months ended June 30, 2021 included \$403 thousand of costs written off as the result of reduction of the revolving limit of the PMC Revolver from \$36.5 million to \$15.0 million, as noted above.

As of December 31, 2020, and June 30, 2021, the outstanding balances on the PMC CapEx Line were \$1.5 million and \$2.1 million, respectively. As of June 30, 2021, monthly payments of \$38 thousand are due on the PMC CapEx Line until its March 31, 2025 maturity.

#### **PPZ Loan**

RGF, LLC has entered into a series of loan arrangements with PPZ, LLC, a member of RGF, LLC (collectively the "PPZ Loan"). The PPZ Loan was initially entered into on February 21, 2017, pursuant to which RGF, LLC issued to PPZ, LLC a promissory note in the principal amount of \$400 thousand. Subsequently, RGF, LLC increased borrowings on the PPZ Loan on June 1, 2017 and October 25, 2018 by \$400 thousand and \$500 thousand, respectively. The \$40 thousand borrowing on the PPZ Loan bears interest at a rate of 8.0% per annum, and the \$400 thousand and \$500 thousand borrowings on the PPZ Loan each bear interest at a rate of 9.0% per annum. The PPZ Loan is collateralized by RGF, LLC's assets, including its deposit accounts, inventory, accounts receivable, property, plant, and equipment. RGF, LLC was in compliance with the covenants as of June 30, 2021. As of December 31, 2020, and June 30, 2021, the outstanding principal balance on the PPZ Loan was \$1.2 million. The PPZ Loan balance has been included in current liabilities as of December 31, 2020 and June 30, 2021 as all borrowings were due within one year based on the respective agreements in effect as of the balance sheet date. The PPZ Loan matures on December 31, 2021.

#### **PPP Loan**

On May 9, 2020, RGF, LLC received loan proceeds in the amount of \$309 thousand under the Paycheck Protection Program ("PPP") from Carter Federal Credit Union (the "PPP Loan"). The PPP, established as part of the Coronavirus Aid, Relief and Economic Security Act, provides for loans to qualifying businesses for amounts of up to 2.5 times the average monthly payroll expenses of the qualifying business. Under the terms of the PPP Loan, the entire amount of principal and accrued interest may be forgiven to the extent the borrower uses the proceeds for qualifying expenses as determined by the U.S. Small Business Administration ("SBA") under the PPP, including payroll, benefits, rent and utilities, and maintains its payroll levels. As of December 31, 2020, and June 30, 2021, the outstanding balance on the PPP Loan was \$309 thousand. The unforgiven portion of the PPP Loan, if any, is payable over two years at an interest rate of 1.0% per annum, with a payment deferral for the first six months, and fully repayable on May 9, 2022. RGF, LLC believes that it used the proceeds for purposes consistent with the PPP. There can be no assurance, however, that the PPP Loan will be forgiven in whole or in part. In March 2021 RGF, LLC applied for forgiveness of the full \$309 thousand principal amount and associated interest. As of June 30,

2021, this forgiveness application remained under review by the SBA and lender. In August 2021, RGF, LLC was notified that forgiveness of the PPP Loan had been approved. We expect loan forgiveness will be recognized as a Type 2 subsequent event with a gain recorded within the statement of operations for the quarter ended September 30, 2021, in accordance with FASB Subtopic 470-50 (ASC 470-50) Debt – Modifications and Extinguishments. Refer to Note 13, *Subsequent Events*.

#### **Fidelity Secured Financing**

On May 7, 2021, RGF, LLC entered into a note purchase agreement (the “2021 Notes Agreement”) with various Fidelity investment funds (collectively, the “Fidelity Investors”), pursuant to which the Fidelity Investors purchased the convertible promissory notes of RGF, LLC with an aggregate principal amount of \$35.0 million (the “2021 Notes”), of which \$34.1 million was used to partially repay amounts owed pursuant to the PMC Credit Facility. The 2021 Notes bear an interest rate of 1.0% per annum compounded annually on the unpaid principal balance. The principal and any accrued and unpaid interest are due on the first anniversary of the closing date of the 2021 Notes.

According to the terms of the 2021 Notes, upon the occurrence of a Qualified Financing, the notes convert into fully paid and non-assessable Series A preferred units of RGF, LLC. A “Qualified Financing” is defined in the 2021 Notes Agreement as a transaction or series of related transactions, conducted with the principal purpose of raising capital, pursuant to which RGF, LLC issues and sells its Series A preferred units (as may be adjusted for any security split, security dividend, combination, or other recapitalization or reclassification effected after May 7, 2021), with aggregate gross proceeds to RGF, LLC of at least \$50.0 million (excluding all proceeds from the 2021 Notes and from any incurrence, conversion, or cancellation of other indebtedness or other securities converting into Units in the financing). The discount investors would receive in connection with a Qualified Financing is 20.0%.

Further, pursuant to the terms of the 2021 Notes, the notes convert into common units of RGF, LLC upon the occurrence of a Qualified Public Transaction. A “Qualified Public Transaction” includes the closing of the issuance and sale of equity securities RGF, LLC in RGF, LLC’s first firmly underwritten public offering with gross proceeds to RGF, LLC of not less than \$75.0 million pursuant to an effective registration statement under the Securities Act, and in connection with such offering, RGF, LLC’s common units (as may be adjusted for any security split, security dividend, combination or other recapitalization or reclassification effected after May 7, 2021) are listed for trading on Nasdaq or the New York Stock Exchange. The discount investors would receive in connection with a Qualified Public Transaction is 20.0%.

RGF, LLC has elected the fair value option under ASC 825, *Financial Instruments* for measurement of the 2021 Notes. As of June 30, 2021, the outstanding balance on the Fidelity Secured Financing was \$35.4 million. The Fidelity Secured Financing balance has been included in current liabilities as of June 30, 2021 as all borrowings were due within one year based on the 2021 Notes Agreement in effect as of the balance sheet date. The Fidelity Secured Financing contractually matures on March 7, 2022.

RGF, LLC measures the 2021 Notes using unobservable inputs by applying a convertible debt scenarios approach. Various key assumptions, such as the discount rate, call option value, and weighted probability are used in the determination of fair value of the 2021 Notes and are not observable in the market, thus representing a Level 3 measurement within the fair value hierarchy.

The recurring Level 3 fair value measurements of the 2021 Notes include the following significant inputs as of June 30, 2021:

Input	RANGE	WEIGHTED AVERAGE BY RELATIVE FAIR VALUE
Annualized volatility	70%-82%	81%
Dividend yield	0%	0%
Annual risk free rate	0.1%	0.1%
Time to maturity (in years)	0.25-0.85	0.37
Discount rate	15.7%	15.7%
Probability weight	5.0% - 65.0%	53.4%



For accounting purposes, the equity conversion feature did not meet the equity classification guidance, therefore the Company elected the fair value option under ASC Topic 825, Financial Instruments. The 2021 Notes were initially recognized at fair value on the balance sheet. All subsequent changes in fair value, excluding the impact of the change in fair value related to the RGF, LLC's own credit risk, are recorded within change in fair value of convertible debt in the statements of operations. The changes in fair value related to the RGF LLC's own credit risk are recorded through other comprehensive income (loss).

As of June 30, 2021, the 2021 Notes were measured at fair value using unobservable inputs (Level 3) as defined in ASC Topic 820, *Fair Value Measurement*. The resulting net change in the liability for the six months ended June 30, 2021 was recorded in the change in fair value of convertible debt in the statements of operations and consisted of the following:

(In thousands)	AS OF
	JUNE 30, 2021
Opening balance	\$ 35,000
Change in fair value 2021 Notes	370
Closing balance	<u>\$ 35,370</u>

The increase in fair value of the 2021 Notes was mainly attributable to the decrease in the maturity of the 2021 Notes, the increase in the call option value, and the change of probability weight used in the convertible debt scenarios approach. None of the increase in the value of the 2021 Notes was attributable to instrument specific credit risk and all of the gain in the change in fair value was recorded in the statement of operations.

#### **Interest Expense**

Interest expense was \$2.5 million and \$3.5 million for the six months ended June 30, 2020 and 2021, including amortization expense related to deferred loan and success fees in the amounts of \$0.4 million and \$1.3 million, respectively.

The effective weighted-average interest rate represents the aggregate rate of interest incurred (including loan costs included in interest expense) on outstanding debt and is substantially greater than the stated interest rate due to the fees discussed above. The effective weighted-average interest rates for the six months ended June 30, 2020 and 2021 were as follows:

	WEIGHTED AVERAGE INTEREST RATE	
	JUNE 2020	JUNE 2021
PMC Revolver	17.0%	27.1%
PMC CapEx Line	15.0%	11.0%
PPZ Loan Arrangement	9.0%	9.0%
PPP Loan	1.0%	1.0%
Fidelity Secured Financing	N/A	1.0%

**Debt Maturities**

Contractual future payments for all borrowings as of June 30, 2021 are as follows:

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**For the Year Ending December 31:****(In thousands)**

2021 (Remaining six months)	\$ 1,363
2022	36,007
2023 and thereafter	9,596
Total payment outstanding	<u>\$46,966</u>

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**NOTE 9. EQUITY**

Membership interests in RGF, LLC consist of common units, Series A preferred units, and Series Seed preferred units. All units have equal voting rights.

**Common Units**

Common units outstanding as of December 31, 2020 and June 30, 2021 were 62,957. As a limited liability company, the liability of each member and manager of RGF, LLC to third parties for obligations of RGF, LLC are limited.

**Series A Preferred Units**

In March 2019, RGF, LLC issued 11,798 units of Series A preferred units at a price of \$626.12 per unit. Such units are not convertible and are redeemable only upon contingent events. The Series A preferred units are participating securities in periods of income, as the Series A preferred unit holders participate in undistributed earnings on a pro rata basis in accordance with the percentage of total membership units held. The Series A preferred unit holders do not share in losses.

The Series A preferred units provide for a cumulative annual return at a rate of 7.0%, and they receive liquidation preference over holders of common units and Series Seed preferred units after the Series Seed preferred unit holder receives payout of its capital contribution. As of December 31, 2020, and June 30, 2021, undeclared cumulative unpaid preferred returns were approximately \$964 thousand and \$1.3 million, respectively. Cumulative unpaid preferred returns increase the liquidation preference attributable to Series A preferred units.

**Series Seed Preferred Units**

The Series Seed preferred units are participating securities in periods of income, as the Series Seed preferred unit holders participate in undistributed earnings on a pro rata basis in accordance with the percentage of total membership units held. The Series Seed preferred unit holders do not share in losses. In the event of a deemed liquidation event, the Series Seed preferred unit holder receives payout of its capital contribution before other members.

**NOTE 10. LOSS PER UNIT**

The following table sets forth the computation of loss per unit:

(In thousands, except unit and per unit data)	SIX MONTHS ENDED JUNE 30,	
	2020	2021
Numerator:		
Net loss	\$ (7,482)	\$(10,335)
Less: Series A cumulative preferred dividends	273	292
Net loss available to common members	<u>\$ (7,755)</u>	<u>\$(10,627)</u>
Denominator:		
Weighted-average common units outstanding (basic and diluted)	62,097	62,957
Net loss per common unit (basic and diluted)	<u><b>\$(124.89)</b></u>	<u><b>\$(168.80)</b></u>

RGF, LLC's potentially dilutive securities, which includes convertible debt, have been excluded from the computation of diluted net loss per share as they would be anti-dilutive. For all periods presented, there is no difference in the number of shares used to compute basic and diluted shares outstanding due to RGF, LLC's net loss position.

**NOTE 11. RELATED-PARTY TRANSACTIONS**

RGF, LLC entered into multiple related-party loan arrangements in 2017 and 2018 with a member of RGF, LLC who holds the Series Seed membership units and is a holder of more than 5% of RGF, LLC's membership interests. The outstanding balance of the debt from related parties was \$1.2 million as of December 31, 2020 and June 30, 2021, and interest expense was \$49 thousand and \$54 thousand for the six months ending June 30, 2020 and June 30, 2021, respectively. See Note 8, *Debt*, for discussion of RGF, LLC's debt.

RGF, LLC also obtained marketing services from one of RGF, LLC's members that holds 28,428 common units during May 2020 totaling \$22 thousand for the six months ending June 30, 2020. No associated expense was incurred for the six months ending June 30, 2021.

Additionally, four members of RGF, LLC's Board of Directors each hold more than 10% ownership of the common units, Series A preferred units, and Series Seed preferred units of the Company.

**NOTE 12. COMMITMENTS AND CONTINGENCIES*****Purchase Commitments***

RGF, LLC has entered into various contracts, in the normal course of business, obligating it to purchase minimum quantities of ingredients used in its production and distribution processes, including cheese, chicken, and other ingredients that are inputs into its finished products. RGF, LLC entered into these contracts from time to time to ensure a sufficient supply of raw ingredients. None of these commitments are for durations greater than a year.

***Legal Matters***

RGF, LLC is party in the ordinary course of business to certain claims, litigation, audits, and investigations. RGF, LLC records an accrual for a loss contingency when it is probable that a loss has been incurred and the amount of the loss can be reasonably estimated. RGF, LLC believes that it has adequate accruals for liabilities with any such currently pending or threatened matter, none of which are significant. In RGF, LLC's opinion, the settlement of any such currently pending or threatened matter is not expected to have a material impact on RGF, LLC's financial position, results of operations, or cash flows.

**NOTE 13. SUBSEQUENT EVENTS**

RGF, LLC has evaluated subsequent events through October 12, 2021, the date these financial statements were issued. RGF, LLC believes there were no material events or transactions discovered during this evaluation that requires recognition or disclosure in the financial statements other than the items discussed below.

***PPP Loan Forgiveness***

In March 2021, RGF LLC filed an application and supporting documentation to the SBA for complete forgiveness of the PPP Loan. The Company used the total PPP Loan proceeds of \$309 thousand for payroll expenses, therefore meeting one of the three requirements for loan forgiveness under the SBA's guidelines.

In August 2021, RGF, LLC's was notified that forgiveness of the PPP Loan had been approved. RGF, LLC derecognized the PPP Loan principal balance and the related accrued interest in the amount of \$4 thousand. RGF, LLC expects to recognize entire principal balance and the related accrued interest was recognized as a gain recorded in the statements of operations for the quarter ended September 30, 2021, in accordance with FASB Subtopic 470-50 (ASC 470-50) Debt—Modifications and Extinguishments.

***Increase of PMC Revolver Credit Limit***

On September 1, 2021, RGF, LLC entered into an amendment to the PMC Credit Facility to increase the PMC Revolver limit from \$15.0 million to \$18.5 million and the PMC CapEx Line credit limit from \$2.0 million to \$3.0 million. The amortization of the additional borrowing capacity under the capital expenditure line shall begin at the end of each quarter or at such other time agreed by the Company and PMC, in no event later than December 31, 2021.

## REPORT OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS

Board of Managers and Members  
The Real Good Food Company LLC

We have audited the accompanying statement of assets acquired and liabilities assumed of the Food Manufacturing Business of SSRE Holdings, LLC (the "Acquired Business") as of March 10, 2021, and the related notes to the statement.

### Management's responsibility for the statement

Management is responsible for the preparation and fair presentation of this statement in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of the statement that is free from material misstatement, whether due to fraud or error.

### Auditor's responsibility

Our responsibility is to express an opinion on the statement based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the statement is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the statement. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the statement, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the statement in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the statement.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### Opinion

In our opinion, the statement referred to above presents fairly, in all material respects, the assets acquired and liabilities assumed of the Food Manufacturing Business of SSRE Holdings, LLC as of March 10, 2021 in accordance with accounting principles generally accepted in the United States of America.

### Emphasis of matter

We draw attention to Note 1 – Basis of presentation to the financial statement, which describes that the statement was prepared for the purpose of complying with the rules and regulations of the Securities and Exchange Commission under Rule 3-05 of Regulation S-X and are not intended to be a complete presentation of assets and liabilities of the Acquired Business. Our opinion is not modified with respect to this matter.

/s/ GRANT THORNTON LLP

Newport Beach, California  
July 30, 2021

**FOOD MANUFACTURING BUSINESS OF SSRE HOLDINGS, LLC**  
**STATEMENT OF ASSETS ACQUIRED AND LIABILITIES ASSUMED**  
(In thousands)

	AS OF MARCH 10, 2021
<b>ASSETS ACQUIRED</b>	
Inventories	\$ 500
Property, plant, and equipment	3,577
Operating lease right-of-use assets	3,158
Goodwill	12,486
<b>Total assets acquired</b>	<b>\$ 19,721</b>
<b>LIABILITIES ASSUMED</b>	
Operating lease liabilities—current	\$ 174
Operating lease liabilities—non-current	2,777
<b>Total liabilities assumed</b>	<b>2,951</b>
<b>Net assets acquired</b>	<b>\$ 16,770</b>

See accompanying notes to the Statement of Assets Acquired and Liabilities Assumed.

**FOOD MANUFACTURING BUSINESS OF SSRE HOLDINGS, LLC**  
**NOTES TO STATEMENT OF ASSETS ACQUIRED AND LIABILITIES ASSUMED**  
**March 10, 2021**

**NOTE 1. BASIS OF PRESENTATION AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

On January 4, 2021, The Real Good Food Company LLC ("RGF, LLC" or the "Company") entered into a Transfer Agreement with LO Entertainment, LLC ("LO Entertainment") to become the sublessee of a food manufacturing facility formerly operated by SSRE Holdings, LLC ("SSRE") located in City of Industry, California (the "Facility"), as well as take possession of food manufacturing equipment, raw materials, and finished goods inventory on the premises (the "Personal Property"). On February 16, 2021, RGF, LLC entered into a Purchase Agreement with PMC Financial Services Group, LLC ("PMC") to acquire title to the Personal Property. Prior to the acquisition of the Facility and Personal Property, RGF, LLC had a vendor relationship with SSRE pursuant to which RGF, LLC used the Facility to produce RGF, LLC's products and provided supervisory support to RGF, LLC's employees.

During the second half of calendar year 2020, SSRE became in default of a debt facility with PMC under which the Personal Property was pledged as collateral, which led to seizure of the Personal Property by PMC. Additionally, SSRE became in default under its lease agreement with LTG Property, LLC ("LTG") for the Facility, which led to reassignment of the lease by LTG to a related party of SSRE, which in turn reassigned the lease to LO Entertainment. As the Facility was a primary food manufacturing facility for RGF, LLC, the Company sought during the first quarter of calendar year 2021 to acquire a lease on the Facility and title to the Personal Property. All conditions precedent to closing of the transactions were satisfied on March 10, 2021, and effectively resulted in RGF, LLC continuing its food manufacturing operations at the Facility (the "Transaction").

**Basis of Presentation**

The accompanying financial statement is prepared in accordance with accounting principles generally accepted in the United States of America ("U.S. GAAP"). The Statement of Assets Acquired and Liabilities Assumed is not a complete set of financial statements, but rather it presents the net assets acquired and liabilities assumed in the acquisition of SSRE at fair value as of March 10, 2021, in accordance with Financial Accounting Standards Board ("FASB") Accounting Standards Codification ("ASC") Topic 805, *Business Combinations* ("ASC 805"). RGF, LLC utilized the services of an independent valuation consultant, along with estimates and assumptions provided by management, to estimate the fair value of the assets acquired and liabilities assumed.

In accordance with a request for relief granted by the Securities and Exchange Commission ("SEC"), the Statement of Assets Acquired and Liabilities Assumed of SSRE on the basis of RGF, LLC's allocation of the purchase price is provided in lieu of certain historical financial information of SSRE required by Rule 3-05 and Article 11 of SEC Regulation S-X.

The allocation of the purchase price to the assets acquired and liabilities assumed was accounted for under the purchase method of accounting in accordance with ASC 805. Assets acquired and liabilities assumed in the transaction were recorded at their estimated acquisition date fair values, while transaction costs associated with the acquisition were expensed as incurred by RGF, LLC. RGF, LLC's preliminary allocation represents management's best estimate based on available data.

RGF, LLC is in the process of finalizing valuations of current assets, property, plant, and equipment (including estimated useful lives), goodwill, intangible assets (including estimated useful lives), and all current and noncurrent liabilities. The final determination of the fair value of assets and liabilities will be completed within the one-year measurement period as allowed by ASC 805.

**Summary of Significant Accounting Policies**

**Use of Estimates.** The preparation of financial statements in accordance with U.S. GAAP requires management to use estimates and assumptions that affect the reported amounts of assets and liabilities at the date of the financial statement and certain financial statement disclosures. Significant estimates in the Statement of Assets Acquired and Liabilities Assumed (the "Statement") include net realizable value of inventories and useful lives of property, plant, and equipment. Actual results could differ from these estimates.

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**Inventories.** Inventories were initially recorded at fair value, which establishes a new cost basis, on the date of purchase. Estimated values for the inventory acquired were subject to reliable estimates, as of the acquisition date, of future sales volumes, replacement costs, costs of selling effort, anticipated selling prices, and normal profit margins.

**Property, Plant, and Equipment.** Property, plant, and equipment were recorded at fair value, which establishes a new cost basis on the date of purchase. Estimated values for the acquired property, plant, and equipment were based on current market values and replacement costs of similar assets. Assets are generally depreciated using the straight-line method over the following estimated useful life of the assets:

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Machinery and production equipment	5 – 10 years
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**Goodwill.** The preliminary purchase price allocation resulted in the recognition of \$12.4 million of goodwill. Goodwill represents the excess of consideration transferred over the fair value of assets acquired and liabilities assumed and is attributable to the benefits of using the acquired set in future food manufacturing operations.

Goodwill is tested for impairment on an annual basis and more often if an event occurs or circumstances change that would more likely than not reduce the fair value of its carrying amount. The impairment tests consist of comparing the fair value with its carrying amount that includes goodwill. If the carrying amount exceeds its fair value, the Company compares the fair value of goodwill with the recorded carrying amount of goodwill. If the carrying amount of goodwill exceeds the fair value of goodwill, an impairment loss would be recognized to reduce the carrying amount to its fair value.

**Operating Lease.** The operating lease consists of the sublease acquired on the Facility. Right-of-use (“ROU”) asset and corresponding lease liability are recorded on the balance sheet as of the date of the acquisition of the Facility. ROU assets represent the right to use an underlying asset for the lease term. Lease liability represents RGF, LLC’s obligation to make lease payments arising from the lease. Lease liabilities have been recognized based on the present value of remaining lease payments over the lease term, measured in accordance with ASC Topic 842, *Leases*. ROU assets have been recognized equal to the lease liability, adjusted by the fair value of any favorable or unfavorable lease terms. As the discount rate implicit in the lease is not readily determinable, RGF, LLC used its incremental borrowing rate based on the information available at the Transaction date in determining the present value of lease payments. As RGF, LLC determined that it is reasonably certain to exercise an available extension under the lease, the option to extend has been included in the lease term.

## NOTE 2. INVENTORIES

The components of inventories are as follows:

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(In thousands)	AS OF MARCH 10, 2021
Raw materials	\$ 225
Finished goods	275
<b>Total inventories</b>	<b>\$ 500</b>

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## NOTE 3. PROPERTY, PLANT, AND EQUIPMENT

The components of property, plant, and equipment are as follows:

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(In thousands)	AS OF MARCH 10, 2021
Machinery and production equipment	\$ 3,577

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**NOTE 4. LEASES**

In connection with the Transaction, RGF, LLC obtained a sublease on the Facility. RGF, LLC recognized a ROU asset and corresponding lease liability of \$3.2 million and \$3.0 million respectively. The ROU asset includes a \$0.2 million adjustment for favorable lease terms measured at fair value. The ROU asset will be amortized as lease expense on a straight-line basis over the term of the lease.

Future minimum lease payments under the lease are as follows:

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<b>Year Ended December 31 (In thousands):</b>	
2021	\$ 401
2022	548
2023	564
2024	572
2025	572
Thereafter	<u>2,051</u>
Total future lease payments	4,708
Less: Interest	<u>(1,757)</u>
Present value of lease obligations	<u><b>\$ 2,951</b></u>

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**NOTE 5. SUBSEQUENT EVENTS**

Subsequent events have been evaluated through July 30, 2021, the date the Statement was issued.

**5,333,333 Shares**



**Class A Common Stock**

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**Prospectus**

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**Jefferies**

**William Blair**

**Truist Securities**

**Nomura**

, 2021

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**PART II**  
**INFORMATION NOT REQUIRED IN PROSPECTUS**

**Item 13. Other Expenses of Issuance and Distribution**

The following table sets forth the fees and expenses, other than underwriting discounts and commissions, payable by us in connection with the offering described in this registration statement. All amounts shown are estimates other than the registration fee, the FINRA filing fee, and the listing fee.

	AMOUNT TO BE PAID
SEC registration fee	\$ 9,097
FINRA filing fee	\$ 15,220
Nasdaq listing fee	\$ 150,000
Transfer agent's fees	\$ 25,000
Printing expenses	\$ 300,000
Legal fees and expenses	\$ 2,000,000
Accounting fees and expenses	\$ 1,250,000
Miscellaneous	\$ 150,683
<b>Total</b>	<b>\$ 3,900,000</b>

**Item 14. Indemnification of Directors and Officers**

Prior to the effectiveness of the registration statement, we intend to enter into separate indemnification agreements with our directors and executive officers that may be broader than the specific indemnification provisions contained in our Certificate of Incorporation and our Bylaws. These agreements, among other things, will require us to indemnify our directors and executive officers for certain expenses, including attorneys' fees, judgments, penalties, fines, and settlement amounts incurred by a director or executive officer in any action, suit, or proceeding arising out of their services as one of our directors or executive officers, or as a director or executive officer of any other company or enterprise to which the person provides services at our request.

Section 145 of the DGCL provides that a corporation may indemnify directors and officers as well as other employees and individuals against expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by such person in connection with any threatened, pending or completed actions, suits, or proceedings in which such person is made a party by reason of such person being or having been a director, officer, employee, or agent to the registrant. The DGCL provides that Section 145 is not exclusive of other rights to which those seeking indemnification may be entitled under any bylaw, agreement, vote of stockholders or disinterested directors, or otherwise. Our Bylaws provide for indemnification by the registrant of its directors, officers, and employees to the fullest extent permitted by the DGCL.

Section 102(b)(7) of the DGCL permits a corporation to provide in its certificate of incorporation that a director of the corporation shall not be personally liable to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to the corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) for unlawful payments of dividends or unlawful stock repurchases, redemptions, or other distributions, or (iv) for any transaction from which the director derived an improper personal benefit. Our Certificate of Incorporation will provide for such limitation of liability.

We maintain standard policies of insurance under which coverage is provided (a) to our directors and officers against loss arising from claims made by reason of breach of duty or other wrongful act, and (b) to us with respect to payments we may make to our officers and directors pursuant to the above indemnification provision or otherwise as a matter of law.

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In any underwriting agreement we enter into in connection with the sale of common stock being registered hereby, the underwriters will agree to indemnify, under certain conditions, us, our directors, our officers, and persons who control us within the meaning of the Securities Act against certain liabilities.

**Item 15. Recent Sales of Unregistered Securities**

In the three years preceding the filing of this Registration Statement, we have issued and sold the following unregistered securities:

On June 2, 2021, RGF, Inc. issued 10,000 shares of its common stock to RGF, LLC for \$1.00. The issuance of such shares of Class B common stock was not registered under the Securities Act because the shares were offered and sold in a transaction exempt from registration under Section 4(a)(2) of the Securities Act.

**Item 16. Exhibits and Financial Statement Schedules**

(a) The following exhibits are filed as part of this registration statement:

EXHIBIT NO.	DESCRIPTION OF EXHIBIT
1.1	<a href="#">Form of Underwriting Agreement.</a>
2.1	<a href="#">Plan of Conversion.</a>
3.1*	<a href="#">Form of Amended and Restated Certificate of Incorporation of RGF, Inc., to be effective upon the consummation of this offering.</a>
3.2*	<a href="#">Form of Amended and Restated Bylaws of RGF, Inc., to be effective upon the consummation of this offering.</a>
5.1	<a href="#">Opinion of Stradling Yocca Carlson &amp; Rauth, P.C.</a>
10.1*	<a href="#">Form of Tax Receivable Agreement, by and among RGF, Inc., RGF, LLC, and the Members, to be effective upon the consummation of this offering.</a>
10.2*	<a href="#">Form of Registration Rights Agreement, by and among RGF, Inc. and the Members, the Fidelity Investors, Bryan Freeman, Gerard G. Law, and Akshay Jagdale, to be effective upon the consummation of this offering.</a>
10.3	<a href="#">Form of Limited Liability Company Agreement of RGF, LLC, to be effective upon the consummation of this offering.</a>
10.4#	<a href="#">Form of Indemnification Agreement, to be entered into by and between RGF, Inc. and its directors and officers, to be effective upon the consummation of this offering.</a>
10.5#	<a href="#">Form of RGF, Inc. 2021 Stock Incentive Plan and related forms of stock award agreements.</a>
10.6#	<a href="#">Form of RGF, Inc. 2021 Employee Stock Purchase Plan.</a>
10.7*	<a href="#">Form of Exchange Agreement, by and among RGF, Inc., RGF, LLC, the Members, and the Fidelity Investors, to be effective upon the consummation of this offering.</a>
10.8#	<a href="#">Employment Agreement, dated as of October 27, 2021, by and between RGF, LLC and Bryan Freeman.</a>
10.9#	<a href="#">Employment Agreement, dated as of October 27, 2021, by and between RGF, LLC and Gerard G. Law.</a>
10.10#	<a href="#">Employment Agreement, dated as of October 27, 2021, by and between RGF, LLC and Akshay Jagdale.</a>
10.11*	<a href="#">Standard Industrial/Commercial Single-Tenant Lease—Gross, dated February 26, 2021, by and between RGF, LLC and DAHSCO Properties Yeager Avenue, LLC.</a>
10.12*	<a href="#">Standard Industrial/Commercial Multi-Tenant Lease—Gross, dated March 11, 2014, by and between LTG Property, LLC and Dumpling Delight, LLC.</a>
10.13*	<a href="#">Sublease for a Single Sublessee, dated March 9, 2021, by and between RGF, LLC and LO Entertainment, LLC.</a>
10.14*†	<a href="#">Purchase Agreement, dated February 16, 2021, by and between RGF, LLC and PMC Financial Services Group, LLC.</a>
10.15*	<a href="#">Profit Participation Agreement, dated April 1, 2017, by and between CPG Solutions, LLC and RGF, LLC.</a>
10.16*†	<a href="#">Lease, dated June 1, 2021, by and between RGF, LLC and 3 ECCH Owner LLC.</a>
10.17*	<a href="#">Loan and Security Agreement, dated June 30, 2016, by between RGF, LLC and PMC Financial Services Group, LLC.</a>
10.18*	<a href="#">Schedule to Loan and Security Agreement, dated June 30, 2016, by and between RGF, LLC and PMC Financial Services Group, LLC.</a>
10.19*†	<a href="#">Schedule #2 to Loan and Security Agreement, dated December 1, 2019, by and between RGF, LLC and PMC Financial Services Group, LLC.</a>
10.20*	<a href="#">Amendment Number Fifteen to Loan Security Agreement, dated December 7, 2020, by and between RGF, LLC and PMC Financial Services Group, LLC.</a>
10.21*	<a href="#">Amendment Number Sixteen to Loan and Security Agreement, dated February 16, 2021, by and between RGF, LLC and PMC Financial Services Group, LLC.</a>
10.22*	<a href="#">Amendment Number Seventeen to Loan and Security Agreement, dated March 29, 2021, by and between RGF, LLC and PMC Financial Services Group, LLC.</a>

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EXHIBIT NO.	DESCRIPTION OF EXHIBIT
10.23*	<a href="#"><u>Amendment Number Eighteen to Loan and Security Agreement, dated June 30, 2021, by and between RGF, LLC and PMC Financial Services Group, LLC.</u></a>
10.24*	<a href="#"><u>Amendment Number Nineteen to Loan and Security Agreement, dated September 1, 2021, by and between RGF, LLC and PMC Financial Services Group, LLC.</u></a>
10.25*	<a href="#"><u>Promissory Note, dated February 21, 2017, by and between RGF, LLC and PPZ, LLC.</u></a>
10.26*†	<a href="#"><u>Loan Agreement, dated June 1, 2017, by and between RGF, LLC and PPZ, LLC.</u></a>
10.27*	<a href="#"><u>Second Amendment to Promissory Note, dated February 1, 2021, by and between RGF, LLC and PPZ, LLC.</u></a>
10.28*†	<a href="#"><u>Loan and Security Agreement, dated October 25, 2018, by and between RGF, LLC and PPZ, LLC.</u></a>
10.29*	<a href="#"><u>Paycheck Protection Loan Simplified Loan Agreement, dated May 9, 2020, by and between RGF, LLC and Carter Federal Credit Union.</u></a>
10.30*†	<a href="#"><u>Contract Packing Agreement, dated November 5, 2018, by and between RGF, LLC and Me Gusta Gourmet Foods, Inc.</u></a>
10.31	<a href="#"><u>Industrial Building Lease, dated October 4, 2021, by and between RGF, LLC and HP-A Bolingbrook, LLC.</u></a>
21.1*	<a href="#"><u>Subsidiaries of RGF, Inc.</u></a>
23.1	<a href="#"><u>Consent of Grant Thornton LLP, independent registered public accounting firm.</u></a>
23.2	<a href="#"><u>Consent of Grant Thornton LLP, independent registered public accounting firm.</u></a>
23.3	<a href="#"><u>Consent of Grant Thornton LLP, independent certified public accountants.</u></a>
23.4	<a href="#"><u>Consent of Stradling Yocca Carlson &amp; Rauth, P.C. (incorporated by reference into Exhibit 5.1)</u></a>
24.1*	<a href="#"><u>Powers of Attorney (included on signature page to initial filing of this registration statement).</u></a>
99.1*	<a href="#"><u>Director Nominee Consent of Deanna T. Brady.</u></a>
99.2*	<a href="#"><u>Director Nominee Consent of Gilbert B. de Cardenas.</u></a>
99.3*	<a href="#"><u>Director Nominee Consent of Mark J. Nelson.</u></a>

\* Previously filed.

# Management contract or compensatory plan, contract, or arrangement.

† Certain of the exhibits and schedules to this Exhibit have been omitted in accordance with Item 601(a)(5) of Regulation S-K. A copy of any omitted schedule or exhibit will be furnished to the SEC upon request.

(b) No financial statement schedules are provided because the information called for is not required or is shown either in the financial statements or the notes thereto.

### Item 17. Undertakings

(a) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the SEC such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer, or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

(b) The undersigned registrant hereby undertakes that:

(1) For purposes of determining any liability under the Securities Act, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed by the Registrant pursuant to Rule 424(b)(1) or (4) or 497(h) under the Securities Act shall be deemed to be part of this registration statement as of the time it was declared effective.

(2) For the purpose of determining any liability under the Securities Act, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

## SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-1 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Cherry Hill, State of New Jersey, on this 28th day of October, 2021.

THE REAL GOOD FOOD COMPANY, INC.

By: /s/ Gerard G. Law

Name: Gerard G. Law

Title: Chief Executive Officer and Director

**SIGNATURES AND POWER OF ATTORNEY**

Pursuant to the requirements of the Securities Act of 1933, as amended, this registration statement has been signed by the following persons in the capacities and on the dates indicated:

<b>SIGNATURE</b>	<b>TITLE</b>	<b>DATE</b>
<u>/s/ Gerard G. Law</u> Gerard G. Law	Chief Executive Officer and Director (Principal Executive Officer)	October 28, 2021
<u>/s/ Akshay Jagdale</u> Akshay Jagdale	Chief Financial Officer (Principal Financial and Accounting Officer)	October 28, 2021
<u>/s/ Bryan Freeman</u> Bryan Freeman	Executive Chairman and Director	October 28, 2021
<u>*</u> George F. Chappelle, Jr.	Director	October 28, 2021

\*By: /s/ Gerard G. Law  
Gerard G. Law  
Attorney-in-Fact



[\_\_\_\_\_] Shares of Class A Common Stock

The Real Good Food Company, Inc.

UNDERWRITING AGREEMENT

[\_\_\_\_], 2021

JEFFERIES LLC  
WILLIAM BLAIR & COMPANY, L.L.C.  
As Representatives of the several Underwriters

c/o JEFFERIES LLC  
520 Madison Avenue  
New York, New York 10022

c/o WILLIAM BLAIR & COMPANY, L.L.C.  
150 North Riverside Plaza  
Chicago, Illinois 60606

Ladies and Gentlemen:

**Introductory.** The Real Good Food Company, Inc., a Delaware corporation (the “**Company**”), proposes to issue and sell to the several underwriters named in Schedule A (the “**Underwriters**”) an aggregate of [\_\_\_\_\_] shares of its Class A common stock, par value \$0.0001 per share (the “**Shares**”). The [\_\_\_\_\_] Shares to be sold by the Company are called the “**Firm Shares**.” In addition, the Company has granted to the Underwriters an option to purchase up to an additional [\_\_\_\_\_] Shares and the stockholder of the Company named in Schedule B (the “**Selling Stockholder**”) has granted to the Underwriters an option to purchase up to an additional [\_\_\_\_\_] Shares, all as provided in Section 2. The additional [\_\_\_\_\_] Shares which may be sold by the Company and the additional [\_\_\_\_\_] Shares which may be sold by the Selling Stockholder pursuant to such option are collectively called the “**Optional Shares**.” The Firm Shares and, if and to the extent such option is exercised, the Optional Shares are collectively called the “**Offered Shares**.” Jefferies LLC (“**Jefferies**”) and William Blair & Company, L.L.C. (“**William Blair**”) have agreed to act as representatives of the several Underwriters (in such capacity, the “**Representatives**”) in connection with the offering and sale of the Offered Shares.

The Shares to be outstanding after giving effect to the sales contemplated hereby and the Reorganization Transactions (as defined herein), together with the shares of Class B common stock, par value \$0.0001 per share (the “**Class B Common Stock**”), of the Company are hereinafter referred to as the “**Common Stock**”.

In connection with the offering contemplated by this Underwriting Agreement (this “**Agreement**”), the Company will become the sole managing member of Real Good Foods, LLC, a Delaware limited liability company (“**RGF LLC**”), and will directly own a [\_\_\_\_\_] % membership interest of RGF LLC, assuming no exercise of the option to purchase Additional Shares described in Section 2 hereof.

To the extent the context requires, any reference in this Agreement to the “**Reorganization Transactions**” shall have the meanings ascribed to the term the “Reorganization” in the Prospectus (as defined below). In connection with the offering contemplated by this Agreement and the Reorganization Transactions, (a) the Company will enter into a tax receivable agreement (the “**Tax Receivable Agreement**”) with all of RGF LLC’s members (the “**Members**”); (b) the Company will enter into a registration rights agreement with RGF LLC and the Members (the “**Registration Rights Agreement**”); (c) the Company will enter into an exchange agreement with RGF LLC and the Members (the “**Exchange Agreement**”); (d) the holders (the “**Holders**”) of the Company’s outstanding convertible promissory notes (the “**Notes**”) will receive shares of Class A Common Stock and Class B Common Stock upon the automatic conversion of the Notes, (e) RGF LLC will amend and restate its operating agreement to (i) appoint the Company as the sole managing member of RGF LLC; (ii) replace the membership interests currently held by the Members such that (1) all the Class A units in RGF LLC will be owned exclusively by the Company and (2) all the Class B units of RGF LLC will be owned exclusively by the Members in proportion to their percentage of ownership interests in RGF LLC immediately prior to the completion of the offering contemplated by this Agreement and by the Holders following the conversion of the Notes (as so amended and restated, the “**RGF LLC Agreement**”); (f) the Company will issue Class B Common Stock such that the Class B Common Stock will be owned exclusively by the Members in proportion to their percentage ownership in RGF LLC immediately prior to the completion of the offering contemplated by this Agreement and by the Holders following the conversion of the Notes; (g) the Company will amend and restate its certificate of incorporation (as so amended and restated, the “**Amended and Restated Charter**”) and (h) the Company will use the net proceeds the offering of the Offered Shares to purchase newly issued Class A units of RGF LLC pursuant to a subscription agreement (the “**Subscription Agreement**”).

This Agreement, the RGF LLC Agreement, the Amended and Restated Charter, the Tax Receivable Agreement, the Registration Rights Agreement and the Subscription Agreement are collectively referred to herein as the “**Transaction Documents**.”

The Company has prepared and filed with the Securities and Exchange Commission (the “**Commission**”) a registration statement on Form S-1, File No. 333-260204, which contains a form of prospectus to be used in connection with the public offering and sale of the Offered Shares. Such registration statement, as amended, including the financial statements, exhibits and schedules thereto, in the form in which it became effective under the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder (collectively, the “**Securities Act**”), including any information deemed to be a part thereof at the time of effectiveness pursuant to Rule 430A under the Securities Act, is called the “**Registration Statement**.” Any registration statement filed by the Company pursuant to Rule 462(b) under the Securities Act in connection with the offer and sale of the Offered Shares is called the “**Rule 462(b) Registration Statement**,” and from and after the date and time of filing of any such Rule 462(b) Registration Statement the term “Registration Statement” shall include the Rule 462(b) Registration Statement. The prospectus, in the form first used by the Underwriters to confirm sales of the Offered Shares or in the form first made available to the Underwriters by the Company to meet requests of purchasers pursuant to Rule 173 under the Securities Act, is called the “**Prospectus**.” The preliminary prospectus dated [\_\_\_\_], describing the Offered Shares and the offering thereof is called the “**Preliminary Prospectus**,” and the Preliminary Prospectus and any other prospectus in preliminary form that describes the Offered Shares and the offering thereof and is used prior to the filing of the Prospectus is called a “**preliminary prospectus**.” As used herein, “**Applicable Time**” is [\_\_\_\_] p.m. (New York City time) on [\_\_\_\_], 2021. As used herein, “**free writing prospectus**” has the meaning set forth in Rule 405 under the Securities Act, and “**Time of Sale Prospectus**” means the Preliminary Prospectus together with the free writing prospectuses, if any, identified in Schedule C hereto. As used herein, “**Road Show**” means a “road show” (as defined in Rule 433 under the Securities Act) relating to the offering of the Offered Shares contemplated hereby that is a “written communication” (as defined in Rule 405 under the Securities Act). As used herein, “**Testing-the-Waters Communication**” means each written or oral communication made in reliance on Section 5(d) of the Securities Act or Rule 163B of the Securities Act, by the Company or any person authorized to act on behalf of the Company to one or more potential

investors that are qualified institutional buyers (“**QIBs**”) and/or institutions that are accredited investors (“**IAIs**”), as such terms are respectively defined in Rule 144A and Rule 501(a) under the Securities Act, to determine whether such investors might have an interest in the Offered Shares; “**Written Testing-the-Waters Communication**” means any Testing-the-Waters Communication that is a written communication (within the meaning of Rule 405 under the Securities Act); “**Marketing Materials**” means any materials or information provided to investors by, or with the approval of, the Company in connection with the marketing of the offering of the Offered Shares, including any roadshow or investor presentations made to investors by the Company (whether in person or electronically); and “**Permitted Testing-the-Waters Communication**” means the Written Testing-the-Waters Communication(s) and Marketing Materials listed on Schedule D attached hereto.

All references in this Agreement to (i) the Registration Statement, any preliminary prospectus (including the Preliminary Prospectus), or the Prospectus, or any amendments or supplements to any of the foregoing, or any free writing prospectus, shall include any copy thereof filed with the Commission pursuant to its Electronic Data Gathering, Analysis and Retrieval System (“**EDGAR**”) and (ii) the Prospectus shall be deemed to include any “electronic Prospectus” provided for use in connection with the offering of the Offered Shares as contemplated by Section 3(o) of this Agreement.

In the event that the Company has only one subsidiary, then all references herein to “subsidiaries” of the Company shall be deemed to refer to such single subsidiary, mutatis mutandis.

Each of the Company, RGF LLC and the Selling Stockholder hereby confirms its respective agreements with the Underwriters as follows:

#### **Section 1.**

**A. Representations and Warranties of the Company and RGF LLC.** Each of the Company and RGF LLC, jointly and severally, hereby represents, warrants and covenants to each Underwriter, as of the date of this Agreement, as of the First Closing Date (as hereinafter defined) and as of each Option Closing Date (as hereinafter defined), if any, as follows:

**(a) Compliance with Registration Requirements.** The Registration Statement has become effective under the Securities Act. The Company has complied with all requests of the Commission for additional or supplemental information, if any. No stop order suspending the effectiveness of the Registration Statement is in effect and no proceedings for such purpose have been instituted or are pending or, to the knowledge of the Company, are contemplated or threatened by the Commission.

**(b) Disclosure.** Each preliminary prospectus and the Prospectus when filed complied in all material respects with the Securities Act and, if filed by electronic transmission pursuant to EDGAR, was identical (except as may be permitted by Regulation S-T under the Securities Act) to the copy thereof delivered to the Underwriters for use in connection with the offer and sale of the Offered Shares. Each of the Registration Statement and any post-effective amendment thereto, at the time it became or becomes effective, complied and will comply in all material respects with the Securities Act and did not and will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading. As of the Applicable Time, the Time of Sale Prospectus did not, and at the First Closing Date (as defined in Section 2) and at each applicable Option Closing Date (as defined in Section 2), will not, contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading. The Prospectus, as of its date, did not, and at the First Closing Date and at each applicable Option Closing Date, will not, contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances

under which they were made, not misleading. The representations and warranties set forth in the three immediately preceding sentences do not apply to statements in or omissions from the Registration Statement or any post-effective amendment thereto, or the Prospectus or the Time of Sale Prospectus, or any amendments or supplements thereto, made in reliance upon and in conformity with written information relating to any Underwriter furnished to the Company in writing by the Representatives expressly for use therein, it being understood and agreed that the only such information consists of the information described in Section 9(b) below (the “**Underwriter Information**”). There are no contracts or other documents required to be described in the Time of Sale Prospectus or the Prospectus or to be filed as an exhibit to the Registration Statement that have not been described or filed as required.

**(c) Free Writing Prospectuses; Road Show.** As of the determination date referenced in Rule 164(h) under the Securities Act, the Company was not, is not or will not be (as applicable) an “ineligible issuer” in connection with the offering of the Offered Shares pursuant to Rules 164, 405 and 433 under the Securities Act. Each free writing prospectus that the Company is required to file pursuant to Rule 433(d) under the Securities Act has been, or will be, filed with the Commission in accordance with the requirements of the Securities Act. Each free writing prospectus that the Company has filed, or is required to file, pursuant to Rule 433(d) under the Securities Act or that was prepared by or on behalf of or used or referred to by the Company complies or will comply in all material respects with the requirements of Rule 433 under the Securities Act, including timely filing with the Commission, retention and legending, as applicable, and each such free writing prospectus, as of its issue date and at all subsequent times through the completion of the public offer and sale of the Offered Shares did not, does not and will not include any information that conflicted, conflicts or will conflict with the information contained in the Registration Statement, the Prospectus or any preliminary prospectus unless such information has been superseded or modified as of such time. The representations and warranties set forth in the preceding sentence do not apply to statements in or omissions from any free writing prospectus made in reliance upon and in conformity with the Underwriter Information. Except for the free writing prospectuses, if any, identified in Schedule C, and electronic road shows, if any, furnished to the Representatives before first use, the Company has not prepared, used or referred to, and will not, without the prior written consent of the Representatives, prepare, use or refer to, any free writing prospectus. Each Road Show, when considered together with the Time of Sale Prospectus, did not, as of the Applicable Time, contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

**(d) Distribution of Offering Material By the Company.** Prior to the later of (i) the expiration or termination of the option granted to the several Underwriters in Section 2, (ii) the completion of the Underwriters’ distribution of the Offered Shares and (iii) the expiration of 25 days after the date of the Prospectus, the Company has not distributed and will not distribute any offering material in connection with the offering and sale of the Offered Shares other than the Registration Statement, the Time of Sale Prospectus, the Prospectus, any free writing prospectus reviewed and consented to by the Representatives, the free writing prospectuses, if any, identified on Schedule C hereto, and any Permitted Testing-the-Waters Communications.

**(e) The Underwriting Agreement.** This Agreement has been duly authorized, executed and delivered by the Company and RGF LLC.

**(f) Transaction Documents.** Each of the other Transaction Documents has been duly authorized and, when duly executed and delivered in accordance with its terms by each of the parties thereto, will constitute the valid and legally binding obligations of the Company and RGF LLC, as applicable, enforceable in accordance with its terms, (i) subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws of general applicability relating to or affecting creditors’ rights and to general equity principles and (ii) with respect to provisions regarding indemnity,

contribution and exculpation, except to the extent such provisions may not be enforceable due to applicable law or principles of public policy. Each of the Transaction Documents conforms in all material respects to the description thereof contained in the Registration Statement, the Time of Sale Prospectus and the Prospectus. The Reorganization Transactions conform in all material respects to the descriptions thereof in the Registration Statement, the Time of Sale Prospectus and the Prospectus.

**(g) Authorization of the Offered Shares, Class B Common Stock and Membership Interests of RGF LLC.** The Offered Shares have been duly authorized for issuance and sale pursuant to this Agreement and, when issued and delivered by the Company against payment therefor pursuant to this Agreement, will be validly issued, fully paid and nonassessable, and the issuance and sale of the Offered Shares is not subject to any preemptive rights, rights of first refusal or other similar rights to subscribe for or purchase the Offered Shares. The shares of Class B Common Stock to be issued by the Company pursuant to the Reorganization Transactions have been duly authorized for issuance and sale pursuant to the Transaction Documents, and, when issued and delivered by the Company against payment therefor pursuant to the Transaction Documents, will be validly issued, fully paid and non-assessable, and the issuance and sale of the shares of Class B Common Stock is not subject to any preemptive rights, rights of first refusal or other similar rights to subscribe for or purchase shares of Class B Common Stock. All of the membership interests of RGF LLC outstanding as of the First Closing Date have been duly authorized and, after giving effect to the Reorganization Transactions, will be validly issued, and to the extent owned by the Company, will be owned free and clear of any liens, encumbrances or claims.

**(h) No Applicable Registration or Other Similar Rights.** There are no persons with registration or other similar rights to have any equity or debt securities registered for sale under the Registration Statement or included in the offering contemplated by this Agreement, other than the Selling Stockholder with respect to the Offered Shares included in the Registration Statement, except for such rights as have been duly waived.

**(i) No Material Adverse Change.** Except as otherwise disclosed in the Registration Statement, the Time of Sale Prospectus and the Prospectus, subsequent to the respective dates as of which information is given in the Registration Statement, the Time of Sale Prospectus and the Prospectus: (i) there has been no material adverse change, or any development that could reasonably be expected, individually or in the aggregate, to result in a material adverse change, in (A) the condition, financial or otherwise, or in the earnings, business, properties, operations, operating results, assets, liabilities or prospects, whether or not arising from transactions in the ordinary course of business, of the Company or RGF LLC or (B) the ability of the Company and RGF LLC to consummate the transactions contemplated by this Agreement or perform their respective obligations hereunder (any such change being referred to herein as a “**Material Adverse Change**”); (ii) neither the Company nor RGF LLC has incurred any material liability or obligation, indirect, direct or contingent, including without limitation any losses or interference with its business from fire, explosion, flood, earthquakes, accident or other calamity, whether or not covered by insurance, or from any strike, labor dispute or court or governmental action, order or decree, that are material, individually or in the aggregate, to the Company or RGF LLC, nor have the Company or RGF, LLC entered into any material transactions not in the ordinary course of business; and (iii) there has not been any material decrease in the capital stock or any material increase in any short-term or long-term indebtedness of the Company or RGF LLC, and there has been no dividend or distribution of any kind declared, paid or made by the Company or RGF LLC, except for any repurchase or redemption by the Company or RGF LLC of any class of capital stock.

**(j) Independent Accountants.** Grant Thornton LLP, which has expressed its opinion with respect to the financial statements (which term as used in this Agreement includes the related notes thereto) filed with the Commission as a part of the Registration Statement, the Time of Sale Prospectus and the Prospectus, is (i) an independent registered public accounting firm as required by the Securities Act,

the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder (collectively, the “**Exchange Act**”), and the rules of the Public Company Accounting Oversight Board (“**PCAOB**”), (ii) in compliance with the applicable requirements relating to the qualification of accountants under Rule 2-01 of Regulation S-X under the Securities Act and (iii) a registered public accounting firm as defined by the PCAOB whose registration has not been suspended or revoked and who has not requested such registration to be withdrawn.

**(k) Financial Statements.** The financial statements filed with the Commission as a part of the Registration Statement, the Time of Sale Prospectus and the Prospectus present fairly the consolidated financial position of the Company and RGF LLC as of the dates indicated and the results of their operations, changes in stockholders’ equity and cash flows for the periods specified. Such financial statements have been prepared in conformity with generally accepted accounting principles as applied in the United States applied on a consistent basis throughout the periods involved, except as may be expressly stated in the related notes thereto, and except in the case of unaudited interim financial statements, which are subject to normal and recurring year-end adjustments and do not contain certain footnotes as permitted by the applicable rules of the Commission. No other financial statements or supporting schedules are required to be included in the Registration Statement, the Time of Sale Prospectus or the Prospectus. The financial data set forth in each of the Registration Statement, the Time of Sale Prospectus and the Prospectus under the captions “Prospectus Summary—Summary Financial and Other Data” and “Capitalization” fairly present, in all material respects, the information set forth therein on a basis consistent with that of the audited financial statements contained in the Registration Statement, the Time of Sale Prospectus and the Prospectus. The pro forma combined and consolidated financial statements of the Company and RGF LLC and the related notes thereto included under the caption “Unaudited Pro Forma Combined and Consolidated Financial Data” and elsewhere in the Registration Statement, the Time of Sale Prospectus or the Prospectus fairly present, in all material respects, the information contained therein, have been prepared in accordance with the Commission’s rules and guidelines with respect to pro forma financial statements and have been properly presented on the bases described therein, and the assumptions used in the preparation thereof are reasonable and the adjustments used therein are appropriate to give effect to the transactions and circumstances referred to therein. All disclosures contained in the Registration Statement, any preliminary prospectus, the Prospectus and any free writing prospectus, that constitute non-GAAP financial measures (as defined by the rules and regulations under the Securities Act and the Exchange Act) comply with Regulation G under the Exchange Act and Item 10 of Regulation S-K under the Securities Act, as applicable. To the Company’s and RGF LLC’s knowledge, no person who has been suspended or barred from being associated with a registered public accounting firm, or who has failed to comply with any sanction pursuant to Rule 5300 promulgated by the PCAOB, has participated in or otherwise aided the preparation of, or audited, the financial statements, supporting schedules or other financial data filed with the Commission as a part of the Registration Statement, the Time of Sale Prospectus and the Prospectus.

**(l) Company’s Accounting System.** Each of the Company and RGF LLC makes and keeps accurate books and records and maintains a system of internal accounting controls sufficient to provide reasonable assurance that: (i) transactions are executed in accordance with management’s general or specific authorization; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles as applied in the United States and to maintain accountability for assets; (iii) access to assets is permitted only in accordance with management’s general or specific authorization; and (iv) the recorded accountability for assets is compared with existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

**(m) Disclosure Controls and Procedures; Deficiencies in or Changes to Internal Control Over Financial Reporting.** Each of the Company and RGF LLC has established and maintains disclosure controls and procedures (as defined in Rules 13a-15 and 15d-15 under the Exchange Act), which (i) are designed to ensure that material information relating to the Company and RGF LLC is made known to the Company's principal executive officer and principal financial officer by others within the Company and RGF LLC, as applicable; and (ii) are effective in all material respects to perform the functions for which they were established. Except as disclosed in the Registration Statement, the Time of Sale Prospectus and the Prospectus, since the end of the Company's and RGF LLC's most recent audited fiscal year, there have been no material weaknesses in the Company's or RGF LLC's internal control over financial reporting (whether or not remediated) and no change in the Company's or RGF LLC's internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, the Company's and RGF LLC's internal control over financial reporting. Neither the Company nor RGF LLC is aware of any change in its internal control over financial reporting that has occurred during its most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the Company's or RGF LLC's internal control over financial reporting.

**(n) Incorporation and Good Standing of the Company and RGF LLC.** Each of the Company and RGF LLC has been duly incorporated or formed, as the case may be, and is validly existing as a corporation or limited liability company, as applicable, in good standing under the laws of the jurisdiction of its incorporation or formation, as applicable, and has the corporate or limited liability company power and authority to own, lease and operate its properties and to conduct its business as described in the Registration Statement, the Time of Sale Prospectus and the Prospectus and to enter into and perform its obligations under this Agreement and the other Transaction Documents. Each of the Company and RGF LLC is duly qualified as a foreign corporation or limited liability company, as applicable, to transact business and is in good standing in each jurisdiction in which the conduct of business requires such qualification, except to the extent that the failure to be so qualified or be in good standing would not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Change.

**(o) Capitalization and Other Capital Stock Matters.** The authorized, issued and outstanding capital stock of the Company and the authorized, issued and outstanding membership interests of RGF LLC is as set forth in the Registration Statement, the Time of Sale Prospectus and the Prospectus under the caption "Capitalization" (other than for subsequent issuances, if any, pursuant to employee benefit plans, pursuant to the Exchange Agreement, or upon the exercise of outstanding options or warrants, in each case described in the Registration Statement, the Time of Sale Prospectus and the Prospectus). The shares of Common Stock (including the Offered Shares) and the membership interests of RGF LLC conform in all material respects to the respective description thereof contained in the Time of Sale Prospectus. All of the issued and outstanding shares of Common Stock (including those owned by and to be offered by the Selling Stockholder) have been duly authorized and validly issued, are fully paid and nonassessable and have been issued in compliance with all federal and state securities laws. None of the outstanding shares of Common Stock and none of the membership interests of RGF LLC was issued in violation of any preemptive rights, rights of first refusal or other similar rights to subscribe for or purchase securities of the Company. There are no authorized or outstanding options, warrants, preemptive rights, rights of first refusal or other rights to purchase, or equity or debt securities convertible into or exchangeable or exercisable for, any capital stock of the Company or RGF LLC other than those described in the Registration Statement, the Time of Sale Prospectus and the Prospectus. The descriptions of the Company's stock option and other stock plans or arrangements, and the options or other rights granted thereunder, set forth in the Registration Statement, the Time of Sale Prospectus and the Prospectus accurately and fairly presents the information required to be shown with respect to such plans, arrangements, options and rights.

**(p) Stock Exchange Listing.** The Offered Shares have been approved for listing on The Nasdaq Global Market (the "**Nasdaq**"), subject only to official notice of issuance.

**(q) Non-Contravention of Existing Instruments; No Further Authorizations or Approvals Required.** Neither the Company nor RGF LLC is in violation of its charter or by-laws, partnership agreement or operating agreement or similar organizational documents, as applicable, or is in default (or, with the giving of notice or lapse of time, would be in default) (“**Default**”) under any indenture, loan, credit agreement, note, lease, license agreement, contract, franchise or other instrument (including, without limitation, any pledge agreement, security agreement, mortgage or other instrument or agreement evidencing, guaranteeing, securing or relating to indebtedness) to which the Company or RGF LLC is a party or by which it or any of them may be bound, or to which any of their respective properties or assets are subject (each, an “**Existing Instrument**”), except for such Defaults as would not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Change. Each of the Company’s and RGF LLC’s execution, delivery and performance of this Agreement and the other Transaction Documents, consummation of the transactions contemplated hereby and by the other Transaction Documents and by the Registration Statement, the Time of Sale Prospectus and the Prospectus, and the issuance and sale of the Offered Shares (including the use of proceeds from the sale of the Offered Shares as described in the Registration Statement, the Time of Sale Prospectus and the Prospectus under the caption “Use of Proceeds”) (i) have been duly authorized by all necessary corporate action and will not result in any violation of the provisions of the charter or by-laws, operating agreement or similar organizational documents, as applicable, of the Company or RGF LLC (ii) will not conflict with or constitute a breach of, or a Default or a Debt Repayment Triggering Event (as defined below) under, or result in the creation or imposition of any lien, charge or encumbrance upon any property or assets of the Company or RGF LLC pursuant to, or require the consent of any other party to, any Existing Instrument, and (iii) will not result in any violation of any law, administrative regulation or administrative or court decree applicable to the Company or RGF LLC. No consent, approval, authorization or other order of, or registration or filing with, any court or other governmental or regulatory authority or agency, is required for the Company’s or RGF LLC’s execution, delivery and performance of this Agreement and the other Transaction Documents and consummation of the transactions contemplated hereby and by the Registration Statement, the Time of Sale Prospectus and the Prospectus, except such as have been obtained or made by the Company and/or RGF LLC and are in full force and effect under the Securities Act and such as may be required under applicable state securities or blue sky laws, or the rules of the Financial Industry Regulatory Authority, Inc. (“**FINRA**”). As used herein, a “**Debt Repayment Triggering Event**” means any event or condition which gives, or with the giving of notice or lapse of time would give, the holder of any note, debenture or other evidence of indebtedness (or any person acting on such holder’s behalf) the right to require the repurchase, redemption or repayment of all or a portion of such indebtedness by the Company or RGF LLC.

**(r) Compliance with Laws.** The Company and RGF LLC have been and are in compliance with all applicable laws, rules and regulations, except where failure to be in compliance would not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Change.

**(s) No Material Actions or Proceedings.** There is no action, suit, proceeding, inquiry or investigation brought by or before any legal or governmental entity now pending or, to the knowledge of the Company or RGF LLC, threatened, against or affecting the Company or RGF LLC, which would reasonably be expected, individually or in the aggregate, to result in a Material Adverse Change. No material labor dispute with the employees of the Company or RGF LLC, or with the employees of any principal supplier, manufacturer, customer or contractor of the Company or RGF LLC, exists or, to the knowledge of the Company or RGF LLC, is threatened or imminent.

**(t) Intellectual Property Rights.** The Company and RGF LLC own, or have obtained valid and enforceable licenses for, the inventions, patent applications, patents, trademarks, trademark applications, trade names, service names, copyrights, copyrightable works, know-how (including trade secrets, data and other unpatented and/or unpatentable proprietary systems or procedures), domain names



and other source indicators, software, proprietary or confidential information and all other worldwide intellectual property (collectively, “**Intellectual Property**”) described in the Registration Statement, the Time of Sale Prospectus and the Prospectus as being owned or licensed by them or which are used in or necessary for the conduct of their respective businesses (“**Company Intellectual Property**”), and the conduct of their respective businesses has not and does not infringe, misappropriate or violate, in any material respect, the intellectual property rights of others, except where failure to own, possess, or acquire rights in, or the infringement, misappropriation, or violation of, such intellectual property rights would not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Change. None of the Company Intellectual Property has been adjudged by a court of competent jurisdiction to be invalid or unenforceable, in whole or in part. To the Company’s or RGF LLC’s knowledge, (i) there are no third parties who have actual or contingent ownership rights to any Company Intellectual Property owned or purported to be owned by the Company or RGF LLC, except as disclosed in the Registration Statement, the Time of Sale Prospectus and the Prospectus; and (ii) there is no infringement, misappropriation, or violation by third parties of any Company intellectual property rights that would reasonably be expected, individually or in the aggregate, to result in a Material Adverse Change. There is no pending or, to the Company’s or RGF LLC’s knowledge, written threat of action, suit, proceeding, investigation or claim by any third party: (A) challenging or seeking to deny or restrict the Company’s or RGF LLC’s ownership rights in or to any Company Intellectual Property and the Company and RGF LLC are unaware of any facts which would form a reasonable basis for any such action, suit, proceeding, investigation or claim; (B) challenging the validity, enforceability or scope of any Company Intellectual Property, and the Company and RGF LLC are unaware of any facts which would form a reasonable basis for any such action, suit, proceeding, investigation or claim; or (C) asserting that the Company or RGF LLC has infringed, misappropriated, or violated, or is infringing, misappropriating or violating, or would, upon the commercialization of any product or service described in the Registration Statement, the Time of Sale Prospectus or the Prospectus as under development, infringe, misappropriate or violate, any Intellectual Property of any person, in each case except as would not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Change. The Company and RGF LLC have complied with the terms of each agreement pursuant to which Intellectual Property has been licensed to the Company or RGF LLC, as applicable, and all such agreements are in full force and effect, in each case except for any failure to comply or to be in force and effect that would not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Change. To the Company’s and RGF LLC’s knowledge, there are no material defects in any of the patents, patent applications, trademarks or trademark applications included in the Company Intellectual Property. The Company and RGF LLC have taken reasonable steps in accordance with normal industry practice to protect, maintain and safeguard the confidentiality of all Company Intellectual Property, except where failure to take such a step would not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Change. The Company and RGF LLC have executed appropriate nondisclosure, confidentiality agreements and invention assignment agreements and invention assignments with their employees and consultants, except where the failure to do so would not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Change. No employee or consultant of the Company or RGF LLC is in or has been in violation of any term of any employment or consulting contract, patent disclosure agreement, invention assignment agreement, non-competition agreement, non-solicitation agreement, nondisclosure agreement, or any restrictive covenant to or with a former employer where the basis of such violation relates to such employee’s or consultant’s employment with the Company or RGF LLC, as applicable, except where such violation would not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Change. To the Company’s knowledge, none of the Company Intellectual Property or technology (including information technology and outsourced arrangements) employed by the Company or RGF LLC, as applicable, has been obtained or is being used by the Company or RGF LLC in violation of any contractual obligation binding on the Company or RGF LLC or any of their respective officers, directors or employees, consultants or otherwise in violation of the rights of any persons, except for any violation that would not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Change. Neither the Company

nor RGF LLC is subject to any judgment, order, writ, injunction or decree of any court or any federal, state, local, foreign or other governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, or any arbitrator, nor has the Company or RGF LLC entered into or become a party to any agreement made in settlement of any pending or threatened litigation, that materially restricts or impairs its use of any Company Intellectual Property. No governmental agency or body, university, college, other educational institution or research center owns, purports to own, has any other rights in, or has any option to obtain any rights in or to, any Company Intellectual Property.

**(u) All Necessary Permits, etc.** Each of the Company and RGF LLC possess such valid and current certificates, authorizations or permits required by state, federal or foreign regulatory agencies or bodies to conduct their respective businesses as currently conducted and as described in the Registration Statement, the Time of Sale Prospectus or the Prospectus ("**Permits**"), except where failure to possess such certificates, authorizations and permits would not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Change. Neither the Company nor RGF LLC is in violation of, or in default under, any of the Permits or has received any notice of proceedings relating to the revocation or modification of, or non-compliance with, any such certificate, authorization or permit, except as would not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Change.

**(v) Title to Properties.** Neither the Company nor RGF LLC owns any real property. Each of the Company and RGF LLC has good and marketable title to all of the personal property and other assets reflected as owned in the financial statements referred to in Section 1(l) above (or elsewhere in the Registration Statement, the Time of Sale Prospectus or the Prospectus), in each case free and clear of any security interests, mortgages, liens, encumbrances, equities, adverse claims and other defects, except as described in the Registration Statement, the Time of Sale Prospectus and the Prospectus, and except as would not reasonably be expected, individually or in the aggregate, to materially affect the value of such property or materially interfere with the use thereof. The real property, improvements, equipment and personal property held under lease by the Company or RGF LLC are held under valid and enforceable leases, with such exceptions as are not material and do not materially interfere with the use made or proposed to be made of such real property, improvements, equipment or personal property by the Company or RGF LLC.

**(w) Tax Law Compliance.** The Company and RGF LLC have filed all necessary federal, state and foreign income, franchise and other material tax returns or have properly requested extensions thereof and have paid all taxes required to be paid by any of them and, if due and payable, any related or similar assessment, fine or penalty levied against any of them except as may be being contested in good faith and by appropriate proceedings. The Company and RGF LLC have made adequate charges, accruals and reserves in the applicable financial statements referred to in Section 1(l) above in respect of all federal, state and foreign income, franchise and other material taxes for all periods as to which the tax liability of the Company or RGF LLC has not been finally determined.

**(x) Insurance.** Each of the Company and RGF LLC are insured by recognized, financially sound and reputable institutions with policies in such amounts and with such deductibles and covering such risks as are generally deemed adequate and customary for their businesses including, but not limited to, policies covering real and personal property owned or leased by the Company or RGF LLC against theft, damage, destruction, acts of vandalism and earthquakes and policies covering the Company and RGF LLC for product liability claims. Neither the Company nor RGF LLC has any reason to believe that it will not be able (i) to renew its existing insurance coverage as and when such policies expire or (ii) to obtain comparable coverage from similar institutions as may be necessary or appropriate to conduct its business as now conducted and at a cost that would not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Change. Neither the Company nor RGF LLC has been denied any insurance coverage which it has sought or for which it has applied.

**(y) Compliance with Environmental Laws.** Except as would not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Change: (i) neither the Company nor RGF LLC is in violation of any applicable federal, state, local or foreign statute, law, rule, regulation, ordinance, code, policy or rule of common law or any judicial or administrative interpretation thereof, including any judicial or administrative order, consent, decree or judgment, relating to pollution or protection of human health, the environment (including, without limitation, ambient air, surface water, groundwater, land surface or subsurface strata) or wildlife, including, without limitation, laws and regulations relating to the release or threatened release of chemicals, pollutants, contaminants, wastes, toxic substances, hazardous substances, petroleum or petroleum products (collectively, “**Hazardous Materials**”) or to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials (collectively, “**Environmental Laws**”); (ii) the Company and RGF LLC have all permits, authorizations and approvals required under any applicable Environmental Laws and are each in compliance with their requirements; (iii) there are no pending or, to the Company’s knowledge, threatened administrative, regulatory or judicial actions, suits, demands, demand letters, claims, liens, notices of noncompliance or violation, investigation or proceedings relating to any Environmental Law against the Company or RGF LLC; and (iv) to the knowledge of the Company and RGF, LLC there are no events or circumstances that would reasonably be expected, individually or in the aggregate, to form the basis of an order for clean-up or remediation, or an action, suit or proceeding by any private party or governmental body or agency, against or affecting the Company or RGF LLC relating to Hazardous Materials or any Environmental Laws.

**(z) ERISA Compliance.** Except as would not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Change, the Company and RGF LLC and any “employee benefit plan” (as defined under the Employee Retirement Income Security Act of 1974, as amended, and the regulations and published interpretations thereunder (collectively, “**ERISA**”)) established or maintained by the Company, RGF LLC or their “ERISA Affiliates” (as defined below) are in compliance in all material respects with ERISA. “**ERISA Affiliate**” means, with respect to the Company or RGF LLC, any member of any group of organizations described in Sections 414(b), (c), (m) or (o) of the Internal Revenue Code of 1986, as amended, and the regulations and published interpretations thereunder (the “**Code**”) of which the Company or RGF LLC, as applicable, is a member. No “reportable event” (as defined under ERISA) has occurred or is reasonably expected to occur with respect to any “employee benefit plan” established or maintained by the Company, RGF LLC or any of their ERISA Affiliates. No “employee benefit plan” established or maintained by the Company, RGF LLC or any of their ERISA Affiliates, if such “employee benefit plan” were terminated, would have any “amount of unfunded benefit liabilities” (as defined under ERISA). Neither the Company, RGF LLC nor any of their ERISA Affiliates has incurred or reasonably expects to incur any liability under (i) Title IV of ERISA with respect to termination of, or withdrawal from, any “employee benefit plan” or (ii) Sections 412, 4971, 4975 or 4980B of the Code. Each employee benefit plan established or maintained by the Company, RGF LLC or any of their ERISA Affiliates that is intended to be qualified under Section 401(a) of the Code is so qualified and nothing has occurred, whether by action or failure to act, which would cause the loss of such qualification.

**(aa) Company Not an “Investment Company.”** The Company is not, and will not be, either after receipt of payment for the Offered Shares, after the application of the proceeds therefrom as described under “Use of Proceeds” in the Registration Statement, the Time of Sale Prospectus or the Prospectus, or after the Reorganization, required to register as an “investment company” under the Investment Company Act of 1940, as amended (the “**Investment Company Act**”).

**(bb) No Price Stabilization or Manipulation; Compliance with Regulation M.** Neither the Company nor RGF LLC has taken, directly or indirectly, any action designed to or that would reasonably be expected, individually or in the aggregate, to cause or result in stabilization or manipulation of the price of the Shares or of any “reference security” (as defined in Rule 100 of Regulation M under the Exchange Act (“**Regulation M**”)) with respect to the Shares, whether to facilitate the sale or resale of the Offered Shares or otherwise, and has taken no action which would directly or indirectly violate Regulation M.

**(cc) Related-Party Transactions.** There are no related-party transactions involving the Company or RGF LLC or any other person required to be described in the Registration Statement, the Time of Sale Prospectus or the Prospectus that have not been described as required.

**(dd) FINRA Matters.** All of the information provided to the Underwriters or to counsel for the Underwriters by the Company, RGF LLC, their respective officers and directors and, to the Company's knowledge, the holders of any securities (debt or equity) or options to acquire any securities of the Company or RGF LLC in connection with the offering of the Offered Shares is true, complete, correct and compliant in all material respects with FINRA's rules, and any letters, filings or other supplemental information provided to FINRA pursuant to FINRA Rules is true, complete and correct in all material respects.

**(ee) Parties to Lock-Up Agreements.** Each of the Company and RGF LLC has furnished to the Underwriters a letter agreement in the form attached hereto as Exhibit A (the "**Lock-up Agreement**") from the Selling Stockholder and each of the persons listed on Exhibit B. Such Exhibit B lists under an appropriate caption the directors and executive officers of the Company and RGF LLC. If any additional persons shall become directors or executive officers of the Company or RGF LLC prior to the end of the Company Lock-up Period (as defined below), the Company and RGF LLC shall cause each such person, prior to or contemporaneously with their appointment or election as a director or executive officer of the Company or RGF LLC, as applicable, to execute and deliver to the Representatives a Lock-up Agreement.

**(ff) Statistical and Market-Related Data.** All statistical, demographic and market-related data included in the Registration Statement, the Time of Sale Prospectus or the Prospectus are based on or derived from sources that the Company believes, after reasonable inquiry, to be reasonably reliable and accurate in all material respects. To the Company's knowledge, it does not require consent of any third party for the use of such data except as already obtained.

**(gg) Sarbanes-Oxley Act.** The Company is in compliance in all respects with the applicable provisions of the Sarbanes-Oxley Act of 2002, as amended, and the rules and regulations promulgated in connection therewith, including Section 402 related to loans and Sections 302 and 906 related to certifications.

**(hh) No Unlawful Contributions or Other Payments.** Neither the Company nor RGF LLC nor, to the Company's knowledge, any employee or agent of the Company or RGF LLC, has made any contribution or other payment to any official of, or candidate for, any federal, state or foreign office in violation of any applicable law required to be disclosed in the Registration Statement, the Time of Sale Prospectus or the Prospectus.

**(ii) Anti-Corruption and Anti-Bribery Laws.** Neither the Company nor RGF LLC, nor any director or officer of the Company or RGF LLC, nor to the knowledge of the Company or RGF LLC, any employee or agent, affiliate or other person acting on behalf of the Company or RGF LLC has, in the course of its actions for, or on behalf of, the Company or RGF LLC (i) used any corporate funds for any unlawful contribution, gift, entertainment or other unlawful expenses relating to political activity; (ii) made or taken any act in furtherance of an offer, promise, or authorization of any direct or indirect unlawful payment or benefit to any foreign or domestic government official or employee, including of any government-owned or controlled entity or public international organization, or any political party, party official, or candidate for political office; (iii) violated or is in violation of any provision of the U.S. Foreign Corrupt Practices Act of 1977, as amended (the "**FCPA**"), the UK Bribery Act 2010, or any other

applicable anti-bribery or anti-corruption law; or (iv) made, offered, authorized, requested, or taken an act in furtherance of any unlawful bribe, rebate, payoff, influence payment, kickback or other unlawful payment or benefit. The Company and RGF LLC and, to the knowledge of the Company and RGF LLC, the Company's and RGF LLC's affiliates have conducted their respective businesses in compliance with the FCPA.

**(jj) Money Laundering Laws.** The operations of the Company and RGF LLC are, and have been conducted at all times, in compliance with applicable financial recordkeeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, the money laundering statutes of all applicable jurisdictions, the rules and regulations thereunder and any related or similar applicable rules, regulations or guidelines, issued, administered or enforced by any governmental agency (collectively, the **"Money Laundering Laws"**) and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or RGF LLC with respect to the Money Laundering Laws is pending or, to the knowledge of the Company and RGF LLC, threatened.

**(kk) Sanctions.** Neither the Company nor RGF LLC, nor any of their respective directors or officers, nor, to the knowledge of the Company or RGF LLC, any employee or agent, affiliate or other person acting on behalf of the Company or RGF LLC, is currently the subject or the target of any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury (**"OFAC"**) or the U.S. Department of State, the United Nations Security Council, the European Union, Her Majesty's Treasury of the United Kingdom, or other relevant sanctions authority (collectively, **"Sanctions"**); nor is the Company or RGF LLC located, organized or resident in a country or territory that is the subject or the target of Sanctions, including, without limitation, Crimea, Cuba, Iran, North Korea, and Syria (collectively, **"Sanctioned Countries"**); and neither the Company nor RGF LLC will directly or indirectly use the proceeds of this offering, or lend, contribute or otherwise make available such proceeds to any subsidiary, or any joint venture partner or other person or entity, for the purpose of financing the activities of or business with any person, or in any country or territory, that at the time of such financing, is the subject or the target of Sanctions or is a Sanctioned Country, respectively, or in any other manner that will result in a violation by any person (including any person participating in the transaction whether as underwriter, advisor, investor or otherwise) of applicable Sanctions. For the past five years, neither the Company nor RGF LLC has knowingly engaged in and is now knowingly engaged in any dealings or transactions with any person that at the time of the dealing or transaction is or was the subject or the target of Sanctions or with any Sanctioned Country.

**(ll) Brokers.** Except pursuant to this Agreement, there is no broker, finder or other party that is entitled to receive from the Company or RGF LLC any brokerage or finder's fee or other fee or commission as a result of any transactions contemplated by this Agreement.

**(mm) Forward-Looking Statements.** Each financial or operational projection or other "forward-looking statement" (as defined by Section 27A of the Securities Act or Section 21E of the Exchange Act) contained in the Registration Statement, the Time of Sale Prospectus or the Prospectus (i) was so included by the Company in good faith and with reasonable basis after due consideration by the Company of the underlying assumptions, estimates and other applicable facts and circumstances and (ii) is accompanied by meaningful cautionary statements identifying those factors that could cause actual results to differ materially from those in such forward-looking statement. The Company has no reason to believe that any such statements were false or misleading.

**(nn) No Outstanding Loans or Other Extensions of Credit.** Neither the Company nor RGF LLC has any outstanding extension of credit, in the form of a personal loan, to or for any director or executive officer (or equivalent thereof) of the Company or RGF LLC except for such extensions of credit as are expressly permitted by Section 13(k) of the Exchange Act.

**(oo) Cybersecurity.** The Company's and RGF LLC's information technology assets and equipment, computers, systems, networks, hardware, software, websites, applications, and databases (collectively, "**IT Systems**") are adequate for the operation of the business of the Company and RGF LLC as currently conducted, free and clear of all material bugs, vulnerabilities, errors, defects, Trojan horses, time bombs, malware and other corruptants. The Company and RGF LLC have implemented and maintained commercially reasonable physical, technical and administrative controls, policies, procedures, and safeguards to maintain and protect their material confidential information, and the integrity, continuous operation and security of all IT Systems and data, including "Personal Data," used in connection with their businesses. "**Personal Data**" means (i) a natural person's name, street address, telephone number, e-mail address, photograph, social security number or tax identification number, driver's license number, passport number, credit card number, bank information, or customer or account number; (ii) any information which would qualify as "personally identifiable information" under the Federal Trade Commission Act, as amended; and (iii) any other piece of information that reasonably allows for the identification, contact and/or location of a particular natural person or device. Except as described in the Registration Statement, the Time of Sale Prospectus and the Prospectus, there have been no breaches, security incidents, violations, outages or unauthorized uses of or unauthorized access to the IT Systems and/or any Personal Data.

**(pp) Compliance with Data Privacy Laws.** The Company and RGF LLC are in compliance in all material respects with all applicable state and federal privacy, marketing, and data protection and security laws and regulations including without limitation, where applicable, the California Consumer Privacy Act, U.S. state data protection and data security regulations and breach notification laws, the CAN-SPAM Act, and the Telephone Consumer Protection Act, as well as the Company's and RGF's contractual obligations, the Payment Card Industry Data Security Standard, and all of the Company and RGF LLC policies related to privacy, data protection, and data security (collectively, the "**Privacy Requirements**"). The Company and RGF LLC have implemented and maintained steps reasonably designed to ensure compliance with all of the Company's and RGF LLC's privacy policies relating to the Privacy Requirements and to protect the privacy, security, and confidentiality of the IT Systems and all Personal Data. The Company and RGF LLC have obtained all necessary consents and have made disclosures to users or customers required by applicable laws and regulatory requirements, and none of such disclosures have been inaccurate or in violation of any applicable laws or regulatory requirements in any material respect. Each of the Company and RGF LLC further represents, jointly and severally, that it: (i) has not received notice of any actual or potential liability under or relating to, or actual or potential violation of, any of the Privacy Requirements, and has no knowledge of any event or condition that would reasonably be expected, individually or in the aggregate, to result in any such notice; (ii) is not currently conducting or paying for, in whole or in part, any investigation, remediation, or other corrective action pursuant to any Privacy Requirements; and (iii) is not a party to any order, decree, or agreement that imposes any obligation or liability under any Privacy Requirements.

**(qq) Emerging Growth Company Status.** From the time of initial confidential submission of the Registration Statement to the Commission (or, if earlier, the first date on which the Company engaged in any Written Testing-the-Waters Communication or any Testing-the-Waters Communication) through the date hereof, the Company has been and is an "emerging growth company," as defined in Section 2(a) of the Securities Act (an "**Emerging Growth Company**").

**(rr) Communications.** The Company (i) has not alone engaged in communications with potential investors in reliance on Section 5(d) of the Securities Act or Rule 163B of the Securities Act other than Permitted Testing-the-Waters Communications with the consent of the Representatives with entities that are QIBs or IAs and (ii) has not authorized anyone other than the Representatives to engage in such communications; the Company confirms that the Representatives have been authorized to act on its behalf in providing Marketing Materials, and undertaking Testing-the-Waters Communications and Written Testing-the-Waters Communications; as of the Applicable Time, each Permitted Testing-the-Waters Communication, when considered together with the Time of Sale Prospectus, did not, as of the Applicable Time, include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; and each Permitted Testing-the-Waters Communication, if any, does not, as of the date hereof, conflict with the information contained in the Registration Statement, the Preliminary Prospectus and the Prospectus; and the Company has filed publicly on EDGAR at least 15 calendar days prior to any “road show” (as defined in Rule 433 under the Act), any confidentially submitted registration statement and registration statement amendments relating to the offer and sale of the Offered Shares.

**(ss) No Rights to Purchase Preferred Stock.** The issuance and sale of the Shares to be sold by the Company and the sale of the Shares to be sold by the Selling Stockholder as contemplated hereby will not cause any holder of any shares of capital stock, membership interests of RGF LLC, securities convertible into or exchangeable or exercisable for capital stock, or options, warrants or other rights to purchase capital stock or any other securities of the Company or RGF LLC, to have any right to acquire any shares of preferred stock of the Company or RGF LLC.

**(tt) No Contract Terminations.** Neither the Company nor RGF LLC has sent or received any communication regarding termination of, or intent not to renew, any of the contracts or agreements referred to or described in any preliminary prospectus, the Prospectus or any free writing prospectus, or referred to or described in, or filed as an exhibit to, the Registration Statement, and no such termination or non-renewal has been threatened by the Company or RGF LLC or, to the Company’s and RGF LLC’s knowledge, any other party to any such contract or agreement, which threat of termination or non-renewal has not been rescinded as of the date hereof.

**(uu) Regulatory Landscape.** The statements set forth in the Registration Statement, the Time of Sale Prospectus and the Prospectus under the captions “Risk Factors – Risks Related to Our Regulatory Environment,” insofar as they purport to constitute summaries of the terms of statutes, rules or regulations or legal proceedings, constitute accurate summaries of the terms of such statutes, rules and regulations and legal proceedings.

**(vv) FDA Compliance.** Neither the Company nor RGF LLC has received any U.S. Food and Drug Administration (“FDA”) Form 483 or other notice of inspectional observations, warning letters, untitled letters, notices of non-compliance or similar written communications from the FDA, the U.S. Department of Agriculture, or any other state, federal or foreign governmental authority asserting material noncompliance with laws applicable to the manufacture, processing, storage, labeling, sale, marketing or transportation of the Company’s or RGF LLC’s products and, to the knowledge of the Company and RGF LLC, neither the FDA nor any other governmental authority has threatened the commencement of any such action.

**(ww) Dividends.** Except as otherwise disclosed in the Registration Statement, the Time of Sale Prospectus and the Prospectus, RGF LLC is not currently prohibited, directly or indirectly, from paying any dividends to the Company, from making any other distribution on capital stock or membership or other interests, from repaying to the Company any loans or advances to it from the Company or from transferring any of its property or assets to the Company.

**(xx) Delivery of Certificates.** Any certificate signed by any officer of the Company and/or RGF LLC and delivered to any Underwriter or to counsel for the Underwriters in connection with the offering, or the purchase and sale, of the Offered Shares shall be deemed a representation and warranty by the Company or RGF LLC, as applicable, to each Underwriter as to the matters covered thereby.

(yy) **Reliance on Representations.** Each of the Company and RGF LLC has a reasonable basis for making each of the representations set forth in this Section 1. Each of the Company and RGF LLC acknowledges that the Underwriters and, for purposes of the opinions to be delivered pursuant to Section 6 hereof, counsel to the Company and counsel to the Underwriters, will rely upon the accuracy and truthfulness of the foregoing representations and hereby consents to such reliance.

**B. Representations and Warranties of the Selling Stockholder.** The Selling Stockholder represents, warrants and covenants to each Underwriter as follows:

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

(b) **The Custody Agreement and Power of Attorney.** Each of (i) the Custody Agreement signed by the Selling Stockholder and [\_\_\_\_], as custodian (the “**Custodian**”), relating to the deposit of the Offered Shares to be sold by the Selling Stockholder (the “**Custody Agreement**”) and (ii) the Power of Attorney appointing certain individuals named therein as the Selling Stockholder’s attorneys-in-fact (each, an “**Attorney-in-Fact**”) to the extent set forth therein relating to the transactions contemplated hereby and by the Prospectus (the “**Power of Attorney**”) of the Selling Stockholder has been duly authorized, executed and delivered by the Selling Stockholder and is a valid and binding agreement of the Selling Stockholder, enforceable in accordance with its terms, except as rights to indemnification thereunder may be limited by applicable law and except as the enforcement thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws relating to or affecting the rights and remedies of creditors or by general equitable principles.

(c) **Title to Offered Shares to be Sold.** On the First Closing Date and each applicable Option Closing Date (as defined below) at which Optional Shares shall be sold by the Selling Stockholder, the Selling Stockholder will have, good and valid title to all of the Offered Shares subject to sale by the Selling Stockholder pursuant to this Agreement on such date and the legal right and power to sell, transfer and deliver all of the Offered Shares which may be sold by the Selling Stockholder pursuant to this Agreement and to comply with its other obligations hereunder.

(d) **Delivery of the Offered Shares to be Sold.** Delivery of Offered Shares by the Selling Stockholder pursuant to this Agreement will pass good and valid title to such Offered Shares, free and clear of any security interest, mortgage, pledge, lien, encumbrance or other adverse claim.

(e) **Non-Contravention; No Further Authorizations or Approvals Required.** The execution and delivery by the Selling Stockholder of, and the performance by the Selling Stockholder of its obligations under, this Agreement, the Custody Agreement and the Power of Attorney will not contravene or conflict with, result in a breach of, or constitute a Default under, or require the consent of any other party to, the charter or by-laws, partnership agreement, trust agreement or other organizational documents of the Selling Stockholder or any other agreement or instrument to which the Selling Stockholder is a party or by which it is bound or under which it is entitled to any right or benefit, any provision of applicable law or any judgment, order, decree or regulation applicable to the Selling Stockholder of any court, regulatory body, administrative agency, governmental body or arbitrator having jurisdiction over the Selling Stockholder. No consent, approval, authorization or other order of, or registration or filing with, any court or other governmental authority or agency, is required for the consummation by the Selling Stockholder of the transactions contemplated in this Agreement, except (i) where the failure to obtain any such consent, approval, authorization or other order or to register or file, as the case may be, would not reasonably be expected, individually or in the aggregate, to have a material adverse effect on the Selling Stockholder’s ability to perform its obligations under this Agreement, and (ii) such as may be required under the Securities Act, applicable state securities or blue sky laws and from the Nasdaq and the FINRA.



**(f) No Registration, Pre-emptive, Co-Sale or Other Similar Rights.** The Selling Stockholder: (i) does not have any registration or other similar rights to have any securities registered for sale by the Company under the Registration Statement or included in the offering contemplated by this Agreement, except for such rights as are described in the Registration Statement, the Time of Sale Prospectus and the Prospectus under “Shares Eligible for Future Sale;” (ii) does not have any preemptive right, co-sale right, right of first refusal or other similar right to purchase any of the Offered Shares that are to be sold by the Company to the Underwriters pursuant to this Agreement, except for such rights as the Selling Stockholder has waived prior to the date hereof and are described in the Registration Statement, the Time of Sale Prospectus and the Prospectus; and (iii) does not own any warrants, options or similar rights to acquire, and does not have any right or arrangement to acquire, any capital stock, right, warrants, options or other securities from the Company, other than those described in the Registration Statement, the Time of Sale Prospectus and the Prospectus.

**(g) No Further Consents, etc.** Except for such consents, approvals and waivers as have been obtained by the Selling Stockholder on or prior to the date of this Agreement, no consent, approval or waiver is required under any instrument or agreement to which the Selling Stockholder is a party or by which it is bound or under which it is entitled to any right or benefit, in connection with the offering, sale or purchase by the Underwriters of any of the Offered Shares which may be sold by the Selling Stockholder under this Agreement or the consummation by the Selling Stockholder of any of the other transactions contemplated hereby.

**(h) Disclosure Made by the Selling Stockholder in the Prospectus.** All information furnished to the Company or any Underwriter by or on behalf of the Selling Stockholder in writing expressly for use in the Registration Statement, the Time of Sale Prospectus or the Prospectus is, and on the First Closing Date and each applicable Option Closing Date will be, true, correct, and complete in all material respects, and did not, as of the Applicable Time, and on the First Closing Date and each applicable Option Closing Date will not, contain any untrue statement of a material fact or omit to state any material fact necessary to make such information not misleading. The Selling Stockholder confirms as accurate the number of Shares set forth opposite the Selling Stockholder’s name in the Registration Statement, the Time of Sale Prospectus and the Prospectus under the caption “Principal and Selling Stockholders” (both prior to and after giving effect to the sale of the Offered Shares).

**(i) Selling Stockholder Information.** To the extent that any statements or omissions made in the Registration Statement, the Time of Sale Prospectus or the Prospectus, or any amendment or supplement thereto, are made in reliance upon and in conformity with written information furnished to the Company by the Selling Stockholder pursuant to Items 7 and 11(m) of Form S-1 expressly for use therein (it being understood and agreed that the only information furnished by the Selling Stockholder to the Company consists of (i) the legal name of the Selling Stockholder, (ii) the number of Shares beneficially owned by the Selling Stockholder before and after the offering, and (iii) the address and other information with respect to the Selling Stockholder (excluding percentages) which appears in the Registration Statement, the Time of Sale Prospectus or the Prospectus in the table (and corresponding footnote) under the caption “Principal and Selling Stockholders” (with respect to the Selling Stockholder, the “**Selling Stockholder Information**”)), such Registration Statement and Time of Sale Prospectus each did, and the Prospectus and any further amendments or supplements to the Registration Statement and the Prospectus will when they become effective or are filed with the Commission, as the case may be, not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading.

**(j) Material Information.** The Selling Stockholder is not selling the Offered Shares on the basis of any material information concerning the Company or RGF LLC that is not set forth in the Registration Statement, the Time of Sale Prospectus and the Prospectus.

**(k) No Price Stabilization or Manipulation; Compliance with Regulation M.** The Selling Stockholder has not taken, directly or indirectly, any action designed to or that would reasonably be expected, individually or in the aggregate, to cause or result in stabilization or manipulation of the price of the Shares or any reference security, whether to facilitate the sale or resale of the Offered Shares or otherwise, and has taken no action which would directly or indirectly violate any provision of Regulation M.

**(l) Distribution of Offering Materials by the Selling Stockholder.** Prior to the later of (i) the expiration or termination of the option granted to the several Underwriters under Section 2, (ii) the completion of the Underwriters' distribution of the Offered Shares and (iii) the expiration of 25 days after the date of the Prospectus, the Selling Stockholder has not distributed and will not distribute any offering material in connection with the offering and sale of the Offered Shares other than the Registration Statement, the Preliminary Prospectus, Written Testing-the-Waters Communication(s) and Marketing Materials listed on Schedule D attached hereto and the Prospectus.

**(m) Sanctions.** The Selling Stockholder is not currently the subject or the target of Sanctions and will not directly or indirectly use the proceeds of this offering, or lend, contribute or otherwise make available such proceeds to any subsidiary, or any joint venture partner or other person or entity, for the purpose of financing the activities of or business with any person, or in any country or territory, that at the time of such financing, is the subject or the target of Sanctions or is a Sanctioned Country, respectively, or in any other manner that will result in a violation by any person (including any person participating in the transaction whether as underwriter, advisor, investor or otherwise) of applicable Sanctions.

Any certificate signed by the Selling Stockholder and delivered to any Underwriter or to counsel for the Underwriters shall be deemed a representation and warranty by the Selling Stockholder to each Underwriter as to the matters covered thereby.

The Selling Stockholder has a reasonable basis for making each of the representations set forth in this Section 1(B). The Selling Stockholder acknowledges that the Underwriters and, for purposes of the opinion to be delivered pursuant to Section 6 hereof, counsel to the Selling Stockholder and counsel to the Underwriters, will rely upon the accuracy and truthfulness of the foregoing representations and hereby consents to such reliance.

## **Section 2. Purchase, Sale and Delivery of the Offered Shares.**

**(a) The Firm Shares.** Upon the terms herein set forth, the Company agrees to issue and sell to the several Underwriters an aggregate of [\_\_\_\_\_] Firm Shares. On the basis of the representations, warranties and agreements herein contained, and upon the terms but subject to the conditions herein set forth, the Underwriters agree, severally and not jointly, to purchase from the Company the respective number of Firm Shares set forth opposite their names on Schedule A. The purchase price per Firm Share to be paid by the several Underwriters to the Company shall be \$[\_\_\_\_\_] per share.

**(b) The First Closing Date.** Delivery of the Firm Shares to be purchased by the Underwriters and payment therefor shall be made at the offices of Goodwin Procter LLP (or such other place as may be agreed to by the Company and the Representatives) at 9:00 a.m. New York City time, on [\_\_\_\_], 2021, or such other time and date not later than 1:30 p.m. New York City time, on [\_\_\_\_], 2021 as the Representatives shall designate by notice to the Company (the time and date of such closing are called the “**First Closing Date**”). The Company hereby acknowledges that circumstances under which the Representatives may provide notice to postpone the First Closing Date as originally scheduled include, but are not limited to, any determination by the Company or the Representatives to recirculate to the public copies of an amended or supplemented Prospectus or a delay as contemplated by the provisions of Section 11.

**(c) The Optional Shares; Option Closing Date.** In addition, on the basis of the representations, warranties and agreements herein contained, and upon the terms but subject to the conditions herein set forth, the Company and the Selling Stockholder hereby grant an option to the several Underwriters to purchase, severally and not jointly, up to an aggregate of [\_\_\_\_] Optional Shares from the Company and the Selling Stockholder at the purchase price per share to be paid by the Underwriters for the Firm Shares. The option granted hereunder may be exercised at any time and from time to time in whole or in part upon notice by the Representatives to the Company and the Selling Stockholder, which notice may be given at any time within 30 days from the date of this Agreement. Such notice shall set forth (i) the aggregate number of Optional Shares as to which the Underwriters are exercising the option and (ii) the time, date and place at which the Optional Shares will be delivered (which time and date may be simultaneous with, but not earlier than, the First Closing Date; and in the event that such time and date are simultaneous with the First Closing Date, the term “**First Closing Date**” shall refer to the time and date of delivery of the Firm Shares and such Optional Shares). Any such time and date of delivery, if subsequent to the First Closing Date, is called an “**Option Closing Date**,” and shall be determined by the Representatives and shall not be earlier than two (or one if the notice of exercise is delivered prior to the First Closing Date) or later than five full business days after delivery of such notice of exercise. If any Optional Shares are to be purchased, (a) each Underwriter agrees, severally and not jointly, to purchase the number of Optional Shares (subject to such adjustments to eliminate fractional shares as the Representatives may determine) that bears the same proportion to the total number of Optional Shares to be purchased as the number of Firm Shares set forth on Schedule A opposite the name of such Underwriter bears to the total number of Firm Shares and (b) the Company and the Selling Stockholder agree, severally and not jointly, to sell the number of Optional Shares exercised pursuant to the terms of this Agreement (subject to such adjustments to eliminate fractional shares as the Representatives may determine) and agree that the Optional Shares shall first be sold by the Selling Stockholder, up to the number of Optional Shares set forth on Schedule B opposite the name of the Selling Stockholder and second by the Company up to the number of Optional Shares set forth in the paragraph “Introductory” of this Agreement. The Representatives may cancel the option at any time prior to its expiration by giving written notice of such cancellation to the Company and the Selling Stockholder.

**(d) Public Offering of the Offered Shares.** The Representatives hereby advise the Company and the Selling Stockholder that the Underwriters intend to offer for sale to the public, initially on the terms set forth in the Registration Statement, the Time of Sale Prospectus and the Prospectus, their respective portions of the Offered Shares as soon after this Agreement has been executed and the Registration Statement has been declared effective as the Representatives, in their sole judgment, have determined is advisable and practicable.

**(e) Payment for the Offered Shares.** (i) Payment for the Offered Shares to be sold by the Company shall be made at the First Closing Date (and, if applicable, at each Option Closing Date) by wire transfer of immediately available funds to the order of the Company. Payment for the Offered Shares to be sold by the Selling Stockholder shall be made at the First Closing Date (and, if applicable, at each Option Closing Date) by wire transfer of immediately available funds to the order of the Custodian.

(ii) It is understood that the Representatives have been authorized, for their own accounts and the accounts of the several Underwriters, to accept delivery of and receipt for, and make payment of the purchase price for, the Firm Shares and any Optional Shares the Underwriters have agreed to purchase. Each of Jefferies and William Blair, individually and not as the Representatives of the Underwriters, may (but shall not be obligated to) make payment for any Offered Shares to be purchased by any Underwriter whose funds shall not have been received by the Representatives by the First Closing Date or the applicable Option Closing Date, as the case may be, for the account of such Underwriter, but any such payment shall not relieve such Underwriter from any of its obligations under this Agreement.

(iii) The Selling Stockholder hereby agrees that it will pay all stock transfer taxes, stamp duties and other similar taxes, if any, payable upon the sale or delivery of the Offered Shares to be sold by the Selling Stockholder to the several Underwriters, or otherwise in connection with the performance of the Selling Stockholder's obligations hereunder and under the Custody Agreement.

**(f) Delivery of the Offered Shares.** The Company shall deliver, or cause to be delivered to the Representatives for the accounts of the several Underwriters the Firm Shares at the First Closing Date, against release of a wire transfer of immediately available funds for the amount of the purchase price therefor. The Company and the Selling Stockholder shall also deliver, or cause to be delivered to the Representatives for the accounts of the several Underwriters, the Optional Shares the Underwriters have agreed to purchase from them at the First Closing Date or the applicable Option Closing Date, as the case may be, against the release of a wire transfer of immediately available funds for the amount of the purchase price therefor. If Jefferies so elects, delivery of the Offered Shares may be made by credit to the accounts designated by Jefferies through The Depository Trust Company's full fast transfer or DWAC programs. If Jefferies so elects, the Offered Shares shall be registered in such names and denominations as the Representatives shall have requested in writing at least two full business days prior to the First Closing Date (or the applicable Option Closing Date, as the case may be) and shall be made available for inspection on the business day preceding the First Closing Date (or the applicable Option Closing Date, as the case may be) at a location in New York City as the Representatives may designate. Time shall be of the essence, and delivery at the time and place specified in this Agreement is a further condition to the obligations of the Underwriters.

### **Section 3.**

**A. Additional Covenants of the Company and RGF LLC.** Each of the Company and RGF LLC, jointly and severally, further covenants and agrees with each Underwriter as follows:

**(a) Delivery of Registration Statement, Time of Sale Prospectus and Prospectus.** The Company shall furnish to you in New York City, without charge, prior to 10:00 a.m. New York City time on the business day next succeeding the date of this Agreement and during the period when a prospectus relating to the Offered Shares is required by the Securities Act to be delivered (whether physically or through compliance with Rule 172 under the Securities Act or any similar rule) in connection with sales of the Offered Shares, as many copies of the Time of Sale Prospectus, the Prospectus and any supplements and amendments thereto or to the Registration Statement as you may reasonably request.

**(b) Representatives' Review of Proposed Amendments and Supplements.** During the period when a prospectus relating to the Offered Shares is required by the Securities Act to be delivered (whether physically or through compliance with Rule 172 under the Securities Act or any similar rule), the Company (i) will furnish to the Representatives for review, a reasonable period of time prior to the proposed time of filing of any proposed amendment or supplement to the Registration Statement, a copy of each such amendment or supplement and (ii) will not amend or supplement the Registration Statement without the Representatives' prior written consent. Prior to amending or supplementing any preliminary prospectus, the Time of Sale Prospectus or the Prospectus, the Company shall furnish to the Representatives for review, a reasonable amount of time prior to the time of filing or use of the proposed amendment or supplement, a copy of each such proposed amendment or supplement. The Company shall not file or use any such proposed amendment or supplement without the Representatives' prior written consent. The Company shall file with the Commission within the applicable period specified in Rule 424(b) under the Securities Act any prospectus required to be filed pursuant to such Rule.

**(c) Free Writing Prospectuses.** The Company shall furnish to the Representatives for review, a reasonable amount of time prior to the proposed time of filing or use thereof, a copy of each proposed free writing prospectus or any amendment or supplement thereto prepared by or on behalf of, used by, or referred to by the Company, and the Company shall not file, use or refer to any proposed free writing prospectus or any amendment or supplement thereto without the Representatives' prior written consent. The Company shall furnish to each Underwriter, without charge, as many copies of any free writing prospectus prepared by or on behalf of, used by or referred to by the Company as such Underwriter may reasonably request. If at any time when a prospectus is required by the Securities Act to be delivered (whether physically or through compliance with Rule 172 under the Securities Act or any similar rule) in connection with sales of the Offered Shares (but in any event if at any time through and including the First Closing Date) there occurred or occurs an event or development as a result of which any free writing prospectus prepared by or on behalf of, used by, or referred to by the Company conflicted or would conflict with the information contained in the Registration Statement or included or would include an untrue statement of a material fact or omitted or would omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances prevailing at such time, not misleading, the Company shall promptly amend or supplement such free writing prospectus to eliminate or correct such conflict so that the statements in such free writing prospectus as so amended or supplemented will not include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances prevailing at such time, not misleading, as the case may be; *provided, however*, that prior to amending or supplementing any such free writing prospectus, the Company shall furnish to the Representatives for review, a reasonable amount of time prior to the proposed time of filing or use thereof, a copy of such proposed amended or supplemented free writing prospectus, and the Company shall not file, use or refer to any such amended or supplemented free writing prospectus without the Representatives' prior written consent.

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

**(e) Amendments and Supplements to Time of Sale Prospectus.** If the Time of Sale Prospectus is being used to solicit offers to buy the Offered Shares at a time when the Prospectus is not yet available to prospective purchasers, and any event shall occur or condition exist as a result of which it is necessary to amend or supplement the Time of Sale Prospectus so that the Time of Sale Prospectus does not include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances when delivered to a prospective purchaser, not misleading, or if any event shall occur or condition exist as a result of which the Time of Sale Prospectus

conflicts with the information contained in the Registration Statement, or if, in the opinion of counsel for the Underwriters, it is necessary to amend or supplement the Time of Sale Prospectus to comply with applicable law, the Company shall (subject to Section 3A(b) and Section 3A(c) hereof) promptly prepare, file with the Commission and furnish, at its own expense, to the Underwriters and to any dealer upon request, either amendments or supplements to the Time of Sale Prospectus so that the statements in the Time of Sale Prospectus as so amended or supplemented will not include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances when delivered to a prospective purchaser, not misleading or so that the Time of Sale Prospectus, as amended or supplemented, will no longer conflict with the information contained in the Registration Statement, or so that the Time of Sale Prospectus, as amended or supplemented, will comply with applicable law.

**(f) *Certain Notifications and Required Actions.*** After the date of this Agreement, the Company shall promptly advise the Representatives in writing of: (i) the receipt of any comments of, or requests for additional or supplemental information from, the Commission; (ii) the time and date of any filing of any post-effective amendment to the Registration Statement or any amendment or supplement to any preliminary prospectus, the Time of Sale Prospectus, any free writing prospectus or the Prospectus; (iii) the time and date that any post-effective amendment to the Registration Statement becomes effective; and (iv) the issuance by the Commission of any stop order suspending the effectiveness of the Registration Statement or any post-effective amendment thereto or any amendment or supplement to any preliminary prospectus, the Time of Sale Prospectus or the Prospectus or of any order preventing or suspending the use of any preliminary prospectus, the Time of Sale Prospectus, any free writing prospectus or the Prospectus, or of any proceedings to remove, suspend or terminate from listing or quotation the Shares from any securities exchange upon which they are listed for trading or included or designated for quotation, or of the threatening or initiation of any proceedings for any of such purposes. If the Commission shall enter any such stop order at any time, the Company will use its best efforts to obtain the lifting of such order as promptly as reasonably practicable. Additionally, the Company agrees that it shall comply with all applicable provisions of Rule 424(b), Rule 433 and Rule 430A under the Securities Act and will use its reasonable efforts to confirm that any filings made by the Company under Rule 424(b) or Rule 433 were received in a timely manner by the Commission.

**(g) *Amendments and Supplements to the Prospectus and Other Securities Act Matters.*** If any event shall occur or condition exist as a result of which it is necessary to amend or supplement the Prospectus so that the Prospectus does not include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances when the Prospectus is delivered (whether physically or through compliance with Rule 172 under the Securities Act or any similar rule) to a purchaser, not misleading, or if in the opinion of the Representatives or counsel for the Underwriters it is otherwise necessary to amend or supplement the Prospectus to comply with applicable law, the Company agrees (subject to Section 3A(b) and Section 3A(c) hereof) to promptly prepare, file with the Commission and furnish, at its own expense, to the Underwriters and to any dealer upon request, amendments or supplements to the Prospectus so that the statements in the Prospectus as so amended or supplemented will not include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances when the Prospectus is delivered (whether physically or through compliance with Rule 172 under the Securities Act or any similar rule) to a purchaser, not misleading or so that the Prospectus, as amended or supplemented, will comply with applicable law. Neither the Representatives' consent to, nor delivery of, any such amendment or supplement shall constitute a waiver of any of the Company's obligations under Section 3A(b) or Section 3A(c).

**(h) Blue Sky Compliance.** The Company shall cooperate with the Representatives and counsel for the Underwriters to qualify or register the Offered Shares for sale under (or obtain exemptions from the application of) the state securities or blue sky laws or Canadian provincial securities laws (or other foreign laws) of those jurisdictions designated by the Representatives, shall comply with such laws and shall continue such qualifications, registrations and exemptions in effect so long as required for the distribution of the Offered Shares. The Company shall not be required to qualify as a foreign corporation or to take any action that would subject it to general service of process in any such jurisdiction where it is not presently qualified or where it would be subject to taxation as a foreign corporation. The Company will advise the Representatives promptly of the suspension of the qualification or registration of (or any such exemption relating to) the Offered Shares for offering, sale or trading in any jurisdiction or any initiation or threat of any proceeding for any such purpose, and in the event of the issuance of any order suspending such qualification, registration or exemption, the Company shall use its best efforts to obtain the withdrawal thereof as promptly as reasonably practicable.

**(i) Use of Proceeds.** Each of the Company and RGF LLC shall apply the net proceeds from the sale of the Offered Shares sold by it in the manner described under the caption “Use of Proceeds” in the Registration Statement, the Time of Sale Prospectus and the Prospectus.

**(j) Transfer Agent.** The Company shall engage and maintain, at its expense, a registrar and transfer agent for the Shares.

**(k) Earnings Statement.** The Company will make generally available to its security holders and to the Representatives as soon as practicable an earnings statement (which need not be audited) covering a period of at least twelve months beginning with the first fiscal quarter of the Company commencing after the date of this Agreement that will satisfy the provisions of Section 11(a) of the Securities Act and the rules and regulations of the Commission thereunder.

**(l) Continued Compliance with Securities Laws.** The Company will comply with the Securities Act and the Exchange Act so as to permit the completion of the distribution of the Offered Shares as contemplated by this Agreement, the other Transaction Documents, the Registration Statement, the Time of Sale Prospectus and the Prospectus. Without limiting the generality of the foregoing, the Company will, during the period when a prospectus relating to the Offered Shares is required by the Securities Act to be delivered (whether physically or through compliance with Rule 172 under the Securities Act or any similar rule), file on a timely basis with the Commission and the Nasdaq all reports and documents required to be filed under the Exchange Act. Additionally, the Company shall report the use of proceeds from the issuance of the Offered Shares as may be required under Rule 463 under the Securities Act.

**(m) Listing.** The Company will use its best efforts to list, subject to notice of issuance, the Offered Shares on the Nasdaq.

**(n) Company to Provide Copy of the Prospectus in Form That May be Downloaded from the Internet.** If requested by the Representatives, the Company shall cause to be prepared and delivered, at its expense, within one business day from the effective date of this Agreement, to the Representatives an “**electronic Prospectus**” to be used by the Underwriters in connection with the offering and sale of the Offered Shares. As used herein, the term “**electronic Prospectus**” means a form of Prospectus, and any amendment or supplement thereto, that meets each of the following conditions: (i) it shall be encoded in an electronic format, reasonably satisfactory to the Representatives, that may be transmitted electronically by the Representatives and the other Underwriters to offerees and purchasers of the Offered Shares; (ii) it shall disclose the same information as the paper Prospectus, except to the extent that graphic and image material cannot be disseminated electronically, in which case such graphic and image material shall be replaced in the electronic Prospectus with a fair and accurate narrative description or tabular representation of such material, as appropriate; and (iii) it shall be in or convertible into a paper format or an electronic format, reasonably satisfactory to Jefferies, that will allow investors to store and have continuously ready access to the Prospectus at any future time, without charge to investors (other than any fee charged for subscription to the Internet as a whole and for on-line time).

**(o) Agreement Not to Offer or Sell Additional Shares or Other Related Securities.** During the period commencing on and including the date hereof and continuing through and including the 180th day following the date of the Prospectus (such period, as extended as described below, being referred to herein as the “**Lock-up Period**”), neither the Company nor RGF LLC will, without the prior written consent of Jefferies (which consent may be withheld in its sole discretion), directly or indirectly: (i) sell, offer to sell, contract to sell or lend any Common Stock or Related Securities (as defined below); (ii) effect any short sale, or establish or increase any “put equivalent position” (as defined in Rule 16a-1(h) under the Exchange Act) or liquidate or decrease any “call equivalent position” (as defined in Rule 16a-1(b) under the Exchange Act) of any Common Stock or Related Securities; (iii) pledge, hypothecate or grant any security interest in any Common Stock or Related Securities; (iv) in any other way transfer or dispose of any Common Stock or Related Securities; (v) enter into any swap, hedge or similar arrangement or agreement that transfers, in whole or in part, the economic risk of ownership of any Common Stock or Related Securities, regardless of whether any such transaction is to be settled in securities, in cash or otherwise; (vi) announce the offering of any Common Stock or Related Securities; (vii) submit or file any registration statement under the Securities Act in respect of any Common Stock or Related Securities (other than as contemplated by this Agreement with respect to the Offered Shares); (viii) effect a reverse stock split, recapitalization, share consolidation, reclassification or similar transaction affecting the outstanding Common Stock; or (ix) publicly announce the intention to do any of the foregoing; *provided, however*, that the Company and RGF LLC may (A) effect the transactions contemplated hereby and by the Reorganization, including the transfer or redemption of RGF LLC securities and the issuance of Common Stock pursuant to the Reorganization and the Exchange Agreement, (B) issue Common Stock or membership interests of RGF LLC, or options to purchase Common Stock or membership interests of RGF LLC, or issue Common Stock or membership interests of RGF LLC upon exercise of options, or pursuant to any stock option or other stock plan or arrangement described in the Registration Statement, the Time of Sale Prospectus and the Prospectus, but only if the holders of such Common Stock, membership interests of RGF LLC or options agree in writing with the Underwriters not to sell, offer, dispose of or otherwise transfer any such Common Stock, membership interests of RGF LLC or options during such Lock-up Period without the prior written consent of Jefferies (which consent may be withheld in its sole discretion), (C) file one or more registration statements on Form S-8 with respect to any Shares or Related Securities issued or issuable pursuant to any stock option, or other stock plan or arrangement described in the Registration Statement, the Time of Sale Prospectus or the Prospectus, (D) issue Shares in connection with the acquisition or license by the Company of the securities, business, property or other assets of another person or business entity or pursuant to any employee benefit plan assumed by the Company in connection with any such merger or acquisition, and (E) issue Shares or Related Securities in connection with any merger, joint venture, commercial relationship or other strategic or collaborative transactions; provided that, in the case of the immediately preceding clauses (D) and (E), (x) the aggregate number of Shares issued or underlying such Related Securities issued in connection with all such acquisitions and other transactions does not exceed 5.0% of the aggregate number of Shares outstanding immediately following the consummation of the offering of the Offered Shares pursuant to this Agreement and (y) the recipients of the Shares or Related Securities agree in writing to be bound by the same terms described in the agreement attached hereto as Exhibit A. For purposes of the foregoing, “**Related Securities**” shall mean any options or warrants or other rights to acquire Common Stock or membership interests of RGF LLC, or any other securities exchangeable or exercisable for or convertible into Common Stock or membership interests of RGF LLC, or to acquire other securities or rights ultimately exchangeable or exercisable for, or convertible into, Common Stock or membership interests in RGF LLC.



**(p) Future Reports to the Representatives.** During the period of five years hereafter, the Company and RGF LLC will furnish to the Representatives, c/o Jefferies, at 520 Madison Avenue, New York, New York 10022, Attention: Global Head of Syndicate and c/o William Blair & Company, L.L.C., 150 North Riverside Plaza, Chicago, Illinois 60606, Fax: 312-551-4646, Attention: Equity Capital Markets: (i) as soon as practicable after the end of each fiscal year, copies of the Annual Report of the Company and RGF LLC containing the balance sheet of the Company and RGF LLC as of the close of such fiscal year and statements of income, stockholders' equity and cash flows for the year then ended and the opinion thereon of the Company's and RGF LLC's independent public or certified public accountants; (ii) as soon as practicable after the filing thereof, copies of each proxy statement, Annual Report on Form 10-K, Quarterly Report on Form 10-Q, Current Report on Form 8-K or other report filed by the Company with the Commission, FINRA or any securities exchange; and (iii) as soon as available, copies of any report or communication of the Company furnished or made available generally to holders of its capital stock; *provided, however*, that the requirements of this Section 3A(p) shall be satisfied to the extent that such reports, statement, communications, financial statements or other documents are available on EDGAR.

**(q) Investment Limitation.** Neither Company nor RGF LLC shall invest or otherwise use the proceeds received by the Company from its sale of the Offered Shares in such a manner as would require the Company to register as an investment company under the Investment Company Act.

**(r) No Stabilization or Manipulation; Compliance with Regulation M.** The Company will not take, and will ensure that no affiliate of the Company will take, directly or indirectly, any action designed to or that might cause or result in stabilization or manipulation of the price of the Shares or any reference security with respect to the Shares, whether to facilitate the sale or resale of the Offered Shares or otherwise, and the Company will, and shall cause each of its affiliates to, comply with all applicable provisions of Regulation M.

**(s) Enforce Lock-Up Agreements.** During the Lock-up Period, the Company and RGF LLC will enforce all agreements between the Company, RGF LLC and any of holders of Common Stock or membership interests of RGF LLC that restrict or prohibit, expressly or in operation, the offer, sale or transfer of Shares or Related Securities or any of the other actions restricted or prohibited under the terms of the Lock-up Agreement. In addition, the Company will direct the transfer agent to place stop transfer restrictions upon any such securities of the Company and RGF LLC that are bound by the Lock-up Agreements for the duration of the periods contemplated in such agreements.

**(t) Company to Provide Interim Financial Statements.** Prior to the First Closing Date and each applicable Option Closing Date, the Company and RGF LLC will furnish the Underwriters, as soon as they have been prepared by or are available to the Company and RGF LLC, a copy of any unaudited interim financial statements of the Company and RGF LLC for any period subsequent to the period covered by the most recent financial statements appearing in the Registration Statement and the Prospectus.

**(u) Amendments and Supplements to Permitted Testing-the Waters Communications.** If at any time following the distribution of any Permitted Testing-the-Waters Communication, there occurred or occurs an event or development as a result of which such Permitted Testing-the-Waters Communication included or would include an untrue statement of a material fact or omitted or would omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances existing at that subsequent time, not misleading, the Company will promptly notify the Representatives and will promptly amend or supplement, at its own expense, such Permitted Testing-the-Waters Communication to eliminate or correct such untrue statement or omission.

**(v) Emerging Growth Company Status.** The Company will promptly notify the Representatives if the Company ceases to be an Emerging Growth Company at any time prior to the later of (i) the time when a prospectus relating to the Offered Shares is not required by the Securities Act to be delivered (whether physically or through compliance with Rule 172 under the Securities Act or any similar rule) and (ii) the expiration of the Lock-Up Period.

**(w) Announcement Regarding Lock-ups.** The Company agrees to announce the Underwriters' intention to release any director or "officer" (within the meaning of Rule 16a-1(f) under the Exchange Act) of the Company from any of the restrictions imposed by any Lock-Up Agreement, by issuing, through a major news service, a press release in form and substance satisfactory to the Jefferies or, if consented to by Jefferies, in a registration statement that is publicly filed in connection with a secondary offering of the Company's shares promptly following the Company's receipt of any notification from Jefferies in which such intention is indicated, but in any case not later than the close of the third business day prior to the date on which such release or waiver is to become effective; *provided, however*, that nothing shall prevent Jefferies, on behalf of the Underwriters, from announcing the same through a major news service, irrespective of whether the Company has made the required announcement; and *provided, further*, that no such announcement shall be made of any release or waiver granted solely to permit a transfer of securities that is not for consideration and where the transferee has agreed in writing to be bound by the terms of a Lock-Up Agreement in the form set forth as Exhibit A hereto.

**B. Covenants of the Selling Stockholder.** The Selling Stockholder further covenants and agrees with each Underwriter:

**(a) Agreement Not to Offer or Sell Additional Shares or Other Related Securities.** The Selling Stockholder has furnished to the Underwriters a Lock-up Agreement in substantially the form attached hereto as Exhibit A.

**(b) No Stabilization or Manipulation; Compliance with Regulation M.** The Selling Stockholder will not take, directly or indirectly, any action designed to or that might reasonably be expected to cause or result in stabilization or manipulation of the price of the Shares or any reference security with respect to the Shares, whether to facilitate the sale or resale of the Offered Shares or otherwise, and the Selling Stockholder will, and shall cause each of its affiliates to, comply with all applicable provisions of Regulation M.

**(c) Notification.** The Selling Stockholder will advise you promptly, and if requested by you, will confirm such advice in writing, during the period when a prospectus relating to the Offered Shares is required by the Securities Act to be delivered (whether physically or through compliance with Rule 172 under the Securities Act or any similar rule), of any material change in information in the Registration Statement, any preliminary prospectus, any free writing prospectus, the Prospectus or any amendment or supplement thereto relating to the Selling Stockholder Information.

**(d) Delivery of Forms W-8 and W-9.** To deliver to the Representatives prior to the First Closing Date a properly completed and executed United States Treasury Department Form W-9.

The Representatives, on behalf of the several Underwriters, may, in their sole discretion, waive in writing the performance by the Company or the Selling Stockholder of any one or more of the foregoing covenants or extend the time for their performance.

**Section 4. Payment of Expenses.** The Company agrees to pay all costs, fees and expenses incurred in connection with the performance of its obligations hereunder (which, for the avoidance of doubt, shall not include any underwriting discounts owed by the Selling Stockholder to the Underwriters hereunder or any taxes incident to the sale and delivery of the Optional Shares to be sold by the Selling Stockholder to the Underwriters hereunder) and in connection with the transactions contemplated hereby, including without limitation (i) all expenses incident to the issuance and delivery of the Offered Shares (including all printing and engraving costs), (ii) all fees and expenses of the registrar and transfer agent of the Shares, (iii) all necessary issue, transfer and other stamp taxes in connection with the issuance and sale of the Offered Shares to the Underwriters, (iv) all fees and expenses of the Company's and RGF LLC's counsel, independent public or certified public accountants and other advisors, (v) all costs and expenses incurred in connection with the preparation, printing, filing, shipping and distribution of the Registration Statement (including financial statements, exhibits, schedules, consents and certificates of experts), the Time of Sale Prospectus, the Prospectus, each free writing prospectus prepared by or on behalf of, used by, or referred to by the Company, and each preliminary prospectus, each Permitted Testing-the-Waters Communication, and all amendments and supplements thereto, and this Agreement, (vi) all filing fees, and the reasonable and documented attorneys' fees and expenses incurred by the Company, RGF LLC or the Underwriters in connection with qualifying or registering (or obtaining exemptions from the qualification or registration of) all or any part of the Offered Shares for offer and sale under the state securities or blue sky laws or the provincial securities laws of Canada, and, if requested by the Representatives, and the reasonable and documented costs of preparing and printing a "Blue Sky Survey" or memorandum and a "Canadian wrapper", and any supplements thereto, advising the Underwriters of such qualifications, registrations and exemptions, (vii) the costs, fees and expenses incurred by the Underwriters in connection with determining their compliance with the rules and regulations of FINRA related to the Underwriters' participation in the offering and distribution of the Offered Shares, including any related filing fees and the reasonable and documented legal fees of, and disbursements by, counsel to the Underwriters in an amount not to exceed \$25,000, (viii) the costs and expenses of the Company relating to investor presentations on any "road show", any Permitted Testing-the-Waters Communication or any Testing-the-Waters Communication undertaken in connection with the offering of the Offered Shares, including, without limitation, expenses associated with the preparation or dissemination of any electronic road show, expenses associated with the production of road show slides and graphics, fees and expenses of any consultants engaged in connection with the road show presentations with the prior approval of the Company, travel and lodging expenses of the representatives, employees and officers of the Company or RGF LLC and any such consultants, and the cost of any aircraft chartered in connection with the road show, (ix) the fees and expenses associated with listing the Offered Shares on the Nasdaq, and (x) all other fees, costs and expenses of the nature referred to in Item 13 of Part II of the Registration Statement. Except as provided in this Section 4 or in Section 7, Section 9 or Section 10 hereof, the Underwriters shall pay their own expenses, including the fees and disbursements of their counsel.

The Selling Stockholder further agrees with each Underwriter to pay (directly or by reimbursement) all fees and expenses incident to the performance of his obligations under this Agreement that are not otherwise specifically provided for herein, including but not limited to (i) fees and expenses of counsel and other advisors for the Selling Stockholder, (ii) fees and expenses of the Custodian and the Attorneys-in-Fact (to the extent applicable), and (iii) expenses and taxes incident to the sale and delivery of the Offered Shares to be sold by the Selling Stockholder to the Underwriters hereunder.

This Section 4 shall not affect or modify any separate, valid agreement relating to the allocation of payment of expenses between the Company, on the one hand, and the Selling Stockholder, on the other hand.

**Section 5. Covenant of the Underwriters.** Each Underwriter severally and not jointly covenants with the Company and RGF LLC not to take any action that would result in the Company being required to file with the Commission pursuant to Rule 433(d) under the Securities Act a free writing prospectus prepared by or on behalf of such Underwriter that otherwise would not, but for such actions, be required to be filed by the Company under Rule 433(d).

**Section 6. Conditions of the Obligations of the Underwriters.** The respective obligations of the several Underwriters hereunder to purchase and pay for the Offered Shares as provided herein on the First Closing Date and, with respect to the Optional Shares, each Option Closing Date, shall be subject to the accuracy of the representations and warranties on the part of the Company, RGF LLC and the Selling Stockholder set forth in Section 1 hereof as of the date hereof and as of the First Closing Date as though then made and, with respect to the Optional Shares, as of each Option Closing Date as though then made, to the timely performance by each of the Company, RGF LLC and the Selling Stockholder of their respective covenants and other obligations hereunder, and to each of the following additional conditions:

**(a) Comfort Letter.** On the date hereof, the Representatives shall have received from Grant Thornton LLP, independent registered public accountants for the Company and RGF LLC, a letter dated the date hereof addressed to the Underwriters, in form and substance satisfactory to the Representatives, containing statements and information of the type ordinarily included in accountant's "comfort letters" to underwriters, delivered according to Statement of Auditing Standards No. 72 (or any successor bulletin), with respect to the audited and unaudited financial statements and certain financial information contained in the Registration Statement, the Time of Sale Prospectus, and each free writing prospectus, if any.

**(b) Compliance with Registration Requirements; No Stop Order; No Objection from FINRA.** For the period from and after the date of this Agreement and through and including the First Closing Date and, with respect to any Optional Shares purchased after the First Closing Date, each Option Closing Date:

(i) The Company shall have filed the Prospectus with the Commission (including the information required by Rule 430A under the Securities Act) in the manner and within the time period required by Rule 424(b) under the Securities Act; or the Company shall have filed a post-effective amendment to the Registration Statement containing the information required by such Rule 430A, and such post-effective amendment shall have become effective.

(ii) No stop order suspending the effectiveness of the Registration Statement or any post-effective amendment to the Registration Statement shall be in effect, and no proceedings for such purpose shall have been instituted or threatened by the Commission.

(iii) FINRA shall have raised no objection to the fairness and reasonableness of the underwriting terms and arrangements.

**(c) No Material Adverse Change or Ratings Agency Change.** For the period from and after the date of this Agreement and through and including the First Closing Date and, with respect to any Optional Shares purchased after the First Closing Date, each Option Closing Date:

(i) in the judgment of the Representatives there shall not have occurred any Material Adverse Change; and

(ii) there are no debt securities or preferred stock issued or guaranteed by the Company that are rated by a "nationally recognized statistical rating organization," as that term is defined in Section 3(a)(62) under the Exchange Act.

**(d) Opinion of Counsel for the Company and RGF LLC.** On each of the First Closing Date and each Option Closing Date the Representatives shall have received the opinion and negative assurance letter of Stradling Yocca Carlson & Rauth, P.C., counsel for the Company and RGF LLC, dated as of such date, in form and substance satisfactory to the Underwriters.

**(e) Opinion of Counsel for the Underwriters.** On each of the First Closing Date and each Option Closing Date the Representatives shall have received the opinion and negative assurance letter of Goodwin Procter LLP, counsel for the Underwriters in connection with the offer and sale of the Offered Shares, in form and substance satisfactory to the Underwriters, dated as of such date.

**(f) Officers' Certificate.** On each of the First Closing Date and each Option Closing Date, the Representatives shall have received a certificate executed by the Chief Executive Officer or President of each of the Company and RGF LLC and the Chief Financial Officer of each of the Company and RGF LLC, dated as of such date, to the effect set forth in Section 6(b)(ii) and further to the effect that:

(i) for the period from and including the date of this Agreement through and including such date, there has not occurred any Material Adverse Change;

(ii) the representations, warranties and covenants of the Company and RGF LLC set forth in Section 1 of this Agreement are true and correct with the same force and effect as though expressly made on and as of such date; and

(iii) each of the Company and RGF LLC has complied with all the agreements hereunder and satisfied all the conditions on its part to be performed or satisfied hereunder at or prior to such date.

**(g) Bring-down Comfort Letter.** On each of the First Closing Date and each Option Closing Date the Representatives shall have received from Grant Thornton LLP, independent registered public accountants for the Company and RGF LLC, a letter dated such date, in form and substance satisfactory to the Representatives, which letter shall: (i) reaffirm the statements made in the letter furnished by them pursuant to Section 6(a), except that the specified date referred to therein for the carrying out of procedures shall be no more than three business days prior to the First Closing Date or the applicable Option Closing Date, as the case may be; and (ii) cover certain financial information contained in the Prospectus.

**(h) Opinion of Counsel for the Selling Stockholder.** On each of the First Closing Date and each Option Closing Date at which Optional Shares shall be sold by the Selling Stockholder, as applicable, the Representatives shall have received the opinion of Stradling Yocca Carlson & Rauth, P.C., counsel for the Selling Stockholder, dated as of such date, in form and substance satisfactory to the Underwriters.

**(i) Selling Stockholder's Certificate.** On each of the First Closing Date and each Option Closing Date at which Optional Shares shall be sold by the Selling Stockholder, as applicable, the Representatives shall receive a written certificate executed by the Attorney-in-Fact of the Selling Stockholder, dated as of such date, to the effect that:

(i) the representations, warranties and covenants of the Selling Stockholder set forth in Section 1(B) of this Agreement are true and correct with the same force and effect as though expressly made by the Selling Stockholder on and as of such date; and

(ii) the Selling Stockholder has complied with all the agreements and satisfied all the conditions on its part to be performed or satisfied at or prior to such date.

**(j) Selling Stockholder's Documents.** On the date hereof, the Selling Stockholder shall have furnished for review by the Representatives copies of the Power of Attorney and Custody Agreement executed by the Selling Stockholder and such further information, certificates and documents as the Representatives may reasonably request.

**(k) Lock-Up Agreements.** On or prior to the date hereof, the Company and RGF LLC shall have furnished to the Representatives an agreement in the form of Exhibit A hereto from each of the persons listed on Exhibit B, and each such agreement shall be in full force and effect on each of the First Closing Date and each Option Closing Date.

**(l) Reorganization Transaction.** The Reorganization Transaction shall have been completed as described in the Prospectus and, as of the First Closing Date: (i) the Transaction Documents shall have been executed and delivered and (ii) the Amended and Restated Charter shall have been filed with the Secretary of the State of Delaware and shall be in full force and effect.

**(m) Rule 462(b) Registration Statement.** In the event that a Rule 462(b) Registration Statement is filed in connection with the offering contemplated by this Agreement, such Rule 462(b) Registration Statement shall have been filed with the Commission on the date of this Agreement and shall have become effective automatically upon such filing.

**(n) Approval of Listing.** At the First Closing Date, the Offered Shares shall have been approved for listing on the Nasdaq, subject only to official notice of issuance.

**(o) CFO Certificate.** On the date of this Agreement and on the First Closing Date or the applicable Option Closing Date, as the case may be, each of the Company and RGF LLC shall have furnished to the Representatives a certificate, dated the respective dates of delivery thereof and addressed to the Underwriters, of its chief financial officer with respect to the accuracy of certain financial data contained in the Time of Sale Prospectus and the Prospectus, providing "management comfort" with respect to such information, in form and substance reasonably satisfactory to the Representatives.

**(p) Additional Documents.** On or before each of the First Closing Date and each Option Closing Date, the Representatives and counsel for the Underwriters shall have received such information, documents and opinions as they may reasonably request for the purposes of enabling them to pass upon the issuance and sale of the Offered Shares as contemplated herein, or in order to evidence the accuracy of any of the representations and warranties, or the satisfaction of any of the conditions or agreements, herein contained; and all proceedings taken by the Company in connection with the issuance and sale of the Offered Shares as contemplated herein and in connection with the other transactions contemplated by this Agreement shall be reasonably satisfactory in form and substance to the Representatives and counsel for the Underwriters.

If any condition specified in this Section 6 is not satisfied when and as required to be satisfied, this Agreement may be terminated by the Representatives by notice from the Representatives to the Company, RGF LLC and the Selling Stockholder at any time on or prior to the First Closing Date and, with respect to the Optional Shares, at any time on or prior to the applicable Option Closing Date, which termination shall be without liability on the part of any party to any other party, except that Section 4, Section 7, Section 9 and Section 10 shall at all times be effective and shall survive such termination.

**Section 7. Reimbursement of Underwriters' Expenses.** If this Agreement is terminated by the Representatives pursuant to Section 6, Section 11 or Section 12, or if the sale to the Underwriters of the Offered Shares on the First Closing Date is not consummated because of any refusal, inability or failure on the part of the Company, RGF LLC or the Selling Stockholder to perform any

agreement herein or to comply with any provision hereof, each of the Company and RGF LLC agrees, jointly and severally, to reimburse the Representatives and the other Underwriters (or such Underwriters as have terminated this Agreement with respect to themselves), severally, upon demand for all documented out-of-pocket expenses that shall have been reasonably incurred by the Representatives and the Underwriters in connection with the proposed purchase and the offering and sale of the Offered Shares including, but not limited to, the reasonably incurred and documented fees and disbursements of counsel, printing expenses, travel expenses, postage, facsimile and telephone charges.

**Section 8. Effectiveness of this Agreement.** This Agreement shall become effective upon the execution and delivery hereof by the parties hereto.

**Section 9. Indemnification.**

**(a) Indemnification of the Underwriters by the Company and RGF LLC.** Each of the Company and RGF LLC agrees, jointly and severally, to indemnify and hold harmless each Underwriter, its affiliates, directors, officers, employees and agents, and each person, if any, who controls any Underwriter within the meaning of the Securities Act or the Exchange Act against any loss, claim, damage, liability or expense, as incurred, to which such Underwriter or such affiliate, director, officer, employee, agent or controlling person may become subject, under the Securities Act, the Exchange Act, other federal or state statutory law or regulation, or the laws or regulations of foreign jurisdictions where Offered Shares have been offered or sold or at common law or otherwise (including in settlement of any litigation, if such settlement is effected with the written consent of the Company or RGF LLC), insofar as such loss, claim, damage, liability or expense (or actions in respect thereof as contemplated below) arises out of or is based upon (A) (i) any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement, or any amendment thereto, or the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading; or (ii) any untrue statement or alleged untrue statement of a material fact included in any preliminary prospectus, the Time of Sale Prospectus, any free writing prospectus that the Company has used, referred to or filed, or is required to file, pursuant to Rule 433(d) of the Securities Act, any Marketing Material, any Written Testing-the-Waters Communication or the Prospectus (or any amendment or supplement to the foregoing), or the omission or alleged omission to state therein a material fact necessary in order to make the statements, in the light of the circumstances under which they were made, not misleading; or (iii) any act or failure to act or any alleged act or failure to act by any Underwriter in connection with, or relating in any manner to, the Shares or the offering contemplated hereby, and which is included as part of or referred to in any loss, claim, damage, liability or action arising out of or based upon any matter covered by clause (i) or (ii) above, or (B) the violation of any laws or regulations of foreign jurisdictions where Offered Shares have been offered or sold; and to reimburse each Underwriter and each such affiliate, director, officer, employee, agent and controlling person for any and all reasonable and documented expenses (including the reasonable and documented fees and disbursements of counsel) as such expenses are incurred by such Underwriter or such affiliate, director, officer, employee, agent or controlling person in connection with investigating, defending, settling, compromising or paying any such loss, claim, damage, liability, expense or action; *provided, however*, that the foregoing indemnity agreement shall not apply to any loss, claim, damage, liability or expense to the extent, but only to the extent, arising out of or based upon any untrue statement or alleged untrue statement or omission or alleged omission made in reliance upon and in conformity with information relating to any Underwriter furnished to the Company by the Representatives in writing expressly for use in the Registration Statement, any preliminary prospectus, the Time of Sale Prospectus, any such free writing prospectus, any Marketing Material, any Written Testing-the-Waters Communication or the Prospectus (or any amendment or supplement thereto), it being understood and agreed that the only such information consists of the information described in Section 9(b) below. The indemnity agreement set forth in this Section 9(a) shall be in addition to any liabilities that the Company or RGF LLC may otherwise have.

**(b) Indemnification of the Underwriters by the Selling Stockholder.** The Selling Stockholder agrees to indemnify and hold harmless each Underwriter, its affiliates, directors, officers, employees and agents, and each person, if any, who controls any Underwriter within the meaning of the Securities Act or the Exchange Act against any loss, claim, damage, liability or expense, as incurred, to which such Underwriter or such affiliate, director, officer, employee, agent or controlling person may become subject, under the Securities Act, the Exchange Act, other federal or state statutory law or regulation, or the laws or regulations of foreign jurisdictions where Offered Shares have been offered or sold or at common law or otherwise (including in settlement of any litigation, if such settlement is effected with the written consent of the Selling Stockholder), insofar as such loss, claim, damage, liability or expense (or actions in respect thereof as contemplated below) arises out of or is based upon (i) any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement, or any amendment thereto, or any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading or (ii) any untrue statement or alleged untrue statement of a material fact included in any preliminary prospectus, the Time of Sale Prospectus, any free writing prospectus, that the Company has used, referred to or filed, or is required to file, pursuant to Rule 433 of the Securities Act, any Written Testing-the-Waters Communication or the Prospectus (or any such amendment or supplement) or the omission or alleged omission to state therein a material fact necessary in order to make the statements, in the light of the circumstances under which they were made, not misleading, in each case to the extent, but only to the extent, that such untrue statement or alleged untrue statement or omission or alleged omission was made in the Registration Statement, such preliminary prospectus, the Time of Sale Prospectus, such free writing prospectus, such Written Testing-the-Waters Communication or the Prospectus (or any such amendment or supplement), in reliance upon and in conformity with information relating to the Selling Stockholder furnished to the Company by the Selling Stockholder in writing expressly for use therein. Each of the Underwriters hereby acknowledges that the only information that the Selling Stockholder has furnished to the Company in writing expressly for use in any preliminary prospectus, the Time of Sale Prospectus, any free writing prospectus, that the Company has used, referred to or filed, or is required to file, pursuant to Rule 433 of the Securities Act, any Written Testing-the-Waters Communication or the Prospectus (or any such amendment or supplement) is the Selling Stockholder Information. The aggregate liability of the Selling Stockholder under the indemnification provisions contained in this paragraph and the contribution provisions in Section 10 shall be limited to an amount equal to the net proceeds of the Offered Shares received by the Selling Stockholder under this Agreement (the “**Selling Stockholder Net Proceeds**”).

**(c) Indemnification of the Company, RGF LLC, the Company’s Directors and Officers, and the Selling Stockholder.** Each Underwriter agrees, severally and not jointly, to indemnify and hold harmless the Company and RGF LLC, each of the Company’s directors, each of the Company’s officers who signed the Registration Statement, the Selling Stockholder and each person, if any, who controls the Company, RGF LLC or the Selling Stockholder within the meaning of the Securities Act or the Exchange Act, against any loss, claim, damage, liability or expense, as incurred, to which the Company, RGF LLC, or any such director, officer, the Selling Stockholder or controlling person may become subject, under the Securities Act, the Exchange Act, or other federal or state statutory law or regulation, or at common law or otherwise (including in settlement of any litigation, if such settlement is effected with the written consent of such Underwriter), insofar as such loss, claim, damage, liability or expense (or actions in respect thereof as contemplated below) arises out of or is based upon (i) any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement, or any amendment thereto, or any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading or (ii) any untrue statement or alleged untrue statement of a material fact included in any preliminary prospectus, the Time of Sale Prospectus, any free writing prospectus, that the Company has used, referred to or filed, or is required to file, pursuant to Rule 433 of the Securities Act, any Written Testing-the-Waters Communication or the Prospectus (or any such amendment or supplement) or the omission or alleged omission to state therein a material fact necessary in order to make the



statements, in the light of the circumstances under which they were made, not misleading, in each case to the extent, but only to the extent, that such untrue statement or alleged untrue statement or omission or alleged omission was made in the Registration Statement, such preliminary prospectus, the Time of Sale Prospectus, such free writing prospectus, such Written Testing-the-Waters Communication or the Prospectus (or any such amendment or supplement), in reliance upon and in conformity with information relating to such Underwriter furnished to the Company by the Representatives in writing expressly for use therein; and to reimburse the Company, RGF LLC, or any such director, officer, the Selling Stockholder or controlling person for any and all reasonable and documented expenses (including the reasonable and documented fees and disbursements of counsel) as such expenses are incurred by the Company, RGF LLC, or any such director, officer, the Selling Stockholder or controlling person in connection with investigating, defending, settling, compromising or paying any such loss, claim, damage, liability, expense or action. Each of the Company, RGF LLC and the Selling Stockholder hereby acknowledges that the only information that the Representatives have furnished to the Company expressly for use in the Registration Statement, any preliminary prospectus, the Time of Sale Prospectus, any free writing prospectus that the Company has filed, or is required to file, pursuant to Rule 433(d) of the Securities Act, any Written Testing-the-Waters Communication or the Prospectus (or any amendment or supplement to the foregoing) are the statements set forth in the first sentence of the third paragraph, the concession and reallowance figures in the first and second sentences of the fifth paragraph, the first sentence of the sixteenth paragraph and the first sentence of the twenty-first paragraph under the caption "Underwriting" in the Preliminary Prospectus and the Prospectus. The indemnity agreement set forth in this Section 9(b) shall be in addition to any liabilities that each Underwriter may otherwise have.

**(d) Notifications and Other Indemnification Procedures.** Promptly after receipt by an indemnified party under this Section 9 of notice of the commencement of any action, such indemnified party will, if a claim in respect thereof is to be made against an indemnifying party under this Section 9, notify the indemnifying party in writing of the commencement thereof, but the omission to so notify the indemnifying party will not relieve the indemnifying party from any liability which it may have to any indemnified party to the extent the indemnifying party is not materially prejudiced as a proximate result of such failure and shall not in any event relieve the indemnifying party from any liability that it may have otherwise than on account of this indemnity agreement. In case any such action is brought against any indemnified party and such indemnified party seeks or intends to seek indemnity from an indemnifying party, the indemnifying party will be entitled to participate in, and, to the extent that it shall elect, jointly with all other indemnifying parties similarly notified, by written notice delivered to the indemnified party promptly after receiving the aforesaid notice from such indemnified party, to assume the defense thereof with counsel reasonably satisfactory to such indemnified party; *provided, however*, that if the defendants in any such action include both the indemnified party and the indemnifying party and the indemnified party shall have reasonably concluded that a conflict may arise between the positions of the indemnifying party and the indemnified party in conducting the defense of any such action or that there may be legal defenses available to it and/or other indemnified parties which are different from or additional to those available to the indemnifying party, the indemnified party or parties shall have the right to select separate counsel to assume such legal defenses and to otherwise participate in the defense of such action on behalf of such indemnified party or parties. Upon receipt of notice from the indemnifying party to such indemnified party of such indemnifying party's election to so assume the defense of such action and approval by the indemnified party of counsel, such approval not to be unreasonably withheld or delayed, the indemnifying party will not be liable to such indemnified party under this Section 9 for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof unless (i) the indemnified party shall have employed separate counsel in accordance with the proviso to the preceding sentence (it being understood, however, that the indemnifying party shall not be liable for the fees and expenses of more than one separate counsel (together with local counsel), representing the indemnified parties who are parties to such action), which counsel (together with one local counsel in each relevant jurisdiction) for the indemnified parties shall be selected by Jefferies (in the case of counsel for the

indemnified parties referred to in Section 9(a) or 9(b) above) or by the Company or RGF LLC (in the case of counsel for the indemnified parties referred to in Section 9(c) above) or (ii) the indemnifying party shall not have employed counsel reasonably satisfactory to the indemnified party to represent the indemnified party within a reasonable time after notice of commencement of the action or (iii) the indemnifying party has authorized in writing the employment of counsel for the indemnified party at the expense of the indemnifying party, in each of which cases the fees and expenses of counsel shall be at the expense of the indemnifying party and shall be paid as they are incurred.

**(e) Settlements.** The indemnifying party under this Section 9 shall not be liable for any settlement of any proceeding effected without its written consent, but if settled with such consent or if there be a final judgment for the plaintiff, the indemnifying party agrees to indemnify the indemnified party against any loss, claim, damage, liability or expense by reason of such settlement or judgment. Notwithstanding the foregoing sentence, if at any time an indemnified party shall have requested an indemnifying party to reimburse the indemnified party for the reasonable and documented fees and expenses of counsel as contemplated by Section 9(d) hereof, the indemnifying party shall be liable for any settlement of any proceeding effected without its written consent if (i) such settlement is entered into more than 30 days after receipt by such indemnifying party of the aforesaid request and (ii) such indemnifying party shall not have reimbursed the indemnified party in accordance with such request prior to the date of such settlement. No indemnifying party shall, without the prior written consent of the indemnified party, effect any settlement, compromise or consent to the entry of judgment in any pending or threatened action, suit or proceeding in respect of which any indemnified party is or could have been a party and indemnity was or could have been sought hereunder by such indemnified party, unless such settlement, compromise or consent includes an unconditional release of such indemnified party from all liability on claims that are the subject matter of such action, suit or proceeding and does not include an admission of fault or culpability or a failure to act by or on behalf of such indemnified party.

**(f)** Notwithstanding anything to the contrary in this Agreement, (i) the aggregate liability of the Selling Stockholder under the indemnity agreements in this Section 9 and the contribution agreements in Section 10 shall not exceed the Selling Stockholder Net Proceeds and (ii) the provisions contained in this Section 9 and Section 10 shall not affect any agreement among the Company and the Selling Stockholder with respect to indemnification or contribution.

**Section 10. Contribution.** If the indemnification provided for in Section 9 is for any reason held to be unavailable to or otherwise insufficient to hold harmless an indemnified party in respect of any losses, claims, damages, liabilities or expenses referred to therein, then each indemnifying party shall contribute to the aggregate amount paid or payable by such indemnified party, as incurred, as a result of any losses, claims, damages, liabilities or expenses referred to therein (i) in such proportion as is appropriate to reflect the relative benefits received by the Company, RGF LLC or the Selling Stockholder, on the one hand, and the Underwriters, on the other hand, from the offering of the Offered Shares pursuant to this Agreement or (ii) if the allocation provided by clause (i) above is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above but also the relative fault of the Company, RGF LLC or the Selling Stockholder, on the one hand, and the Underwriters, on the other hand, in connection with the statements or omissions which resulted in such losses, claims, damages, liabilities or expenses, as well as any other relevant equitable considerations. The relative benefits received by the Company, RGF LLC and the Selling Stockholder, on the one hand, and the Underwriters, on the other hand, in connection with the offering of the Offered Shares pursuant to this Agreement shall be deemed to be in the same respective proportions as the total proceeds from the offering of the Offered Shares pursuant to this Agreement (before deducting expenses) received by the Company and the Selling Stockholder, and the total underwriting discounts and commissions received by the Underwriters, in each case as set forth on the front cover page of the Prospectus, bear to the aggregate initial public offering price of the Offered Shares as set forth on such cover. The relative fault of the

Company, RGF LLC or the Selling Stockholder, on the one hand, and the Underwriters, on the other hand, shall be determined by reference to, among other things, whether any such untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact relates to information supplied by the Company, RGF LLC or the Selling Stockholder, on the one hand, or the Underwriters, on the other hand, and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

The amount paid or payable by a party as a result of the losses, claims, damages, liabilities and expenses referred to above shall be deemed to include, subject to the limitations set forth in Section 9(d), any legal or other fees or expenses reasonably incurred by such party in connection with investigating or defending any action or claim. The provisions set forth in Section 9(d) with respect to notice of commencement of any action shall apply if a claim for contribution is to be made under this Section 10; *provided, however*, that no additional notice shall be required with respect to any action for which notice has been given under Section 9(d) for purposes of indemnification.

The Company, RGF LLC, the Selling Stockholder and the Underwriters agree that it would not be just and equitable if contribution pursuant to this Section 10 were determined by pro rata allocation (even if the Underwriters were treated as one entity for such purpose) or by any other method of allocation which does not take account of the equitable considerations referred to in this Section 10.

Notwithstanding the provisions of this Section 10, no Underwriter shall be required to contribute any amount in excess of the underwriting discounts and commissions received by such Underwriter in connection with the Offered Shares underwritten by it and distributed to the public. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The Underwriters' obligations to contribute pursuant to this Section 10 are several, and not joint, in proportion to their respective underwriting commitments as set forth opposite their respective names on Schedule A. For purposes of this Section 10, each affiliate, director, officer, employee and agent of an Underwriter and each person, if any, who controls an Underwriter within the meaning of the Securities Act or the Exchange Act shall have the same rights to contribution as such Underwriter, and each director of the Company, each officer of the Company who signed the Registration Statement, and each person, if any, who controls the Company within the meaning of the Securities Act and the Exchange Act shall have the same rights to contribution as the Company.

**Section 11. Default of One or More of the Several Underwriters.** If, on the First Closing Date or any Option Closing Date any one or more of the several Underwriters shall fail or refuse to purchase Offered Shares that it or they have agreed to purchase hereunder on such date, and the aggregate number of Offered Shares which such defaulting Underwriter or Underwriters agreed but failed or refused to purchase does not exceed 10% of the aggregate number of the Offered Shares to be purchased on such date, the Representatives may make arrangements satisfactory to the Company and the Selling Stockholder for the purchase of such Offered Shares by other persons, including any of the Underwriters, but if no such arrangements are made by such date, the other Underwriters shall be obligated, severally and not jointly, in the proportions that the number of Firm Shares set forth opposite their respective names on Schedule A bears to the aggregate number of Firm Shares set forth opposite the names of all such non-defaulting Underwriters, or in such other proportions as may be specified by the Representatives with the consent of the non-defaulting Underwriters, to purchase the Offered Shares which such defaulting Underwriter or Underwriters agreed but failed or refused to purchase on such date. If, on the First Closing Date or any Option Closing Date any one or more of the Underwriters shall fail or refuse to purchase Offered Shares and the aggregate number of Offered Shares with respect to which such default occurs exceeds 10% of the aggregate number of Offered Shares to be purchased on such date, and arrangements satisfactory to the Representatives and the Company for the purchase of such Offered Shares are not made

within 48 hours after such default, this Agreement shall terminate without liability of any party to any other party except that the provisions of Section 4, Section 7, Section 9 and Section 10 shall at all times be effective and shall survive such termination. In any such case either the Representatives or the Company shall have the right to postpone the First Closing Date or the applicable Option Closing Date, as the case may be, but in no event for longer than seven days in order that the required changes, if any, to the Registration Statement and the Prospectus or any other documents or arrangements may be effected.

As used in this Agreement, the term “**Underwriter**” shall be deemed to include any person substituted for a defaulting Underwriter under this Section 11. Any action taken under this Section 11 shall not relieve any defaulting Underwriter from liability in respect of any default of such Underwriter under this Agreement.

**Section 12. Termination of this Agreement.** Prior to the purchase of the Firm Shares by the Underwriters on the First Closing Date, this Agreement may be terminated by the Representatives by notice given to the Company, RGF LLC and the Selling Stockholder if at any time: (i) trading or quotation in any of the Company’s securities shall have been suspended or limited by the Commission or by the Nasdaq, or trading in securities generally on either the Nasdaq or the NYSE shall have been suspended or limited, or minimum or maximum prices shall have been generally established on any of such stock exchanges; (ii) a general banking moratorium shall have been declared by any of federal, New York, New Jersey or California authorities; (iii) there shall have occurred any outbreak or escalation of national or international hostilities or any crisis or calamity, or any change in the United States or international financial markets, or any substantial change or development involving a prospective substantial change in the United States’ or international political, financial or economic conditions, as in the judgment of the Representatives is material and adverse and makes it impracticable to market the Offered Shares in the manner and on the terms described in the Time of Sale Prospectus or the Prospectus or to enforce contracts for the sale of securities; (iv) in the judgment of the Representatives there shall have occurred any Material Adverse Change; or (v) the Company or RGF LLC shall have sustained a loss by strike, fire, flood, earthquake, accident or other calamity of such character as in the judgment of the Representatives may interfere materially with the conduct of the business and operations of the Company or RGF LLC regardless of whether or not such loss shall have been insured. Any termination pursuant to this Section 12 shall be without liability on the part of (a) the Company, RGF LLC or the Selling Stockholder to any Underwriter, except that the Company and RGF LLC shall be obligated to reimburse the expenses of the Representatives and the Underwriters pursuant to Section 4 or Section 7 hereof or (b) any Underwriter to the Company or the Selling Stockholder; *provided, however*, that the provisions of Section 9 and Section 10 shall at all times be effective and shall survive such termination.

**Section 13. No Advisory or Fiduciary Relationship.** Each of the Company, RGF LLC and the Selling Stockholder acknowledge and agree that (a) the purchase and sale of the Offered Shares pursuant to this Agreement, including the determination of the public offering price of the Offered Shares and any related discounts and commissions, is an arm’s-length commercial transaction between the Company, RGF LLC and the Selling Stockholder, on the one hand, and the several Underwriters, on the other hand, (b) in connection with the offering contemplated hereby and the process leading to such transaction, each Underwriter is and has been acting solely as a principal and is not the agent or fiduciary of the Company or the Selling Stockholder or the Company’s other stockholders, RGF LLC or holders of its membership interests, or the creditors or employees of the Company or RGF LLC, (c) no Underwriter has assumed or will assume an advisory or fiduciary responsibility in favor of the Company, RGF LLC or the Selling Stockholder with respect to the offering contemplated hereby or the process leading thereto (irrespective of whether such Underwriter has advised or is currently advising the Company, RGF LLC or the Selling Stockholder on other matters) and no Underwriter has any obligation to the Company, RGF LLC or the Selling Stockholder with respect to the offering contemplated hereby except the obligations expressly set forth in this Agreement, (d) the Underwriters and their respective affiliates may be engaged

in a broad range of transactions that involve interests that differ from those of the Company, RGF LLC and the Selling Stockholder, and (e) the Underwriters have not provided any legal, accounting, regulatory or tax advice with respect to the offering contemplated hereby and the Company, RGF LLC and the Selling Stockholder have consulted their own legal, accounting, regulatory and tax advisors to the extent they deemed appropriate.

**Section 14. Representations and Indemnities to Survive Delivery.** The respective indemnities, agreements, representations, warranties and other statements of the Company, of RGF LLC, of their respective officers, of the Selling Stockholder and of the several Underwriters set forth in or made pursuant to this Agreement will remain in full force and effect, regardless of any investigation made by or on behalf of any Underwriter, the Company, or RGF LLC, or any of its or their partners, officers or directors, or any controlling person, or the Selling Stockholder, as the case may be, and, anything herein to the contrary notwithstanding, will survive delivery of and payment for the Offered Shares sold hereunder and any termination of this Agreement.

**Section 15. Notices.** All communications hereunder shall be in writing and shall be mailed, hand delivered or telecopied and confirmed to the parties hereto as follows:

If to the Representatives:

Jefferies LLC  
520 Madison Avenue  
New York, New York 10022  
Facsimile: (646) 619-4437  
Attention: General Counsel  
  
William Blair & Company, L.L.C.  
150 North Riverside Plaza  
Chicago, Illinois 60606  
Attention: Equity Capital Markets

with a copy to:

Goodwin Procter LLP  
601 Marshall Street  
Redwood City, California 94063  
Attention: Bradley Weber

If to the Company or RGF LLC:

The Real Good Food Company, Inc.  
3 Executive Campus, Suite 55  
Cherry Hill, NJ 08002  
Attention: Bryan Freeman, Gerard Law

with a copy to:

Stradling Yocca Carlson & Rauth P.C.  
660 Newport Center Drive, Suite 1600  
Newport Beach, CA 92660  
Attention: Ryan C. Wilkins

If to the Selling Stockholder:

Josh Schreider  
[\*\*\*]  
[\*\*\*]

with a copy to:

Stradling Yocca Carlson & Rauth P.C.  
660 Newport Center Drive, Suite 1600  
Newport Beach, CA 92660  
Attention: Ryan C. Wilkins

Any party hereto may change the address for receipt of communications by giving written notice to the others.

**Section 16. Successors.** This Agreement will inure to the benefit of and be binding upon the parties hereto, including any substitute Underwriters pursuant to Section 11 hereof, and to the benefit of the affiliates, directors, officers, employees, agents and controlling persons referred to in Section 9 and Section 10, and in each case their respective successors, and no other person will have any right or obligation hereunder. The term “**successors**” shall not include any purchaser of the Offered Shares as such from any of the Underwriters merely by reason of such purchase.

**Section 17. Partial Unenforceability.** The invalidity or unenforceability of any section, paragraph or provision of this Agreement shall not affect the validity or enforceability of any other section, paragraph or provision hereof. If any section, paragraph or provision of this Agreement is for any reason determined to be invalid or unenforceable, there shall be deemed to be made such minor changes (and only such minor changes) as are necessary to make it valid and enforceable.

**Section 18. Recognition of the U.S. Special Resolution Regimes.**

(a) In the event that any Underwriter that is a Covered Entity becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer from such Underwriter of this Agreement, and any interest and obligation in or under this Agreement, will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if this Agreement, and any such interest and obligation, were governed by the laws of the United States or a state of the United States.

(b) In the event that any Underwriter that is a Covered Entity or a BHC Act Affiliate of such Underwriter becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under this Agreement that may be exercised against such Underwriter are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if this Agreement were governed by the laws of the United States or a state of the United States.

For purposes of this Agreement, (A) “**BHC Act Affiliate**” has the meaning assigned to the term “affiliate” in, and shall be interpreted in accordance with, 12 U.S.C. § 1841(k); (B) “**Covered Entity**” means any of the following: (i) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b); (ii) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or (iii) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b); (C) “**Default Right**” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable; and (D) “**U.S. Special Resolution Regime**” means each of (i) the Federal Deposit Insurance Act and the regulations promulgated thereunder and (ii) Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the regulations promulgated thereunder.

**Section 19. Governing Law Provisions.** This Agreement shall be governed by and construed in accordance with the internal laws of the State of New York applicable to agreements made and to be performed in such state. Any legal suit, action or proceeding arising out of or based upon this Agreement or the transactions contemplated hereby (“**Related Proceedings**”) may be instituted in the federal courts of the United States of America located in the Borough of Manhattan in the City of New York or the courts of the State of New York in each case located in the Borough of Manhattan in the City of New York (collectively, the “**Specified Courts**”), and each party irrevocably submits to the exclusive

jurisdiction (except for proceedings instituted in regard to the enforcement of a judgment of any such court (a “**Related Judgment**”), as to which such jurisdiction is non-exclusive) of such courts in any such suit, action or proceeding. Service of any process, summons, notice or document by mail to such party’s address set forth above shall be effective service of process for any suit, action or other proceeding brought in any such court. The parties irrevocably and unconditionally waive any objection to the laying of venue of any suit, action or other proceeding in the Specified Courts and irrevocably and unconditionally waive and agree not to plead or claim in any such court that any such suit, action or other proceeding brought in any such court has been brought in an inconvenient forum.

**Section 20. Failure of the Selling Stockholder to Sell and Deliver Offered Shares.** If the Selling Stockholder shall fail to sell and deliver to the Underwriters the Offered Shares to be sold and delivered by the Selling Stockholder at the First Closing Date or the applicable Option Closing Date pursuant to this Agreement, then the Underwriters may, at their option, by written notice from the Representatives to the Company and the Selling Stockholder, either (i) terminate this Agreement without any liability on the part of any Underwriter or, except as provided in Section 4, Section 7, Section 9 and Section 10 hereof, the Company, or (ii) purchase the shares which the Company has agreed to sell and deliver in accordance with the terms hereof. If the Selling Stockholder shall fail to sell and deliver to the Underwriters the Offered Shares to be sold and delivered by the Selling Stockholder pursuant to this Agreement at the First Closing Date or the applicable Option Closing Date, then the Underwriters shall have the right, by written notice from the Representatives to the Company and the Selling Stockholder, to postpone the First Closing Date or the applicable Option Closing Date, as the case may be, but in no event for longer than seven days in order that the required changes, if any, to the Registration Statement and the Prospectus or any other documents or arrangements may be effected.

**Section 21. General Provisions.** This Agreement constitutes the entire agreement of the parties to this Agreement and supersedes all prior written or oral and all contemporaneous oral agreements, understandings and negotiations with respect to the subject matter hereof. This Agreement may be executed in two or more counterparts, each one of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. This Agreement may not be amended or modified unless in writing by all of the parties hereto, and no condition herein (express or implied) may be waived unless waived in writing by each party whom the condition is meant to benefit. The section headings herein are for the convenience of the parties only and shall not affect the construction or interpretation of this Agreement.

Each of the parties hereto acknowledges that it is a sophisticated business person who was adequately represented by counsel during negotiations regarding the provisions hereof, including, without limitation, the indemnification provisions of Section 9 and the contribution provisions of Section 10, and is fully informed regarding said provisions. Each of the parties hereto further acknowledges that the provisions of Section 9 and Section 10 hereof fairly allocate the risks in light of the ability of the parties to investigate the Company, RGF LLC, their affairs and their business in order to assure that adequate disclosure has been made in the Registration Statement, any preliminary prospectus, the Time of Sale Prospectus, each free writing prospectus and the Prospectus (and any amendments and supplements to the foregoing), as contemplated by the Securities Act and the Exchange Act.

(Remainder of page intentionally left blank)

If the foregoing is in accordance with your understanding of our agreement, kindly sign and return to the Company and RGF LLC the enclosed copies hereof, whereupon this instrument, along with all counterparts hereof, shall become a binding agreement in accordance with its terms.

Very truly yours,

**THE REAL GOOD FOOD COMPANY, INC.**

By: \_\_\_\_\_  
Name: Gerard G. Law  
Title: Chief Executive Officer

**REAL GOOD FOODS, LLC**

By: \_\_\_\_\_  
Name: Gerard G. Law  
Title: Chief Executive Officer

**[ON BEHALF OF THE] SELLING STOCKHOLDER**

By: \_\_\_\_\_  
Name: Ryan C. Wilkins  
Title: Attorney-in-Fact



The foregoing Underwriting Agreement is hereby confirmed and accepted by the Representatives in New York, New York as of the date first above written.

**JEFFERIES LLC**  
**WILLIAM BLAIR & COMPANY, L.L.C.**  
Acting individually and as Representatives  
of the several Underwriters named in  
the attached Schedule A.

**JEFFERIES LLC**

By: \_\_\_\_\_  
Name:  
Title:

**WILLIAM BLAIR & COMPANY, L.L.C.**

By: \_\_\_\_\_  
Name:  
Title:

Underwriters	Number of Firm Shares to be Purchased
Jefferies LLC	<div></div>
William Blair & Company, L.L.C.	<div></div>
Truist Securities, Inc.	<div></div>
Nomura Securities International, Inc.	<div></div>
Total	<div></div>

Selling Stockholder	Maximum Number of Optional Shares to be Purchased
Josh Schreider	<input type="text"/>

**Free Writing Prospectuses Included in the Time of Sale Prospectus**

[ ]

Permitted Testing-the-Waters Communications

[ ]

Form of Lock-up Agreement

\_\_\_\_\_, 2021

Jefferies LLC  
William Blair & Company, L.L.C.  
As Representatives of the Several Underwriters

c/o Jefferies LLC  
520 Madison Avenue  
New York, New York 10022

and

c/o William Blair & Company, L.L.C.  
150 North Riverside Plaza  
Chicago, Illinois 60606

RE: The Real Good Food Company, Inc. (the “**Company**”)

Ladies & Gentlemen:

The undersigned is an owner of shares of Common Stock (as defined in Annex A hereto). The Company proposes to conduct a public offering (the “**Offering**”) of shares of Class A common stock, par value \$0.0001 per share, of the Company (collectively, the “**Class A Common Stock**”) for which Jefferies LLC (“**Jefferies**”) and William Blair & Company, L.L.C. (“**William Blair**”) will act as the representatives (the “**Representatives**”) of the several underwriters for the proposed Offering (the “**Underwriters**”). The undersigned recognizes that the Offering will benefit each of the Company, The Real Good Food Company LLC (“RGF LLC”) and the undersigned. The undersigned acknowledges that the Underwriters are relying on the representations and agreements of the undersigned contained in this letter agreement (this “**Agreement**”) in conducting the Offering and, at a subsequent date, in entering into an underwriting agreement (the “**Underwriting Agreement**”) and other underwriting arrangements with the Company and RGF LLC with respect to the Offering.

Annex A sets forth definitions for capitalized terms used in this Agreement that are not defined in the body of this Agreement. Those definitions are a part of this Agreement.

In consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned hereby agrees that, during the Lock-up Period, the undersigned will not (and, if the undersigned is a natural person, will cause any Family Member not to), without the prior written consent of Jefferies, which may withhold its consent in its sole discretion:

- Sell or Offer to Sell any Common Stock or Related Securities currently or hereafter owned either of record or beneficially (as defined in Rule 13d-3 under the Exchange Act) by the undersigned or such Family Member,
- enter into any Swap,
- make any demand for, or exercise any right with respect to, the registration under the Securities Act of the offer and sale of any Common Stock or Related Securities, or cause to be filed a registration statement, prospectus or prospectus supplement (or an amendment or supplement thereto) with respect to any such registration, or
- publicly announce any intention to do any of the foregoing.

The foregoing will not apply to the registration of the offer and sale of the Class A Common Stock, and the sale of the Class A Common Stock to the Underwriters, in each case as contemplated by the Underwriting Agreement. In addition, the foregoing restrictions shall not apply to:

- transactions relating to Common Stock or Related Securities acquired in the Offering or in open market transactions after the completion of the Offering;
- transfers of Common Stock or Related Securities by *bona fide* gift, including, without limitation, to a charitable organization;
- transfers of Common Stock or Related Securities by will or intestate succession to the legal representative, heir, beneficiary or any Family Member of the undersigned, or to a trust whose beneficiaries consist exclusively of one or more of the undersigned and/or a Family Member;
- transfers or dispositions of Common Stock or Related Securities to a Family Member, a trust exclusively formed for the direct or indirect benefit of the undersigned or a Family Member or any corporation, partnership, limited liability company or other entity all of the beneficial ownership interests of which, in each case, are held by the undersigned or any Family Member;
- transfers of Common Stock or Related Securities by operation of law pursuant to a qualified domestic order or other court order or in connection with a divorce settlement;
- if the undersigned is a corporation, partnership, limited liability company, trust or other business entity, distributions or transfers of Common Stock or Related Securities to (x) another corporation, partnership, limited liability company, trust or other business entity that is a direct or indirect affiliate (as defined in Rule 405 promulgated under the Securities Act) of the undersigned, (y) any investment fund or other entity controlling, controlled by, managing or managed by or under common control with the undersigned or affiliates of the undersigned (including, for the avoidance of doubt, where the undersigned is a partnership, to its general partner or a successor partnership or fund, or any other funds managed by such partnership), or (z) limited partners, general partners, members, managers, managing members, stockholders or other equity holders of the undersigned or of the entities described in the preceding clauses (x) and (y);
- issuances of shares of Common Stock to the undersigned upon exercise or conversion of outstanding Related Securities disclosed in the registration statement for the Offering as described in the registration statement; and
- transfers of Common Stock or Related Securities pursuant to a change of control of the Company (meaning the consummation of any bona fide third party tender offer, merger, consolidation or other similar transaction made to all holders of Common Stock the result of which is that any “person” (as defined in Section 13(d)(3) of the Exchange Act), or group of persons, becomes the beneficial owner (as defined in Rules 13d-3 and 13d-5 of the Exchange Act) of more than 50% of the voting capital stock of the Company) after the Offering that has been approved by the independent members of the Company’s board of directors, provided, that in the event that such change of control is not completed, the Common Stock or Related Securities owned by the undersigned shall remain subject to the restrictions herein.

Notwithstanding the foregoing, it shall be a condition to any such transfer or distribution provided in:

- a. clauses (ii), (vi) and (vii), that no filing under Section 16(a) of the Exchange Act, reporting such transfer of the undersigned's shares of Common Stock, shall be required or shall be voluntarily made during the Lock-Up Period (other than any required Form 5 filing after the end of the calendar year in which such transaction occurs);
- b. clauses (ii) through (vi), that such transfer shall not involve a disposition for value;
- c. clauses (ii), (iii), (iv) and (vi), each transferee or distributee executes and delivers to the Representatives an agreement in form and substance satisfactory to the Representatives stating that such transferee or distributee is receiving and holding such Common Stock and/or Related Securities subject to the provisions of this Agreement and agrees not to Sell or Offer to Sell such Common Stock and/or Related Securities, engage in any Swap or engage in any other activities restricted under this Agreement except in accordance with this Agreement (as if such transferee or distributee had been an original signatory hereto);
- d. clause (v), the undersigned shall use its reasonable efforts to have the transferee execute and deliver to the Representatives an agreement in form and substance satisfactory to the Representatives stating that such transferee is receiving and holding such Common Stock and/or Related Securities subject to the provisions of this Agreement and agrees not to Sell or Offer to Sell such Common Stock and/or Related Securities, engage in any Swap or engage in any other activities restricted under this Agreement except in accordance with this Agreement (as if such transferee or distributee had been an original signatory hereto);
- e. clause (vii), any shares of Common Stock received by the undersigned upon such exercise or conversion shall be subject to the restrictions on transfer set forth in this Agreement; and
- f. clauses (i) through (vi) that, prior to the expiration of the Lock-Up Period, if any public disclosure or filing under the Exchange Act by any party to the transfer (donor, donee, transferor or transferee) is required (and, for the avoidance of doubt, is permitted pursuant to clauses (a) through (e) above), reporting a reduction in beneficial ownership of shares of Common Stock in connection with such transfer, such disclosure or filing shall indicate, by footnote disclosure or otherwise, the nature and purpose of the transaction; and provided that the undersigned does not otherwise voluntarily effect any other public filing or report regarding such transfers during the Lock-up Period.

Furthermore, notwithstanding the restrictions imposed by this Agreement, the undersigned may establish a trading plan pursuant to Rule 10b5-1 under the Exchange Act (a "**10b5-1 Plan**") for the transfer of Common Stock, provided that such 10b5-1 Plan shall not provide for or permit any transfers, sales or other dispositions of Common Stock during the Lock-up Period and, the entry into such 10b5-1 Plan is not publicly disclosed, including in any public announcement or filing under the Exchange Act during the Lock-up Period.

The Underwriters further agree that, if and to the extent they release any officer or director of the Company, or holder of Common Stock and/or any Related Securities (in each case, when released, a "**Releasee**"), from any existing lock-up restriction contemplated within this Agreement, then this Agreement shall be automatically modified without further action to release a portion of the shares of Common Stock held by the undersigned (on a pro rata basis with all other record or beneficial holders of similarly restricted securities of the Company based on the maximum percentage of shares held by any such record or beneficial holder being released from such holder's lock-up agreement) from the restrictions imposed by this Agreement so that the restrictions of this Agreement are no less favorable to the undersigned than the agreement applicable to the Releasee. Upon any such automatic modification of this Agreement, the Company shall notify the undersigned of such modification in writing as promptly as reasonably practicable and in any event at least 12 hours prior to the open of the trading markets on the date such waiver, termination or suspension is to take effect.



Notwithstanding anything to the contrary, in the event that the Company and/or the Underwriters in connection with the Offering agree to allow any holder of Common Stock and/or any Related Securities to hold is Common Stock and/or any Related Securities subject to lock-up restrictions that are more favorable to such holder than the lock-up restrictions applicable to the Common Stock and/or any Related Securities held by the undersigned pursuant to his Agreement, then this Agreement shall be automatically modified without further action to conform to the more favorable lock-up restrictions applicable to the Common Stock and/or any Related Securities held by such holder.

The effectiveness of this Agreement is subject to the execution of substantially similar agreements by all directors, officers, and holders of Common Stock and/or any Related Securities as of the date of this Agreement.

If the undersigned is an officer or director of the Company or RGF LLC, the undersigned further agrees that the foregoing provisions shall be equally applicable to any Company-directed Common Stock the undersigned may purchase or otherwise receive in the Offering (including pursuant to a directed share program, if any).

In addition, if the undersigned is an officer or director of the Company, (i) Jefferies agrees that, at least three business days before the effective date of any release or waiver of the foregoing restrictions in connection with a transfer of Common Stock, Jefferies will notify the Company of the impending release or waiver, and (ii) the Company (in accordance with the provisions of the Underwriting Agreement) will announce the impending release or waiver by press release through a major news service at least two business days before the effective date of the release or waiver. Any release or waiver granted by Jefferies hereunder to any such officer or director shall only be effective two business days after the publication date of such press release. The provisions of this paragraph will not apply if both (a) the release or waiver is effected solely to permit a transfer not for consideration and (b) the transferee has agreed in writing to be bound by the same terms described in this Agreement that are applicable to the transferor to the extent and for the duration that such terms remain in effect at the time of the transfer.

The undersigned also agrees and consents to the entry of stop transfer instructions with the Company's transfer agent and registrar against the transfer of Common Stock or Related Securities held by the undersigned and the undersigned's Family Members, if any, except in compliance with the foregoing restrictions.

With respect to the Offering only, the undersigned waives any registration rights relating to registration under the Securities Act of the offer and sale of any Common Stock and/or any Related Securities owned either of record or beneficially by the undersigned, including any rights to receive notice of the Offering.

The undersigned confirms that the undersigned has not, and has no knowledge that any Family Member has, directly or indirectly, taken any action designed to or that might reasonably be expected to cause or result in the stabilization or manipulation of the price of any security of the Company to facilitate the sale of the Class A Common Stock. The undersigned will not take, directly or indirectly, any such action.

The undersigned acknowledges and agrees that the Underwriters have not provided any recommendation or investment advice nor have the Underwriters solicited any action from the undersigned with respect to the Offering and the undersigned has consulted their own legal, accounting, financial, regulatory and tax advisors to the extent deemed appropriate.

Whether or not the Offering occurs as currently contemplated or at all depends on market conditions and other factors. The Offering will only be made pursuant to the Underwriting Agreement, the terms of which are subject to negotiation between the Company, RGF LLC and the Underwriters.

Notwithstanding anything to the contrary contained herein, this Agreement will automatically, and without any action on the part of any other party, terminate and the undersigned shall be released from all obligations under this Agreement upon the earliest to occur, if any, of (i) prior to the execution of the Underwriting Agreement, the Company, on the one hand, or the Representatives, on the other hand, notifies the other in writing that it does not intend to proceed with the Offering, (ii) the Company files an application to withdraw the registration statement related to the Offering, (iii) the Underwriting Agreement being terminated following execution of the Underwriting Agreement (other than the provisions thereof which survive termination) prior to payment for and delivery of the Common Stock to be sold thereunder or (iv) December 31, 2021 if the Underwriting Agreement has not been executed by such date (provided that the Company may by written notice to the undersigned prior to December 31, 2021, extend such date for a period of up to 30 additional days).

This Agreement and the termination or expiration hereof shall not limit the effect of additional restrictions on transfer imposed on Common Stock and Related Securities as may be in effect from time to time, including, without limitations, restrictions set forth in the Operating Agreement of RGF LLC.

The undersigned hereby represents and warrants that the undersigned has full power, capacity and authority to enter into this Agreement. This Agreement is irrevocable and will be binding on the undersigned and the successors, heirs, personal representatives and assigns of the undersigned.

This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York.

Any signature hereto 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](http://www.docusign.com)) or other transmission method and any signature so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

*Signature page follows.*

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name of Person Signing

*(Indicate capacity of person signing if  
signing as custodian or trustee, or on behalf  
of an entity)*

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## Annex A

### **Certain Defined Terms Used in Lock-up Agreement**

For purposes of the Agreement to which this Annex A is attached and of which it is made a part:

“**Call Equivalent Position**” shall have the meaning set forth in Rule 16a-1(b) under the Exchange Act.

“**Class B Common Stock**” shall mean Class B common stock of the Company, par value \$0.0001 per share.

“**Common Stock**” shall mean, collectively (a) the Class A Common Stock to be outstanding after giving effect to the sales contemplated by the Underwriting Agreement and (b) the Class B Common Stock.

“**Exchange Act**” shall mean the Securities Exchange Act of 1934, as amended.

“**Family Member**” shall mean the spouse of the undersigned, an immediate family member of the undersigned or an immediate family member of the undersigned’s spouse, in each case living in the undersigned’s household or whose principal residence is the undersigned’s household (regardless of whether such spouse or family member may at the time be living elsewhere due to educational activities, health care treatment, military service, temporary internship or employment or otherwise). “**Immediate family member**” as used above shall have the meaning set forth in Rule 16a-1(e) under the Exchange Act.

“**Lock-up Period**” shall mean the period beginning on the date hereof and continuing through the close of trading on the date that is 180 days after the date of the Prospectus (as such term will be defined in the Underwriting Agreement).

“**Put Equivalent Position**” shall have the meaning set forth in Rule 16a-1(h) under the Exchange Act.

“**Related Securities**” shall mean any of the following (a) membership interests of RGF LLC, (b) options, warrants or other rights to acquire Common Stock or membership interests of RGF LLC, or (c) any securities exchangeable or exercisable for or convertible into Common Stock, membership interests of RGF LLC, or other securities, rights to acquire, or other rights ultimately exchangeable or exercisable for or convertible into Common Stock or membership interests of RGF LLC.

“**Securities Act**” shall mean the Securities Act of 1933, as amended.

“**Sell or Offer to Sell**” shall mean to:

- sell, offer to sell, contract to sell or lend,
- effect any short sale or establish or increase a Put Equivalent Position or liquidate or decrease any Call Equivalent Position
- pledge, hypothecate or grant any security interest in, or
- in any other way transfer or dispose of,

in each case whether effected directly or indirectly.

---

**“Swap”** shall mean any swap, hedge or similar arrangement or agreement that transfers, in whole or in part, the economic risk of ownership of Common Stock or Related Securities, regardless of whether any such transaction is to be settled in securities, in cash or otherwise.

Capitalized terms not defined in this Annex A shall have the meanings given to them in the body of this Agreement.

**Directors, Officers and Others**  
**Signing Lock-up Agreement**

**Non-Employee Directors:**

Deanna T. Brady  
George F. Chappelle, Jr.  
Gil B. de Cardenas  
Mark J. Nelson

**Officers:**

Bryan Freeman  
Gerard G. Law  
Akshay Jagdale  
Andrew J. Stiffelman

**Selling Stockholder:**

Josh Schreider

**Others:**

Holders of substantially all of our outstanding Common Stock or membership interests of RGF LLC or any other securities convertible into or exchangeable for shares of our Common Stock or membership interests of RGF LLC

**PLAN OF CONVERSION**  
**of**  
**The Real Good Food Company LLC,**  
**a California Limited Liability Company**  
**into**  
**Real Good Foods, LLC,**  
**a Delaware Limited Liability Company**

Pursuant to the provisions of the California Revised Uniform Liability Company Act (the “**CA Act**”) and the Delaware Limited Liability Company Act (the “**DE Act**”), this Plan of Conversion (this “**Plan**”) has been adopted as of October 25, 2021 for the purpose of effecting the conversion of The Real Good Food Company LLC, a California limited liability company (the “**Converting Company**”), into Real Good Foods, LLC, a Delaware limited liability company (the “**Converted Company**”), in accordance with the provisions of the CA Act and Section 18-214 of the DE Act.

**WHEREAS**, the Converting Company desires to convert into the Converted Company (the “**Conversion**”) to be effective upon filing of the Certificate of Formation with the Secretary of State of Delaware; and

**WHEREAS**, pursuant to the provisions of the CA Act and the DE Act, this Plan has been adopted and approved by the manager and all of the members of the Converting Company for the purpose of effecting the Conversion.

**NOW, THEREFORE**, in consideration of the foregoing recitals and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows with the intent to be legally bound by this Plan:

1. The Converting Company is a limited liability company organized under the laws of the State of California, with its principal executive office located at 3 Executive Campus, Suite 155, Cherry Hill, NJ 08002. The name of the Converting Company is The Real Good Food Company LLC.

2. The Converted Company shall be a limited liability company organized under the laws of the State of Delaware, with its principal executive office located at 3 Executive Campus, Suite 155, Cherry Hill, NJ 08002. The name of the Converted Company is Real Good Foods, LLC.

3. The Converting Company shall be converted into the Converted Company upon filing of the Certificate of Formation with the Secretary of State of Delaware.

4. Pursuant to the Conversion, one hundred percent (100%) of the Percentage Interest of the Converting Company shall be converted into one hundred percent (100%) of the Percentage Interest in the Converted Company. The Converted Company will initially be managed by The Real Good Food Company, Inc., a Delaware corporation, as the Managing Member.

5. The officers of the Converting Company shall continue to be the officers of the Converted Company following the Conversion.

6. The Delaware Certificate of Conversion and Certificate of Formation of the Converted Company is attached as Exhibit A hereto. The California Certificate of Conversion of the Converting Company is attached as Exhibit B hereto.

7. The Limited Liability Company Agreement of the Converted Company is attached as Exhibit C hereto.

8. This Plan has been duly approved by the managers and all of the members of the Converting Company pursuant to a Joint Action by Unanimous Written Consent of the Managers and Members of The Real Good Food Company LLC, executed and effective as of \_\_\_\_\_, 2021, attached as Exhibit D hereto.

*[Rest of page left blank intentionally.]*



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**EXHIBIT A**

**DELAWARE CERTIFICATE OF CONVERSION AND CERTIFICATE OF FORMATION  
OF  
REAL GOOD FOODS, LLC**

**[\*\*\*]**

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**EXHIBIT B**

**CALIFORNIA CERTIFICATE OF CONVERSION  
OF  
THE REAL GOOD FOOD COMPANY LLC**

**[\*\*\*]**

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**EXHIBIT C**

**LIMITED LIABILITY COMPANY AGREEMENT  
OF  
REAL GOOD FOODS, LLC**

**[\*\*\*]**

---

**EXHIBIT D**

**JOINT ACTION BY UNANIMOUS WRITTEN CONSENT OF  
THE MANAGERS AND MEMBERS OF  
THE REAL GOOD FOOD COMPANY LLC**

**[\*\*\*]**



Stradling Yocca Carlson & Rauth  
A Professional Corporation  
660 Newport Center Drive, Suite 1600  
Newport Beach, CA 92660-6422  
949 725 4000  
stradlinglaw.com

October 28, 2021

The Real Good Food Company, Inc.  
3 Executive Campus, Suite 155  
Cherry Hill, NJ 08002

Ladies and Gentlemen:

We have acted as counsel to The Real Good Food Company, Inc., a Delaware corporation (the “**Company**”), in connection with the filing of a Registration Statement on Form S-1 (Filing No. 333-260204) (the “**Registration Statement**”) with the Securities and Exchange Commission, including a related prospectus included in the Registration Statement (the “**Prospectus**”), covering an underwritten public offering by the Company and a selling stockholder of the Company of up to an aggregate of 25,800,000 shares (the “**Shares**”) of the Company’s Class A common stock, par value \$0.0001, which consists of (i) up to 25,466,667 Shares to be sold by the Company (including up to 466,667 Shares that may be sold by the Company pursuant to the exercise of an option to purchase additional Shares granted by the Company the underwriters (the “**Option**”) (collectively, the “**Company Shares**”), and (ii) up to 333,333 Shares (the “**Stockholder Shares**”) that will be sold by the selling stockholder identified in the Registration Statement if the Option is exercised by the underwriters with respect to at least that number of Shares.

In connection with this opinion, we have (i) examined and relied upon (a) the Registration Statement and the Prospectus, (b) the forms of the Company’s Amended and Restated Certificate of Incorporation (the “**Certificate of Incorporation**”) and Amended and Restated Bylaws, each of which will become effective immediately prior to the closing of the offering contemplated by the Registration Statement, in the forms filed as Exhibits 3.1 and 3.2 to the Registration Statement, respectively, and (c) originals or copies certified to our satisfaction of such records, documents, certificates, memoranda and other instruments as in our judgment are necessary or appropriate to enable us to render the opinion expressed below, and (ii) assumed that the Shares will be sold at a price established by the Board of Directors of the Company (or a duly authorized committee thereof) and that the Certificate of Incorporation is filed with the Secretary of State of the State of Delaware before issuance of the Shares.

We have assumed the genuineness of all signatures, the authenticity of all documents submitted to us as originals, the conformity to originals of all documents submitted to us as copies, the accuracy, completeness and authenticity of the certificates of public officials and the due authorization, execution and delivery by all persons other than by the Company of all documents where due authorization, execution and delivery are prerequisites to the effectiveness thereof. As to certain factual matters, we have relied upon a certificate of an officer of the Company and have not independently verified such matters.

On the basis of the foregoing, and in reliance thereon, we are of the opinion that (i) the Company Shares, when sold and issued against payment therefor as described in the Registration Statement and the Prospectus, will be validly issued, fully paid and non-assessable, and (ii) the Stockholder Shares that are to be acquired by the selling stockholder upon the conversion of outstanding equity securities held by the selling stockholder immediately prior to the sale of such Shares by the underwriters in accordance with the Registration Statement and the Prospectus, will be validly issued, fully paid and non-assessable when issued upon the conversion of such equity securities in accordance with their terms.

Our opinion is expressed only with respect to the General Corporation Law of the State of Delaware. We express no opinion to the extent that any other laws are applicable to the subject matter hereof and express no opinion and provide no assurance as to compliance with any federal or state securities law, rule or regulation.

We consent to the reference to our firm under the caption “Legal Matters” in the Prospectus included in the Registration Statement and to the filing of this opinion as an exhibit to the Registration Statement.

This opinion is solely intended for use in connection with the issuance and sale of the Shares pursuant to the Registration Statement and is not to be relied upon for any other purpose without our prior written consent. We assume no obligation to advise you of any fact, circumstance, event or change in the law or the facts that may hereafter be brought to our attention whether or not such occurrence would affect or modify the opinions expressed herein.

Very truly yours,

STRADLING YOCCA CARLSON & RAUTH, P.C.

*/s/ Stradling Yocca Carlson & Rauth, P.C.*

**REAL GOOD FOODS, LLC**  
**LIMITED LIABILITY COMPANY AGREEMENT**

Dated as of \_\_\_\_\_, 2021

THE UNITS ISSUED PURSUANT TO THIS LIMITED LIABILITY COMPANY AGREEMENT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR UNDER ANY OTHER APPLICABLE SECURITIES LAWS. SUCH UNITS MAY NOT BE SOLD, TRANSFERRED, ASSIGNED, PLEDGED OR OTHERWISE DISPOSED OF AT ANY TIME WITHOUT EFFECTIVE REGISTRATION UNDER SUCH ACT AND LAWS OR AN EXEMPTION THEREFROM.

CERTAIN UNITS MAY ALSO BE SUBJECT TO ADDITIONAL RESTRICTIONS ON TRANSFER SET FORTH HEREIN AND/OR IN A SEPARATE AGREEMENT WITH THE INITIAL HOLDER OF SUCH UNITS. A COPY OF SUCH AGREEMENT MAY BE OBTAINED BY THE HOLDER OF SUCH UNITS UPON WRITTEN REQUEST TO THE COMPANY AND WITHOUT CHARGE.

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**REAL GOOD FOODS, LLC  
LIMITED LIABILITY COMPANY AGREEMENT**

THIS LIMITED LIABILITY COMPANY AGREEMENT of Real Good Foods, LLC, a Delaware limited liability company (the “Company”), is entered into as of \_\_\_\_\_, 2021, by and among the Company, The Real Good Food Company, Inc., a Delaware corporation (the “Corporation”), as the Managing Member, and the Members set forth herein. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in Article I.

WHEREAS, the Certificate was filed with the Office of the Secretary of State of Delaware on \_\_\_\_\_, 2021 pursuant to a conversion of The Real Good Food Company LLC, a California limited liability company, to the Company;

WHEREAS, in connection with the initial public offering (the “IPO”) of shares of Class A Common Stock (as defined below) of the Corporation, the Company will undertake the Reorganization pursuant to which, among other things, (i) the Corporation will be admitted as a Member of the Company and named as the Managing Member, (ii) the Corporation, the Company and the Members will enter into an Exchange Agreement (as defined below) pursuant to which each of the Members will be permitted to exchange Class B Units (together with the corresponding number of shares of Class B Common Stock) for Class A Common Stock or the Cash Payment (as defined therein), (iii) the Corporation will contribute the net proceeds of the IPO to the Company in exchange for newly-issued Class A Units, and (iv) the Corporation, the Company and certain other parties will enter into a Tax Receivable Agreement (as defined below), pursuant to which the Corporation will be obligated to make payments to certain parties related to tax benefits realized (clauses (i) through (iv), collectively, the “IPO Transactions”);

WHEREAS, the parties desire to reflect the admission of the Corporation as a Member and the sole Managing Member of the Company; and

WHEREAS, the parties desire to reflect the admission of the Fidelity Class B Members (as defined below) as Members in connection with the IPO.

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

**ARTICLE I**

**DEFINITIONS**

Capitalized terms used but not otherwise defined herein shall have the following meaning:

“Additional Member” means a Person admitted to the Company as a Member pursuant to Section 8.2.

“Adjusted Capital Account Deficit” means, with respect to any Capital Account as of the end of any Taxable Year, the amount by which the balance in such Capital Account is less than zero. For this purpose, such Person’s Capital Account balance shall be (i) reduced for any items described in Treasury Regulation Section 1.704-1(b)(2)(ii)(d)(4), (5), and (6), and (ii) increased for any amount such Person is obligated to contribute or is treated as being obligated to contribute to the Company

pursuant to Treasury Regulation Sections 1.704-1(b)(2)(ii)(c) (relating to partner liabilities to a partnership) or 1.704-2(g)(1) and 1.704-2(i) (relating to Minimum Gain).

“Affiliate” of any Person means any other Person controlled by, controlling or under common control with such Person, and in the case of any Unitholder that is a partnership, limited liability company, corporation or similar entity, any partner, member or stockholder of such Unitholder; provided, that the Company and its Subsidiaries shall not be deemed to be Affiliates of any Unitholder. As used in this definition, “control” (including, with its correlative meanings, “controlling,” “controlled by” and “under common control with”) shall mean possession, directly or indirectly, of power to direct or cause the direction of management or policies (whether through ownership of securities, by contract or otherwise).

“Agreement” means this Limited Liability Company Agreement, as it may be amended, modified and/or waived from time to time in accordance with the terms hereof.

“Assumed Tax Liability” means, with respect to any Unitholder for any Fiscal Quarter, an amount, which in the good faith estimation of the Managing Member, equals the product of (a) the amount of taxable income of the Company allocable to such Unitholder in respect of such Fiscal Quarter (which shall include gross or net income allocations of items of Profit or Loss), determined (x) by including adjustments to taxable income in respect of Section 704(c) of the Code, (y) excluding adjustments to taxable income in respect of Section 743(b) of the Code, and (z) reducing such taxable income by net taxable losses of the Company allocated to such Unitholder for prior taxable periods beginning after the date hereof to the extent that such losses are of a character (ordinary or capital) that would permit the losses to be deducted by such Unitholder against the current taxable income of the Company allocable to the Unitholder for such Fiscal Quarter and have not previously been taken into account in determining such Unitholder’s Assumed Tax Liability, multiplied by (b) the Assumed Tax Rate. Notwithstanding anything else contained herein, in no event will the Assumed Tax Liability of the Corporation (when aggregated with the Assumed Tax Liability of any entities included in the U.S. federal income tax consolidated group that includes the Corporation) be less than the amount required to pay the actual income Tax liabilities of such consolidated group.

“Assumed Tax Rate” means the combined maximum U.S. federal, state, and local income tax rate applicable to a taxable individual or corporation in any jurisdiction in the United States (whichever is highest), including pursuant to Section 1411 of the Code, in each case taking into account all jurisdictions in which the Company is required to file income tax returns and the relevant apportionment information, in effect for the applicable Fiscal Quarter (making an appropriate adjustment for any rate changes that take place during such period and taking into account the character of the income).

“Base Rate” means, as of any date, a variable rate per annum equal to the rate of interest most recently published by The Wall Street Journal as the “prime rate” at large U.S. money center banks.

“Book Value” means, with respect to any of the Company property, the Company’s adjusted basis for federal income Tax purposes, adjusted from time to time to reflect the adjustments required or permitted (in the case of permitted adjustments, to the extent the Company makes such permitted adjustments) by Treasury Regulation Sections 1.704-1(b)(2)(iv)(d)-(g).

“Business Day” means any day other than a Saturday, Sunday or other day on which the banks in New York, New York or Cherry Hill, New Jersey are authorized by law to be closed.

“Capital Account” means the capital account maintained for a Member pursuant to Section 3.5 and the other applicable provisions of this Agreement.

“Capital Contributions” means any cash, cash equivalents, promissory obligations or the Fair Market Value of other property which a Unitholder contributes or is deemed by the Managing Member to have contributed to the Company with respect to any Unit pursuant to Section 3.1 or Section 3.10.

“Cash Payment” has the meaning set forth in the Exchange Agreement.

“Certificate” means the Company’s Certificate of Conversion as filed with the Secretary of State of Delaware, as the same may be amended from time to time.

“Class A Common Stock” means the Class A common stock, par value \$0.0001 per share, of the Corporation.

“Class A Common Stock Value” has the meaning set forth in the Exchange Agreement.

“Class B Common Stock” means the Class B common stock, par value \$0.0001 per share, of the Corporation.

“Code” means the United States Internal Revenue Code of 1986, as amended.

“Class A Unit” means a Unit having the rights and obligations specified with respect to a Class A Unit in this Agreement.

“Class B Unit” means a Unit having the rights and obligations specified with respect to a Class B Unit in this Agreement.

“Company” has the meaning set forth in the Preamble.

“Conversion Agreement” has the meaning set forth in Exhibit A-2 attached hereto.

“Convertible Notes” has the meaning set forth in Exhibit A-2 attached hereto.

“Corporation” has the meaning set forth in the Preamble.

“Delaware Act” means the Delaware Limited Liability Company Act, 6 Del. L. § 18-101, *et seq.*, as it may be amended from time to time, and any successor thereto.

“Distribution” means each distribution made by the Company to a Unitholder, with respect to such Person’s Units, whether in cash, property or securities and whether by liquidating distribution, redemption, repurchase or otherwise; provided that notwithstanding anything in the foregoing, none of the following shall be deemed to be a Distribution hereunder: (i) any recapitalization, exchange or conversion of securities of the Company, and any subdivision (by unit split or otherwise) or any combination (by reverse unit split or otherwise) of any outstanding Units; and (ii) any repurchase of Units pursuant to any right of first refusal or similar repurchase right in favor of the Company.

“Equity Agreement” has the meaning set forth in Section 3.2(a).

“Equity Securities” means (i) any Units, capital stock, partnership, membership or limited liability company interests or other equity interests (including other classes, groups or series thereof having such relative rights, powers and/or obligations as may from time to time be established by the Managing Member, including rights, powers and/or duties different from, senior to or more favorable than existing classes, groups and series of Units, capital stock, partnership, membership or limited liability company interests or other equity interests, and including any profits interests), (ii) obligations, evidences of indebtedness or other securities or interests convertible or exchangeable into Units, capital stock, partnership interests, membership or limited liability company interests or other equity interests, and (iii) warrants, options or other rights to purchase or otherwise acquire Units, capital stock, partnership interests, membership or limited liability company interests or other equity interests. Unless the context otherwise indicates, the term “Equity Securities” refers to Equity Securities of the Company.

“Event of Withdrawal” means the death, retirement, resignation, expulsion, bankruptcy or dissolution of a Member or the occurrence of any other event that terminates the continued membership of a Member in the Company.

“Exchange” has the meaning set forth in the Exchange Agreement.

“Exchange Act” means the Securities Exchange Act of 1934, as amended, and applicable rules and regulations thereunder, and any successor to such statute, rules or regulations. Any reference herein to a specific section, rule or regulation of the Exchange Act shall be deemed to include any corresponding provisions of future law.

“Exchange Agreement” means the Exchange Agreement, dated as of \_\_\_\_\_, 2021, by and among the Corporation, the Company and the Members, as the same may be amended, amended and restated, or replaced from time to time.

“Exchange Rate” has the meaning set forth in the Exchange Agreement.

“Exchangeable Unit” has the meaning set forth in the Exchange Agreement.

“Exchanged Unit Amount” has the meaning set forth in the Exchange Agreement.

“Fair Market Value” means, as of any date of determination, (i) with respect to a Unit, such Unit’s Pro Rata Share as of such date, (ii) with respect to a share of Class A Common Stock, the Class A Common Stock Value as of such date, and (iii) with respect to any other non-cash assets, the fair market value for such property as between a willing buyer under no compulsion to buy and a willing seller under no compulsion to sell in an arm’s-length transaction occurring on such date, taking into account all relevant factors determinative of value (including in the case of securities, any restrictions on transfer applicable thereto or, if such securities are traded on a securities exchange or automated or electronic quotation system, the quoted price for such securities as of the date of determination), as reasonably determined in good faith by the Managing Member.

“Fidelity Class A Investors” has the meaning set forth in Exhibit A-2 attached hereto.

“Fidelity Class B Members” has the meaning set forth in Exhibit A-2 attached hereto.

“Fiscal Period” means any interim accounting period within a Taxable Year established by the Managing Member and which is permitted or required by Code Section 706.

“Fiscal Quarter” means each calendar quarter ending March 31, June 30, September 30 and December 31, or such other quarterly accounting period as may be established by the Managing Member or as required by the Code.

“Fiscal Year” means the 12-month period ending on December 31, or such other annual accounting period as may be established by the Managing Member or as may be required by the Code.

“Forfeiture Allocations” has the meaning set forth in Section 4.2.

“Governmental Entity” means the United States of America or any other nation, any state or other political subdivision thereof, or any entity exercising executive, legislative, judicial, regulatory or administrative functions of government.

“HSR Act” has the meaning set forth in Section 10.7.

“Indemnitee” has the meaning set forth in Section 6.1(b).

“Investment Company Act” means the Investment Company Act of 1940, as amended from time to time.

“IPO” has the meaning set forth in the Recitals.

“IPO Registration Statement” means the Registration Statement on Form S-1, as amended (Registration No. 333-260204), relating to the offer and sale of the Class A Common Stock in the IPO.

“IPO Transactions” has the meaning set forth in the Recitals.

“IRS Notice” has the meaning set forth in Section 7.5.

“Liquidation Assets” has the meaning set forth in Section 10.2(b).

“Liquidation FMV” has the meaning set forth in Section 10.2(b).

“Liquidation Statement” has the meaning set forth in Section 10.2(b).

“Losses” means items of the Company loss and deduction determined according to Section 3.5.

“Managing Member” means (i) the Corporation so long as the Corporation has not withdrawn as the Managing Member pursuant to Section 5.1(c), and (ii) any successor thereof appointed as Managing Member in accordance with Section 5.1(c). Unless the context otherwise requires, references herein to the Managing Member shall refer to the Managing Member acting in its capacity as such.

“Member” means each Person listed on the Unit Ownership Ledger and any Person admitted to the Company as a Substituted Member or Additional Member in accordance with the terms and conditions of this Agreement; but in each case only for so long as such Person is shown on the Company’s books and records as the owner of one or more Units.

“Minimum Gain” means the partnership minimum gain determined pursuant to Treasury Regulation Section 1.704-2(d).

“Notes” means any future non-convertible debt securities issued by the Corporation.

“Note Payments” means payments of principal, interest or other premiums pursuant to any Notes.

“Obligations” has the meaning set forth in Section 6.1(b).

“Partnership Tax Audit Rules” means Code Sections 6221 through 6241, as amended by the Bipartisan Budget Act of 2015, together with any guidance issued thereunder or successor provisions and any similar provision of state or local Tax laws.

“Permitted Transferee” means, with respect to any Person, (i) any of such Person’s Affiliates, and (ii) such Person’s spouse, any lineal ascendants or descendants or trusts or other entities in which such Member or Member’s spouse, lineal ascendants or descendants hold (and continue to hold while such trusts or other entities hold Class B Units) 50% or more of such entity’s beneficial interests.

“Person” means an individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization, association or other entity or a Governmental Entity.

“PR” has the meaning set forth in Section 7.4(a).

“Prior Agreement” has the meaning set forth in the Recitals.

“Pro Rata Share” means with respect to each Unit, the proportionate amount such Unit would receive if an amount equal to the Total Equity Value were distributed to all Units in accordance with Section 4.1(b), as determined in good faith by the Managing Member.

“Profits” means items of the Company income and gain determined according to Section 3.5.

“Registration Rights Agreement” means that certain Registration Rights Agreement, dated as of \_\_\_\_\_, 2021, by and among the Corporation and certain other parties thereto, as the same may be amended, amended and restated, or replaced from time to time.

“Regulatory Allocations” has the meaning set forth in Section 4.3(e).

“Reorganization” has the meaning set forth in the IPO Registration Statement.

“Securities Act” means the Securities Act of 1933, as amended, and applicable rules and regulations thereunder, and any successor to such statute, rules or regulations. Any reference herein to a specific section, rule or regulation of the Securities Act shall be deemed to include any corresponding provisions of future law.

“Subsidiary” means, with respect to any Person, any corporation, limited liability company, partnership, association or business entity of which (i) if a corporation, a majority of the total voting power of shares of stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof 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, or (ii) if a limited liability company, partnership, association or other business entity (other than a corporation), a majority of partnership or other similar ownership interests thereof is at the time owned or controlled, directly or indirectly, by any Person or one or more Subsidiaries of that Person or a combination thereof. For purposes hereof and without limitation, a Person or Persons shall be deemed to have a majority ownership interest in a limited liability company, partnership, association or other business entity (other than a corporation) if such Person or Persons shall be allocated a majority of limited liability company, partnership, association or other business entity gains or losses or shall be or control the manager, managing member, managing director (or a board comprised of any of the foregoing) or general partner of such limited liability company, partnership, association or other business entity. Without limiting the foregoing, the Company shall be deemed to be a Subsidiary of the Corporation. For purposes hereof, references to a "Subsidiary" of any Person shall be given effect only at such times that such Person has one or more Subsidiaries, and, unless otherwise indicated, the term "Subsidiary" refers to a Subsidiary of the Company.

"Substituted Member" means a Person that is admitted as a Member to the Company pursuant to Section 8.2.

"Tax" or "Taxes" means any federal, state, local or foreign income, gross receipts, franchise, estimated, alternative minimum, add-on minimum, sales, use, transfer, registration, value added, excise, natural resources, severance, stamp, occupation, premium, windfall profit, environmental, customs, duties, real property, personal property, capital stock, social security, unemployment, disability, payroll, license, employee or other withholding, or other tax, of any kind whatsoever, including any transferee liability and any interest, penalties or additions to tax or additional amounts in respect of the foregoing.

"Tax Distribution" has the meaning set forth in Section 4.1(a)(i).

"Tax Distribution Conditions" has the meaning set forth in Section 4.1(a)(i).

"Tax Receivable Agreement" means the Tax Receivable Agreement dated as of \_\_\_\_\_, 2021, by and among the Corporation, the Company and the other parties thereto, as the same may be amended, amended and restated, or replaced from time to time.

"Taxable Year" means the Company's accounting period for federal income Tax purposes determined pursuant to Section 7.3.

"Total Equity Value" means, as of any date of determination, the aggregate proceeds which would be received by the Unitholders if: (i) the assets of the Company were sold at their fair market value to an independent third-party on arm's-length terms, with neither the seller nor the buyer being under compulsion to buy or sell such assets; (ii) the Company satisfied and paid in full all of its obligations and liabilities (including all Taxes, costs and expenses incurred in connection with such transaction and any amounts reserved by the Managing Member with respect to any contingent or other liabilities); and (iii) such net sale proceeds were then distributed in accordance with Section 4.1, all as determined by the Managing Member in good faith based upon the Class A Common Stock Value as of such date.

"Transaction Documents" means, collectively, this Agreement, the Exchange Agreement, the Registration Rights Agreement and the Tax Receivable Agreement.



“Transfer” has the meaning set forth in Section 8.1.

“Treasury Regulations” means the income Tax regulations promulgated under the Code and effective as of the date of this Agreement, any future amendments to such regulations, and any corresponding provisions of succeeding regulations.

“Unit” means a limited liability company interest in the Company of a Member or representing a fractional part of the interests in Profits, Losses and Distributions of the Company held by all Members and shall include Class A Units and Class B Units.

“Unit Ownership Ledger” has the meaning set forth in Section 3.1(b).

“Unitholder” means any owner of one or more Units as reflected on the Company’s books and records.

## ARTICLE II

### ORGANIZATIONAL MATTERS

**Section 2.1 Formation of LLC.** The Company was formed in the State of Delaware on \_\_\_\_\_, 2021 pursuant to the provisions of the Delaware Act as a result of the conversion effected by the Certificate.

**Section 2.2 Limited Liability Company Agreement.** The Members hereby execute this Agreement for the purpose of establishing the affairs of the Company and the conduct of its business in accordance with the provisions of the Delaware Act. The Members hereby agree that during the term of the Company set forth in Section 2.6, the rights, powers and obligations of the Unitholders with respect to the Company will be determined in accordance with the terms and conditions of this Agreement and, except where the Delaware Act provides that such rights, powers and obligations specified in the Delaware Act shall apply “unless otherwise provided in a limited liability company agreement” or words of similar effect and such rights, powers and obligations are set forth in this Agreement, the Delaware Act; provided that, notwithstanding the foregoing and anything else to the contrary, Section 18-210 of the Delaware Act (entitled “Contractual Appraisal Rights”) and Section 18-305(a) of the Delaware Act (entitled “Access to and Confidentiality of Information; Records”) shall not apply to or be incorporated into this Agreement and each Unitholder hereby expressly waives any and all rights under such Sections of the Delaware Act.

**Section 2.3 Name.** The name of the Company shall be “Real Good Foods, LLC”. The Managing Member may change the name of the Company at any time and from time to time. Notification of any such name change shall be given to all Unitholders. The Company’s business may be conducted under its name and/or any other name or names deemed advisable by the Managing Member.

**Section 2.4 Purpose.** The purpose and business of the Company shall be to manage and direct the business operations and affairs of the Company and its Subsidiaries and to engage in any other lawful acts or activities for which limited liability companies may be organized under the Delaware Act.

**Section 2.5 Principal Office; Registered Office.** The principal office of the Company shall be located at 3 Executive Campus, Suite 155, Cherry Hill, NJ 08002, or at such other place inside or outside the state of Delaware as the Managing Member may from time to time designate, and all business and activities of the Company shall be deemed to have occurred at its principal office. The Company may maintain offices at such other place or places as the Managing Member deems advisable. The address of the registered office of the Company in the State of Delaware shall be the office of the initial registered agent named in the Certificate or such other office (which need not be a place of business of the Company) as the Managing Member may designate from time to time in the manner provided by applicable law, and the registered agent for service of process on the Company in the State of Delaware at such registered office shall be the registered agent named in the Certificate or such Person or Persons as the Managing Member may designate from time to time in the manner provided by applicable law.

**Section 2.6 Term.** The term of the Company commenced upon the filing of the Certificate with the office of the Secretary of State of the State of Delaware in accordance with the Delaware Act and shall continue in existence until the Company shall be terminated and dissolved in accordance with the provisions of Article X.

**Section 2.7 No State-Law Partnership.** The Unitholders intend that the Company not be a partnership (including, without limitation, a limited partnership) or joint venture, and that no Unitholder be a partner or joint venturer of any other Unitholder by virtue of this Agreement, for any purposes other than as set forth in the last sentence of this Section 2.7, and neither this Agreement nor any other document entered into by the Company or any Unitholder relating to the subject matter hereof shall be construed to suggest otherwise. The Unitholders intend that the Company shall be treated as a partnership for federal and, if applicable, state and local income Tax purposes, and that each Unitholder and the Company shall file all Tax returns and shall otherwise take all Tax and financial reporting positions in a manner consistent with such treatment.

### ARTICLE III

#### UNITS, CAPITAL CONTRIBUTIONS AND ACCOUNTS

##### Section 3.1 Units; Capitalization.

(a) Units; Capitalization. The Company shall have the authority to issue an unlimited number of Class A Units in connection with the issuance of capital stock by the Corporation or as otherwise contemplated by this Agreement. The Company shall not issue Class B Units other than the Class B Units set forth on Exhibit A-1 except for (i) Class B Units issued to the Fidelity Class B Members contemplated by Exhibit A-2, and (ii) issuances to reflect a pro rata adjustment pursuant to Section 3.1(e) hereof. Immediately following the IPO, the Company will issue Class A Units (directly or indirectly) to the Corporation in exchange for a contribution of the net proceeds received by the Corporation from the IPO to the Company and upon the conversion of the Convertible Notes held by the Fidelity Class A Investors, such that following the transfer of Class A Units to the Corporation, the total number of Class A Units held (directly or indirectly) by the Corporation will equal the total number of outstanding shares of Class A Common Stock. The ownership by a Member of Units shall entitle such Member to allocations of Profits and Losses and other items and Distributions of cash and other property as set forth in Article IV hereof.

(b) Unit Ownership Ledger. The Managing Member shall create and maintain a ledger attached hereto as Exhibit A (the "Unit Ownership Ledger") setting forth the name of each Unitholder and the number of each class of Units held of record by each such Unitholder. Upon any change in the number or ownership of outstanding Units (whether upon an issuance of Units, a Transfer of Units, a cancellation of Units or otherwise), the Managing Member shall amend and update the Unit Ownership Ledger. Absent manifest error, the ownership interests recorded on the Unit Ownership Ledger shall be conclusive record of the Units that have been issued and are outstanding. Any reference in this Agreement to the Unit Ownership Ledger shall be deemed a reference to the Unit Ownership Ledger as amended and in effect from time to time. The Unit Ownership Ledger shall initially be set forth as Exhibit A-1 and, upon the consummation of the IPO and conversion of the Convertible Notes, shall be restated by the Managing Member in the manner contemplated by Exhibit A-2 to reflect (i) the issuance of Class A Units to the Corporation in exchange for its contribution of the net proceeds of the IPO to the Company, (ii) the issuance of Class A Units to the Corporation in connection with the conversion of the Convertible Notes held by the Fidelity Class A Investors into shares of Class A Common Stock of the Corporation, (iii) the issuance of Class B Units and shares of Class B Common Stock in connection with the conversion of the Convertible Notes held by the Fidelity Class B Members and (iv) the admission of the Fidelity Class B Members as Members.

(c) Certificates; Legends. Units shall be issued in uncertificated form; provided that, at the request of any Member, the Managing Member may cause the Company to issue one or more certificates to any such Member holding Units representing in the aggregate the Units held by such Member. If any certificate representing Units is issued, then such certificate shall bear a legend substantially in the following form:

THIS CERTIFICATE EVIDENCES UNITS REPRESENTING A MEMBERSHIP INTEREST IN REAL GOOD FOODS, LLC. THE MEMBERSHIP INTEREST REPRESENTED BY THIS CERTIFICATE HAS NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED, OR ANY NON-U.S. OR STATE SECURITIES LAWS AND MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT IN COMPLIANCE THEREWITH. THE MEMBERSHIP INTEREST REPRESENTED BY THIS CERTIFICATE IS SUBJECT TO RESTRICTIONS ON TRANSFER SET FORTH IN THE LIMITED LIABILITY COMPANY AGREEMENT OF REAL GOOD FOODS, LLC, DATED AS OF \_\_\_\_\_, 2021, AS THE SAME MAY BE AMENDED FROM TIME TO TIME, A COPY OF WHICH SHALL BE FURNISHED BY THE COMPANY TO THE RECORD HOLDER HEREOF UPON WRITTEN REQUEST AND WITHOUT CHARGE.

(d) Class B Units. The Class B Units shall have no voting rights or any other rights with respect to the governance and operations of the Company, without limiting each such Member's rights to distributions and allocations as set forth in Article IV, and such rights set forth in the Exchange Agreement, Tax Receivable Agreement and Registration Rights Agreement.

(e) Capitalization. The Managing Member shall have the authority, without further agreement or action by any other Member, to increase or decrease the Units issued to the Members set forth on the Unit Ownership Ledger, on a pro rata basis (whether in connection with the IPO Transactions or otherwise), subject to this Article III.

### **Section 3.2 Authorization and Issuance of Additional Units.**

(a) The Managing Member shall have the right to cause the Company to issue and/or create and issue at any time after the date hereof, and for such amount and form of consideration as the Managing Member may determine, additional Units or other Equity Securities of the Company (including creating classes or series thereof having such powers, designations, preferences and rights as may be determined by the Managing Member). The Managing Member shall have the power to make such amendments to this Agreement in order to provide for such powers, designations, preferences and rights as the Managing Member in its discretion deems necessary or appropriate to give effect to such additional authorization or issuance in accordance with the provisions of this Section 3.2(a). In connection with any issuance of Units (whether on or after the date of this Agreement), the Person who acquires such Units shall execute a counterpart to this Agreement accepting and agreeing to be bound by all terms and conditions hereof, and shall enter into such other documents, instruments and agreements to effect such purchase as are required by the Managing Member (including such documents, instruments and agreements entered into on or

prior to the date of this Agreement by the Members, each, an “Equity Agreement”). The Company shall not, and the Managing Member shall not cause the Company to, issue any Units if such issuance would result in the Company having more than 100 partners, within the meaning of Treasury Regulations Section 1.7704-1(h) (determined taking into account the rules of Treasury Regulations Section 1.7704-1(h)(3)).

(b) At any time the Corporation issues one or more shares of Class A Common Stock (other than an issuance of the type covered by Section 3.2(d) or an issuance to a holder of Exchangeable Units pursuant to the Exchange Agreement, as described in Section 3.2(c)), the Corporation shall contribute (directly or indirectly) to the Company all of the net proceeds (if any) received by the Corporation with respect to such share or shares of Class A Common Stock. Upon the contribution (directly or indirectly) by the Corporation to the Company of all of such net proceeds so received by the Corporation, the Managing Member shall cause the Company to issue a number of Class A Units determined based upon the Exchange Rate then in effect, registered (directly or indirectly) in the name of the Corporation; provided, however, that if the Corporation issues any shares of Class A Common Stock in order to purchase or fund the purchase of Class B Units from a Member (other than a Subsidiary of the Corporation), then the Company shall not issue any new Class A Units registered in the name of the Corporation in accordance with Section 3.2(c) and the Corporation shall not be required to transfer such net proceeds to the Company (it being understood that such net proceeds shall instead be transferred by the Corporation to such other Member as consideration for such purchase). Notwithstanding the foregoing, this Section 3.2(b) shall not apply to the issuance and distribution to holders of shares of Class A Common Stock of rights to purchase Equity Securities of the Corporation under a “poison pill” or similar shareholder’s rights plan (it being understood that (i) upon exchange of Exchangeable Units for Class A Common Stock pursuant to the Exchange Agreement, such Class A Common Stock would be issued together with any such corresponding right and (ii) in the event such rights to purchase Equity Securities of the Corporation are triggered, the Corporation will ensure that the holders of Class B Units that have not been Exchanged prior to such time will be treated equitably vis-à-vis the holders of Class A Common Stock under such plan).

(c) At any time a holder of Exchangeable Units exchanges such Class B Units for shares of Class A Common Stock or a Cash Payment, the Company shall cancel such Exchangeable Units. Upon the cancellation by the Company of the Exchangeable Units exchanged for shares of Class A Common Stock, the Managing Member shall cause the Company to issue a number of Class A Units equal to the Exchanged Unit Amount, registered (directly or indirectly) in the name of the Corporation in accordance with Section 2.6 of the Exchange Agreement.

(d) At any time the Corporation issues one or more shares of Class A Common Stock, including but not limited to in connection with an equity incentive program, whether such share or shares are issued upon exercise (including cashless exercise) of an option, settlement of a restricted stock unit, as restricted stock or otherwise, the Managing Member shall cause the Company to issue a corresponding number of Class A Units, registered (directly or indirectly) in the name of the Corporation (determined based upon the Exchange Rate then in effect); provided that the Corporation shall be required to contribute (directly or indirectly) all (but not less than all) of the net proceeds (if any) received by the Corporation from or otherwise in connection with such issuance of one or more shares of Class A Common Stock, including the exercise price of any option exercised, to the Company. If any such shares of Class A Common Stock so issued by the Corporation in connection with an equity incentive program are subject to vesting or forfeiture provisions, then the Class A Units that are issued (directly or indirectly) by the Company to the Corporation in

connection therewith in accordance with the preceding provisions of this Section 3.2(d) shall be subject to vesting or forfeiture on the same basis; if any of such shares of Class A Common Stock vest or are forfeited, then a corresponding number of the Class A Units (determined based upon the Exchange Rate then in effect) issued by the Company in accordance with the preceding provisions of this Section 3.2(d) shall automatically vest or be forfeited. Any cash or property held by the Corporation or the Company or on any of such Person's behalf in respect of dividends paid on restricted shares of Class A Common Stock that fail to vest shall be returned to the Company upon the forfeiture of such restricted shares of Class A Common Stock.

(e) The Corporation shall at all times reserve and keep available out of its authorized but unissued Class A Common Stock, solely for the purpose of issuance upon an Exchange, the maximum number of shares of Class A Common Stock as shall be issuable upon Exchange of all outstanding Class B Units and shares of Class B Common Stock to satisfy its obligations under the Exchange Agreement; provided that nothing contained herein shall be construed to preclude the Corporation from satisfying its obligations in respect of any such Exchange by delivery of purchased shares of Class A Common Stock (which may or may not be held in the treasury of the Corporation). If any shares of Class A Common Stock require registration with or approval of any Governmental Entity under any federal or state law before such shares may be issued upon an Exchange, the Corporation shall use reasonable efforts to cause the exchange of such shares of Class A Common Stock to be duly registered or approved, as the case may be. The Corporation shall list and use its reasonable efforts to maintain the listing of the Class A Common Stock required to be delivered upon any such Exchange prior to such delivery upon the national securities exchange upon which the outstanding shares of Class A Common Stock are listed at the time of such Exchange (it being understood that any such shares may be subject to transfer restrictions under applicable securities laws). The Corporation covenants that all shares of Class A Common Stock issued upon an Exchange will, upon issuance, be validly issued, fully paid and non-assessable.

(f) For purposes of this Section 3.2, "net proceeds" means gross proceeds to the Corporation from the issuance of Class A Common Stock or other securities less all reasonable *bona fide* out-of-pocket fees and expenses of the Corporation, the Company and their respective Subsidiaries actually incurred in connection with such issuance.

(g) If, at any time, any shares of Class A Common Stock or other shares of capital stock of the Corporation are repurchased (whether by exercise of a put or call, pursuant to an open market purchase, automatically or by means of another arrangement) by the Corporation for cash or other consideration, then the Managing Member shall cause the Company, immediately prior to such repurchase of such capital stock, to redeem an equal number of equivalent Class A Units held (directly or indirectly) by the Corporation, at an aggregate redemption price equal to the aggregate purchase price of the capital stock being repurchased by the Corporation (plus any expenses related thereto) and upon such other terms as are the same for the capital stock being cancelled or retired by the Corporation.

(h) Subject to Section 3.2(j), the Company shall be liable for, and shall reimburse the Corporation on an after-tax basis at such intervals as the Corporation may reasonably determine, for all (i) overhead, administrative expenses, insurance and reasonable legal, accounting and other professional fees and expenses of the Corporation and its Subsidiaries relating to the management of the Company and its Subsidiaries, (ii) franchise and similar taxes of the Corporation and its Subsidiaries and other fees and expenses in connection with the maintenance of the existence of the Corporation and its Subsidiaries, and (iii) reasonable expenses paid by the Corporation and its

Subsidiaries on behalf of the Company. Such reimbursements shall be in addition to any reimbursement of the Corporation and its Subsidiaries as a result of indemnification otherwise provided for under this Agreement.

(i) Subject to Section 3.2(j) and without duplication of any amounts paid pursuant to Section 3.2(h), the Company shall be liable for, and shall reimburse the Corporation on an after-tax basis at such intervals as the Managing Member may reasonably determine, for all (i) overhead, administrative expenses, insurance and reasonable legal, accounting and other professional fees and expenses of the Corporation, (ii) expenses of the Corporation incidental to being a public reporting company, (iii) reasonable fees and expenses related to the IPO (other than the payment obligations of the Corporation under the Tax Receivable Agreements) or any subsequent public offering of equity securities of the Corporation or private placement of equity securities of the Corporation, whether or not consummated, (iv) franchise and similar taxes of the Corporation and other fees and expenses in connection with the maintenance of the existence of the Corporation, (v) customary compensation and benefits payable by the Corporation; provided, that the Board of Directors of the Corporation may in its discretion (but shall not be required to) determine that the Corporation, rather than the Company, shall bear any specific items of the foregoing to the extent such items relate exclusively to the business and affairs of the Corporation and should not be borne by the Company. Such reimbursements shall be in addition to any reimbursement of the Corporation otherwise provided for under this Agreement. If the Corporation issues shares of Class A Common Stock and contributes (directly or indirectly) the net proceeds of such issuance to the Company, the reasonable expenses incurred by the Corporation in such issuance will be assumed by the Company.

(j) To the extent practicable, Company expenses shall be billed directly to and paid by the Company. Unless otherwise determined by the Managing Member, no reimbursement or indemnification payment made pursuant to Section 3.2(h), (i) or (j) shall be considered a distribution to the payee.

**Section 3.3 Repurchase or Redemption of Class A Common Stock.** If, at any time, any shares of Class A Common Stock are repurchased or redeemed (whether by exercise of a put or call, automatically or by means of another arrangement) by the Corporation for cash, then the Managing Member shall cause the Company, immediately prior to such repurchase or redemption of such shares, to redeem a corresponding number of Class A Units held by the Corporation (determined based upon the Exchange Rate then in effect), at an aggregate redemption price equal to the aggregate purchase or redemption price of the share or shares of Class A Common Stock being repurchased or redeemed by the Corporation (plus any reasonable expenses related thereto) and upon such other terms as are the same for the share or shares of Class A Common Stock being repurchased or redeemed by the Corporation.

**Section 3.4 Changes in Common Stock.** In addition to any other adjustments required hereby, any subdivision (by stock split, stock dividend, reclassification, recapitalization or otherwise) or combination (by reverse stock split, reclassification, recapitalization or otherwise) of Class A Common Stock, Class B Common Stock or other capital stock of the Corporation shall be accompanied by an identical subdivision or combination, as applicable, of the Class A Units, Class B Units or other Equity Securities, as applicable. In the implementation and administration of this Section 3.4, the Managing Member shall have authority to make such adjustments as it determines in good faith to be appropriate to reflect the economic equivalency intended hereby.

### Section 3.5 Capital Accounts.

(a) Maintenance of Capital Accounts. The Company shall maintain a separate Capital Account for each Unitholder according to the rules of Treasury Regulation Section 1.704-1(b)(2)(iv). For this purpose, the Company may (in the sole discretion of the Managing Member), upon the occurrence of the events specified in Treasury Regulation Section 1.704-1(b)(2)(iv)(f), increase or decrease the Capital Accounts in accordance with the rules of such regulation and Treasury Regulation Section 1.704-1(b)(2)(iv)(g) to reflect a revaluation of the Company property. Without limiting the foregoing, each Unitholder's Capital Account shall be adjusted:

(i) by adding any additional Capital Contributions made by such Unitholder in consideration for the issuance of Units;

(ii) by deducting any amounts paid to such Unitholder in connection with the redemption or other repurchase by the Company of Units;

(iii) by adding any Profits allocated in favor of such Unitholder and subtracting any Losses allocated in favor of such Unitholder; and

(iv) by deducting any distributions paid in cash or other assets to such Unitholder by the Company.

(b) Computation of Income, Gain, Loss and Deduction Items. For purposes of computing the amount of any item of the Company income, gain, loss or deduction to be allocated pursuant to Article IV and to be reflected in the Capital Accounts, the determination, recognition and classification of any such item shall be the same as its determination, recognition and classification for federal income Tax purposes (including any method of depreciation, cost recovery or amortization used for this purpose); provided that:

(i) the computation of all items of income, gain, loss and deduction shall include those items described in Code Section 705(a)(1)(B), Code Section 705(a)(2)(B) and Treasury Regulation Section 1.704-1(b)(2)(iv)(i), without regard to the fact that such items are not includable in gross income or are not deductible for federal income Tax purposes;

(ii) if the Book Value of any Company property is adjusted pursuant to Treasury Regulation Section 1.704-1(b)(2)(iv)(e) or (f), the amount of such adjustment shall be taken into account as gain or loss from the disposition of such property;

(iii) items of income, gain, loss or deduction attributable to the disposition of the Company property having a Book Value that differs from its adjusted basis for Tax purposes shall be computed by reference to the Book Value of such property;

(iv) items of depreciation, amortization and other cost recovery deductions with respect to the Company property having a Book Value that differs from its adjusted basis for Tax purposes shall be computed by reference to the property's Book Value in accordance with Treasury Regulation Section 1.704-1(b)(2)(iv)(g);

(v) to the extent an adjustment to the adjusted Tax basis of any of the Company's asset pursuant to Code Sections 732(d), 734(b) or 743(b) is required pursuant to Treasury Regulation Section 1.704-1(b)(2)(iv)(m) to be taken into account in determining Capital Accounts,

the amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis); and

(vi) this Section 3.5 shall be applied in a manner consistent with the principles of Prop. Reg. Sections 1.704-1(b)(2)(iv)(d), (f)(1), (h)(2) and (s).

**Section 3.6 Negative Capital Accounts; No Interest Regarding Positive Capital Accounts.** No Unitholder shall be required to pay to any other Unitholder or the Company any deficit or negative balance which may exist from time to time in such Unitholder's Capital Account (including upon and after dissolution of the Company). Except as otherwise expressly provided herein, no Unitholder shall be entitled to receive interest from the Company in respect of any positive balance in its Capital Account, and no Unitholder shall be liable to pay interest to the Company or any Unitholder in respect of any negative balance in its Capital Account.

**Section 3.7 No Withdrawal.** No Person shall be entitled to withdraw any part of such Person's Capital Contributions or Capital Account or to receive any Distribution from the Company, except as expressly provided herein.

**Section 3.8 Loans From Unitholders.** Loans by Unitholders to the Company shall not be considered Capital Contributions. If any Unitholder shall loan funds to the Company in excess of the amounts required hereunder to be contributed by such Unitholder to the capital of the Company, the making of such loans shall not result in any increase in the amount of the Capital Account of such Unitholder. The amount of any such loans shall be a debt of the Company to such Unitholder and shall be payable or collectible in accordance with the terms and conditions upon which such loans are made.

**Section 3.9 Adjustments to Capital Accounts for Distributions In-Kind.** To the extent that the Company distributes property in-kind to the Members, the Company shall be treated as making a distribution equal to the Fair Market Value of such property (as of the date of such distribution) for purposes of Section 4.1 and such property shall be treated as if it were sold for an amount equal to its Fair Market Value and any resulting gain or loss shall be allocated to the Members' Capital Accounts in accordance with Section 4.2 through Section 4.4.

**Section 3.10 Transfer of Capital Accounts.** The original Capital Account established for each Substituted Member shall be in the same amount as the Capital Account of the Member (or portion thereof) to which such Substituted Member succeeds at the time such Substituted Member is admitted to as a Member of the Company. The Capital Account of any Member whose interest in the Company shall be increased or decreased by means of (a) the Transfer to it of all or part of the Units of another Member or (b) the repurchase or forfeiture of Units pursuant to any Equity Agreement shall be appropriately adjusted to reflect such Transfer or repurchase. Any reference in this Agreement to a Capital Contribution of or Distribution to a Member that has succeeded any other Member shall include any Capital Contributions or Distributions previously made by or to the former Member on account of the Units of such former Member Transferred to such Member.

**Section 3.11 Adjustments to Book Value.** The Company shall adjust the Book Value of its assets to Fair Market Value in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv)(f) as of the following times: (a) at the Managing Member's discretion in connection with the issuance of Units in the Company or a more than de minimis Capital Contribution to the Company; (b) at the Managing Member's discretion in connection with the Distribution by the Company to a Member of



more than a de minimis amount of the Company's assets, including money; (c) the liquidation of the Company within the meaning of Treasury Regulations Section 1.704-1(b)(2)(ii)(g). Any such increase or decrease in Book Value of an asset shall be allocated as a Profit or Loss to the Capital Accounts of the Members under Section 4.2 (determined immediately prior to the event giving rise to the revaluation); and (d) at such other times as the Managing Member shall reasonably determine necessary or advisable in order to comply with Treasury Regulations Sections 1.704-1(b) and 1.704-2.

**Section 3.12 Compliance With Section 1.704-1(b).** The provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Treasury Regulations Section 1.704-1(b), and shall be interpreted and applied in a manner consistent with such Treasury Regulations. In the event the Managing Member shall determine that it is prudent to modify the manner in which the Capital Accounts are computed in order to comply with such Treasury Regulations, the Managing Member may make such modification, notwithstanding anything in Section 11.2 to the contrary. The Managing Member also shall (a) make any adjustments that are necessary or appropriate to maintain equality between the Capital Accounts of the Members and the amount of the Company capital reflected on the Company's balance sheet, as computed for book purposes, in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv)(g), and (b) make any appropriate modifications in the event unanticipated events might otherwise cause this Agreement not to comply with Treasury Regulations Section 1.704-1(b).

## ARTICLE IV

### DISTRIBUTIONS AND ALLOCATIONS

#### Section 4.1 Distributions.

(a) Tax Distributions.

(i) Tax Distributions. To the extent funds of the Company are legally available for distribution by the Company and such distribution would not be prohibited under any credit facility to which the Company or any of its Subsidiaries is a party (the "Tax Distribution Conditions"), with respect to each Fiscal Quarter, the Company shall distribute to each Unitholder, an amount of cash (each a "Tax Distribution") equal to such Unitholder's Assumed Tax Liability for such Fiscal Quarter. To the extent a holder of Units would receive for any Fiscal Quarter less than its Pro Rata Share of the aggregate Tax Distributions to be paid pursuant to the preceding sentence (determined for this purpose by taking into account only Units and Tax Distributions with respect to Units), the Tax Distributions to such Unitholder shall be increased to ensure that all Tax Distributions to holders of Units are made in accordance with their Pro Rata Share (determined for this purpose by taking into account only Units and Tax Distributions with respect to Units). The Managing Member shall be entitled to adjust subsequent Tax Distributions (in accordance with each Unitholder's Pro Rata Share) up or down to reflect any variation between its prior estimation of quarterly Tax Distributions and the Tax Distributions that would have been computed under this Section 4.1(a)(i) based on subsequent information. In the event that due to the Tax Distribution Conditions the funds available for any Tax Distribution to be made hereunder are insufficient to pay the full amount of the Tax Distribution that would otherwise be required under this Section 4.1(a)(i), the Company shall use its reasonable best efforts to distribute to the Unitholders the amount of funds that are available after application of the Tax Distribution Conditions on a pro rata basis (according to the amounts that would have been distributed to each Unitholder pursuant to this Section 4.1(a)(i)).

if available funds (after application of the Tax Distribution Conditions) existed in a sufficient amount to make such Distribution in full, including application of the requirement that Tax Distributions with respect to Units be made pro rata). At any time thereafter when additional funds of the Company are available for Distribution after application of the Tax Distribution Conditions, the Company shall use its reasonable best efforts to immediately distribute such funds to the Unitholders on a pro rata basis (according to the amounts that would have been distributed to each Unitholder pursuant to this Section 4.1(a)(i) if available funds (after application of the Tax Distribution Conditions) would have existed in a sufficient amount to make such Tax Distribution in full). Tax Distributions shall be treated as advanced distributions under the other provisions of this Section 4.1. The Company shall use its reasonable best efforts to cause Subsidiaries of the Company to make distributions to the Company sufficient to permit it to pay Tax Distributions.

(ii) Additional Tax Distributions. In the event of any audit by, or similar event with, a taxing authority that affects the calculation of any Unitholder's Assumed Tax Liability for any Taxable Year (other than an audit conducted pursuant to the Partnership Tax Audit Rules for which no election is made pursuant to Code Section 6226 (or any similar provision of state or local law)), or in the event the Company files an amended tax return, each Unitholder's Assumed Tax Liability with respect to such year shall be recalculated by giving effect to such event (for the avoidance of doubt, taking into account interest and penalties). Any shortfall in the amount of Tax Distributions the Unitholders and former Unitholders received for the relevant Taxable Years based on such recalculated Assumed Tax Liability shall be promptly distributed to such Unitholders and the successors of such former Unitholders, except, for the avoidance of doubt, to the extent Distributions were made to such Unitholders and former Unitholders pursuant to Section 4.1 in the relevant Taxable Years sufficient to cover such shortfall. For the avoidance of doubt, the additional distributions provided for in this Section 4.1(a)(ii) shall be made with respect Units pro rata among them.

(b) Other Distributions. Except as otherwise set forth in Section 4.1(a), the Managing Member may (but shall not be obligated to) make Distributions at such time, in such amounts and in such form (including in-kind property) as determined by the Managing Member in its sole discretion, in each case to the holders of Units immediately prior to such Distribution on a pro rata basis.

**Section 4.2 Allocations.** Profits or Losses (including, if necessary, items thereof) for any Fiscal Year shall be allocated among the Unitholders in such a manner as to reduce or eliminate, to the extent possible, any difference, as of the end of such Fiscal Year, between (a) the sum of (i) the Capital Account of each Unitholder, (ii) such Unitholder's share of Minimum Gain (as determined according to Treasury Regulation Section 1.704-2(g)) and (iii) such Unitholder's partner nonrecourse debt minimum gain (as defined in Treasury Regulation Section 1.704-2(i)(2)) and (b) the respective net amounts, positive or negative, which would be distributed to them or for which they would be liable to the Company under this Agreement and the Delaware Act, determined as if the Company were to (i) liquidate the assets of the Company for an amount equal to their Book Value and (ii) distribute the proceeds of such liquidation pursuant to Section 10.2. To the extent allowable by applicable law, the end of the date of the IPO Transactions shall be treated as a "closing of the books" for purposes of allocations for the Fiscal Year that includes the IPO Transactions.

### Section 4.3 Special Allocations.

(a) Minimum Gain Chargeback. Losses attributable to partner nonrecourse debt (as defined in Treasury Regulation Section 1.704-2(b)(4)) shall be allocated in the manner required by Treasury Regulation Section 1.704-2(i). If there is a net decrease during a Taxable Year in partner nonrecourse debt minimum gain (as defined in Treasury Regulation Section 1.704-2(i)(2)), Profits for such Taxable Year (and, if necessary, for subsequent Taxable Years) shall be allocated to the Unitholders in the amounts and of such character as determined according to Treasury Regulation Section 1.704-2(i)(4).

(b) Unitholder Nonrecourse Debt Minimum Chargeback. Nonrecourse deductions (as determined according to Treasury Regulation Section 1.704-2(b)(1)) for any Taxable Year shall be allocated to each holder of Units ratably among such Unitholders based upon their ownership of Units. Except as otherwise provided in Section 4.3(a), if there is a net decrease in the Minimum Gain during any Taxable Year, each Unitholder shall be allocated Profits for such Taxable Year (and, if necessary, for subsequent Taxable Years) in the amounts and of such character as determined according to Treasury Regulation Section 1.704-2(f). This Section 4.3(b) is intended to be a Minimum Gain chargeback provision that complies with the requirements of Treasury Regulation Section 1.704-2(f), and shall be interpreted in a manner consistent therewith.

(c) Qualified Income Offset. If any Unitholder that unexpectedly receives an adjustment, allocation or distribution described in Treasury Regulation Section 1.704-1(b)(2)(ii)(d)(4), (5) and (6) has an Adjusted Capital Account Deficit as of the end of any Taxable Year, computed after the application of Section 4.3(a) and Section 4.3(b), but before the application of any other provision of this Article IV, then Profits for such Taxable Year shall be allocated to such Unitholder in proportion to, and to the extent of, such Adjusted Capital Account Deficit. This Section 4.3(c) is intended to be a qualified income offset provision as described in Treasury Regulation Section 1.704-1(b)(2)(ii)(d) and shall be interpreted in a manner consistent therewith.

(d) Allocation of Certain Profits and Losses. Profits and Losses described in Section 3.5(b)(v) shall be allocated in a manner consistent with the manner that the adjustments to the Capital Accounts are required to be made pursuant to Treasury Regulation Section 1.704-1(b)(2)(iv)(j), (k) and (m).

(e) Regulatory Allocations. The allocations set forth in Sections 4.3(a)-(d) (the “Regulatory Allocations”) are intended to comply with certain requirements of Sections 1.704-1(b) and 1.704-2 of the Treasury Regulations. The Regulatory Allocations may not be consistent with the manner in which the Unitholders intend to allocate Profit and Loss of the Company or make the Company distributions. Accordingly, notwithstanding the other provisions of this Article IV, but subject to the Regulatory Allocations, income, gain, deduction, and loss shall be reallocated among the Unitholders so as to eliminate the effect of the Regulatory Allocations and thereby cause the respective Capital Accounts of the Unitholders to be in the amounts (or as close thereto as possible) they would have been if Profit and Loss (and such other items of income, gain, deduction and loss) had been allocated without reference to the Regulatory Allocations. In general, the Unitholders anticipate that this will be accomplished by specially allocating other Profit and Loss (and such other items of income, gain, deduction and loss) among the Unitholders so that the net amount of the Regulatory Allocations and such special allocations to each such Unitholder is zero. In addition, if in any Fiscal Year or Fiscal Period there is a decrease in partnership Minimum Gain, or in partner nonrecourse debt Minimum Gain, and application of the Minimum Gain chargeback requirements set

forth in Section 4.3(a) or Section 4.3(b) would cause a distortion in the economic arrangement among the Unitholders, the Unitholders may, if they do not expect that the Company will have sufficient other income to correct such distortion, request the Internal Revenue Service to waive either or both of such Minimum Gain chargeback requirements. If such request is granted, this Agreement shall be applied in such instance as if it did not contain such Minimum Gain chargeback requirement.

(f) The Unitholders acknowledge that allocations like those described in Proposed Treasury Regulations Section 1.704-1(b)(4)(xii)(c) (“Forfeiture Allocations”) may result from the allocations of Profits and Losses provided for in this Agreement. For the avoidance of doubt, the Company is entitled to make Forfeiture Allocations and, once required by applicable final or temporary guidance, allocations of Profits and Losses will be made in accordance with Proposed Treasury Regulations Section 1.704-1(b)(4)(xii)(c) or any successor provision or guidance.

(g) Any item of deduction with respect to a Tax that is offset for a Unitholder under Section 4.6 shall be allocated to the Unitholder in which such payment is to be offset. For the avoidance of doubt, all tax deductions described in this Section 4.3 (g) shall be taken into account in determining the amount of Tax Distribution made under the provisions of Section 4.1(a)(i).

**Section 4.4 Offsetting Allocations.** If, and to the extent that, any Member is deemed to recognize any item of income, gain, deduction or loss as a result of any transaction between such Member and the Company pursuant to Sections 83, 482, or 7872 of the Code or any similar provision now or hereafter in effect, the Managing Member shall use its commercially reasonable efforts to allocate any corresponding Profit or Loss to the Member who recognizes such item in order to reflect the Members’ economic interest in the Company.

#### **Section 4.5 Tax Allocations.**

(a) Allocations Generally. Except as provided in Section 4.5(b) below, for federal, state and local income Tax purposes, each item of income, gain, loss or deduction shall be allocated among the Unitholders in the same manner and in the same proportion that the corresponding book items have been allocated among the Unitholders’ respective Capital Accounts; provided that, if any such allocation is not permitted by the Code or other applicable law, then each subsequent item of income, gains, losses, deductions and credits will be allocated among the Unitholders so as to reflect as nearly as possible the allocation set forth herein in computing their Capital Accounts.

(b) Code Section 704(c) Allocations. Items of Company taxable income, gain, loss and deduction with respect to any property contributed to the capital of the Company shall, solely for Tax purposes, be allocated among the Unitholders in accordance with Code Section 704(c) so as to take account of any variation between the adjusted basis of such asset for federal income Tax purposes and its initial Book Value. Such allocations shall be made using a reasonable method specified in Treasury Regulations Section 1.704-3. In addition, if the Book Value of any Company asset is adjusted pursuant to the requirements of Treasury Regulation Section 1.704-1(b)(2)(iv)(e) or (f), then subsequent allocations of items of taxable income, gain, loss and deduction with respect to such asset shall take account of any variation between the adjusted basis of such asset for federal income Tax purposes and its Book Value in the same manner as under Code Section 704(c). Notwithstanding the foregoing, the Managing Member shall determine all allocations pursuant to this Section 4.5(b) using any method selected by the Managing Member that is permitted under Section 704(c) of the Code and the Treasury Regulations thereunder; provided that the “traditional

method” pursuant to Treasury Regulation Section 1.704-3(b) shall be used with respect to any assets contributed or deemed contributed to the Company in conjunction with the IPO Transactions or any other transactions related thereto.

(c) Section 754 Election. The Company will have in effect (and will cause each Subsidiary that is classified as a partnership for U.S. federal income tax purposes to have in effect) an election under Section 754 of the Code for its Taxable Year that includes or begins on the date of this Agreement and each Fiscal Year in which a sale, exchange, or redemption (whether partial or complete) occurs to adjust the basis of the Company property as permitted and provided in Sections 734 and 743 of the Code. Such election shall be effective solely for federal (and, if applicable, state and local) income Tax purposes and shall not result in any adjustment to the Book Value of any Company asset or to the Member’s Capital Accounts (except as provided in Treasury Regulations Section 1.704-1(b)(2)(iv)(m)).

(d) Allocation of Tax Credits, Tax Credit Recapture, Etc. Allocations of Tax credits, Tax credit recapture, and any items related thereto shall be allocated to the Unitholders according to their interests in such items as determined by the Managing Member taking into account the principles of Treasury Regulation Section 1.704-1(b)(4)(ii) and (viii).

(e) Corrective Allocations. If necessary, the Company will make corrective allocations as set forth in Treasury Regulation Section 1.704-1(b)(4)(x).

(f) Effect of Allocations. Allocations pursuant to this Section 4.5 are solely for purposes of federal, state and local Taxes and shall not affect, or in any way be taken into account in computing, any Unitholder’s Capital Account or share of Profits, Losses, Distributions (other than Tax Distributions) or other items pursuant to any provision of this Agreement.

**Section 4.6 Indemnification and Reimbursement for Payments on Behalf of a Unitholder.** Except as otherwise provided in Article VI, if the Company is required by law to make any payment to a Governmental Entity that is specifically attributable to a Unitholder or a Unitholder’s status as such (including federal withholding Taxes, state personal property Taxes, and state unincorporated business Taxes), then such Unitholder shall indemnify and contribute to the Company in full for the entire amount paid (including interest, penalties and related expenses). The Managing Member may offset Distributions to which a Person is otherwise entitled under this Agreement against such Person’s obligation to indemnify the Company under this Section 4.6 or with respect to any other amounts owed by the Unitholder to the Company or any of its Subsidiaries. A Unitholder’s obligation to indemnify and make contributions to the Company under this Section 4.6 shall survive such Unitholder ceasing to be a Unitholder of the LLC and/or the termination, dissolution, liquidation and winding up of the Company, and for purposes of this Section 4.6, the Company shall be treated as continuing in existence. The Company may pursue and enforce all rights and remedies it may have against each Unitholder under this Section 4.6, including instituting a lawsuit to collect such indemnification and contribution, with interest calculated at a rate equal to the Base Rate plus three percentage points per annum (but not in excess of the highest rate per annum permitted by law), compounded on the last day of each Fiscal Quarter.

## ARTICLE V

### MANAGEMENT AND CONTROL OF BUSINESS

#### Section 5.1 Management.

(a) Except as otherwise specifically provided in this Agreement or the Delaware Act, the business, property and affairs of the Company shall be managed, operated and controlled at the sole, absolute and exclusive direction of the Managing Member in accordance with the terms of this Agreement. No Member or Unitholder other than the Managing Member shall have management authority or voting or other rights over, or any other ability to take part in the conduct or control of the business of, the Company. The Managing Member is, to the extent of its rights and powers set forth in this Agreement, an agent of the Company for the purpose of the Company's business, and the actions of the Managing Member taken in accordance with such rights and powers shall bind the Company (and no other Member shall have such right). The Managing Member shall have all necessary powers to carry out the purposes, business and objectives of the Company. The Managing Member may delegate in its discretion the authority to sign agreements and other documents and take other actions on behalf of the Company to any Person (including any Member, officer or employee of the Company) to enter into and perform any document on behalf of the Company.

(b) Without limiting Section 5.1(a), the Managing Member shall have the sole power and authority to effect any of the following by the Company or any of its Subsidiaries in one or a series of related transaction, in each case without the vote, consent or approval of any Unitholder: (i) any sale, lease, transfer, exchange or other disposition of any, all or substantially all of the assets of the Company (including the exercise or grant of any conversion, option, privilege or subscription right or any other right available in connection with any assets at any time held by the Company); (ii) any merger, consolidation, reorganization or other combination of the Company with or into another entity, (iii) any acquisition; (iv) any issuance of debt or equity securities; (v) any incurrence of indebtedness; or (vi) any dissolution. If a vote, consent or approval of the Unitholders is required by the Delaware Act or other applicable law with respect to any action to be taken by the Company or matter considered by the Managing Member, each Unitholder will be deemed to have consented to or approved such action or voted on such matter in accordance with the consent or approval of the Managing Member on such action or matter.

(c) The Corporation may appoint any of the following as a successor Managing Member at any time upon written notice to the Company: (a) any wholly-owned Subsidiary of the Corporation, (b) any Person of which the Corporation is a wholly-owned Subsidiary, (c) any Person into which the Corporation is merged or consolidated or (d) any transferee of all or substantially all of the assets of the Corporation, which withdrawal and replacement as Managing Member shall be effective upon the delivery of such notice.

**Section 5.2 Investment Company Act.** The Managing Member shall use reasonable best efforts to ensure that the Company shall not be subject to registration as an investment company pursuant to the Investment Company Act.

### Section 5.3 Officers.

(a) Officers. Unless determined otherwise by the Managing Member, the officers of the Company shall be a Chief Executive Officer, a President, a Chief Financial Officer, a Treasurer and a Secretary and each other officer of the Corporation shall also be an officer of the Company, with the same title. All officers shall be appointed by the Managing Member (or by the Chief Executive Officer to the extent the Managing Member delegates such authority to the Chief Executive Officer) and shall hold office until their successors are appointed by the Managing Member (or by the Chief Executive Officer to the extent the Managing Member delegates such authority to the Chief Executive Officer). Two or more offices may be held by the same individual. The officers of the Company may be removed by the Managing Member (or by the Chief Executive Officer to the extent the Managing Member delegates such authority to the Chief Executive Officer) at any time for any reason or no reason.

(b) Other Officers and Agents. The Managing Member may appoint such other officers and agents as it may deem necessary or advisable, who shall hold their offices for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Managing Member.

(c) Chief Executive Officer. The Chief Executive Officer shall be the chief executive officer of the Company and shall have the general powers and duties of supervision and management usually vested in the office of a chief executive officer of a company. He or she shall preside at all meetings of Members if present thereat, unless the Managing Member delegates such authority to another officer, Member or other individual.

(d) President. The President shall be the chief executive officer of the Company in the absence of the Chief Executive Officer. In general, the President shall perform all duties incident to the office of President and such other duties as may be prescribed from time to time by the Managing Member.

(e) Chief Financial Officer. The Chief Financial Officer shall be the chief financial officer of the Company and shall keep and maintain or cause to be kept and maintained adequate and correct books and records of accounts of the properties and business transactions of the Company. The books of account shall at all times be open to inspection by the Managing Member. The Chief Financial Officer shall deposit all monies and other valuables in the name of, and to the credit of, the Company with such depositaries as may be designated by the Managing Member.

(f) Treasurer. The Treasurer shall have the custody of Company funds and securities and shall keep full and accurate account of receipts and disbursements. He or she shall deposit all moneys and other valuables in the name and to the credit of the Company in such depositaries as may be designated by the Managing Member or the Chief Executive Officer. The Treasurer shall disburse the funds of the Company as may be ordered by the Managing Member or the Chief Executive Officer, taking proper vouchers for such disbursements. He or she shall render to the Managing Member and the Chief Executive Officer whenever either of them may request it, an account of all his or her transactions as Treasurer and of the financial condition of the Company. If required by the Managing Member, the Treasurer shall give the Company a bond for the faithful discharge of his or her duties in such amount and with such surety as the Managing Member shall prescribe.

(g) Secretary. The Secretary shall give, or cause to be given, notice of all meetings of Members and all other notices required by applicable law or by this Agreement, and in case of his or her absence or refusal or neglect so to do, any such notice may be given by any person thereunto directed by the Chief Executive Officer, or by the Managing Member. He or she shall record all the proceedings of the meetings of the Company, and shall perform such other duties as may be assigned to him or her by the Managing Member or by the Chief Executive Officer.

(h) Other Officers. Other officers, if any, shall have such powers and shall perform such duties as shall be assigned to them, respectively, by the Managing Member or by the Chief Executive Officer.

#### **Section 5.4 Fiduciary Duties.**

(a) Members and Unitholders. To the fullest extent permitted by law and notwithstanding any duty otherwise existing at law or in equity, no Member or Unitholder, solely in its capacity as such, shall owe any fiduciary duty to the Company, the Managing Member, any Member, any Unitholder or any other Person bound by this Agreement, provided that the foregoing shall not eliminate the implied contractual covenant of good faith and fair dealing. Nothing in this Section 5.4(a) shall limit the liabilities, duties or obligations of any Member or Unitholder acting in his or her capacity as an officer or manager pursuant to any other provision of this Agreement.

(b) Managing Member and Officers. Notwithstanding any other provision to the contrary in this Agreement, except as set forth in Section 5.4(c), (i) the Managing Member shall, in its capacity as Managing Member, and not in any other capacity, have the same fiduciary duties to the Company and the Unitholders and Members as a member of the board of directors of a Delaware corporation; and (ii) each officer of the Company shall, in his or her capacity as such, and not in any other capacity, have the same fiduciary duties to the Company and the Unitholders and Members as an officer of a Delaware corporation. For the avoidance of doubt, the fiduciary duties described in clause (i) above shall not be limited by the fact that the Managing Member shall be permitted to take certain actions in its sole or reasonable discretion pursuant to the terms of this Agreement or any agreement entered into in connection herewith.

(c) Managing Member Conflicts. The parties hereto acknowledge that the members of the Corporation's board of directors will owe fiduciary duties to the Corporation and its stockholders. The Managing Member will use commercially reasonable and appropriate efforts and means, as determined in good faith by the Managing Member, to minimize any conflict of interest between the Members, on the one hand, and the stockholders of the Corporation, on the other hand, and to effectuate any transaction that involves or affects any of the Company, the Managing Member, the Members and/or the stockholders of the Corporation in a manner that does not (i) disadvantage the Members of their interests relative to the stockholders of the Corporation or (ii) advantage the stockholders of the Corporation relative to the Members or (iii) treat the Members and the stockholders of the Corporation differently; provided that in the event of a conflict between the interests of the stockholders of the Corporation and the interests of the Members, such Members agree that the Managing Member shall discharge its fiduciary duties to such Members by acting in the best interests of the Corporation's stockholders.

(d) Waiver. Any duties and liabilities set forth in this Agreement shall replace those existing at law or in equity and each of the Company, each Member and Unitholder and any other Person bound by this Agreement hereby, to the fullest extent permitted by applicable law,



including Section 18-1101(e) of the Delaware Act, waives the right to make any claim, bring any action or seek any recovery based on any duties or liabilities existing at law or in equity other than any such duties and liabilities set forth in this Agreement.

(e) Survival. The provisions of this Section 5.4 shall survive any amendment, repeal or termination of this Agreement.

## ARTICLE VI

### EXCULPATION AND INDEMNIFICATION

#### Section 6.1 Exculpation.

(a) Actions in Capacity as a Member or Unitholder. To the fullest extent permitted by applicable law, and except as otherwise expressly provided herein, no Member, Unitholder (other than the Managing Member, acting in its capacity as such) or its respective Indemnitees shall be liable to the Company, any Member, any Unitholder or any other Person bound by this Agreement as a result of or arising out of any action of or omission by such Member or Unitholder solely in its capacity as a Member or Unitholder, except to the extent such Obligations arise out of such Member's (1) material breach of this Agreement or any other Transaction Document or (2) bad faith violation of the implied contractual covenant of good faith and fair dealing, in each case as determined by a final judgment, order or decree of an arbitrator or a court of competent jurisdiction (which is not appealable or with respect to which the time for appeal therefrom has expired and no appeal has been perfected).

(b) Other Actions. To the fullest extent permitted by applicable law, and except as otherwise expressly provided herein, including Section 6.5, no Indemnitee shall be liable to the Company, any Member, any Unitholder or any other Person bound by this Agreement as a result of or arising out of the activities of the Indemnitee on behalf of the Company to the extent within the scope of the authority reasonably believed by such Indemnitee to be conferred on such Indemnitee, except to the extent such Indemnitee would not be entitled to exculpation or indemnification pursuant to the certification of incorporation and bylaws of the Corporation (as the same may be amended from time to time).

**Section 6.2 Indemnification.** To the fullest extent permitted by applicable law, each of (a) the Managing Member, (b) the Unitholders and Members (and their respective Affiliates), (c) the stockholders, members, managers, directors, officers, partners, employees and agents of the Unitholders and Members (and their respective Affiliates), and (d) the officers and directors of the Corporation, the Managing Member, the Company and each of their Subsidiaries (each, an "Indemnitee") shall be indemnified and held harmless by the Company from and against any and all losses, claims, damages, liabilities, expenses (including legal fees and expenses), judgments, fines, settlements and other amounts arising from any and all claims, demands, actions, suits or proceedings, civil, criminal, administrative or investigative (collectively, "Obligations"), which at any time may be imposed on, incurred by, or asserted against, the Indemnitee as a result of, or arising out of, this Agreement, the Corporation, the Company, their respective assets, businesses or affairs, or the activities of the Indemnitee on behalf of the Corporation, the Company or any of their Subsidiaries, to the extent within the scope of the authority reasonably believed to be conferred on such Indemnitee; provided, however, that, to the extent such Indemnitee is not entitled to exculpation with respect to such Obligations pursuant to Section 6.5, the Indemnitee shall not be entitled to

indemnification for any such Obligations to the extent such Indemnitee would not be entitled to exculpation or indemnification pursuant to the certification of incorporation and bylaws of the Corporation (as the same may be amended from time to time); provided further, that, to the extent such Indemnitee is entitled to exculpation with respect to such Obligations pursuant to Section 6.5, the Indemnitee shall not be entitled to indemnification for any such Obligations to the extent they arise out of such Indemnitee's (1) material breach of this Agreement or any other Transaction Document, or (2) bad faith violation of the implied contractual covenant of good faith and fair dealing. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of *nobo contendere*, or its equivalent, shall not, of itself, create a presumption that the Indemnitee was not entitled to indemnification hereunder. Any indemnification pursuant to this Section 6.1(b) shall be made only out of the assets of the Company and no Member shall have any personal liability on account thereof.

**Section 6.3 Expenses.** Expenses (including reasonable legal fees and expenses) incurred by an Indemnitee in defending any claim, demand, action, suit or proceeding described in Section 6.1(b) shall, from time to time, be advanced by the Company prior to the final disposition of such claim, demand, action, suit or proceeding, upon receipt by the Company of an undertaking by or on behalf of the Indemnitee to repay such amount if it shall be determined that the Indemnitee is not entitled to be indemnified as provided in Section 6.1(b); provided that such undertaking shall be unsecured and interest free and shall be accepted without regard to an Indemnitee's ability to repay amounts advanced and without regard to an Indemnitee's entitlement to indemnification.

**Section 6.4 Non-Exclusivity; Savings Clause.** The indemnification and advancement of expenses set forth in Section 6.1(b) and Section 6.3 shall not be exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under any other agreement, policy of insurance or otherwise. The indemnification and advancement of expenses set forth in Section 6.1(b) and Section 6.3 shall continue as to an Indemnitee who has ceased to be a named Indemnitee and shall inure to the benefit of the heirs, executors, administrators, successors and permitted assigns of such a Person. If Article VI, Section 6.2 or Section 6.3 or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Company shall nevertheless exculpate, indemnify and advance expenses to each Indemnitee to the fullest extent permitted by any applicable portion of such sections not so invalidated and to the fullest extent permitted by applicable law. The exculpation, indemnification and advancement of expenses provisions set forth in Article VI, Section 6.2 and Section 6.3 shall be deemed to be a contract between the Company and each of the persons constituting Indemnities at any time while such provisions remain in effect, whether or not such Person continues to serve in such capacity and whether or not such Person is a party hereto. In addition, neither Article VI, Section 6.2 nor Section 6.3 may be retroactively amended to adversely affect the rights of any Indemnitee arising in connection with any acts, omissions, facts or circumstances occurring prior to such amendment.

**Section 6.5 Insurance.** The Company may purchase and maintain insurance on behalf of the Indemnities against any liability asserted against them and incurred by them in such capacity, or arising out of their status as Indemnities, whether or not the Company would have the power to indemnify them against such liability under this Section 6.5.

## ARTICLE VII

### ACCOUNTING AND RECORDS; TAX MATTERS

**Section 7.1 Accounting and Records.** The books and records of the Company shall be made and maintained, and the financial position and the results of its operations recorded, at the expense of the Company, in accordance with such method of accounting as is determined by the Managing Member. The books and records of the Company shall reflect all Company transactions and shall be made and maintained in a manner that is appropriate and adequate for the Company's business.

**Section 7.2 Preparation of Tax Returns.** The Company shall arrange for the preparation and timely filing of all Tax returns required to be filed by the Company, including making the elections described in Section 4.5(c) and Section 7.3. Each Unitholder shall furnish to the Company all pertinent information in its possession relating to the Company's operations that is necessary to enable the Company's income Tax returns to be prepared and filed.

**Section 7.3 Tax Elections.** The Taxable Year shall be the Fiscal Year unless the Managing Member shall determine otherwise. Except as provided in Section 4.5(c), the Managing Member shall determine whether to make or revoke any available election pursuant to the Code. Each Unitholder will upon request supply any information necessary to give proper effect to such election.

#### **Section 7.4 Tax Controversies.**

(a) The Managing Member shall be the "partnership representative" (or "PR") of the Company for purposes of the Partnership Tax Audit Rules, and, as such, (i) shall be authorized to designate any other Person selected by the Managing Member as the partnership representative and (ii) shall be authorized and required to represent the Company (at the Company's expense) in connection with all examinations of the Company's affairs by Tax authorities, including resulting administrative and judicial proceedings, and to expend the Company's funds for professional services and reasonably incurred in connection therewith. Each Unitholder agrees to reasonably cooperate with the Company and to do or refrain from doing any or all things reasonably requested by the Company with respect to the conduct of such proceedings.

(b) In the event of an audit by the Internal Revenue Service, unless otherwise approved by all of the Members, the PR shall make on a timely basis, to the extent permissible under applicable law, the election provided by Section 6226(a) of the Partnership Tax Audit Rules to treat a "partnership adjustment" as an adjustment to be taken into account by each Member in accordance with Section 6226(b) of the Partnership Tax Audit Rules. If the election under Section 6226(a) of the of the Partnership Tax Audit Rules is made, the PR shall furnish to each Member for the year under audit a statement reflecting the Member's share of the adjusted items as determined in the notice of final partnership adjustment, and each such Member shall take such adjustment into account as required under Section 6226(b) of the Partnership Tax Audit Rules and shall be liable for any related tax, interest, penalty, addition to tax, or additional amounts.

(c) In the event of an audit by the Internal Revenue Service, if the PR does not make the election provided by Section 6226(a) of the Partnership Tax Audit Rules as noted above, the PR shall allocate the burden of any taxes (including, for the avoidance of doubt, any "imputed

underpayment” within the meaning of Section 6225 of the Partnership Tax Audit Rules), penalties, interest and related expenses imposed on the Company pursuant to the Partnership Tax Audit Rules among the Members to whom such amounts are attributable (whether as a result of their status, actions, inactions or otherwise), as reasonably determined by the PR and each Member shall promptly reimburse the Company in full for the entire amount the PR determines to be attributable to such Member; provided that the Company will also be allowed to recover any amount due from such Member pursuant to this sentence from any distribution otherwise payable to such Member pursuant to this Agreement. Solely for purposes of determining the Member(s) to which any taxes or other amounts are attributable under this provision, references to any Member in this Section 7.4(c) shall include a reference to each Person that previously held the Units currently held by such Member (but only to the extent of such Person’s interest in such Units).

(d) The PR is authorized to, and shall follow principles (to the extent available) similar to those set forth in Section 7.4(b) and Section 7.4(c) with respect to any audits by state, local, or foreign tax authorities and any tax liabilities that result therefrom.

#### **Section 7.5 Code § 83 Safe Harbor Election.**

(a) By executing this Agreement, each Unitholder authorizes and directs the Company to elect to have the “Safe Harbor” described in the proposed Revenue Procedure set forth in the Internal Revenue Service Notice 2005-43 (the “IRS Notice”) or in any successor, guidance or provision apply to any interest in the Company transferred to a service provider by the Company on or after the effective date of such Revenue Procedure in connection with services provided to the Company. For purposes of making such Safe Harbor election, the PR is hereby designated as the “partner who has responsibility for federal income Tax reporting” by the Company and, accordingly, that execution of such Safe Harbor election by the PR constitutes execution of a “Safe Harbor Election” in accordance with Section 3.03(1) of the IRS Notice. Each Unitholder hereby agrees to comply with all requirements of the Safe Harbor described in the IRS Notice, including, the requirement that each Unitholder shall prepare and file all federal income Tax returns reporting the income Tax effects of each Unit issued by the Company that qualifies for the Safe Harbor in a manner consistent with the requirements of the IRS Notice.

(b) Any Unitholder or former Unitholder that fails to comply with requirements set forth in Section 7.5(a) shall indemnify and hold harmless the Company and each adversely affected Unitholder and former Unitholder from and against any and all losses, liabilities, Taxes, damages, judgments, fines, costs, penalties, amounts paid in settlement and reasonable out-of-pocket costs and expenses incurred in connection therewith (including, costs and expenses of suits and proceedings, and reasonable fees and disbursements of counsel), in each case resulting from such Unitholder’s or former Unitholder’s failure to comply with such requirements. The Managing Member may offset Distributions to which a Person is otherwise entitled under this Agreement against such Person’s obligation to indemnify the Company and any other Person under this Section 7.5(b) (and any amount so offset with respect to such Person’s obligation to indemnify a Person other than the Company shall be paid over to such other Person by the Company). A Unitholder’s obligations to comply with the requirements of Section 7.5(a) and to indemnify the Company and any Unitholder or former Unitholder under this Section 7.5(b) shall survive such Unitholder’s ceasing to be a Unitholder of the Company and/or the termination, dissolution, liquidation and winding up of the Company, and, for purposes of this Section 7.5, the Company shall be treated as continuing in existence. The Company and any Unitholder or former Unitholder may pursue and enforce all rights and remedies it may have against each Unitholder or former Unitholder

under this Section 7.5(b), including (i) instituting a lawsuit to collect such indemnification and contribution, with interest calculated at a rate equal to the Base Rate plus three percentage points per annum (but not in excess of the highest rate per annum permitted by law), compounded on the last day of each Fiscal Quarter and (ii) specific performance and/or immediate injunctive or other equitable relief from any court of competent jurisdiction (without the necessity of showing actual money damages, or posting any bond or other security) in order to enforce or prevent any violation of the provisions of Section 7.5(a).

(c) Each Unitholder authorizes the Managing Member to amend paragraphs (a) and (b) of this Section 7.5 to the extent necessary to achieve substantially the same Tax treatment with respect to any interest in the Company Transferred to a service provider by the Company in connection with services provided to the Company as set forth in Section 4 of the IRS Notice (e.g., to reflect changes from the rules set forth in the IRS Notice in subsequent Internal Revenue Service guidance); provided that such amendment is not materially adverse to any Unitholder (as compared with the after-Tax consequences that would result if the provisions of the IRS Notice applied to all interests in the Company Transferred to a service provider by the Company in connection with services provided to the Company).

## ARTICLE VIII

### TRANSFER OF UNITS; ADMISSION OF NEW MEMBERS

**Section 8.1 Transfer of Units.** Other than as provided for below in this Section 8.1, no Member may sell, assign, transfer, grant a participation in, pledge, hypothecate, encumber or otherwise dispose of (such transaction being herein collectively called a “Transfer”) all or any portion of its Units except with the approval of the Managing Member, which may be granted or withheld in its sole discretion. Without the approval of the Managing Member (but otherwise in compliance with Section 8.1), a Member may, at any time, (a) Transfer any portion of such Member’s Units pursuant to the Exchange Agreement, (b) Transfer any portion of such Member’s Units to a Permitted Transferee of such Member, and (c) consummate a transaction that terminates the existence of a Member for income tax purposes but does not terminate the existence of such Member under applicable state law; provided, however, that (i) such transfer restrictions will continue to apply to such Units after any such permitted Transfer, (ii) transferees must agree in writing to be bound by the provisions of the Exchange Agreement and this Agreement (as in effect at such time, together with any amendments hereto), and (iii) any Transfer of Units to a Permitted Transferee of such Member by a Member which also holds Class B Common Stock must be accompanied by the transfer of a corresponding number of shares of Class B Common Stock (determined based upon the Exchange Rate then in effect) to such Permitted Transferee. Any purported Transfer of all or a portion of a Member’s Units not complying with this Section 8.1 shall be void ab initio and shall not create any obligation on the part of the Company or the other Members to recognize that purported Transfer or to recognize the Person to which the Transfer purportedly was made as a Member. A Person acquiring a Member’s Units pursuant to this Section 8.1 shall not be admitted as a substituted or Additional Member except in accordance with the requirements of Section 8.2, but such Person shall, to the extent of the Units transferred to it, be entitled to such Member’s (i) share of Distributions, (ii) share of Profits and Losses and (iii) Capital Account in accordance with Section 3.5. Notwithstanding anything in this Section 8.1 or elsewhere in this Agreement to the contrary, if a Member Transfers all or any portion of its Units after the designation of a record date and declaration of a Distribution pursuant to Section 4.1 and before the payment date

of such distribution, the transferring Member (and not the Person acquiring all or any portion of its Units) shall be entitled to receive such Distribution in respect of such transferred Units.

## **Section 8.2 Recognition of Transfer; Substituted and Additional Members.**

(a) No direct or indirect Transfer of all or any portion of a Member's Units may be made, and no purchaser, assignee, transferee or other recipient of all or any part of such Units shall be admitted to the Company as a substituted or Additional Member hereunder, unless:

(i) the provisions of Section 8.1 shall have been complied with;

(ii) in the case of a proposed substituted or Additional Member that is (A) a competitor or potential competitor of the Corporation or the Company or their respective Subsidiaries, (B) a Person with whom the Corporation or the Company or their respective Subsidiaries has had or is expected to have a material commercial or financial relationship or (C) likely to subject the Corporation or the Company or their respective Subsidiaries to any material legal or regulatory requirement or obligation, or materially increase the burden thereof, in each case as determined by the Managing Member in its sole discretion, the admission of the purchaser, assignee, transferee or other recipient as a substituted or Additional Member shall have been approved by the Managing Member;

(iii) the Managing Member shall have been furnished with the documents effecting such Transfer, in form and substance reasonably satisfactory to the Managing Member, executed and acknowledged by both the seller, assignor or transferor and the purchaser, assignee, transferee or other recipient, and the Managing Member shall have executed (and the Managing Member hereby agrees to execute) any other documents on behalf of itself and the Members required to effect the Transfer;

(iv) the provisions of Section 8.2(b) shall have been complied with;

(v) the Managing Member shall be reasonably satisfied that such Transfer will not (A) result in a violation of the Securities Act or any other applicable law; or (B) cause an assignment under the Investment Company Act;

(vi) such Transfer would (A) not create a material risk that the Company will be treated as a "publicly traded partnership" within the meaning of Section 7704 of the Code or any other association taxable as a corporation for federal income tax purposes and, without limiting the generality of the foregoing, such Transfer shall not be effected on or through an "established securities market" or a "secondary market or the substantial equivalent thereof," as such terms are used in Treas. Reg. § 1.7704-1 and (B) not otherwise result in the Company having more than 100 partners, within the meaning of Treasury Regulations Section 1.7704-1(h) (determined taking into account the rules of Treasury Regulations Section 1.7704-1(h)(3));

(vii) the Managing Member shall have received the opinion of counsel, if any, required by Section 8.2(c) in connection with such Transfer; and

(viii) all necessary instruments reflecting such Transfer and/or admission shall have been filed in each jurisdiction in which such filing is necessary in order to qualify the Company to conduct business or to preserve the limited liability of the Members.

(b) Each Substituted Member and Additional Member shall be bound by all of the provisions of this Agreement. Each Substituted Member and Additional Member, as a condition to its admission as a Member, shall execute and acknowledge such instruments (including a counterpart of this Agreement and the Exchange Agreement or a joinder agreement in customary form), in form and substance reasonably satisfactory to the Managing Member, as the Managing Member reasonably deems necessary or desirable to effectuate such admission and to confirm the agreement of such substituted or Additional Member to be bound by all the terms and provisions of this Agreement with respect to the Units acquired by such substituted or Additional Member. The admission of a substituted or Additional Member shall not require the consent of any Member (but shall require the consent of the Managing Member, if and to the extent such consent of the Managing Member is expressly required by this Article VIII). As promptly as practicable after the admission of a substituted or Additional Member, the Unit Ownership Ledger and other books and records of the Company and Exhibit A shall be changed to reflect such admission.

(c) As a further condition to any Transfer of all or any part of a Member's Units, the Managing Member may, in its discretion, require a written opinion of counsel to the transferring Member, obtained at the sole expense of the transferring Member, reasonably satisfactory in form and substance to the Managing Member, as to such matters as are customary and appropriate in transactions of this type, including, without limitation (or, in the case of any Transfer made to a Permitted Transferee, limited to an opinion) to the effect that such Transfer will not result in a violation of the registration or other requirements of the Securities Act or any other federal or state securities laws. No such opinion, however, shall be required in connection with a Transfer made pursuant to the Exchange Agreement.

(d) The transferor, unless otherwise reasonably determined by the Managing Member, shall deliver to the Company an affidavit of non-foreign status with respect to such transferor that satisfies the requirements of Section 1446(f)(2) of the Code or other documentation establishing a valid exemption from withholding pursuant to Section 1446(f) of the Code or shall ensure that, contemporaneously with the Transfer, the transferee of such interest properly withholds and remits to the IRS the amount of tax required to be withheld upon the Transfer by Section 1446(f) of the Code (and promptly provide evidence to the Company of such withholding and remittance). The transferor and transferee of such interest shall agree to jointly and severally indemnify and hold harmless the Corporation, the Company and any Subsidiary of the Company against any loss (including taxes, interest, penalties, and any related expenses) arising out of any failure to comply with the provisions of this Section 8.2(d).

**Section 8.3 Expense of Transfer; Indemnification.** All reasonable costs and expenses incurred by the Managing Member and the Company in connection with any Transfer of a Member's Units, including any filing and recording costs and the reasonable fees and disbursements of counsel for the Company, shall be paid by the transferring Member. In addition, the transferring Member hereby indemnifies the Managing Member and the Company against any losses, claims, damages or liabilities to which the Managing Member, the Company, or any of their Affiliates may become subject arising out of or based upon any false representation or warranty made by, or breach or failure to comply with any covenant or agreement of, such transferring Member or such transferee in connection with such Transfer.

**Section 8.4 Exchange Agreement.** In connection with any Transfer of any portion of a Member's Units pursuant to the Exchange Agreement, the Managing Member shall cause the

Company to take any action as may be required under the Exchange Agreement or requested by any party thereto to effect such Transfer promptly.

**Section 8.5 Change of Control Transactions.** In the event (i) the Corporation enters into an agreement to consummate a Change of Control (as defined in the Tax Receivable Agreement) transaction, or (ii) any Person commences a tender offer or exchange offer for any of the outstanding shares of the Corporation's stock, the Corporation will take all reasonable actions in order to effect any Change of Control Exchange (as defined in the Exchange Agreement).

## ARTICLE IX

### WITHDRAWAL AND RESIGNATION OF UNITHOLDERS

**Section 9.1 Withdrawal and Resignation of Unitholders.** No Unitholder shall have the power or right to withdraw or otherwise resign from the Company prior to the dissolution and winding up of the Company pursuant to Article X, without the prior written consent of the Managing Member (which consent may be withheld by the Managing Member in its sole discretion), except as otherwise expressly permitted by this Agreement. Upon a Transfer of all of a Unitholder's Units in a Transfer permitted by this Agreement, and (if applicable) the Equity Agreements, such Unitholder shall cease to be a Unitholder. Notwithstanding that payment on account of a withdrawal may be made after the effective time of such withdrawal, any completely withdrawing Unitholder will not be considered a Unitholder for any purpose after the effective time of such complete withdrawal, and, in the case of a partial withdrawal, such Unitholder's Capital Account (and corresponding voting and other rights) shall be reduced for all other purposes hereunder upon the effective time of such partial withdrawal.

## ARTICLE X

### DISSOLUTION AND LIQUIDATION

**Section 10.1 Dissolution.** The Company shall not be dissolved by the admission of Additional Members or Substituted Members. The Company shall dissolve, and its affairs shall be wound up upon the first of the following to occur:

(a) at the election of the Managing Member; and

(b) the entry of a decree of judicial dissolution of the Company under Section 33.5 of the Delaware Act or an administrative dissolution under Section 18-802 of the Delaware Act.

Except as otherwise set forth in this Article X the Company is intended to have perpetual existence. An Event of Withdrawal shall not cause a dissolution of the Company and the Company shall continue in existence subject to the terms and conditions of this Agreement.

**Section 10.2 Liquidation and Termination.** On the dissolution of the Company, the Managing Member shall act as liquidator or may appoint one or more representatives, Members or other Persons as liquidator(s). The liquidators shall proceed diligently to wind up the affairs of the Company and make final distributions as provided herein and in the Delaware Act. The costs of liquidation shall be borne as the Company's expense. Until final distribution, the liquidators shall



continue to operate the Company properties with all of the power and authority of the Managing Member. The steps to be accomplished by the liquidators are as follows:

(a) The liquidators shall pay, satisfy or discharge from the Company's funds all of the debts, liabilities and obligations of the Company (including all expenses incurred in liquidation) or otherwise make adequate provision for payment and discharge thereof (including the establishment of a cash fund for contingent liabilities in such amount and for such term as the liquidators may reasonably determine).

(b) As promptly as practicable after dissolution, the liquidators shall (i) determine the Fair Market Value (the "Liquidation FMV") of the Company's remaining assets (the "Liquidation Assets") in accordance with Article X hereof, (ii) determine the amounts to be distributed to each Unitholder in accordance with Section 4.1, and (iii) deliver to each Unitholder a statement (the "Liquidation Statement") setting forth the Liquidation FMV and the amounts and recipients of such Distributions, which Liquidation Statement shall be final and binding on all Unitholders.

(c) As soon as the Liquidation FMV and the proper amounts of Distributions have been determined in accordance with Section 10.2(b) above, the liquidators shall promptly distribute the Company's Liquidation Assets to the holders of Units in accordance with Section 4.1(b) above. In making such distributions, the liquidators shall allocate each type of Liquidation Assets (i.e., cash or cash equivalents, preferred or common equity securities, etc.) among the Unitholders ratably based upon the aggregate amounts to be distributed with respect to the Units held by each such holder; provided that the liquidators may allocate each type of Liquidation Assets so as to give effect to and take into account the relative priorities of the different Units; provided further that, in the event that any securities are part of the Liquidation Assets, each Unitholder that is not an "accredited investor" as such term is defined under the Securities Act may, in the sole discretion of the Managing Member, receive, and hereby agrees to accept, in lieu of such securities, cash consideration with an equivalent value to such securities as determined by the Managing Member. Any non-cash Liquidation Assets will first be written up or down to their Fair Market Value, thus creating Profit or Loss (if any), which shall be allocated in accordance with Section 4.2 and Section 4.3. If any Unitholder's Capital Account is not equal to the amount to be distributed to such Unitholder pursuant to Section 10.2(b), Profits and Losses for the Fiscal Year in which the Company is dissolved shall be allocated among the Unitholders in such a manner as to cause, to the extent possible, each Unitholder's Capital Account to be equal to the amount to be distributed to such Unitholder pursuant to Section 10.2(b). The distribution of cash and/or property to a Unitholder in accordance with the provisions of this Section 10.2(b) constitutes a complete return to the Unitholder of its Capital Contributions and a complete distribution to the Unitholder of its interest in the Company and all the Company property and constitutes a compromise to which all Unitholders have consented within the meaning of the Delaware Act. To the extent that a Unitholder returns funds to the Company, it has no claim against any other Unitholder for those funds.

**Section 10.3 Securityholders Agreement.** To the extent that units or other equity securities of any Subsidiary are distributed to any Unitholders and unless otherwise agreed to by the Managing Member, such Unitholders hereby agree to enter into a securityholders agreement with such Subsidiary and each other Unitholder which contains rights and restrictions in form and substance similar to the provisions and restrictions set forth herein (including in Article VIII).

**Section 10.4 Cancellation of Certificate.** On completion of the distribution of the Company's assets as provided herein, the Company shall be terminated (and the Company shall not

be terminated prior to such time), and the Managing Member (or such other Person or Persons as the Delaware Act may require or permit) shall file a certificate of cancellation with the Secretary of State of Delaware, cancel any other filings made pursuant to this Agreement that are or should be canceled and take such other actions as may be necessary to terminate the Company. The Company shall be deemed to continue in existence for all purposes of this Agreement until it is terminated pursuant to this Section 10.4.

**Section 10.5 Reasonable Time for Winding Up.** A reasonable time shall be allowed for the orderly winding up of the business and affairs of the Company and the liquidation of its assets pursuant to Section 10.2 in order to minimize any losses otherwise attendant upon such winding up.

**Section 10.6 Return of Capital.** The liquidators shall not be personally liable for the return of Capital Contributions or any portion thereof to the Unitholders (it being understood that any such return shall be made solely from the Company assets).

**Section 10.7 Hart-Scott-Rodino.** In the event the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (the “HSR Act”) is applicable to any Unitholder, the dissolution of the Company shall not be consummated until such time as the applicable waiting period (and extensions thereof) under the HSR Act have expired or otherwise been terminated with respect to each such Unitholder.

## ARTICLE XI

### GENERAL PROVISIONS

**Section 11.1 Power of Attorney.** Each Unitholder hereby constitutes and appoints the Managing Member and the liquidators, if any and as applicable, and their respective designees, with full power of substitution, as his, her or its true and lawful agent and attorney-in-fact, with full power and authority in his, her or its name, place and stead, to execute, swear to, acknowledge, deliver, file and record in the appropriate public offices (to the same extent such Person could take such action): (a) this Agreement, all certificates and other instruments and all amendments hereof or thereof in accordance with the terms hereof which the Managing Member deems appropriate or necessary to form, qualify, or continue the qualification of, the Company as a limited liability company in the State of Delaware and in all other jurisdictions in which the Company may conduct business or own property or as otherwise permitted herein; (b) all instruments, agreements, amendments or other documents which the Managing Member deems appropriate or necessary to reflect any amendment, change, modification or restatement of this Agreement in accordance with its terms; (c) all conveyances and other instruments or documents which the Managing Member and/or the liquidators deems appropriate or necessary to reflect the dissolution and liquidation of the Company pursuant to the terms of this Agreement, including a certificate of cancellation; and (d) all instruments relating to the admission, withdrawal or substitution of any Unitholder pursuant to Article VIII or Article IX. The foregoing power of attorney is irrevocable and coupled with an interest, and shall survive the death, disability, incapacity, dissolution, bankruptcy, insolvency or termination of any Unitholder and the Transfer of all or any portion of his, her or its Units and shall extend to such Unitholder’s heirs, successors, permitted assigns and personal representatives.

**Section 11.2 Amendments.** This Agreement may be amended (including, for purposes of this Section 11.2, any amendment effected directly or indirectly by way of a merger or consolidation of the Company) or waived, in whole or in part, by the Managing Member; provided, however, that

to the extent any amendment or waiver, including any amendment or waiver of the Exhibits attached hereto, would disproportionately and adversely affect the rights of any Member of a class compared with the rights of any other Member of such class, such amendment or waiver may only be made by the Managing Member upon the prior written consent of such disproportionately and adversely affected Member.

**Section 11.3 Title to the Company Assets.** The Company's assets shall be deemed to be owned by the Company as an entity, and no Unitholder, individually or collectively, shall have any ownership interest in such assets or any portion thereof. Legal title to any or all of such assets may be held in the name of the Company or one or more nominees, as the Managing Member may determine. The Managing Member hereby declares and warrants that any Company assets for which legal title is held in the name of any nominee shall be held in trust by such nominee for the use and benefit of the Company in accordance with the provisions of this Agreement. All the Company assets shall be recorded as the property of the Company on its books and records, irrespective of the name in which legal title to such assets is held.

**Section 11.4 Remedies.** Each Unitholder and the Company shall have all rights and remedies set forth in this Agreement and all rights and remedies which such Person has been granted at any time under any other agreement or contract and all of the rights which such Person has under any law. Any Person having any rights under any provision of this Agreement or any other agreements contemplated hereby shall be entitled to enforce such rights specifically (without posting a bond or other security), to recover damages by reason of any breach of any provision of this Agreement and to exercise all other rights granted by law.

**Section 11.5 Successors and Assigns.** All covenants and agreements contained in this Agreement shall bind and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors, legal representatives and permitted assigns, whether so expressed or not.

**Section 11.6 Severability.** Whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability will not affect any other provision or the effectiveness or validity of any provision in any other jurisdiction, and this Agreement will be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision had never been contained herein or if such term or provision could be drawn more narrowly so as not to be illegal, invalid, prohibited or unenforceable in such jurisdiction, it shall be so narrowly drawn, as to such jurisdiction, without invalidating the remaining terms and provisions of this Agreement or affecting the legality, validity or enforceability of such term or provision in any other jurisdiction.

**Section 11.7 Counterparts; Binding Agreement.** This Agreement may be executed simultaneously in two or more separate counterparts, any one of which need not contain the signatures of more than one party, but each of which will be an original and all of which together shall constitute one and the same agreement binding on all the parties hereto. This Agreement and all of the provisions hereof shall be binding upon and effective as to each Person who (a) executes this Agreement in the appropriate space provided in the signature pages hereto notwithstanding the fact that other Persons who have not executed this Agreement may be listed on the signature pages

hereto and (b) may from time to time become a party to this Agreement by executing a counterpart of or joinder to this Agreement.

**Section 11.8 Descriptive Headings; Interpretation.** The descriptive headings of this Agreement are inserted for convenience only and do not constitute a substantive part of this Agreement. Whenever required by the context, any pronoun used in this Agreement shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns, pronouns and verbs shall include the plural and vice versa. The use of the word “including” in this Agreement shall be by way of example rather than by limitation. Reference to any agreement, document or instrument means such agreement, document or instrument as amended or otherwise modified from time to time in accordance with the terms thereof, and if applicable hereof. Whenever required by the context, references to a Fiscal Year shall refer to a portion thereof. The use of the words “or,” “either” and “any” shall not be exclusive. The parties hereto have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties hereto, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement. Wherever a conflict exists between this Agreement and any other agreement, this Agreement shall control but solely to the extent of such conflict.

**Section 11.9 Applicable Law.** This Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware, without giving effect to any choice of law or conflict of law rules or provisions (whether of the State of Delaware or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Delaware.

**Section 11.10 Addresses and Notices.** All notices, demands or other communications to be given or delivered under or by reason of the provisions of this Agreement shall be in writing and shall be deemed to have been given or made when (a) delivered personally to the recipient, (b) telecopied to the recipient, or delivered by means of electronic mail (with hard copy sent to the recipient by reputable overnight courier service (charges prepaid) that same day) if telecopied/mailed before 5:00 p.m. New York, New York time on a Business Day, and otherwise on the next Business Day, or (c) one (1) Business Day after being sent to the recipient by reputable overnight courier service (charges prepaid). Such notices, demands and other communications shall be sent to the address for such recipient set forth in the Company’s books and records, or to such other address or to the attention of such other person as the recipient party has specified by prior written notice to the sending party.

**Section 11.11 Creditors.** None of the provisions of this Agreement shall be for the benefit of or enforceable by any creditors of the Company or any of its Affiliates, and no creditor who makes a loan to the Company or any of its Affiliates may have or acquire (except pursuant to the terms of a separate agreement executed by the Company in favor of such creditor) at any time as a result of making the loan any direct or indirect interest in the Company’s Profits, Losses, Distributions, capital or property other than as a secured creditor. Notwithstanding the foregoing, each of the Indemnitees are intended third party beneficiaries of Section 6.1(b) and shall be entitled to enforce such provision (as it may be in effect from time to time).

**Section 11.12 No Waiver.** No failure by any party to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement or to exercise any right or remedy

consequent upon a breach thereof shall constitute a waiver of any such breach or any other covenant, duty, agreement or condition.

**Section 11.13 Further Action.** The parties agree to execute and deliver all documents, provide all information and take or refrain from taking such actions as may be necessary or appropriate to achieve the purposes of this Agreement.

**Section 11.14 Entire Agreement.** This Agreement and the other Transaction Documents embody the complete agreement and understanding among the parties with respect to the subject matter herein and supersede and preempt any prior understandings, agreements or representations by or among the parties, written or oral, which may have related to the subject matter hereof in any way.

**Section 11.15 Delivery by Electronic Means.** This Agreement, the agreements referred to herein, and each other agreement or instrument entered into in connection herewith or therewith or contemplated hereby or thereby, and any amendments hereto or thereto, to the extent signed and delivered by means of a facsimile machine or electronic transmission in portable document format (pdf) or comparable electronic transmission, shall be treated in all manner and respects as an original agreement or instrument and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. At the request of any party hereto or to any such agreement or instrument, each other party hereto or thereto shall re-execute original forms thereof and deliver them to all other parties. No party hereto or to any such agreement or instrument shall raise the use of a facsimile machine or pdf electronic transmission or comparable electronic transmission to deliver a signature or the fact that any signature or agreement or instrument was transmitted or communicated through the use of a facsimile machine as a defense to the formation or enforceability of a contract and each such party forever waives any such defense.

**Section 11.16 Certain Acknowledgments.** This Agreement shall be considered for all purposes as having been prepared through the joint efforts of the parties. No presumption shall apply in favor of any party in the interpretation of this Agreement or in the resolution of any ambiguity of any provision hereof based on the preparation, substitution, submission or other event of negotiation, drafting or execution hereof. Each Member and Unitholder acknowledges that it/he/she is entitled to and has been afforded the opportunity to consult legal counsel of its choice regarding the terms, conditions and legal effects of this Agreement, as well as the advisability and propriety thereof. Each Member and Unitholder further acknowledges that having so consulted with legal counsel of its choosing, such Member or Unitholder hereby waives any right to raise or rely upon the lack of representation or effective representation in any future proceedings or in connection with any future claim resulting from this Agreement or the formation of the Company. THE COMPANY, THE MEMBERS AND THE UNITHOLDERS ACKNOWLEDGE THAT STRADLING YOCCA CARLSON & RAUTH P.C. HAS ONLY REPRESENTED THE COMPANY WITH RESPECT TO THE NEGOTIATION AND PREPARATION OF THIS AGREEMENT, AND HAS NOT REPRESENTED THE MEMBERS OR THE UNITHOLDERS WITH RESPECT TO SUCH MATTERS.

**Section 11.17 Consent to Jurisdiction; Waiver of Trial by Jury.**

(a) Consent to Jurisdiction. Each Unitholder irrevocably submits to the exclusive jurisdiction of the United States District Court for the State of Delaware and the state courts of the State of Delaware for the purposes of any suit, action or other proceeding arising out of this Agreement or any transaction contemplated hereby. Each Unitholder further agrees that service of

any process, summons, notice or document by United States certified or registered mail (in each such case, prepaid return receipt requested) to such Unitholder's respective address set forth in the Company's books and records or such other address or to the attention of such other person as the recipient party has specified by prior written notice to the sending party shall be effective service of process in any action, suit or proceeding in Delaware with respect to any matters to which it has submitted to jurisdiction as set forth above in the immediately preceding sentence. Each Unitholder irrevocably and unconditionally waives any objection to the laying of venue of any action, suit or proceeding arising out of this Agreement or the transactions contemplated hereby in the United States District Court for the State of Delaware or the state courts of the State of Delaware and hereby irrevocably and unconditionally waives and agrees not to plead or claim in any such court that any such action, suit or proceeding brought in such court has been brought in an inconvenient forum.

(b) WAIVER OF TRIAL BY JURY. BECAUSE DISPUTES ARISING IN CONNECTION WITH COMPLEX TRANSACTIONS ARE MOST QUICKLY AND ECONOMICALLY RESOLVED BY AN EXPERIENCED AND EXPERT PERSON AND THE PARTIES WISH APPLICABLE STATE AND FEDERAL LAWS TO APPLY (RATHER THAN ARBITRATION RULES), THE PARTIES DESIRE THAT THEIR DISPUTES BE RESOLVED BY A JUDGE APPLYING SUCH APPLICABLE LAWS. THEREFORE, TO ACHIEVE THE BEST COMBINATION OF THE BENEFITS OF THE JUDICIAL SYSTEM AND OF ARBITRATION, EACH PARTY TO THIS AGREEMENT (INCLUDING THE COMPANY) HEREBY WAIVES ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, SUIT, OR PROCEEDING BROUGHT TO RESOLVE ANY DISPUTE BETWEEN OR AMONG ANY OF THE PARTIES HERETO, WHETHER ARISING IN CONTRACT, TORT, OR OTHERWISE, ARISING OUT OF, CONNECTED WITH, RELATED OR INCIDENTAL TO THIS AGREEMENT, THE TRANSACTIONS CONTEMPLATED HEREBY AND/OR THE RELATIONSHIPS ESTABLISHED AMONG THE PARTIES HEREUNDER.

**Section 11.18 Representations and Warranties.** By execution of this Agreement (including a Joinder hereto), each Member severally represents and warrants as follows:

(a) Such Member has full legal right, power, and authority to deliver this Agreement and the other Transaction Documents and to perform such Member's obligations hereunder and thereunder;

(b) This Agreement and the other Transaction Documents constitute the legal, valid, and binding obligation of such Member enforceable in accordance with its respective terms, except as the enforcement thereof may be limited by bankruptcy and other laws of general application relating to creditors' rights or general principles of equity;

(c) Neither this Agreement nor the other Transaction Documents violate, conflict with, result in a breach of the terms, conditions or provisions of, or constitute a default or an event of default under any other agreement of which such Member is a party; and

(d) Such Member's investment in Units in the Company is made for such Member's own account for investment purposes only and not with a view to the resale or distribution of such Units.

(e) To the extent that such Member is a partnership, grantor trust or S corporation, Treasury Regulations Sections 1.7704-1(h)(3)(i) and (ii) are not applicable to the interest of such Member and their beneficial owners.

**Section 11.19 Tax Receivable Agreement.** The Tax Receivable Agreement and the Exchange Agreement shall each be treated as part of this Agreement as described in Section 761(c) of the Code, and Treas. Reg. § 1.704-1(b)(2)(ii)(h) and § 1.761-1(c) with respect to payments to a Member with respect to an Exchange (as defined in the Tax Receivable Agreement) by such Member.

\* \* \* \* \*

IN WITNESS WHEREOF, the undersigned have executed or caused to be executed on their behalf this Limited Liability Company Agreement as of the date first written above.

**REAL GOOD FOODS, LLC**

By: The Real Good Food Company, Inc., a  
Delaware corporation, as its Managing Member

By: \_\_\_\_\_  
Name: Gerard G. Law  
Title: Chief Executive Officer

*[Signature Page to Limited Liability Company Agreement]*



IN WITNESS WHEREOF, the undersigned have executed or caused to be executed on their behalf this Limited Liability Company Agreement as of the date first written above.

**THE REAL GOOD FOOD COMPANY, INC.,**  
as a Member

By: \_\_\_\_\_  
Name: Gerard G. Law  
Title: Chief Executive Officer

*[Signature Page to Limited Liability Company Agreement]*

IN WITNESS WHEREOF, the undersigned have executed or caused to be executed on their behalf this Limited Liability Company Agreement as of the date first written above.

**MEMBERS:**

\_\_\_\_\_  
Josh Schreider, an individual

PPZ, LLC,  
a Wyoming limited liability company

By: \_\_\_\_\_

Name: Rhea Lamia

Title: Manager

Slingshot Consumer, LLC,  
a Wyoming limited liability company

By: \_\_\_\_\_

Name: Bryan Freeman

Title: Manager

Divario Ventures, LLC,  
a Delaware limited liability company

By: \_\_\_\_\_

Name: Jim Foltz

Title: Vice President – Business Ventures

Strand Equity Partners III, LLC,  
a Delaware limited liability company

By: \_\_\_\_\_

Name:

Title:

CPG Solutions, LLC

By: \_\_\_\_\_

Name: Andrew Stiffelman

Title: Manager

\_\_\_\_\_  
Gerard G. Law

\_\_\_\_\_  
Akshay Jagdale

*[Signature Page to Limited Liability Company Agreement]*

IN WITNESS WHEREOF, the undersigned have executed or caused to be executed on their behalf this Limited Liability Company Agreement as of the date first written above.

**MEMBERS:**

Fidelity Mt. Vernon Street Trust: Fidelity Series Growth Company Fund

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Fidelity Mt. Vernon Street Trust: Fidelity Growth Company Fund

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Fidelity Mt. Vernon Street Trust: Fidelity Growth Company K6 Fund

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Fidelity Securities Fund: Fidelity Blue Chip Growth Fund

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Fidelity Securities Fund: Fidelity Blue Chip Growth K6 Fund

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

*[Signature Page to Limited Liability Company Agreement]*

IN WITNESS WHEREOF, the undersigned have executed or caused to be executed on their behalf this Limited Liability Company Agreement as of the date first written above.

**MEMBERS:**

Fidelity Select Portfolios: Consumer Staples Portfolio

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Fidelity Central Investment Portfolios LLC: Fidelity U.S. Equity Central Fund – Consumer Staples Sub

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Fidelity Securities Fund: Fidelity Small Cap Growth Fund

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Fidelity Securities Fund: Fidelity Small Cap Growth K6 Fund

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

*[Signature Page to Limited Liability Company Agreement]*

**LIMITED LIABILITY COMPANY AGREEMENT**

**Joinder**

The undersigned hereby agrees to become a party to the Limited Liability Company Agreement of Real Good Foods, LLC, a Delaware limited liability company, dated as of \_\_\_\_\_, 2021 (the “Agreement”), and agrees to be bound by the terms and conditions of the Agreement as a Member.

**MEMBER:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
  
Address for Notices: \_\_\_\_\_  
\_\_\_\_\_

**Exhibit A-1**

**Unit Ownership Ledger**

<b>Member</b>	<b>Class A Units*</b>	<b>Class B Units*</b>	<b>Total*</b>	<b>Percentage</b>
Josh Schreider				
PPZ, LLC				
Slingshot Consumers, LLC				
CPG Solutions, LLC				
Divario Ventures, LLC				
Strand Equity Partners III, LLC				
Gerard G. Law				
Akshay Jagdale				
<b>Total</b>				

\* The Managing Member shall have the right to make pro-rata adjustments to the above-referenced number of Units, and to make issuances of Units to the Managing Member, subject to the terms of the Agreement, including Section 3.1(e) and Section 3.2 thereof.

\*\* \_\_\_\_\_ of such Class B Units issued to Gerard Law, together with an equivalent amount of shares of Class B common stock of the Corporation (collectively, the “Law Restricted Interests”), are unvested and, for such portion that remain unvested as of the applicable date, subject to automatic forfeiture and cancelation if Mr. Law’s employment is terminated by the Company without “Cause” or is terminated by Mr. Law without “Good Reason” (each as defined in the employment agreement between the Company and Mr. Law). 1/24th of such Law Restricted Interests (rounded down to the nearest whole unit) shall become vested and no longer be subject to forfeiture on October 1, 2021 and 1/24 of such Law Restricted Interests (rounded down to the nearest whole unit) shall vest on the first day of each calendar month thereafter, with all such units and equivalent shares of stock vested and released from such restriction on September 1, 2023. All Law Restricted Interests shall become vested and this restriction shall terminate as to all Law Restricted Interests upon a termination of Mr. Law’s employment by the Company without Cause or by Mr. Law for Good Reason.

**Exhibit A-2**

**Unit Ownership Ledger**

<b>Member</b>	<b>Class A Units*</b>	<b>Class B Units*</b>	<b>Total*</b>	<b>Percentage</b>
Josh Schreider				
PPZ, LLC				
Slingshot Consumers, LLC				
CPG Solutions, LLC				
Divario Ventures, LLC				
Strand Equity Partners III, LLC				
Gerard G. Law		**	**	
Akshay Jagdale				
The Real Good Food Company, Inc.	***		***	
Fidelity Class B Members		*****	*****	
<b>Total</b>				

\* The Managing Member shall have the right to make pro-rata adjustments to the above-referenced number of Units, and to make issuances of Units to the Managing Member, subject to the terms of the Agreement, including Section 3.1(e) and Section 3.2 thereof.

\*\* \_\_\_\_\_ of such Class B Units shall be subject to vesting and automatic forfeiture as described in Exhibit A-1.

\*\*\* Pursuant to Section 3.1(a), the Corporation will contribute the net proceeds of the IPO to the Company in exchange for newly-issued Class A Units. The number of Class A Units also reflects the issuance of Class A Units to the Corporation contemplated in connection with the conversion by the persons set forth below (collectively, the “**Fidelity Class A Investors**”) of those certain Convertible Promissory Notes (the “**Convertible Notes**”) issued by the Company (as successor-in-interest to The Real Good Food Company, LLC, a California limited liability company) to the Fidelity Class A Investors pursuant to the terms of that certain Note Purchase Agreement, dated May 7, 2021 into shares of Class A Common Stock, as contemplated by that certain Agreement for the Conversion of Promissory Notes dated October \_\_\_\_\_, 2021 executed by and among the Company, the Corporation, the Fidelity Class A Investors and the Fidelity Class B Members (the “**Conversion Agreement**”). The amount of Class A Units issued to the Corporation (including, without limitation, as a result of the conversion of the Convertible Notes) may be amended from time to pursuant to Article III hereof.

<b>Fidelity Class A Investor</b>	<b>Amount Converting into Corporation Class A Common Stock</b>
Fidelity Capital Trust: Fidelity Flex Small Cap Fund - Small Cap Growth Subportfolio	
Fidelity Securities Fund: Fidelity Flex Large Cap Growth Fund	
Fidelity Blue Chip Growth Institutional Trust By its manager Fidelity Investments Canada ULC	
Variable Insurance Products Fund IV: Consumer Staples Portfolio	
Mag & Co fbo Fidelity Blue Chip Growth Commingled Pool	
FLAPPER CO fbo FIAM Target Date Blue Chip Growth Commingled Pool	
Mag & Co fbo Fidelity Growth Company Commingled Pool	
<i>Total</i>	

The number of Class A Units to be issued to the Corporation as a result of the conversion of the Convertible Notes held by the Fidelity Class A Investors shall be calculated based on a price that is equal to the price at which shares of Class A Common Stock are sold in the IPO as set forth in the final prospectus that it included as part of the IPO Registration Statement and has been calculated on Exhibit A-2 for illustration assuming a price of \$15.00 per share. The conversion amount set forth in the table above has been calculated by dividing the principal amount of the applicable Convertible Notes by 0.8, pursuant to and consistent with the Convertible Notes and the Conversion Agreement.

\*\*\*\* The Managing Member shall issue Class B Units to the persons identified in the chart set forth below (collectively, “**Fidelity Class B Members**”), or one or more permitted designees of such Fidelity Class B Member, to effect a conversion by the Fidelity Class B Members of the Convertible Notes into Class B Units and shares of Class B Common Stock, as contemplated by, pursuant to, and consistent with the Convertible Notes and the Conversion Agreement.

<b>Fidelity Class B Member</b>	<b>Conversion Amount</b>
Fidelity Securities Fund: Fidelity Small Cap Growth K6 Fund	
Mag & Co fbo Fidelity Select Portfolios: Consumer Staples Portfolio	
Mag & Co fbo Fidelity Mt. Vernon Street Trust: Fidelity Series Growth Company Fund	
Booth & Co FBO Fidelity Securities Fund: Fidelity Blue Chip Growth K6 Fund	
Powhatan & Co., LLC fbo Fidelity Mt. Vernon Street Trust : Fidelity Growth Company K6 Fund	
Gerlach & Co fbo Fidelity Central Investment Portfolios LLC: Fidelity U.S. Equity Central Fund - Consumer Staples Sub	
Mag & Co fbo Fidelity Securities Fund: Fidelity Small Cap Growth Fund	
Powhatan & Co., LLC fbo Fidelity Mt. Vernon Street Trust: Fidelity Growth Company Fund	
Mag & Co fbo Fidelity Securities Fund: Fidelity Blue Chip Growth Fund	
<i>Total</i>	

The number of Class B Units and shares of Class B Common Stock to be issued as a result of the conversion of the Convertible Notes held by the Fidelity Class B Members shall be calculated based on a price that is equal to the price at which shares of Class A Common Stock are sold in the IPO as set forth in the final prospectus that it included as part of the IPO Registration Statement and has been calculated on Exhibit A-2 for illustration assuming a price of \$15.00 per share. The conversion amount set forth in the table above has been calculated by dividing the principal amount of the applicable Convertible Notes by 0.8, pursuant to and consistent with the Convertible Notes and the Conversion Agreement.



## EXECUTIVE EMPLOYMENT AGREEMENT

THIS EXECUTIVE EMPLOYMENT AGREEMENT (this "Agreement") is made as of October 27, 2021, by and between **REAL GOOD FOODS, LLC**, a Delaware limited liability company (the "Company"), and Bryan Freeman (the "Executive") and is effective as of (the "Effective Date").

### ARTICLE I DUTIES AND TERMS

1.1 EMPLOYMENT. In consideration of their mutual covenants and other good and valuable consideration, the receipt, adequacy, and sufficiency of which is hereby acknowledged, as of the Effective Date the Company shall employ Executive, and the Executive hereby accepts such employment as Executive Chairman upon the terms and conditions set forth in this Agreement.

1.2 POSITION AND RESPONSIBILITIES. As the Company's Executive Chairman, Executive shall report to the Board of Directors of The Real Good Food Company, Inc., a Delaware corporation and the Company's managing member ("RGF, Inc."). The Executive's primary work location will be the Company's offices in Cherry Hill, New Jersey (or such other location as mutually agreed by the Executive and the Company from time to time), subject to business travel as needed for the Executive's position and the Company's remote working policies in effect from time to time. The Executive shall perform all of the duties reasonably assigned to him/her by the Board of Directors of RGF, Inc. (the "Board of Directors"), commensurate with his/her position as Executive chairman. The Executive shall at all times carry out the duties assigned to him/her in a loyal, trustworthy and businesslike manner.

1.3 AT-WILL EMPLOYMENT. The Executive will be employed as an at-will employee of the Company. Subject to the provisions of Articles III and IV, as an at-will employee, Executive is free to terminate his employment with the Company at any time, for any reason, and the Company has the similar right to terminate Executive's employment at any time, for any reason. Although the Company may choose to terminate Executive's employment for cause, Executive's employment is at-will and cause is not required.

1.4 PERSONNEL POLICIES. Except as otherwise provided herein, Executive shall be subject to the personnel policies of the Company applicable to management employees, and any amendments or revisions thereto. In the event of a conflict between this Agreement and the Company's personnel policies, the terms of this Agreement shall control.

### ARTICLE II COMPENSATION

For all services rendered by the Executive in any capacity during the Executive's employment under this Agreement, the Company will compensate the Executive as follows:

2.1 BASE SALARY. The Company will pay to the Executive an annual base salary paid in equal installments in accordance with the Company's general payment policies in effect during the term hereof (the "Base Salary"). As of the Effective Date, the Base Salary shall be \$776,000 (the "Minimum Base Salary"). The Base Salary shall be reviewed and re-established no less than annually by the Compensation Committee based on its review of current salaries and other

compensation offered by peer group companies; however, the Base Salary shall not be less than the Minimum Base Salary. This provision does not alter the at-will nature of Executive's employment or the provisions of Articles III and IV below.

2.2 **MANAGEMENT BONUS PROGRAM.** The Executive shall be eligible to receive a targeted annual bonus based on Company and individual performance criteria established annually by the Compensation Committee (the "Incentive Bonus"). As of the Effective Date, the Incentive Bonus shall be \$1,250,000 (the "Minimum Target Incentive Bonus"). The amount of the Incentive Bonus shall be reviewed and re-established no less than annually by the Compensation Committee based on its review of bonus-related compensation offered by peer group companies; however, the Incentive Bonus shall not be less than the Minimum Target Incentive Bonus. Executive shall be paid the Incentive Bonus beginning with a bonus for the year 2021 to be paid on or before January 31, 2022, and annually thereafter on or before January 31 of the applicable year.

2.3 **STOCK INCENTIVE PLAN.** In addition to the existing awards set forth in Section 2.4, the Executive will be eligible to participate in the RGF, Inc.'s 2021 Stock Incentive Plan at a level commensurate with like-level executive employees, subject to the terms of the program as set by the Board of Directors. The number, terms and types of stock compensation awards granted may vary from year to year.

2.4 **EXISTING OWNERSHIP AND AWARDS.** As of the Effective Date, Slingshot Consumers, LLC, an Affiliate of the Executive, owns 3,956,022 shares of RGF, Inc. Class B Common Stock (the "RGF Shares") and 3,956,022 Class B Units of the Company (the "LLC Units"). In addition, Executive, individually, will be granted 394,333 Restricted Stock Units of RGF, Inc., which are subject to the terms of RSU Grant Agreement dated on or about November 5, 2021, including with respect to vesting (the "RSUs" and, collectively with the RGF Shares and the LLC Units, the "Existing Ownership"). The Executive agrees and acknowledges that the Existing Ownership is owned by Executive is satisfaction of any and all contractual obligations between the Company (including its predecessor-in-interest) and RGF, Inc., on the one hand, and the Executive and any of his Affiliates, on the other hand. Other than the Existing Ownership, Executive owns no shares of capital stock of RGF, Inc., membership units of the Company, options or other rights to receive capital stock of RGF, Inc. or membership units of the Company, or any other rights whose value is based upon any of the foregoing.

2.5 **ADDITIONAL BENEFITS.** The Executive will be entitled to participate in all benefit and welfare programs, plans, and arrangements that are from time to time made available to the Company's like-level executive employees. These benefits currently include medical, dental and life insurance; Section 125 Flexible Spending Plan; 401(k) Retirement Plan; an Executive Vacation Plan, and a Company-leased vehicle or car allowance in an amount not greater than \$2,500 per month.

### ARTICLE III TERMINATION OF EMPLOYMENT

3.1 **GENERAL.** While Executive is an at-will employee as provided in Section 1.3 above, the following conditions for termination of employment are set forth in order to determine the nature of Executive's compensation entitlement upon termination of employment as discussed in Article IV below. Neither the provisions of Article III or Article IV of this Agreement shall alter the

at-will nature of Executive's employment with the Company. Upon termination of Executive's employment, Executive will assist Company in every proper way to evidence such termination.

3.2 DEATH OF EXECUTIVE. The Executive's employment under this Agreement will automatically terminate upon the death of the Executive.

3.3 BY EXECUTIVE. The Executive may terminate the Executive's employment under this Agreement by giving Notice of Termination (as defined in Section 6.1 hereof) to the Company:

- (a) for Good Reason (as defined in Section 6.1 hereof); and
- (b) at any time without Good Reason.

3.4 BY COMPANY. The Company may terminate the Executive's employment under this Agreement by giving Notice of Termination to the Executive:

- (a) in the event of Executive's Total Disability (as defined in Section 6.1 hereof);
- (b) for Cause (as defined in Section 6.1 hereof); and
- (c) at any time without Cause.

#### ARTICLE IV COMPENSATION UPON TERMINATION OF EMPLOYMENT

If the Executive's employment hereunder is terminated, in accordance with the provisions of Article III hereof, and except for any other rights or benefits specifically provided for herein to be effective following the Executive's period of employment, the Company will provide compensation and benefits to the Executive only as follows:

4.1 UPON TERMINATION FOR DEATH OR DISABILITY. If the Executive's employment hereunder is terminated by reason of the Executive's death or Total Disability, the Company will:

- (a) pay the Executive (or the Executive's estate) or beneficiaries any Base Salary that has accrued but was not paid as of the termination date (the "Accrued Base Salary");
- (b) pay the Executive (or the Executive's estate) or beneficiaries for unused vacation days accrued as of the termination date in an amount equal to the Executive's Base Salary multiplied by a fraction the numerator of which is the number of accrued unused vacation days and the denominator of which is 260 (the "Accrued Vacation Payment");
- (c) subject to Section 4.6 hereof, reimburse the Executive (or the Executive's estate) or beneficiaries for expenses incurred by him prior to the date of termination that are subject to reimbursement pursuant to this Agreement (the "Accrued Reimbursable Expenses");

(d) provide to the Executive (or the Executive's estate) or beneficiaries any accrued and vested benefits required to be provided by the terms of any Company-sponsored benefit plans or programs (the "Accrued Benefits"), together with any benefits required to be paid or provided in the event of the Executive's death or Total Disability under applicable law;

(e) pay the Executive (or the Executive's estate) or beneficiaries any Incentive Bonus with respect to a fiscal year prior to the fiscal year of termination that has been earned and accrued but has not been paid (the "Accrued Incentive Bonus"); plus the Executive's Incentive Bonus for the applicable fiscal year of termination as previously established by the Compensation Committee (the "Target Bonus");

(f) the Executive (or the Executive's estate) or beneficiaries shall have the right to exercise all vested unexercised stock options and warrants outstanding at the termination date in accordance with terms of the plans and agreements pursuant to which such options or warrants were issued; and

(g) (A) the Executive (or the Executive's estate) will vest in and have the right to exercise all of the Executive's outstanding options, restricted stock units, stock appreciation rights, and warrants outstanding at the termination date that were otherwise unvested as of the date of such termination, (B) all of the Company's rights to repurchase vested and unvested restricted stock or restricted stock units from the Executive shall lapse as to that number of shares in which such repurchase rights have yet to lapse and (C) any right of the Company to repurchase any common stock of the Company shall terminate including under any right of first refusal.

**4.2 UPON TERMINATION BY COMPANY FOR CAUSE OR BY EXECUTIVE WITHOUT GOOD REASON.** If the Executive's employment is terminated by the Company for Cause, or if the Executive terminates the Executive's employment with the Company other than (x) upon the Executive's death or Total Disability or (y) for Good Reason, the Company will:

(a) pay the Executive the Accrued Base Salary;

(b) pay the Executive the Accrued Vacation Payment;

(c) subject to Section 4.6 hereof, pay the Executive the Accrued Reimbursable Expenses;

(d) pay the Executive the Accrued Benefits, together with any benefits required to be paid or provided under applicable law;

(e) pay the Executive any Accrued Incentive Bonus, and excluding any Incentive Bonus for the fiscal year of termination; and

(f) the Executive will have the right to exercise all vested unexercised options, restricted stock units, stock appreciation rights and warrants outstanding at the termination date in accordance with terms of the plans and agreements pursuant to which such options, restricted stock units, stock appreciation rights and warrants were issued.

4.3 UPON TERMINATION BY THE COMPANY WITHOUT CAUSE OR BY EXECUTIVE FOR GOOD REASON. In the event the Executive has incurred a Separation from Service (within the meaning of Section 409A(a)(2)(A)(i) of the Internal Revenue Code of 1986, as amended (the “Code”), and Treasury Regulation Section 1.409A-1(h)) (“Separation from Service”) by reason of a termination of the Executive’s employment by the Company without Cause or by Executive for Good Reason, the Company will:

- (a) pay the Executive the Accrued Base Salary;
- (b) pay the Executive the Accrued Vacation Payment;
- (c) subject to Section 4.6 hereof, pay the Executive the Accrued Reimbursable Expenses;
- (d) pay the Executive the Accrued Benefits, together with any benefits required to be paid or provided under applicable law;
- (e) pay the Executive any Accrued Incentive Bonus;

(f) pay the Executive the greater of (A) the Target Bonus applicable to the fiscal year of termination or (B) the average of the actual Incentive Bonus for the previous three (3) years, in lump sum within sixty (60) days after Executive’s date of termination;

(g) pay the Executive severance, commencing within sixty (60) days following the termination date, of twelve (12) monthly payments each equal to one-twelfth (1/12<sup>th</sup>) of the Executive’s Annual Base Salary in effect immediately prior to the time such termination occurs and paid on the regular monthly payroll dates of the Company in accordance with the Company’s payroll practices as in effect on such termination date. Each installment payment made pursuant to this Section 4.3(g) shall be considered a separate payment for purposes of Section 409A of the Code (including, without limitation, for purposes of Treasury Regulation Section 1.409A-2(b)(2)(iii));

(h) pay the Executive an amount representing the grossed-up out-of-pocket cost, including federal, state, and all applicable employment taxes, as computed by the Company, of COBRA for the Executive and the Executive’s eligible beneficiaries who were enrolled in the applicable medical plan as of the date of termination for twenty-four (24) months. Notwithstanding the foregoing, Executive shall be responsible for paying the COBRA premiums and timely electing to continue coverage under COBRA of the medical benefits provided to Executive in effect as of the date of termination; and

(i) (A) the Executive will vest in and have the right to exercise all of the Executive’s outstanding options, restricted stock units and stock appreciation rights that were otherwise unvested as of the date of such termination, (B) all of the Company’s rights to repurchase vested and unvested restricted stock or restricted stock units from the Executive shall lapse as to that number of shares in which such repurchase rights have yet to lapse and (C) any right of the Company to repurchase any common stock of the Company shall terminate including under any right of first refusal.

4.4 IN CONNECTION WITH A CHANGE OF CONTROL AND TERMINATION BY THE COMPANY WITHOUT CAUSE OR BY EXECUTIVE FOR GOOD

REASON. In the event the Executive has incurred a Separation from Service by reason of a termination of the Executive's employment by the Company without Cause or by the Executive for Good Reason, in either case during a period beginning six (6) months prior to a Change of Control and ending two (2) years after a Change of Control, the Company will:

- (a) pay the Executive the Accrued Base Salary;
- (b) pay the Executive the Accrued Vacation Payment;
- (c) subject to Section 4.6 hereof, pay the Executive the Accrued Reimbursable Expenses;
- (d) pay the Executive the Accrued Benefits, together with any benefits required to be paid or provided under applicable law;
- (e) pay the Executive any Accrued Incentive Bonus;
- (f) pay the Executive the greater of (A) three (3) times the Target Bonus applicable to the fiscal year of termination or (B) three (3) times the average of the actual Incentive Bonus for the previous three (3) years, in lump sum within sixty (60) days after Executive's date of termination;
- (g) pay the Executive severance of three (3) times Executive's Annual Base Salary in effect immediately prior to the time such termination occurs, in lump sum within sixty (60) days after Executive's date of termination;
- (h) pay the Executive an amount representing the grossed-up out-of-pocket cost, including federal, state, and all applicable employment taxes, as computed by the Company, of COBRA for the Executive and the Executive's eligible beneficiaries who were enrolled in the applicable medical plan as of the date of termination for eighteen (18) months. Notwithstanding the foregoing, Executive shall be responsible for paying the COBRA premiums and timely electing to continue coverage under COBRA of the medical benefits provided to Executive in effect as of the date of termination; and
- (i) (A) the Executive will vest in and have the right to exercise all of the Executive's outstanding options, restricted stock units and stock appreciation rights that were otherwise unvested as of the date of such termination, (B) all of the Company's rights to repurchase vested and unvested restricted stock or restricted stock units from the Executive shall lapse as to that number of shares in which such repurchase rights have yet to lapse and (C) any right of the Company to repurchase any common stock of the Company shall terminate including under any right of first refusal.

4.5 RELEASE. Notwithstanding any provision herein to the contrary, the Company may require that, prior to payment of any amount or provision of any benefit pursuant to subsections (f), (g) or (h) of Sections 4.3 and 4.4, Executive shall have executed, on or prior to the Release Expiration Date, a customary general release in favor of the Company in the form attached hereto as Exhibit A, and any waiting periods contained in such release shall have expired. To the extent that the Company requires execution of such release, the Company shall deliver such release to Executive within five (5) business days following the termination of

Executive's employment hereunder. In the event that (a) Executive fails to execute such release on or prior to the Release Expiration Date, Executive shall not be entitled to any payments or benefits pursuant to subsections (f), (g) or (h) of Sections 4.3 and 4.4 and (b) the terms of such release are such that the permissible period for executing such release spans two tax years, then any payments or benefits pursuant to Sections 4.3 and 4.4 shall commence in the second of the two tax years.

4.6 ACCRUED REIMBURSABLE EXPENSES. Without limiting the Company's obligation under Sections 4.1(c), 4.2(c), 4.3(c) and 4.4(c) hereof, the reimbursement of any Accrued Reimbursable Expenses shall be made no later than December 31 of the year following the year in which the expense was incurred.

4.7 SECTION 409A.

(a) Notwithstanding anything herein to the contrary, to the extent (i) any amount or benefit payable to the Executive pursuant to Sections 4.1, 4.2, 4.3 or 4.4 is treated as non-qualified deferred compensation subject to Section 409A of the Code, (ii) the Company's securities are publicly traded on the date of the Executive's termination of employment, (iii) the Executive is determined by the Company to be a "specified employee" for purposes of Section 409A(a)(2)(B)(i) of the Code, and (iv) the Company determines that delayed commencement of any portion of the amounts payable to Executive pursuant to Sections 4.1, 4.2, 4.3 or 4.4 is required in order to avoid a prohibited distribution under Section 409A(a)(2)(B)(i) of the Code (any such delayed commencement, a "Payment Delay"), then such portion of the Executive's payments and/or benefits described in Sections 4.2, 4.3 or 4.4, as the case may be, shall not be provided to Executive prior to the earlier of (A) the expiration of the six-month period measured from the date of the Executive's date of termination, (B) the date of the Executive's death or (C) such earlier date as is permitted under Section 409A. Upon the expiration of the applicable Code Section 409A(a)(2)(B)(i) deferral period, all payments deferred pursuant to a Payment Delay shall be paid in a lump sum to Executive on the first day following such expiration, and any remaining payments due under Sections 4.1, 4.2, 4.3 or 4.4 shall be paid as otherwise provided herein.

(b) Notwithstanding anything in this Section 4.7 to the contrary, to the maximum extent permitted by applicable law, amounts payable to Executive pursuant to Sections 4.1, 4.2, 4.3 or 4.4, as the case may be, shall be made in reliance upon the Section 409A Safe Harbor Limit (as defined in Article VI) and/or the exception for short-term deferrals (as set forth in Treasury Regulation Section 1.409A-1(b)(4)).

4.8 SECTION 280G.

(a) Notwithstanding any other provision of this Agreement or any other plan, arrangement or agreement to the contrary, if any of the payments or benefits provided or to be provided by the Company or its affiliates to the Executive or for the Executive's benefit pursuant to the terms of this Agreement or otherwise ("Covered Payments") constitute parachute payments ("Parachute Payments") within the meaning of Section 280G of the Internal Revenue Code of 1986, as amended (the "Code") and the accompanying regulations, and would, but for this Section 4.8 be subject to the excise tax imposed under Section 4999 of the Code (or any

successor provision thereto) or any similar tax imposed by state or local law or any interest or penalties with respect to such taxes (collectively, the “Excise Tax”), then prior to making the Covered Payments, a calculation shall be made comparing (i) the Net Benefit (as defined below) to the Executive of the Covered Payments *after* payment of the Excise Tax to (ii) the Net Benefit to the Executive if the Covered Payments are limited to the extent necessary to avoid being subject to the Excise Tax. Only if the amount calculated under (i) above is less than the amount under (ii) above will the Covered Payments be reduced to the minimum extent necessary to ensure that no portion of the Covered Payments is subject to the Excise Tax (that amount, the “Reduced Amount”). “Net Benefit” shall mean the present value of the Covered Payments *net* of all federal, state, local, foreign income, employment and excise taxes.

(b) Any determination required under this Section 4.8 shall be made in writing in good faith by the accounting firm that was the Company’s independent auditor immediately before the change in control (the “Accountants”), which shall provide detailed supporting calculations to the Company and the Executive as requested by the Company or the Executive. The Company and the Executive shall provide the Accountants with such information and documents as the Accountants may reasonably request in order to make a determination under this Section 4.8. For purposes of making the calculations and determinations required by this Section 4.8, the Accountants may rely on reasonable, good faith assumptions and approximations concerning the application of Section 280G and Section 4999 of the Code. The Accountants’ determinations shall be final and binding on the Company and the Executive. The Company shall be responsible for all fees and expenses incurred by the Accountants in connection with the calculations required by this Section 4.8.

(c) It is possible that after the determinations and selections made pursuant to this Section 4.8 the Executive will receive Covered Payments that are in the aggregate more than the amount provided under this Section 4.8 (“Overpayment”) or less than the amount provided under this Section 4.8 (“Underpayment”).

(i) In the event that: (A) the Accountants determine, based upon the assertion of a deficiency by the Internal Revenue Service against either the Company or the Executive which the Accountants believe has a high probability of success, that an Overpayment has been made or (B) it is established pursuant to a final determination of a court or an Internal Revenue Service proceeding that has been finally and conclusively resolved that an Overpayment has been made, then the Executive shall pay any such Overpayment to the Company together with interest at the applicable federal rate (as defined in Section 7872(f)(2)(A) of the Code) from the date of the Executive’s receipt of the Overpayment until the date of repayment.

(ii) In the event that: (A) the Accountants, based upon controlling precedent or substantial authority, determine that an Underpayment has occurred or (B) a court of competent jurisdiction determines that an Underpayment has occurred, any such Underpayment will be paid promptly by the Company to or for the benefit of the Executive together with interest at the applicable federal rate (as defined in Section 7872(f)(2)(A) of the Code) from the date the amount would have otherwise been paid to the Executive until the payment date.



ARTICLE V  
ADDITIONAL AGREEMENTS

5.1 OTHER AGREEMENTS. As further material consideration for the Company entering into this Agreement, the Executive will also execute the Company's standard employee confidentiality agreement, inventions assignment agreement, employee handbook and any other agreements or policies required to be executed by all like level executives of the Company.

5.2 EMPLOYEE'S RESTRICTIVE COVENANTS UPON TERMINATION. If the Executive's employment terminates, Executive agrees, notwithstanding the reason for termination, to keep all of the Company's Confidential Information confidential in perpetuity in accordance with the Company's policy.

ARTICLE VI  
MISCELLANEOUS

6.1 DEFINITIONS. For purposes of this Agreement, the following terms will have the following meanings:

(a) "Affiliate" of a Person means a Person that directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the first Person. "Control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting securities, by contract or credit arrangement, as trustee or executor, or otherwise.

(b) "Cause" will mean any willful breach of duty by the Executive in the course of the Executive's employment, continued violation of written Company employment policies after written notice of such violation and an opportunity to cure of no less than thirty (30) days from the date of receipt of the written notice, violation of the Company's Insider Trading Policies, conviction of a felony or any crime involving fraud, theft, embezzlement, dishonesty or moral turpitude, engaging in activities which materially defame the Company, engaging in conduct which is materially injurious to the Company or its Affiliates, or any of their respective customer or supplier relationships, financially or otherwise, or the Executive's gross negligence or continued failure to perform Executive's duties or his continued incapacity to perform such duties after written notice of such violation and opportunity to cure of no less than thirty (30) days from the date of receipt of the written notice.

(c) "Change of Control" will mean if there is a merger, consolidation, sale of all or a major portion of the assets of the Company (or a successor organization) or similar transaction or circumstance where any person or more than one person acting as a group (within the meaning of Section 409A of the Code) acquires, in one or more transactions, beneficial ownership that, together with stock held by such person or group, constitutes more than Fifty Percent (50%) of the total fair market value or total voting power of the stock of the Company (or a successor organization). Notwithstanding the foregoing, a transaction will not be deemed a Change of Control unless the transaction qualifies as a change in control event within the meaning of Section 409A of the Code.

(d) “Compensation Committee” means the Compensation Committee of the Board of Directors of RGF, Inc.

(e) “Good Reason” will mean, without the consent of the Executive, there is a reduction in the Executive’s Base Salary or there is material reduction of the Executive’s total compensation, benefits, and perquisites, the Company relocates the Executive’s primary required location of employment by greater than fifty (50) miles, there is a material change in the Executive’s authority duties or responsibilities, a material failure by the Company to pay the Executive’s compensation after notice to the Company by the Executive and a reasonable opportunity to cure, or a directive by the Company that the Executive violate any law or aid the Company or any person or entity in violating any law; provided, however, no such event shall constitute “Good Reason” hereunder unless the Executive shall have given written notice to the Company of Executive’s intent to resign for “Good Reason” within ninety (90) days after the Executive first becomes aware of the occurrence of any such event (specifying the nature and scope of the event), such event or occurrence shall not have been cured no later than thirty (30) days after the Company’s receipt of such notice and the Executive shall have resigned no later than six (6) months after the expiration of such thirty (30) day cure period.

(f) “Notice of Termination” will mean a notice which shall indicate the specific termination provision of this Agreement relied upon and shall generally set forth the basis for termination of the Executive’s employment under the provision so indicated.

(g) “Person” means any natural person, firm, partnership, association, corporation, company, limited liability company, limited partnership, trust, business trust, governmental authority, or other entity.

(h) “Release Expiration Date” shall mean the date which is twenty-one (21) days following the date upon which the Company delivers to Executive the release contemplated in Section 4.5 above, or, in the event that such termination of employment is “in connection with an exit incentive or other employment termination program” (as such phrase is defined in the Age Discrimination in Employment Act of 1967), the date which is forty-five (45) days following such delivery date.

(i) “Retirement” will mean normal retirement at age 65.

(j) “Section 409A Safe Harbor Limit” will mean, as determined in accordance with Treasury Regulation §1.409A-1(b)(9)(iii), an amount equal to two (2) times the lesser of (i) Executive’s annual rate of compensation for the taxable year immediately preceding the taxable year in which Executive’s employment is terminated by the Company, or (ii) the dollar amount in effect under Section 401(a)(17) of the Code for the taxable year in which Executive’s employment is terminated.

(k) “Severance” will mean payments after termination of Executive’s employment.

(l) “Total Disability” will mean the Executive’s failure substantially to perform the Executive’s duties hereunder on a full-time basis for a period exceeding one hundred eighty (180) consecutive days or for periods aggregating more than one hundred eighty (180) days during any twelve (12) month period as a result of incapacity due to physical or mental illness. If

there is a dispute as to whether the Executive is or was physically or mentally unable to perform the Executive's duties under this Agreement, such dispute will be submitted for resolution to a licensed physician agreed upon by the Company and the Executive, or if an agreement cannot be promptly reached, the Company and the Executive will promptly each select a physician, and if these physicians cannot agree, the physicians will promptly select a third physician whose decision will be binding on all parties. If such a dispute arises, the Executive will submit to such examinations and will provide such information as such physician(s) may request, and the determination of the physician(s) as to the Executive's physical or mental condition will be binding and conclusive. Notwithstanding the foregoing, if the Executive participates in any group disability plan provided by the Company, which offers long-term disability benefits, "Total Disability," will mean total disability as defined therein.

6.2 KEY PERSON INSURANCE. The Company will have the right, in its sole discretion, to purchase "key person" insurance on the life of the Executive. The Company shall be the owner and beneficiary of any such policy. If the Company elects to purchase such a policy, the Executive will take such physical examinations and supply such information as may be reasonably requested by the insurer.

6.3 SUCCESSORS; BINDING AGREEMENT. This Agreement will be binding upon any successor to the Company and will inure to the benefit of and be enforceable by the Executive's personal or legal representatives, beneficiaries, designees, executors, administrators, heirs, distributees, devisees and legatees.

6.4 MODIFICATION; NO WAIVER. This Agreement may not be modified or amended except by an instrument in writing signed by the parties hereto. No term or condition of this Agreement will be deemed to have been waived, nor will there be any estoppel against the enforcement of any provision of this Agreement, except by written instrument by the party charged with such waiver or estoppel. No such written waiver will be deemed a continuing waiver unless specifically stated therein, and each such waiver will operate only as to the specific term or condition waived and will not constitute a waiver of such term or condition for the future or as to any other term or condition.

6.5 SEVERABILITY. The covenants and agreements contained herein are separate and severable and the invalidity or unenforceability of any one or more of such covenants or agreements, if not material to the employment arrangement that is the basis for this Agreement, will not affect the validity or enforceability of any other covenant or agreement contained herein.

6.6 FORM OF NOTICE TO PARTIES. All notices, requests, demands, waivers and other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (a) delivered personally, (b) mailed by first-class, registered or certified mail, return receipt requested, postage prepaid, or (c) sent by next-day or overnight mail or delivery or (d) sent by telecopy or telegram, to the following address:

If to the Executive: Bryan Freeman

If to the Company: Real Good Foods, LLC  
3 Executive Campus, Suite 155  
Cherry Hill, NJ 08002

or, in each case, at such other address as may be specified in writing to the other parties hereto.

All such notices, requests, demands, waivers and other communications shall be deemed to have been received (w) if by personal delivery on the day after such delivery, (x) if by certified or registered mail, on the seventh business day after the mailing thereof, (y) if by next-day or overnight mail or delivery, on the day delivered, (z) if by telecopy or telegram, on the next day following the day on which such telecopy or telegram was sent, provided that a copy is also sent by certified or registered mail.

6.7 ASSIGNMENT. This Agreement and any rights hereunder will not be assignable by either party without the prior written consent of the other party except as otherwise specifically provided for herein.

6.8 ENTIRE UNDERSTANDING. This Agreement constitutes the entire understanding between the parties hereto and no agreement, representation, warranty or covenant has been made by either party except as expressly set forth herein. Without limiting the generality of the foregoing, this Agreement restated and supersedes the terms of the Letter Agreement in its entirety and the obligations of each of the Company and the Executive set forth in the Letter have been fully satisfied, set forth anew in this Agreement, or otherwise hereby terminated and released

6.9 EXECUTIVE'S REPRESENTATIONS. The Executive represents and warrants that neither the execution and delivery of this Agreement nor the performance of the Executive's duties hereunder violates the provisions of any other agreement to which he is a party or by which he is bound.

6.10 GOVERNING LAW. This Agreement will be construed in accordance with the laws of the State of New Jersey, without regard to the conflict of laws provisions thereof, with venue proper only in state and federal courts located in the State of New Jersey.

6.11 ARBITRATION.

(a) Except as provided in Section 6.11(c) below, the parties hereto agree that any dispute or controversy arising out of, relating to, or in connection with this Agreement, the interpretation, validity, construction, performance, breach, or termination thereof, or any other matter related to the Executive's employment with the Company and RGF, Inc. shall be finally settled by binding arbitration, unless otherwise required by law, to be held in Cherry Hill, New Jersey (or such other location as may be mutually agreed) under the Employment Arbitration Rules and Mediation Procedures of the American Arbitration Association as then in effect (the "Rules"). Executive may obtain a copy of the Rules by accessing the AAA website at [www.adr.org](http://www.adr.org), or by requesting a copy from the Board of Directors. By signing this Agreement, Executive acknowledges that s/he has had

an opportunity to review the Rules before signing this Agreement. The arbitrator(s) may grant injunctions or other relief in such dispute or controversy. The decision of the arbitrator(s) shall be final, conclusive and binding on the parties to the arbitration, and judgment may be entered on the decision of the arbitrator(s) in any court having jurisdiction.

(b) The arbitrator(s) shall apply Delaware law to the merits of any dispute or claim, without reference to rules of conflicts of law. The decision of the arbitrator shall be in writing and shall provide the reasons for the arbitrator's award unless the Parties otherwise agree in writing.

(c) This agreement to arbitrate shall be enforceable under and subject to the Federal Arbitration Act, 9 U.S.C. Sections 1, et. seq.

(d) The parties may apply to any court of competent jurisdiction for a temporary restraining order, preliminary injunction, or other interim or conservatory relief, as necessary, without breach of this arbitration agreement and without abridgement of the powers of the arbitrator.

(e) EMPLOYEE HAS READ AND UNDERSTANDS THIS SECTION, WHICH DISCUSSES ARBITRATION. EMPLOYEE UNDERSTANDS THAT BY SIGNING THIS AGREEMENT, EMPLOYEE AGREES TO SUBMIT ANY CLAIMS ARISING OUT OF, RELATING TO, OR IN CONNECTION WITH THIS AGREEMENT, OR THE INTERPRETATION, VALIDITY, CONSTRUCTION, PERFORMANCE, BREACH OR TERMINATION THEREOF TO BINDING ARBITRATION, UNLESS OTHERWISE REQUIRED BY LAW, AND THAT THIS ARBITRATION CLAUSE CONSTITUTES A WAIVER OF EMPLOYEE'S RIGHT TO A JURY TRIAL AND RELATES TO THE RESOLUTION OF ALL DISPUTES RELATING TO EMPLOYEE'S RELATIONSHIP WITH THE COMPANY, INCLUDING BUT NOT LIMITED TO, CLAIMS OF HARASSMENT, DISCRIMINATION, WRONGFUL TERMINATION AND ANY STATUTORY CLAIMS.

*[Signature Page Follows]*

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

**COMPANY:**

**REAL GOOD FOODS, LLC**

By: /s/ Gerard G. Law

Name: Gerard G. Law

Title: Chief Executive Officer

**EXECUTIVE:**

/s/ Bryan Freeman

Bryan Freeman

**EXHIBIT A**

**GENERAL RELEASE**

1. Employee's employment with Real Good Foods, LLC, a Delaware limited liability company and/or The Real Good Food Company, Inc., a Delaware corporation (together, the "Company") ceased effective as of .

2. Employee represents and agrees that Employee has received all compensation owed to Employee by the Company through Employee's termination date, including all wages, bonuses, commissions, earned but unused vacation, reimbursable business expenses, and any other payments, benefits, or other compensation of any kind to which Employee was entitled from the Company.

3. Employee represents to the Company that Employee is signing this General Release (this "Agreement") voluntarily and with a full understanding of and agreement with its terms for the purpose of receiving additional pay from the Company as described in Executive Employment Agreement dated October 27, 2021 (the "Agreement").

4. In reliance on the Employee's promises, representations, and releases in this Agreement, upon the Company's receipt of this executed General Release, the Company will provide Employee with the payments described in the Agreement, less legally required withholding and payroll deductions.

5. In exchange for the consideration provided to Employee as set forth above, Employee agrees to waive and release all claims, known and unknown, which Employee has or might otherwise have had against the Company, including all of its former or current officers, directors, agents, employees and related entities (hereinafter collectively referred to as the "Released Parties"), arising prior to the date Employee executes this Agreement, regarding any aspect of Employee's employment, compensation, the cessation of Employee's employment with the Company, the Age Discrimination in Employment Act of 1967, the Americans with Disabilities Act of 1990, Title VII of the Civil Rights Act of 1964, 42 U.S.C. section 1981, the Fair Labor Standards Acts, the California Fair Employment and Housing Act, California Government Code section 12900, et seq., the Unruh Civil Rights Act, California Civil Code section 51, all provisions of the California Labor Code; the Employee Retirement Income Security Act, 29 U.S.C. section 1001, et seq., all as amended, any other federal, state or local law, regulation or ordinance or public policy, contract, tort or property law theory, or any other cause of action whatsoever that arose on or before the date Employee executes this Agreement.

6. It is further understood and agreed that as a condition of this Agreement, all rights under Section 1542 of the Civil Code of the State of California are expressly waived by Employee. Such Section reads as follows:

"A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or

her, would have materially affected his or her settlement with the debtor or released party.”

Notwithstanding Section 1542, and for the purpose of implementing a full and complete release and discharge of the Released Parties, Employee expressly acknowledges that this Agreement is intended to include and does include in its effect, without limitation, all claims which Employee does not know or suspect to exist in Employee’s favor against the Released Parties at the time of execution hereof, and that this Agreement expressly contemplates the extinguishment of all such claims.

7. The release in this Agreement includes, but is not limited to, claims arising under federal, state or local law for age, race, sex or other forms of employment discrimination and retaliation. In accordance with the Older Workers Benefit Protection Act, Employee hereby knowingly and voluntarily waives and releases all rights and claims, known or unknown, arising under the Age Discrimination in Employment Act of 1967, as amended, which he might otherwise have had against the Released Parties. Employee is hereby advised that he should consult with an attorney before signing this Agreement and that he has 21 days in which to consider and accept this Agreement by signing and returning this Agreement to the Company’s President. In addition, Employee has a period of seven days following his execution of this Agreement in which he may revoke the Agreement. If Employee does not advise the Company by a writing received by the Chief Human Resources Officer within such seven day period of the Employee’s intent to revoke the Agreement, or within such longer period as may be required by applicable law, the Agreement will become effective and enforceable upon the expiration of the seven days or longer applicable period.

8. This General Release shall not be construed as an admission by the Company of any improper, wrongful, or unlawful actions, or any other wrongdoing against Employee, and the Company specifically disclaims any liability to or wrongful acts against Employee on the part of itself, its employees and its agent.

9. This Agreement may be modified only by written agreement signed by both parties.

Dated: \_\_\_\_\_  
\_\_\_\_\_

EMPLOYEE:

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

COMPANY:

REAL GOOD FOODS, LLC

Dated: \_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_



## **EXECUTIVE EMPLOYMENT AGREEMENT**

THIS EXECUTIVE EMPLOYMENT AGREEMENT (the “Agreement”) is made as of October 27, 2021, by and between **REAL GOOD FOODS, LLC**, a Delaware limited liability company (the “Company”), and Gerard G. Law (the “Executive”) and is effective as of (the “Effective Date”).

### **ARTICLE I DUTIES AND TERMS**

1.1 **EMPLOYMENT**. In consideration of their mutual covenants and other good and valuable consideration, the receipt, adequacy, and sufficiency of which is hereby acknowledged, as of the Effective Date the Company shall employ Executive, and the Executive hereby accepts such employment as Chief Executive Officer upon the terms and conditions set forth in this Agreement.

1.2 **POSITION AND RESPONSIBILITIES**. As the Company’s Chief Executive Officer, Executive shall report to the Board of Directors of The Real Good Food Company, Inc., a Delaware corporation and the Company’s managing member (“RGF, Inc.”). The Executive’s primary work location will be the Company’s offices in Cherry Hill, New Jersey (or such other location as mutually agreed by the Executive and the Company from time to time), subject to business travel as needed for the Executive’s position and the Company’s remote working policies in effect from time to time. The Executive shall perform all of the duties reasonably assigned to him/her by the Board of Directors of RGF, Inc. (the “Board of Directors”), commensurate with his/her position as Chief Executive Officer. The Executive shall at all times carry out the duties assigned to him/her in a loyal, trustworthy and businesslike manner.

1.3 **AT-WILL EMPLOYMENT**. The Executive will be employed as an at-will employee of the Company. Subject to the provisions of Articles III and IV, as an at-will employee, Executive is free to terminate his employment with the Company at any time, for any reason, and the Company has the similar right to terminate Executive’s employment at any time, for any reason. Although the Company may choose to terminate Executive’s employment for cause, Executive’s employment is at-will and cause is not required.

1.4 **PERSONNEL POLICIES**. Except as otherwise provided herein, Executive shall be subject to the personnel policies of the Company applicable to management employees, and any amendments or revisions thereto. In the event of a conflict between this Agreement and the Company’s personnel policies, the terms of this Agreement shall control.

### **ARTICLE II COMPENSATION**

For all services rendered by the Executive in any capacity during the Executive’s employment under this Agreement, the Company will compensate the Executive as follows:

2.1 **BASE SALARY**. The Company will pay to the Executive an annual base salary paid in equal installments in accordance with the Company’s general payment policies in effect during the term hereof (the “Base Salary”). As of the Effective Date, the Base Salary shall be \$776,000 (the “Minimum Base Salary”). The Base Salary shall be reviewed and re-established no less than annually by the Compensation Committee based on its review of current salaries and other

compensation offered by peer group companies; however, the Base Salary shall not be less than the Minimum Base Salary. This provision does not alter the at-will nature of Executive's employment or the provisions of Articles III and IV below.

2.2 **MANAGEMENT BONUS PROGRAM.** The Executive shall be eligible to receive a targeted annual bonus based on Company and individual performance criteria established annually by the Compensation Committee (the "Incentive Bonus"). As of the Effective Date, the Incentive Bonus shall be \$1,250,000 (the "Minimum Target Incentive Bonus"). The amount of the Incentive Bonus shall be reviewed and re-established no less than annually by the Compensation Committee based on its review of bonus-related compensation offered by peer group companies; however, the Incentive Bonus shall not be less than the Minimum Target Incentive Bonus. Executive shall be paid the Incentive Bonus beginning with a bonus for the year 2021 to be paid on or before January 31, 2022, and annually thereafter on or before January 31 of the applicable year.

2.3 **STOCK INCENTIVE PLAN.** In addition to the existing awards set forth in Section 2.4, the Executive will be eligible to participate in the RGF, Inc.'s 2021 Stock Incentive Plan at a level commensurate with like-level executive employees, subject to the terms of the program as set by the Board of Directors. The number, terms and types of stock compensation awards granted may vary from year to year.

2.4 **EXISTING OWNERSHIP AND AWARDS.** As of the Effective Date, the Executive has been granted and owns 816,380 shares of RGF, Inc. Class B Common Stock (the "RGF Shares") and 816,380 Class B Units of the Company (the "LLC Units") and, together with the RGF Shares, the "Prior Award"), and will be granted 394,333 Restricted Stock Units of RGF, Inc., which are subject to the terms, including with respect to vesting, set forth in that certain RSU Grant Agreement dated on or about November 5, 2021 (the "RSUs") and, together with the Prior Award, the "Existing Ownership"). The Executive agrees and acknowledges that the Prior Award is owned by Executive is satisfaction of any and all obligations of the Company (including its predecessor-in-interest) and RGF, Inc., on the one hand, and the Executive, on the other hand, including, without limitation, pursuant to that certain letter agreement by and between Company's predecessor-in-interest and the Executive effective September 1, 2020 (the "Letter Agreement") and that this Agreement shall amend and restate the Letter Agreement in its entirety. Other than the Existing Ownership, Executive owns no shares of capital stock of RGF, Inc., membership units of the Company, options or other rights to receive capital stock of RGF, Inc. or membership units of the Company, or any other rights whose value is based upon any of the foregoing.

2.5 **ADDITIONAL BENEFITS.** The Executive will be entitled to participate in all benefit and welfare programs, plans, and arrangements that are from time to time made available to the Company's like-level executive employees. These benefits currently include medical, dental and life insurance; Section 125 Flexible Spending Plan; 401(k) Retirement Plan; an Executive Vacation Plan, and a Company-leased vehicle or car allowance in an amount not greater than \$2,500 per month.

### ARTICLE III TERMINATION OF EMPLOYMENT

3.1 **GENERAL.** While Executive is an at-will employee as provided in Section 1.3 above, the following conditions for termination of employment are set forth in order to determine

the nature of Executive's compensation entitlement upon termination of employment as discussed in Article IV below. Neither the provisions of Article III or Article IV of this Agreement shall alter the at-will nature of Executive's employment with the Company. Upon termination of Executive's employment, Executive will assist Company in every proper way to evidence such termination.

3.2 DEATH OF EXECUTIVE. The Executive's employment under this Agreement will automatically terminate upon the death of the Executive.

3.3 BY EXECUTIVE. The Executive may terminate the Executive's employment under this Agreement by giving Notice of Termination (as defined in Section 6.1 hereof) to the Company:

- (a) for Good Reason (as defined in Section 6.1 hereof); and
- (b) at any time without Good Reason.

3.4 BY COMPANY. The Company may terminate the Executive's employment under this Agreement by giving Notice of Termination to the Executive:

- (a) in the event of Executive's Total Disability (as defined in Section 6.1 hereof);
- (b) for Cause (as defined in Section 6.1 hereof); and
- (c) at any time without Cause.

#### ARTICLE IV COMPENSATION UPON TERMINATION OF EMPLOYMENT

If the Executive's employment hereunder is terminated, in accordance with the provisions of Article III hereof, and except for any other rights or benefits specifically provided for herein to be effective following the Executive's period of employment, the Company will provide compensation and benefits to the Executive only as follows:

4.1 UPON TERMINATION FOR DEATH OR DISABILITY. If the Executive's employment hereunder is terminated by reason of the Executive's death or Total Disability, the Company will:

- (a) pay the Executive (or the Executive's estate) or beneficiaries any Base Salary that has accrued but was not paid as of the termination date (the "Accrued Base Salary");
- (b) pay the Executive (or the Executive's estate) or beneficiaries for unused vacation days accrued as of the termination date in an amount equal to the Executive's Base Salary multiplied by a fraction the numerator of which is the number of accrued unused vacation days and the denominator of which is 260 (the "Accrued Vacation Payment");
- (c) subject to Section 4.6 hereof, reimburse the Executive (or the Executive's estate) or beneficiaries for expenses incurred by him prior to the date of termination that are subject to reimbursement pursuant to this Agreement (the "Accrued Reimbursable Expenses");

(d) provide to the Executive (or the Executive's estate) or beneficiaries any accrued and vested benefits required to be provided by the terms of any Company-sponsored benefit plans or programs (the "Accrued Benefits"), together with any benefits required to be paid or provided in the event of the Executive's death or Total Disability under applicable law;

(e) pay the Executive (or the Executive's estate) or beneficiaries any Incentive Bonus with respect to a fiscal year prior to the fiscal year of termination that has been earned and accrued but has not been paid (the "Accrued Incentive Bonus"); plus the Executive's Incentive Bonus for the applicable fiscal year of termination as previously established by the Compensation Committee (the "Target Bonus");

(f) the Executive (or the Executive's estate) or beneficiaries shall have the right to exercise all vested unexercised stock options and warrants outstanding at the termination date in accordance with terms of the plans and agreements pursuant to which such options or warrants were issued; and

(g) (A) the Executive (or the Executive's estate) will vest in and have the right to exercise all of the Executive's outstanding options, restricted stock units, stock appreciation rights, and warrants outstanding at the termination date that were otherwise unvested as of the date of such termination, (B) all of the Company's rights to repurchase vested and unvested restricted stock or restricted stock units from the Executive shall lapse as to that number of shares in which such repurchase rights have yet to lapse and (C) any right of the Company to repurchase any common stock of the Company shall terminate including under any right of first refusal.

**4.2 UPON TERMINATION BY COMPANY FOR CAUSE OR BY EXECUTIVE WITHOUT GOOD REASON.** If the Executive's employment is terminated by the Company for Cause, or if the Executive terminates the Executive's employment with the Company other than (x) upon the Executive's death or Total Disability or (y) for Good Reason, the Company will:

(a) pay the Executive the Accrued Base Salary;

(b) pay the Executive the Accrued Vacation Payment;

(c) subject to Section 4.6 hereof, pay the Executive the Accrued Reimbursable Expenses;

(d) pay the Executive the Accrued Benefits, together with any benefits required to be paid or provided under applicable law;

(e) pay the Executive any Accrued Incentive Bonus, and excluding any Incentive Bonus for the fiscal year of termination; and

(f) the Executive will have the right to exercise all vested unexercised options, restricted stock units, stock appreciation rights and warrants outstanding at the termination date in accordance with terms of the plans and agreements pursuant to which such options, restricted stock units, stock appreciation rights and warrants were issued.

**4.3 UPON TERMINATION BY THE COMPANY WITHOUT CAUSE OR BY EXECUTIVE FOR GOOD REASON.** In the event the Executive has incurred a Separation from Service (within the meaning of Section 409A(a)(2)(A)(i) of the Internal Revenue Code of 1986, as amended (the “Code”), and Treasury Regulation Section 1.409A-1(h)) (“Separation from Service”) by reason of a termination of the Executive’s employment by the Company without Cause or by Executive for Good Reason, the Company will:

- (a) pay the Executive the Accrued Base Salary;
- (b) pay the Executive the Accrued Vacation Payment;
- (c) subject to Section 4.6 hereof, pay the Executive the Accrued Reimbursable Expenses;
- (d) pay the Executive the Accrued Benefits, together with any benefits required to be paid or provided under applicable law;
- (e) pay the Executive any Accrued Incentive Bonus;

(f) pay the Executive the greater of (A) the Target Bonus applicable to the fiscal year of termination or (B) the average of the actual Incentive Bonus for the previous three (3) years, in lump sum within sixty (60) days after Executive’s date of termination;

(g) pay the Executive severance, commencing within sixty (60) days following the termination date, of twelve (12) monthly payments each equal to one-twelfth (1/12<sup>th</sup>) of the Executive’s Annual Base Salary in effect immediately prior to the time such termination occurs and paid on the regular monthly payroll dates of the Company in accordance with the Company’s payroll practices as in effect on such termination date. Each installment payment made pursuant to this Section 4.3(g) shall be considered a separate payment for purposes of Section 409A of the Code (including, without limitation, for purposes of Treasury Regulation Section 1.409A-2(b)(2)(iii));

(h) pay the Executive an amount representing the grossed-up out-of-pocket cost, including federal, state, and all applicable employment taxes, as computed by the Company, of COBRA for the Executive and the Executive’s eligible beneficiaries who were enrolled in the applicable medical plan as of the date of termination for twenty-four (24) months. Notwithstanding the foregoing, Executive shall be responsible for paying the COBRA premiums and timely electing to continue coverage under COBRA of the medical benefits provided to Executive in effect as of the date of termination; and

(i) (A) the Executive will vest in and have the right to exercise all of the Executive’s outstanding options, restricted stock units and stock appreciation rights that were otherwise unvested as of the date of such termination, (B) all of the Company’s rights to repurchase vested and unvested restricted stock or restricted stock units from the Executive shall lapse as to that number of shares in which such repurchase rights have yet to lapse and (C) any right of the Company to repurchase any common stock of the Company shall terminate including under any right of first refusal.

**4.4 IN CONNECTION WITH A CHANGE OF CONTROL AND TERMINATION BY THE COMPANY WITHOUT CAUSE OR BY EXECUTIVE FOR GOOD**

REASON. In the event the Executive has incurred a Separation from Service by reason of a termination of the Executive's employment by the Company without Cause or by the Executive for Good Reason, in either case during a period beginning six (6) months prior to a Change of Control and ending two (2) years after a Change of Control, the Company will:

- (a) pay the Executive the Accrued Base Salary;
- (b) pay the Executive the Accrued Vacation Payment;
- (c) subject to Section 4.6 hereof, pay the Executive the Accrued Reimbursable Expenses;
- (d) pay the Executive the Accrued Benefits, together with any benefits required to be paid or provided under applicable law;
- (e) pay the Executive any Accrued Incentive Bonus;
- (f) pay the Executive the greater of (A) three (3) times the Target Bonus applicable to the fiscal year of termination or (B) three (3) times the average of the actual Incentive Bonus for the previous three (3) years, in lump sum within sixty (60) days after Executive's date of termination;
- (g) pay the Executive severance of three (3) times Executive's Annual Base Salary in effect immediately prior to the time such termination occurs, in lump sum within sixty (60) days after Executive's date of termination;
- (h) pay the Executive an amount representing the grossed-up out-of-pocket cost, including federal, state, and all applicable employment taxes, as computed by the Company, of COBRA for the Executive and the Executive's eligible beneficiaries who were enrolled in the applicable medical plan as of the date of termination for eighteen (18) months. Notwithstanding the foregoing, Executive shall be responsible for paying the COBRA premiums and timely electing to continue coverage under COBRA of the medical benefits provided to Executive in effect as of the date of termination; and
- (i) (A) the Executive will vest in and have the right to exercise all of the Executive's outstanding options, restricted stock units and stock appreciation rights that were otherwise unvested as of the date of such termination, (B) all of the Company's rights to repurchase vested and unvested restricted stock or restricted stock units from the Executive shall lapse as to that number of shares in which such repurchase rights have yet to lapse and (C) any right of the Company to repurchase any common stock of the Company shall terminate including under any right of first refusal.

4.5 RELEASE. Notwithstanding any provision herein to the contrary, the Company may require that, prior to payment of any amount or provision of any benefit pursuant to subsections (f), (g) or (h) of Sections 4.3 and 4.4, Executive shall have executed, on or prior to the Release Expiration Date, a customary general release in favor of the Company in the form attached hereto as Exhibit A, and any waiting periods contained in such release shall have expired. To the extent that the Company requires execution of such release, the Company shall deliver such release to Executive within five (5) business days following the termination of

Executive's employment hereunder. In the event that (a) Executive fails to execute such release on or prior to the Release Expiration Date, Executive shall not be entitled to any payments or benefits pursuant to subsections (f), (g) or (h) of Sections 4.3 and 4.4 and (b) the terms of such release are such that the permissible period for executing such release spans two tax years, then any payments or benefits pursuant to Sections 4.3 and 4.4 shall commence in the second of the two tax years.

4.6 ACCRUED REIMBURSABLE EXPENSES. Without limiting the Company's obligation under Sections 4.1(c), 4.2(c), 4.3(c) and 4.4(c) hereof, the reimbursement of any Accrued Reimbursable Expenses shall be made no later than December 31 of the year following the year in which the expense was incurred.

4.7 SECTION 409A.

(a) Notwithstanding anything herein to the contrary, to the extent (i) any amount or benefit payable to the Executive pursuant to Sections 4.1, 4.2, 4.3 or 4.4 is treated as non-qualified deferred compensation subject to Section 409A of the Code, (ii) the Company's securities are publicly traded on the date of the Executive's termination of employment, (iii) the Executive is determined by the Company to be a "specified employee" for purposes of Section 409A(a)(2)(B)(i) of the Code, and (iv) the Company determines that delayed commencement of any portion of the amounts payable to Executive pursuant to Sections 4.1, 4.2, 4.3 or 4.4 is required in order to avoid a prohibited distribution under Section 409A(a)(2)(B)(i) of the Code (any such delayed commencement, a "Payment Delay"), then such portion of the Executive's payments and/or benefits described in Sections 4.2, 4.3 or 4.4, as the case may be, shall not be provided to Executive prior to the earlier of (A) the expiration of the six-month period measured from the date of the Executive's date of termination, (B) the date of the Executive's death or (C) such earlier date as is permitted under Section 409A. Upon the expiration of the applicable Code Section 409A(a)(2)(B)(i) deferral period, all payments deferred pursuant to a Payment Delay shall be paid in a lump sum to Executive on the first day following such expiration, and any remaining payments due under Sections 4.1, 4.2, 4.3 or 4.4 shall be paid as otherwise provided herein.

(b) Notwithstanding anything in this Section 4.7 to the contrary, to the maximum extent permitted by applicable law, amounts payable to Executive pursuant to Sections 4.1, 4.2, 4.3 or 4.4, as the case may be, shall be made in reliance upon the Section 409A Safe Harbor Limit (as defined in Article VI) and/or the exception for short-term deferrals (as set forth in Treasury Regulation Section 1.409A-1(b)(4)).

4.8 SECTION 280G.

(a) Notwithstanding any other provision of this Agreement or any other plan, arrangement or agreement to the contrary, if any of the payments or benefits provided or to be provided by the Company or its affiliates to the Executive or for the Executive's benefit pursuant to the terms of this Agreement or otherwise ("Covered Payments") constitute parachute payments ("Parachute Payments") within the meaning of Section 280G of the Internal Revenue Code of 1986, as amended (the "Code") and the accompanying regulations, and would, but for this Section 4.8 be subject to the excise tax imposed under Section 4999 of the Code (or any

successor provision thereto) or any similar tax imposed by state or local law or any interest or penalties with respect to such taxes (collectively, the “Excise Tax”), then prior to making the Covered Payments, a calculation shall be made comparing (i) the Net Benefit (as defined below) to the Executive of the Covered Payments *after* payment of the Excise Tax to (ii) the Net Benefit to the Executive if the Covered Payments are limited to the extent necessary to avoid being subject to the Excise Tax. Only if the amount calculated under (i) above is less than the amount under (ii) above will the Covered Payments be reduced to the minimum extent necessary to ensure that no portion of the Covered Payments is subject to the Excise Tax (that amount, the “Reduced Amount”). “Net Benefit” shall mean the present value of the Covered Payments *net* of all federal, state, local, foreign income, employment and excise taxes.

(b) Any determination required under this Section 4.8 shall be made in writing in good faith by the accounting firm that was the Company’s independent auditor immediately before the change in control (the “Accountants”), which shall provide detailed supporting calculations to the Company and the Executive as requested by the Company or the Executive. The Company and the Executive shall provide the Accountants with such information and documents as the Accountants may reasonably request in order to make a determination under this Section 4.8. For purposes of making the calculations and determinations required by this Section 4.8, the Accountants may rely on reasonable, good faith assumptions and approximations concerning the application of Section 280G and Section 4999 of the Code. The Accountants’ determinations shall be final and binding on the Company and the Executive. The Company shall be responsible for all fees and expenses incurred by the Accountants in connection with the calculations required by this Section 4.8.

(c) It is possible that after the determinations and selections made pursuant to this Section 4.8 the Executive will receive Covered Payments that are in the aggregate more than the amount provided under this Section 4.8 (“Overpayment”) or less than the amount provided under this Section 4.8 (“Underpayment”).

(i) In the event that: (A) the Accountants determine, based upon the assertion of a deficiency by the Internal Revenue Service against either the Company or the Executive which the Accountants believe has a high probability of success, that an Overpayment has been made or (B) it is established pursuant to a final determination of a court or an Internal Revenue Service proceeding that has been finally and conclusively resolved that an Overpayment has been made, then the Executive shall pay any such Overpayment to the Company together with interest at the applicable federal rate (as defined in Section 7872(f)(2)(A) of the Code) from the date of the Executive’s receipt of the Overpayment until the date of repayment.

(ii) In the event that: (A) the Accountants, based upon controlling precedent or substantial authority, determine that an Underpayment has occurred or (B) a court of competent jurisdiction determines that an Underpayment has occurred, any such Underpayment will be paid promptly by the Company to or for the benefit of the Executive together with interest at the applicable federal rate (as defined in Section 7872(f)(2)(A) of the Code) from the date the amount would have otherwise been paid to the Executive until the payment date.



ARTICLE V  
ADDITIONAL AGREEMENTS

5.1 OTHER AGREEMENTS. As further material consideration for the Company entering into this Agreement, the Executive will also execute the Company's standard employee confidentiality agreement, inventions assignment agreement, employee handbook and any other agreements or policies required to be executed by all like level executives of the Company.

5.2 EMPLOYEE'S RESTRICTIVE COVENANTS UPON TERMINATION. If the Executive's employment terminates, Executive agrees, notwithstanding the reason for termination, to keep all of the Company's Confidential Information confidential in perpetuity in accordance with the Company's policy.

ARTICLE VI  
MISCELLANEOUS

6.1 DEFINITIONS. For purposes of this Agreement, the following terms will have the following meanings:

(a) "Affiliate" of a Person means a Person that directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the first Person. "Control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting securities, by contract or credit arrangement, as trustee or executor, or otherwise.

(b) "Cause" will mean any willful breach of duty by the Executive in the course of the Executive's employment, continued violation of written Company employment policies after written notice of such violation and an opportunity to cure of no less than thirty (30) days from the date of receipt of the written notice, violation of the Company's Insider Trading Policies, conviction of a felony or any crime involving fraud, theft, embezzlement, dishonesty or moral turpitude, engaging in activities which materially defame the Company, engaging in conduct which is materially injurious to the Company or its Affiliates, or any of their respective customer or supplier relationships, financially or otherwise, or the Executive's gross negligence or continued failure to perform Executive's duties or his continued incapacity to perform such duties after written notice of such violation and opportunity to cure of no less than thirty (30) days from the date of receipt of the written notice.

(c) "Change of Control" will mean if there is a merger, consolidation, sale of all or a major portion of the assets of the Company (or a successor organization) or similar transaction or circumstance where any person or more than one person acting as a group (within the meaning of Section 409A of the Code) acquires, in one or more transactions, beneficial ownership that, together with stock held by such person or group, constitutes more than Fifty Percent (50%) of the total fair market value or total voting power of the stock of the Company (or a successor organization). Notwithstanding the foregoing, a transaction will not be deemed a Change of Control unless the transaction qualifies as a change in control event within the meaning of Section 409A of the Code.

(d) “Compensation Committee” means the Compensation Committee of the Board of Directors of RGF, Inc.

(e) “Good Reason” will mean, without the consent of the Executive, there is a reduction in the Executive’s Base Salary or there is material reduction of the Executive’s total compensation, benefits, and perquisites, the Company relocates the Executive’s primary required location of employment by greater than fifty (50) miles, there is a material change in the Executive’s authority duties or responsibilities, a material failure by the Company to pay the Executive’s compensation after notice to the Company by the Executive and a reasonable opportunity to cure, or a directive by the Company that the Executive violate any law or aid the Company or any person or entity in violating any law; provided, however, no such event shall constitute “Good Reason” hereunder unless the Executive shall have given written notice to the Company of Executive’s intent to resign for “Good Reason” within ninety (90) days after the Executive first becomes aware of the occurrence of any such event (specifying the nature and scope of the event), such event or occurrence shall not have been cured no later than thirty (30) days after the Company’s receipt of such notice and the Executive shall have resigned no later than six (6) months after the expiration of such thirty (30) day cure period.

(f) “Notice of Termination” will mean a notice which shall indicate the specific termination provision of this Agreement relied upon and shall generally set forth the basis for termination of the Executive’s employment under the provision so indicated.

(g) “Person” means any natural person, firm, partnership, association, corporation, company, limited liability company, limited partnership, trust, business trust, governmental authority, or other entity.

(h) “Release Expiration Date” shall mean the date which is twenty-one (21) days following the date upon which the Company delivers to Executive the release contemplated in Section 4.5 above, or, in the event that such termination of employment is “in connection with an exit incentive or other employment termination program” (as such phrase is defined in the Age Discrimination in Employment Act of 1967), the date which is forty-five (45) days following such delivery date.

(i) “Retirement” will mean normal retirement at age 65.

(j) “Section 409A Safe Harbor Limit” will mean, as determined in accordance with Treasury Regulation §1.409A-1(b)(9)(iii), an amount equal to two (2) times the lesser of (i) Executive’s annual rate of compensation for the taxable year immediately preceding the taxable year in which Executive’s employment is terminated by the Company, or (ii) the dollar amount in effect under Section 401(a)(17) of the Code for the taxable year in which Executive’s employment is terminated.

(k) “Severance” will mean payments after termination of Executive’s employment.

(l) “Total Disability” will mean the Executive’s failure substantially to perform the Executive’s duties hereunder on a full-time basis for a period exceeding one hundred eighty (180) consecutive days or for periods aggregating more than one hundred eighty (180) days during any twelve (12) month period as a result of incapacity due to physical or mental illness. If

there is a dispute as to whether the Executive is or was physically or mentally unable to perform the Executive's duties under this Agreement, such dispute will be submitted for resolution to a licensed physician agreed upon by the Company and the Executive, or if an agreement cannot be promptly reached, the Company and the Executive will promptly each select a physician, and if these physicians cannot agree, the physicians will promptly select a third physician whose decision will be binding on all parties. If such a dispute arises, the Executive will submit to such examinations and will provide such information as such physician(s) may request, and the determination of the physician(s) as to the Executive's physical or mental condition will be binding and conclusive. Notwithstanding the foregoing, if the Executive participates in any group disability plan provided by the Company, which offers long-term disability benefits, "Total Disability" will mean total disability as defined therein.

6.2 KEY PERSON INSURANCE. The Company will have the right, in its sole discretion, to purchase "key person" insurance on the life of the Executive. The Company shall be the owner and beneficiary of any such policy. If the Company elects to purchase such a policy, the Executive will take such physical examinations and supply such information as may be reasonably requested by the insurer.

6.3 SUCCESSORS; BINDING AGREEMENT. This Agreement will be binding upon any successor to the Company and will inure to the benefit of and be enforceable by the Executive's personal or legal representatives, beneficiaries, designees, executors, administrators, heirs, distributees, devisees and legatees.

6.4 MODIFICATION; NO WAIVER. This Agreement may not be modified or amended except by an instrument in writing signed by the parties hereto. No term or condition of this Agreement will be deemed to have been waived, nor will there be any estoppel against the enforcement of any provision of this Agreement, except by written instrument by the party charged with such waiver or estoppel. No such written waiver will be deemed a continuing waiver unless specifically stated therein, and each such waiver will operate only as to the specific term or condition waived and will not constitute a waiver of such term or condition for the future or as to any other term or condition.

6.5 SEVERABILITY. The covenants and agreements contained herein are separate and severable and the invalidity or unenforceability of any one or more of such covenants or agreements, if not material to the employment arrangement that is the basis for this Agreement, will not affect the validity or enforceability of any other covenant or agreement contained herein.

6.6 FORM OF NOTICE TO PARTIES. All notices, requests, demands, waivers and other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (a) delivered personally, (b) mailed by first-class, registered or certified mail, return receipt requested, postage prepaid, or (c) sent by next-day or overnight mail or delivery or (d) sent by telecopy or telegram, to the following address:

If to the Executive: Gerard G. Law

If to the Company: Real Good Foods, LLC  
3 Executive Campus, Suite 155  
Cherry Hill, NJ 08002

or, in each case, at such other address as may be specified in writing to the other parties hereto.

All such notices, requests, demands, waivers and other communications shall be deemed to have been received (w) if by personal delivery on the day after such delivery, (x) if by certified or registered mail, on the seventh business day after the mailing thereof, (y) if by next-day or overnight mail or delivery, on the day delivered, (z) if by telecopy or telegram, on the next day following the day on which such telecopy or telegram was sent, provided that a copy is also sent by certified or registered mail.

6.7 ASSIGNMENT. This Agreement and any rights hereunder will not be assignable by either party without the prior written consent of the other party except as otherwise specifically provided for herein.

6.8 ENTIRE UNDERSTANDING. This Agreement constitutes the entire understanding between the parties hereto and no agreement, representation, warranty or covenant has been made by either party except as expressly set forth herein. Without limiting the generality of the foregoing, this Agreement restated and supersedes the terms of the Letter Agreement in its entirety and the obligations of each of the Company and the Executive set forth in the Letter have been fully satisfied, set forth anew in this Agreement, or otherwise hereby terminated and released

6.9 EXECUTIVE'S REPRESENTATIONS. The Executive represents and warrants that neither the execution and delivery of this Agreement nor the performance of the Executive's duties hereunder violates the provisions of any other agreement to which he is a party or by which he is bound.

6.10 GOVERNING LAW. This Agreement will be construed in accordance with the laws of the State of New Jersey, without regard to the conflict of laws provisions thereof, with venue proper only in state and federal courts located in the State of New Jersey.

6.11 ARBITRATION.

(a) Except as provided in Section 6.11(c) below, the parties hereto agree that any dispute or controversy arising out of, relating to, or in connection with this Agreement, the interpretation, validity, construction, performance, breach, or termination thereof, or any other matter related to the Executive's employment with the Company and RGF, Inc. shall be finally settled by binding arbitration, unless otherwise required by law, to be held in Cherry Hill, New Jersey (or such other location as may be mutually agreed) under the Employment Arbitration Rules and Mediation Procedures of the American Arbitration Association as then in effect (the "Rules"). Executive may obtain a copy of the Rules by accessing the AAA website at [www.adr.org](http://www.adr.org), or by requesting a copy from the Board of Directors. By signing this Agreement, Executive acknowledges that s/he has had

an opportunity to review the Rules before signing this Agreement. The arbitrator(s) may grant injunctions or other relief in such dispute or controversy. The decision of the arbitrator(s) shall be final, conclusive and binding on the parties to the arbitration, and judgment may be entered on the decision of the arbitrator(s) in any court having jurisdiction.

(b) The arbitrator(s) shall apply Delaware law to the merits of any dispute or claim, without reference to rules of conflicts of law. The decision of the arbitrator shall be in writing and shall provide the reasons for the arbitrator's award unless the Parties otherwise agree in writing.

(c) This agreement to arbitrate shall be enforceable under and subject to the Federal Arbitration Act, 9 U.S.C. Sections 1, et. seq.

(d) The parties may apply to any court of competent jurisdiction for a temporary restraining order, preliminary injunction, or other interim or conservatory relief, as necessary, without breach of this arbitration agreement and without abridgement of the powers of the arbitrator.

(e) EMPLOYEE HAS READ AND UNDERSTANDS THIS SECTION, WHICH DISCUSSES ARBITRATION. EMPLOYEE UNDERSTANDS THAT BY SIGNING THIS AGREEMENT, EMPLOYEE AGREES TO SUBMIT ANY CLAIMS ARISING OUT OF, RELATING TO, OR IN CONNECTION WITH THIS AGREEMENT, OR THE INTERPRETATION, VALIDITY, CONSTRUCTION, PERFORMANCE, BREACH OR TERMINATION THEREOF TO BINDING ARBITRATION, UNLESS OTHERWISE REQUIRED BY LAW, AND THAT THIS ARBITRATION CLAUSE CONSTITUTES A WAIVER OF EMPLOYEE'S RIGHT TO A JURY TRIAL AND RELATES TO THE RESOLUTION OF ALL DISPUTES RELATING TO EMPLOYEE'S RELATIONSHIP WITH THE COMPANY, INCLUDING BUT NOT LIMITED TO, CLAIMS OF HARASSMENT, DISCRIMINATION, WRONGFUL TERMINATION AND ANY STATUTORY CLAIMS.

*[Signature Page Follows]*

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

**COMPANY:**

**REAL GOOD FOODS, LLC**

By: /s/ Bryan Freeman

Name: Bryan Freeman

Title: Executive Chairman

**EXECUTIVE:**

/s/ Gerard G. Law

Gerard G. Law

**EXHIBIT A**

**GENERAL RELEASE**

1. Employee's employment with Real Good Foods, LLC, a Delaware limited liability company and/or The Real Good Food Company, Inc., a Delaware corporation (together, the "Company") ceased effective as of .
2. Employee represents and agrees that Employee has received all compensation owed to Employee by the Company through Employee's termination date, including all wages, bonuses, commissions, earned but unused vacation, reimbursable business expenses, and any other payments, benefits, or other compensation of any kind to which Employee was entitled from the Company.
3. Employee represents to the Company that Employee is signing this General Release (this "Agreement") voluntarily and with a full understanding of and agreement with its terms for the purpose of receiving additional pay from the Company as described in Executive Employment Agreement dated October 27, 2021 (the "Agreement").
4. In reliance on the Employee's promises, representations, and releases in this Agreement, upon the Company's receipt of this executed General Release, the Company will provide Employee with the payments described in the Agreement, less legally required withholding and payroll deductions.
5. In exchange for the consideration provided to Employee as set forth above, Employee agrees to waive and release all claims, known and unknown, which Employee has or might otherwise have had against the Company, including all of its former or current officers, directors, agents, employees and related entities (hereinafter collectively referred to as the "Released Parties"), arising prior to the date Employee executes this Agreement, regarding any aspect of Employee's employment, compensation, the cessation of Employee's employment with the Company, the Age Discrimination in Employment Act of 1967, the Americans with Disabilities Act of 1990, Title VII of the Civil Rights Act of 1964, 42 U.S.C. section 1981, the Fair Labor Standards Acts, the California Fair Employment and Housing Act, California Government Code section 12900, et seq., the Unruh Civil Rights Act, California Civil Code section 51, all provisions of the California Labor Code; the Employee Retirement Income Security Act, 29 U.S.C. section 1001, et seq., all as amended, any other federal, state or local law, regulation or ordinance or public policy, contract, tort or property law theory, or any other cause of action whatsoever that arose on or before the date Employee executes this Agreement.
6. It is further understood and agreed that as a condition of this Agreement, all rights under Section 1542 of the Civil Code of the State of California are expressly waived by Employee. Such Section reads as follows:

"A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or

her, would have materially affected his or her settlement with the debtor or released party.”

Notwithstanding Section 1542, and for the purpose of implementing a full and complete release and discharge of the Released Parties, Employee expressly acknowledges that this Agreement is intended to include and does include in its effect, without limitation, all claims which Employee does not know or suspect to exist in Employee’s favor against the Released Parties at the time of execution hereof, and that this Agreement expressly contemplates the extinguishment of all such claims.

7. The release in this Agreement includes, but is not limited to, claims arising under federal, state or local law for age, race, sex or other forms of employment discrimination and retaliation. In accordance with the Older Workers Benefit Protection Act, Employee hereby knowingly and voluntarily waives and releases all rights and claims, known or unknown, arising under the Age Discrimination in Employment Act of 1967, as amended, which he might otherwise have had against the Released Parties. Employee is hereby advised that he should consult with an attorney before signing this Agreement and that he has 21 days in which to consider and accept this Agreement by signing and returning this Agreement to the Company’s President. In addition, Employee has a period of seven days following his execution of this Agreement in which he may revoke the Agreement. If Employee does not advise the Company by a writing received by the Chief Human Resources Officer within such seven day period of the Employee’s intent to revoke the Agreement, or within such longer period as may be required by applicable law, the Agreement will become effective and enforceable upon the expiration of the seven days or longer applicable period.

8. This General Release shall not be construed as an admission by the Company of any improper, wrongful, or unlawful actions, or any other wrongdoing against Employee, and the Company specifically disclaims any liability to or wrongful acts against Employee on the part of itself, its employees and its agent.

9. This Agreement may be modified only by written agreement signed by both parties.

Dated:\_\_\_\_\_

EMPLOYEE:

Signature:\_\_\_\_\_

\_\_\_\_\_  
Print Name:

COMPANY:

REAL GOOD FOODS, LLC

By:\_\_\_\_\_

\_\_\_\_\_  
Name:\_\_\_\_\_

\_\_\_\_\_  
Its:\_\_\_\_\_

\_\_\_\_\_



## **EXECUTIVE EMPLOYMENT AGREEMENT**

THIS EXECUTIVE EMPLOYMENT AGREEMENT (this "Agreement") is made as of October 27, 2021, by and between **REAL GOOD FOODS, LLC**, a Delaware limited liability company (the "Company"), and Akshay Jagdale (the "Executive") and is effective as of (the "Effective Date").

### ARTICLE I DUTIES AND TERMS

1.1 **EMPLOYMENT**. In consideration of their mutual covenants and other good and valuable consideration, the receipt, adequacy, and sufficiency of which is hereby acknowledged, as of the Effective Date the Company shall employ Executive, and the Executive hereby accepts such employment as Chief Financial Officer upon the terms and conditions set forth in this Agreement.

1.2 **POSITION AND RESPONSIBILITIES**. As the Company's Chief Financial Officer, Executive shall report to the Chief Executive Officer of The Real Good Food Company, Inc., a Delaware corporation and the Company's managing member ("RGF, Inc."). The Executive's primary work location will be the Company's offices in Cherry Hill, New Jersey (or such other location as mutually agreed by the Executive and the Company from time to time), subject to business travel as needed for the Executive's position and the Company's remote working policies in effect from time to time. The Executive shall perform all of the duties reasonably assigned to him/her by the Chief Executive Officer, commensurate with his/her position as Chief Financial Officer. The Executive shall at all times carry out the duties assigned to him/her in a loyal, trustworthy and businesslike manner.

1.3 **AT-WILL EMPLOYMENT**. The Executive will be employed as an at-will employee of the Company. Subject to the provisions of Articles III and IV, as an at-will employee, Executive is free to terminate his employment with the Company at any time, for any reason, and the Company has the similar right to terminate Executive's employment at any time, for any reason. Although the Company may choose to terminate Executive's employment for cause, Executive's employment is at-will and cause is not required.

1.4 **PERSONNEL POLICIES**. Except as otherwise provided herein, Executive shall be subject to the personnel policies of the Company applicable to management employees, and any amendments or revisions thereto. In the event of a conflict between this Agreement and the Company's personnel policies, the terms of this Agreement shall control.

### ARTICLE II COMPENSATION

For all services rendered by the Executive in any capacity during the Executive's employment under this Agreement, the Company will compensate the Executive as follows:

2.1 **BASE SALARY**. The Company will pay to the Executive an annual base salary paid in equal installments in accordance with the Company's general payment policies in effect during the term hereof (the "Base Salary"). As of the Effective Date, the Base Salary shall be \$434,000 (the "Minimum Base Salary"). The Base Salary shall be reviewed and re-established no less than annually by the Compensation Committee based on its review of current salaries and other

compensation offered by peer group companies; however, the Base Salary shall not be less than the Minimum Base Salary. This provision does not alter the at-will nature of Executive's employment or the provisions of Articles III and IV below.

2.2 **MANAGEMENT BONUS PROGRAM.** The Executive shall be eligible to receive a targeted annual bonus based on Company and individual performance criteria established annually by the Compensation Committee (the "Incentive Bonus"). As of the Effective Date, the Incentive Bonus shall be \$393,000 (the "Minimum Target Incentive Bonus"). The amount of the Incentive Bonus shall be reviewed and re-established no less than annually by the Compensation Committee based on its review of bonus-related compensation offered by peer group companies; however, the Incentive Bonus shall not be less than the Minimum Target Incentive Bonus. Executive shall be paid the Incentive Bonus beginning with a bonus for the year 2021 to be paid on or before January 31, 2022, and annually thereafter on or before January 31 of the applicable year.

2.3 **STOCK INCENTIVE PLAN.** In addition to the existing awards set forth in Section 2.4, the Executive will be eligible to participate in the RGF, Inc.'s 2021 Stock Incentive Plan at a level commensurate with like-level executive employees, subject to the terms of the program as set by the Board of Directors of RGF, Inc. (the "Board of Directors"). The number, terms and types of stock compensation awards granted may vary from year to year.

2.4 **EXISTING OWNERSHIP AND AWARDS.** As of the Effective Date, the Executive has been granted and owns 210,406 shares of RGF, Inc. Class B Common Stock (the "RGF Shares") and 210,406 Class B Units of the Company (the "LLC Units") and, together with the RGF Shares, the "Prior Award," and will be granted 239,329 Restricted Stock Units of RGF, Inc., which are subject to the terms, including with respect to vesting, set forth in that certain RSU Grant Agreement dated on or about November 5, 2021 (the "RSUs") and, together with the Prior Award, the "Existing Ownership"). The Executive agrees and acknowledges that the Prior Award is owned by Executive is satisfaction of any and all obligations of the Company (including its predecessor-in-interest) and RGF, Inc., on the one hand, and the Executive, on the other hand, including, without limitation, pursuant to that certain letter agreement by and between Company's predecessor-in-interest and the Executive dated December 14, 2020 (the "Letter Agreement") and that this Agreement shall amend and restate the Letter Agreement in its entirety. Other than the Existing Ownership, Executive owns no shares of capital stock of RGF, Inc., membership units of the Company, options or other rights to receive capital stock of RGF, Inc. or membership units of the Company, or any other rights whose value is based upon any of the foregoing.

2.5 **ADDITIONAL BENEFITS.** The Executive will be entitled to participate in all benefit and welfare programs, plans, and arrangements that are from time to time made available to the Company's like-level executive employees. These benefits currently include medical, dental and life insurance; Section 125 Flexible Spending Plan; 401(k) Retirement Plan; an Executive Vacation Plan, and a Company leased vehicle or car allowance in an amount not greater than \$2,500 per month.

### ARTICLE III TERMINATION OF EMPLOYMENT

3.1 **GENERAL.** While Executive is an at-will employee as provided in Section 1.3 above, the following conditions for termination of employment are set forth in order to determine the nature of Executive's compensation entitlement upon termination of employment as discussed in

Article IV below. Neither the provisions of Article III or Article IV of this Agreement shall alter the at-will nature of Executive's employment with the Company. Upon termination of Executive's employment, Executive will assist Company in every proper way to evidence such termination.

3.2 DEATH OF EXECUTIVE. The Executive's employment under this Agreement will automatically terminate upon the death of the Executive.

3.3 BY EXECUTIVE. The Executive may terminate the Executive's employment under this Agreement by giving Notice of Termination (as defined in Section 6.1 hereof) to the Company:

- (a) for Good Reason (as defined in Section 6.1 hereof); and
- (b) at any time without Good Reason.

3.4 BY COMPANY. The Company may terminate the Executive's employment under this Agreement by giving Notice of Termination to the Executive:

- (a) in the event of Executive's Total Disability (as defined in Section 6.1 hereof);
- (b) for Cause (as defined in Section 6.1 hereof); and
- (c) at any time without Cause.

#### ARTICLE IV COMPENSATION UPON TERMINATION OF EMPLOYMENT

If the Executive's employment hereunder is terminated, in accordance with the provisions of Article III hereof, and except for any other rights or benefits specifically provided for herein to be effective following the Executive's period of employment, the Company will provide compensation and benefits to the Executive only as follows:

4.1 UPON TERMINATION FOR DEATH OR DISABILITY. If the Executive's employment hereunder is terminated by reason of the Executive's death or Total Disability, the Company will:

- (a) pay the Executive (or the Executive's estate) or beneficiaries any Base Salary that has accrued but was not paid as of the termination date (the "Accrued Base Salary");
- (b) pay the Executive (or the Executive's estate) or beneficiaries for unused vacation days accrued as of the termination date in an amount equal to the Executive's Base Salary multiplied by a fraction the numerator of which is the number of accrued unused vacation days and the denominator of which is 260 (the "Accrued Vacation Payment");
- (c) subject to Section 4.6 hereof, reimburse the Executive (or the Executive's estate) or beneficiaries for expenses incurred by him prior to the date of termination that are subject to reimbursement pursuant to this Agreement (the "Accrued Reimbursable Expenses");

(d) provide to the Executive (or the Executive's estate) or beneficiaries any accrued and vested benefits required to be provided by the terms of any Company-sponsored benefit plans or programs (the "Accrued Benefits"), together with any benefits required to be paid or provided in the event of the Executive's death or Total Disability under applicable law;

(e) pay the Executive (or the Executive's estate) or beneficiaries any Incentive Bonus with respect to a fiscal year prior to the fiscal year of termination that has been earned and accrued but has not been paid (the "Accrued Incentive Bonus"); plus the Executive's Incentive Bonus for the applicable fiscal year of termination as previously established by the Compensation Committee (the "Target Bonus");

(f) the Executive (or the Executive's estate) or beneficiaries shall have the right to exercise all vested unexercised stock options and warrants outstanding at the termination date in accordance with terms of the plans and agreements pursuant to which such options or warrants were issued; and

(g) (A) the Executive (or the Executive's estate) will vest in and have the right to exercise all of the Executive's outstanding options, restricted stock units, stock appreciation rights, and warrants outstanding at the termination date that were otherwise unvested as of the date of such termination, (B) all of the Company's rights to repurchase vested and unvested restricted stock or restricted stock units from the Executive shall lapse as to that number of shares in which such repurchase rights have yet to lapse and (C) any right of the Company to repurchase any common stock of the Company shall terminate including under any right of first refusal.

**4.2 UPON TERMINATION BY COMPANY FOR CAUSE OR BY EXECUTIVE WITHOUT GOOD REASON.** If the Executive's employment is terminated by the Company for Cause, or if the Executive terminates the Executive's employment with the Company other than (x) upon the Executive's death or Total Disability or (y) for Good Reason, the Company will:

(a) pay the Executive the Accrued Base Salary;

(b) pay the Executive the Accrued Vacation Payment;

(c) subject to Section 4.6 hereof, pay the Executive the Accrued Reimbursable Expenses;

(d) pay the Executive the Accrued Benefits, together with any benefits required to be paid or provided under applicable law;

(e) pay the Executive any Accrued Incentive Bonus, and excluding any Incentive Bonus for the fiscal year of termination; and

(f) the Executive will have the right to exercise all vested unexercised options, restricted stock units, stock appreciation rights and warrants outstanding at the termination date in accordance with terms of the plans and agreements pursuant to which such options, restricted stock units, stock appreciation rights and warrants were issued.

**4.3 UPON TERMINATION BY THE COMPANY WITHOUT CAUSE OR BY EXECUTIVE FOR GOOD REASON.** In the event the Executive has incurred a Separation from Service (within the meaning of Section 409A(a)(2)(A)(i) of the Internal Revenue Code of 1986, as amended (the “Code”), and Treasury Regulation Section 1.409A-1(h)) (“Separation from Service”) by reason of a termination of the Executive’s employment by the Company without Cause or by Executive for Good Reason, the Company will:

- (a) pay the Executive the Accrued Base Salary;
- (b) pay the Executive the Accrued Vacation Payment;
- (c) subject to Section 4.6 hereof, pay the Executive the Accrued Reimbursable Expenses;
- (d) pay the Executive the Accrued Benefits, together with any benefits required to be paid or provided under applicable law;
- (e) pay the Executive any Accrued Incentive Bonus;

(f) pay the Executive the greater of (A) the Target Bonus applicable to the fiscal year of termination or (B) the average of the actual Incentive Bonus for the previous three (3) years, in lump sum within sixty (60) days after Executive’s date of termination;

(g) pay the Executive severance, commencing within sixty (60) days following the termination date, of twelve (12) monthly payments each equal to one-twelfth (1/12<sup>th</sup>) of the Executive’s Annual Base Salary in effect immediately prior to the time such termination occurs and paid on the regular monthly payroll dates of the Company in accordance with the Company’s payroll practices as in effect on such termination date. Each installment payment made pursuant to this Section 4.3(g) shall be considered a separate payment for purposes of Section 409A of the Code (including, without limitation, for purposes of Treasury Regulation Section 1.409A-2(b)(2)(iii));

(h) pay the Executive an amount representing the grossed-up out-of-pocket cost, including federal, state, and all applicable employment taxes, as computed by the Company, of COBRA for the Executive and the Executive’s eligible beneficiaries who were enrolled in the applicable medical plan as of the date of termination for twenty-four (24) months. Notwithstanding the foregoing, Executive shall be responsible for paying the COBRA premiums and timely electing to continue coverage under COBRA of the medical benefits provided to Executive in effect as of the date of termination; and

(i) (A) the Executive will vest in and have the right to exercise all of the Executive’s outstanding options, restricted stock units and stock appreciation rights that were otherwise unvested as of the date of such termination, (B) all of the Company’s rights to repurchase vested and unvested restricted stock or restricted stock units from the Executive shall lapse as to that number of shares in which such repurchase rights have yet to lapse and (C) any right of the Company to repurchase any common stock of the Company shall terminate including under any right of first refusal.

**4.4 IN CONNECTION WITH A CHANGE OF CONTROL AND TERMINATION BY THE COMPANY WITHOUT CAUSE OR BY EXECUTIVE FOR GOOD**

REASON. In the event the Executive has incurred a Separation from Service by reason of a termination of the Executive's employment by the Company without Cause or by the Executive for Good Reason, in either case during a period beginning six (6) months prior to a Change of Control and ending two (2) years after a Change of Control, the Company will:

- (a) pay the Executive the Accrued Base Salary;
- (b) pay the Executive the Accrued Vacation Payment;
- (c) subject to Section 4.6 hereof, pay the Executive the Accrued Reimbursable Expenses;
- (d) pay the Executive the Accrued Benefits, together with any benefits required to be paid or provided under applicable law;
- (e) pay the Executive any Accrued Incentive Bonus;
- (f) pay the Executive the greater of (A) three (3) times the Target Bonus applicable to the fiscal year of termination or (B) three (3) times the average of the actual Incentive Bonus for the previous three (3) years, in lump sum within sixty (60) days after Executive's date of termination;
- (g) pay the Executive severance of three (3) times Executive's Annual Base Salary in effect immediately prior to the time such termination occurs, in lump sum within sixty (60) days after Executive's date of termination;
- (h) pay the Executive an amount representing the grossed-up out-of-pocket cost, including federal, state, and all applicable employment taxes, as computed by the Company, of COBRA for the Executive and the Executive's eligible beneficiaries who were enrolled in the applicable medical plan as of the date of termination for eighteen (18) months. Notwithstanding the foregoing, Executive shall be responsible for paying the COBRA premiums and timely electing to continue coverage under COBRA of the medical benefits provided to Executive in effect as of the date of termination; and
- (i) (A) the Executive will vest in and have the right to exercise all of the Executive's outstanding options, restricted stock units and stock appreciation rights that were otherwise unvested as of the date of such termination, (B) all of the Company's rights to repurchase vested and unvested restricted stock or restricted stock units from the Executive shall lapse as to that number of shares in which such repurchase rights have yet to lapse and (C) any right of the Company to repurchase any common stock of the Company shall terminate including under any right of first refusal.

4.5 RELEASE. Notwithstanding any provision herein to the contrary, the Company may require that, prior to payment of any amount or provision of any benefit pursuant to subsections (f), (g) or (h) of Sections 4.3 and 4.4, Executive shall have executed, on or prior to the Release Expiration Date, a customary general release in favor of the Company in the form attached hereto as Exhibit A, and any waiting periods contained in such release shall have expired. To the extent that the Company requires execution of such release, the Company shall deliver such release to Executive within five (5) business days following the termination of

Executive's employment hereunder. In the event that (a) Executive fails to execute such release on or prior to the Release Expiration Date, Executive shall not be entitled to any payments or benefits pursuant to subsections (f), (g) or (h) of Sections 4.3 and 4.4 and (b) the terms of such release are such that the permissible period for executing such release spans two tax years, then any payments or benefits pursuant to Sections 4.3 and 4.4 shall commence in the second of the two tax years.

4.6 ACCRUED REIMBURSABLE EXPENSES. Without limiting the Company's obligation under Sections 4.1(c), 4.2(c), 4.3(c) and 4.4(c) hereof, the reimbursement of any Accrued Reimbursable Expenses shall be made no later than December 31 of the year following the year in which the expense was incurred.

4.7 SECTION 409A.

(a) Notwithstanding anything herein to the contrary, to the extent (i) any amount or benefit payable to the Executive pursuant to Sections 4.1, 4.2, 4.3 or 4.4 is treated as non-qualified deferred compensation subject to Section 409A of the Code, (ii) the Company's securities are publicly traded on the date of the Executive's termination of employment, (iii) the Executive is determined by the Company to be a "specified employee" for purposes of Section 409A(a)(2)(B)(i) of the Code, and (iv) the Company determines that delayed commencement of any portion of the amounts payable to Executive pursuant to Sections 4.1, 4.2, 4.3 or 4.4 is required in order to avoid a prohibited distribution under Section 409A(a)(2)(B)(i) of the Code (any such delayed commencement, a "Payment Delay"), then such portion of the Executive's payments and/or benefits described in Sections 4.2, 4.3 or 4.4, as the case may be, shall not be provided to Executive prior to the earlier of (A) the expiration of the six-month period measured from the date of the Executive's date of termination, (B) the date of the Executive's death or (C) such earlier date as is permitted under Section 409A. Upon the expiration of the applicable Code Section 409A(a)(2)(B)(i) deferral period, all payments deferred pursuant to a Payment Delay shall be paid in a lump sum to Executive on the first day following such expiration, and any remaining payments due under Sections 4.1, 4.2, 4.3 or 4.4 shall be paid as otherwise provided herein.

(b) Notwithstanding anything in this Section 4.7 to the contrary, to the maximum extent permitted by applicable law, amounts payable to Executive pursuant to Sections 4.1, 4.2, 4.3 or 4.4, as the case may be, shall be made in reliance upon the Section 409A Safe Harbor Limit (as defined in Article VI) and/or the exception for short-term deferrals (as set forth in Treasury Regulation Section 1.409A-1(b)(4)).

4.8 SECTION 280G.

(a) Notwithstanding any other provision of this Agreement or any other plan, arrangement or agreement to the contrary, if any of the payments or benefits provided or to be provided by the Company or its affiliates to the Executive or for the Executive's benefit pursuant to the terms of this Agreement or otherwise ("Covered Payments") constitute parachute payments ("Parachute Payments") within the meaning of Section 280G of the Internal Revenue Code of 1986, as amended (the "Code") and the accompanying regulations, and would, but for this Section 4.8 be subject to the excise tax imposed under Section 4999 of the Code (or any

successor provision thereto) or any similar tax imposed by state or local law or any interest or penalties with respect to such taxes (collectively, the “Excise Tax”), then prior to making the Covered Payments, a calculation shall be made comparing (i) the Net Benefit (as defined below) to the Executive of the Covered Payments *after* payment of the Excise Tax to (ii) the Net Benefit to the Executive if the Covered Payments are limited to the extent necessary to avoid being subject to the Excise Tax. Only if the amount calculated under (i) above is less than the amount under (ii) above will the Covered Payments be reduced to the minimum extent necessary to ensure that no portion of the Covered Payments is subject to the Excise Tax (that amount, the “Reduced Amount”). “Net Benefit” shall mean the present value of the Covered Payments *net* of all federal, state, local, foreign income, employment and excise taxes.

(b) Any determination required under this Section 4.8 shall be made in writing in good faith by the accounting firm that was the Company’s independent auditor immediately before the change in control (the “Accountants”), which shall provide detailed supporting calculations to the Company and the Executive as requested by the Company or the Executive. The Company and the Executive shall provide the Accountants with such information and documents as the Accountants may reasonably request in order to make a determination under this Section 4.8. For purposes of making the calculations and determinations required by this Section 4.8, the Accountants may rely on reasonable, good faith assumptions and approximations concerning the application of Section 280G and Section 4999 of the Code. The Accountants’ determinations shall be final and binding on the Company and the Executive. The Company shall be responsible for all fees and expenses incurred by the Accountants in connection with the calculations required by this Section 4.8.

(c) It is possible that after the determinations and selections made pursuant to this Section 4.8 the Executive will receive Covered Payments that are in the aggregate more than the amount provided under this Section 4.8 (“Overpayment”) or less than the amount provided under this Section 4.8 (“Underpayment”).

(i) In the event that: (A) the Accountants determine, based upon the assertion of a deficiency by the Internal Revenue Service against either the Company or the Executive which the Accountants believe has a high probability of success, that an Overpayment has been made or (B) it is established pursuant to a final determination of a court or an Internal Revenue Service proceeding that has been finally and conclusively resolved that an Overpayment has been made, then the Executive shall pay any such Overpayment to the Company together with interest at the applicable federal rate (as defined in Section 7872(f)(2)(A) of the Code) from the date of the Executive’s receipt of the Overpayment until the date of repayment.

(ii) In the event that: (A) the Accountants, based upon controlling precedent or substantial authority, determine that an Underpayment has occurred or (B) a court of competent jurisdiction determines that an Underpayment has occurred, any such Underpayment will be paid promptly by the Company to or for the benefit of the Executive together with interest at the applicable federal rate (as defined in Section 7872(f)(2)(A) of the Code) from the date the amount would have otherwise been paid to the Executive until the payment date.



ARTICLE V  
ADDITIONAL AGREEMENTS

5.1 **OTHER AGREEMENTS.** As further material consideration for the Company entering into this Agreement, the Executive will also execute the Company's standard employee confidentiality agreement, inventions assignment agreement, employee handbook and any other agreements or policies required to be executed by all like level executives of the Company.

5.2 **EMPLOYEE'S RESTRICTIVE COVENANTS UPON TERMINATION.** If the Executive's employment terminates, Executive agrees, notwithstanding the reason for termination, to keep all of the Company's Confidential Information confidential in perpetuity in accordance with the Company's policy.

ARTICLE VI  
MISCELLANEOUS

6.1 **DEFINITIONS.** For purposes of this Agreement, the following terms will have the following meanings:

(a) "**Affiliate**" of a Person means a Person that directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the first Person. "**Control**" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting securities, by contract or credit arrangement, as trustee or executor, or otherwise.

(b) "**Cause**" will mean any willful breach of duty by the Executive in the course of the Executive's employment, continued violation of written Company employment policies after written notice of such violation and an opportunity to cure of no less than thirty (30) days from the date of receipt of the written notice, violation of the Company's Insider Trading Policies, conviction of a felony or any crime involving fraud, theft, embezzlement, dishonesty or moral turpitude, engaging in activities which materially defame the Company, engaging in conduct which is materially injurious to the Company or its Affiliates, or any of their respective customer or supplier relationships, financially or otherwise, or the Executive's gross negligence or continued failure to perform Executive's duties or his continued incapacity to perform such duties after written notice of such violation and opportunity to cure of no less than thirty (30) days from the date of receipt of the written notice.

(c) "**Change of Control**" will mean if there is a merger, consolidation, sale of all or a major portion of the assets of the Company (or a successor organization) or similar transaction or circumstance where any person or more than one person acting as a group (within the meaning of Section 409A of the Code) acquires, in one or more transactions, beneficial ownership that, together with stock held by such person or group, constitutes more than Fifty Percent (50%) of the total fair market value or total voting power of the stock of the Company (or a successor organization). Notwithstanding the foregoing, a transaction will not be deemed a Change of Control unless the transaction qualifies as a change in control event within the meaning of Section 409A of the Code.

(d) “Compensation Committee” means the Compensation Committee of the Board of Directors of RGF, Inc.

(e) “Good Reason” will mean, without the consent of the Executive, there is a reduction in the Executive’s Base Salary or there is material reduction of the Executive’s total compensation, benefits, and perquisites, the Company relocates the Executive’s primary required location of employment by greater than fifty (50) miles, there is a material change in the Executive’s authority duties or responsibilities, a material failure by the Company to pay the Executive’s compensation after notice to the Company by the Executive and a reasonable opportunity to cure, or a directive by the Company that the Executive violate any law or aid the Company or any person or entity in violating any law; provided, however, no such event shall constitute “Good Reason” hereunder unless the Executive shall have given written notice to the Company of Executive’s intent to resign for “Good Reason” within ninety (90) days after the Executive first becomes aware of the occurrence of any such event (specifying the nature and scope of the event), such event or occurrence shall not have been cured no later than thirty (30) days after the Company’s receipt of such notice and the Executive shall have resigned no later than six (6) months after the expiration of such thirty (30) day cure period.

(f) “Notice of Termination” will mean a notice which shall indicate the specific termination provision of this Agreement relied upon and shall generally set forth the basis for termination of the Executive’s employment under the provision so indicated.

(g) “Person” means any natural person, firm, partnership, association, corporation, company, limited liability company, limited partnership, trust, business trust, governmental authority, or other entity.

(h) “Release Expiration Date” shall mean the date which is twenty-one (21) days following the date upon which the Company delivers to Executive the release contemplated in Section 4.5 above, or, in the event that such termination of employment is “in connection with an exit incentive or other employment termination program” (as such phrase is defined in the Age Discrimination in Employment Act of 1967), the date which is forty-five (45) days following such delivery date.

(i) “Retirement” will mean normal retirement at age 65.

(j) “Section 409A Safe Harbor Limit” will mean, as determined in accordance with Treasury Regulation §1.409A-1(b)(9)(iii), an amount equal to two (2) times the lesser of (i) Executive’s annual rate of compensation for the taxable year immediately preceding the taxable year in which Executive’s employment is terminated by the Company, or (ii) the dollar amount in effect under Section 401(a)(17) of the Code for the taxable year in which Executive’s employment is terminated.

(k) “Severance” will mean payments after termination of Executive’s employment.

(l) “Total Disability” will mean the Executive’s failure substantially to perform the Executive’s duties hereunder on a full-time basis for a period exceeding one hundred eighty (180) consecutive days or for periods aggregating more than one hundred eighty (180) days during any twelve (12) month period as a result of incapacity due to physical or mental illness. If

there is a dispute as to whether the Executive is or was physically or mentally unable to perform the Executive's duties under this Agreement, such dispute will be submitted for resolution to a licensed physician agreed upon by the Company and the Executive, or if an agreement cannot be promptly reached, the Company and the Executive will promptly each select a physician, and if these physicians cannot agree, the physicians will promptly select a third physician whose decision will be binding on all parties. If such a dispute arises, the Executive will submit to such examinations and will provide such information as such physician(s) may request, and the determination of the physician(s) as to the Executive's physical or mental condition will be binding and conclusive. Notwithstanding the foregoing, if the Executive participates in any group disability plan provided by the Company, which offers long-term disability benefits, "Total Disability," will mean total disability as defined therein.

6.2 KEY PERSON INSURANCE. The Company will have the right, in its sole discretion, to purchase "key person" insurance on the life of the Executive. The Company shall be the owner and beneficiary of any such policy. If the Company elects to purchase such a policy, the Executive will take such physical examinations and supply such information as may be reasonably requested by the insurer.

6.3 SUCCESSORS; BINDING AGREEMENT. This Agreement will be binding upon any successor to the Company and will inure to the benefit of and be enforceable by the Executive's personal or legal representatives, beneficiaries, designees, executors, administrators, heirs, distributees, devisees and legatees.

6.4 MODIFICATION; NO WAIVER. This Agreement may not be modified or amended except by an instrument in writing signed by the parties hereto. No term or condition of this Agreement will be deemed to have been waived, nor will there be any estoppel against the enforcement of any provision of this Agreement, except by written instrument by the party charged with such waiver or estoppel. No such written waiver will be deemed a continuing waiver unless specifically stated therein, and each such waiver will operate only as to the specific term or condition waived and will not constitute a waiver of such term or condition for the future or as to any other term or condition.

6.5 SEVERABILITY. The covenants and agreements contained herein are separate and severable and the invalidity or unenforceability of any one or more of such covenants or agreements, if not material to the employment arrangement that is the basis for this Agreement, will not affect the validity or enforceability of any other covenant or agreement contained herein.

6.6 FORM OF NOTICE TO PARTIES. All notices, requests, demands, waivers and other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (a) delivered personally, (b) mailed by first-class, registered or certified mail, return receipt requested, postage prepaid, or (c) sent by next-day or overnight mail or delivery or (d) sent by telecopy or telegram, to the following address:

If to the Executive: Akshay Jagdale

If to the Company: Real Good Foods, LLC  
3 Executive Campus, Suite 155  
Cherry Hill, NJ 08002

or, in each case, at such other address as may be specified in writing to the other parties hereto.

All such notices, requests, demands, waivers and other communications shall be deemed to have been received (w) if by personal delivery on the day after such delivery, (x) if by certified or registered mail, on the seventh business day after the mailing thereof, (y) if by next-day or overnight mail or delivery, on the day delivered, (z) if by telecopy or telegram, on the next day following the day on which such telecopy or telegram was sent, provided that a copy is also sent by certified or registered mail.

6.7 ASSIGNMENT. This Agreement and any rights hereunder will not be assignable by either party without the prior written consent of the other party except as otherwise specifically provided for herein.

6.8 ENTIRE UNDERSTANDING. This Agreement constitutes the entire understanding between the parties hereto and no agreement, representation, warranty or covenant has been made by either party except as expressly set forth herein. Without limiting the generality of the foregoing, this Agreement restated and supersedes the terms of the Letter Agreement in its entirety and the obligations of each of the Company and the Executive set forth in the Letter have been fully satisfied, set forth anew in this Agreement, or otherwise hereby terminated and released

6.9 EXECUTIVE'S REPRESENTATIONS. The Executive represents and warrants that neither the execution and delivery of this Agreement nor the performance of the Executive's duties hereunder violates the provisions of any other agreement to which he is a party or by which he is bound.

6.10 GOVERNING LAW. This Agreement will be construed in accordance with the laws of the State of New Jersey, without regard to the conflict of laws provisions thereof, with venue proper only in state and federal courts located in the State of New Jersey.

6.11 ARBITRATION.

(a) Except as provided in Section 6.11(c) below, the parties hereto agree that any dispute or controversy arising out of, relating to, or in connection with this Agreement, the interpretation, validity, construction, performance, breach, or termination thereof, or any other matter related to the Executive's employment with the Company and RGF, Inc. shall be finally settled by binding arbitration, unless otherwise required by law, to be held in Cherry Hill, New Jersey (or such other location as may be mutually agreed) under the Employment Arbitration Rules and Mediation Procedures of the American Arbitration Association as then in effect (the "Rules"). Executive may obtain a copy of the Rules by accessing the AAA website at [www.adr.org](http://www.adr.org)., or by requesting a copy from the Board of Directors. By signing this Agreement, Executive acknowledges that s/he has had

an opportunity to review the Rules before signing this Agreement. The arbitrator(s) may grant injunctions or other relief in such dispute or controversy. The decision of the arbitrator(s) shall be final, conclusive and binding on the parties to the arbitration, and judgment may be entered on the decision of the arbitrator(s) in any court having jurisdiction.

(b) The arbitrator(s) shall apply Delaware law to the merits of any dispute or claim, without reference to rules of conflicts of law. The decision of the arbitrator shall be in writing and shall provide the reasons for the arbitrator's award unless the Parties otherwise agree in writing.

(c) This agreement to arbitrate shall be enforceable under and subject to the Federal Arbitration Act, 9 U.S.C. Sections 1, et. seq.

(d) The parties may apply to any court of competent jurisdiction for a temporary restraining order, preliminary injunction, or other interim or conservatory relief, as necessary, without breach of this arbitration agreement and without abridgement of the powers of the arbitrator.

(e) EMPLOYEE HAS READ AND UNDERSTANDS THIS SECTION, WHICH DISCUSSES ARBITRATION. EMPLOYEE UNDERSTANDS THAT BY SIGNING THIS AGREEMENT, EMPLOYEE AGREES TO SUBMIT ANY CLAIMS ARISING OUT OF, RELATING TO, OR IN CONNECTION WITH THIS AGREEMENT, OR THE INTERPRETATION, VALIDITY, CONSTRUCTION, PERFORMANCE, BREACH OR TERMINATION THEREOF TO BINDING ARBITRATION, UNLESS OTHERWISE REQUIRED BY LAW, AND THAT THIS ARBITRATION CLAUSE CONSTITUTES A WAIVER OF EMPLOYEE'S RIGHT TO A JURY TRIAL AND RELATES TO THE RESOLUTION OF ALL DISPUTES RELATING TO EMPLOYEE'S RELATIONSHIP WITH THE COMPANY, INCLUDING BUT NOT LIMITED TO, CLAIMS OF HARASSMENT, DISCRIMINATION, WRONGFUL TERMINATION AND ANY STATUTORY CLAIMS.

*[Signature Page Follows]*

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

**COMPANY:**

**REAL GOOD FOODS, LLC**

By: /s/ Gerard G. Law

Name: Gerard G. Law

Title: Chief Executive Officer

**EXECUTIVE:**

/s/ Akshay Jagdale

Akshay Jagdale

**EXHIBIT A**

**GENERAL RELEASE**

1. Employee's employment with Real Good Foods, LLC, a Delaware limited liability company and/or The Real Good Food Company, Inc., a Delaware corporation (together, the "Company") ceased effective as of .

2. Employee represents and agrees that Employee has received all compensation owed to Employee by the Company through Employee's termination date, including all wages, bonuses, commissions, earned but unused vacation, reimbursable business expenses, and any other payments, benefits, or other compensation of any kind to which Employee was entitled from the Company.

3. Employee represents to the Company that Employee is signing this General Release (this "Agreement") voluntarily and with a full understanding of and agreement with its terms for the purpose of receiving additional pay from the Company as described in Executive Employment Agreement dated October 27, 2021 (the "Agreement").

4. In reliance on the Employee's promises, representations, and releases in this Agreement, upon the Company's receipt of this executed General Release, the Company will provide Employee with the payments described in the Agreement, less legally required withholding and payroll deductions.

5. In exchange for the consideration provided to Employee as set forth above, Employee agrees to waive and release all claims, known and unknown, which Employee has or might otherwise have had against the Company, including all of its former or current officers, directors, agents, employees and related entities (hereinafter collectively referred to as the "Released Parties"), arising prior to the date Employee executes this Agreement, regarding any aspect of Employee's employment, compensation, the cessation of Employee's employment with the Company, the Age Discrimination in Employment Act of 1967, the Americans with Disabilities Act of 1990, Title VII of the Civil Rights Act of 1964, 42 U.S.C. section 1981, the Fair Labor Standards Acts, the California Fair Employment and Housing Act, California Government Code section 12900, et seq., the Unruh Civil Rights Act, California Civil Code section 51, all provisions of the California Labor Code; the Employee Retirement Income Security Act, 29 U.S.C. section 1001, et seq., all as amended, any other federal, state or local law, regulation or ordinance or public policy, contract, tort or property law theory, or any other cause of action whatsoever that arose on or before the date Employee executes this Agreement.

6. It is further understood and agreed that as a condition of this Agreement, all rights under Section 1542 of the Civil Code of the State of California are expressly waived by Employee. Such Section reads as follows:

"A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or

her, would have materially affected his or her settlement with the debtor or released party.”

Notwithstanding Section 1542, and for the purpose of implementing a full and complete release and discharge of the Released Parties, Employee expressly acknowledges that this Agreement is intended to include and does include in its effect, without limitation, all claims which Employee does not know or suspect to exist in Employee’s favor against the Released Parties at the time of execution hereof, and that this Agreement expressly contemplates the extinguishment of all such claims.

7. The release in this Agreement includes, but is not limited to, claims arising under federal, state or local law for age, race, sex or other forms of employment discrimination and retaliation. In accordance with the Older Workers Benefit Protection Act, Employee hereby knowingly and voluntarily waives and releases all rights and claims, known or unknown, arising under the Age Discrimination in Employment Act of 1967, as amended, which he might otherwise have had against the Released Parties. Employee is hereby advised that he should consult with an attorney before signing this Agreement and that he has 21 days in which to consider and accept this Agreement by signing and returning this Agreement to the Company’s President. In addition, Employee has a period of seven days following his execution of this Agreement in which he may revoke the Agreement. If Employee does not advise the Company by a writing received by the Chief Human Resources Officer within such seven day period of the Employee’s intent to revoke the Agreement, or within such longer period as may be required by applicable law, the Agreement will become effective and enforceable upon the expiration of the seven days or longer applicable period.

8. This General Release shall not be construed as an admission by the Company of any improper, wrongful, or unlawful actions, or any other wrongdoing against Employee, and the Company specifically disclaims any liability to or wrongful acts against Employee on the part of itself, its employees and its agent.

9. This Agreement may be modified only by written agreement signed by both parties.

Dated: \_\_\_\_\_

EMPLOYEE:

Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_

COMPANY:

Dated: \_\_\_\_\_

REAL GOOD FOODS, LLC

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_



**INDUSTRIAL BUILDING LEASE****(Triple Net Single-Tenant)**

THIS LEASE (this "Lease") is made and entered into this 4th day of October, 2021, by and between the Landlord and Tenant named below.

**ARTICLE 1 - LEASE OF PREMISES**Section 1.01 Basic Lease Provisions and Definitions.

(a) Landlord: HP-A Bolingbrook, LLC, a Delaware limited liability company.

(b) Tenant: The Real Good Food Company, LLC, a California limited liability company.

(c) Premises: That certain real property described on Exhibit A attached hereto, together with all improvements located thereon, including, but not limited to, the Building, as depicted on Exhibit B attached hereto.

(d) Building: That certain industrial warehouse addressed as 525 W. Crossroads Parkway, Bolingbrook, Illinois containing approximately 81,406 square feet, based on measurements per ANSI/BOMA Z65.2-2019 Industrial Building Standard.

(e) Base Rent: Base Rent from and after the Commencement Date shall initially equal \$17.00 per rentable square foot of the Premises annually (such that, based upon the Premises containing approximately 81,406 rentable square feet, Base Rent shall initially equal \$1,383,902.00 annually (or \$115,325.16 per month)) and shall be subject to adjustment effective as of the date that is thirteen (13) months from the Commencement Date (or, if the Commencement Date is not on the first day of a month, then from the date that is thirteen (13) months from the first day of the first month immediately following the Commencement Date), and on each anniversary thereafter occurring during the Lease Term (each, a "Base Rent Adjustment Date"), to equal 103% of the Base Rent in effect immediately prior to the applicable anniversary date.

(f) Commencement Date: January 1, 2022.

(g) Lease Term: Eighty-seven (87) months.

(h) Security Deposit: \$2,200,000.

(i) Brokers: Lee & Associates representing Landlord and Art Rasmussen representing Tenant.

(j) Permitted Use: Food manufacturing and assembly, warehousing, distribution and any ancillary uses reasonably related to the foregoing and permissible under applicable laws and regulations.

(k) Extension Options: Two (2) options to extend the Lease Term by five (5) years each, as more particularly set forth in the attached Extension Option Rider.

(l) Landlord Address: HP-A Bolingbrook, LLC  
c/o Highridge Provender  
1600 Newport Center Drive, Suite 140  
Newport Beach, CA 92660  
Attention: Neil Johnson  
Email: [\*\*\*]

with copies to: Cushman & Wakefield U.S., Inc.  
9500 W. Bryn Mawr Road, Suite 600  
Rosemont, IL 60018  
Attention: Ben Rapal

and: Gibson, Dunn & Crutcher LLP  
333 South Grand Avenue  
Los Angeles, CA 90071  
Attention: Jesse Shapiro  
Email: [\*\*\*]

(m) Tenant Address: The Real Good Food Company, LLC  
3 Executive Campus  
Cherry Hill NJ 08002  
Attention: Gerard Law  
Email.: [\*\*\*]

with a copy to: Varner & Brandt LLP  
3750 University Avenue, 6th Floor  
Riverside, California 92501  
Attention: Sean S. Varner  
Email: [\*\*\*]

#### EXHIBITS

Exhibit A – Legal Description of Real Property

Exhibit B – Depiction of Premises

Exhibit C – Form of Hazardous Substances Disclosure Certificate

Exhibit D – Extension Option Rider

Exhibit E – Rules and Regulations

Exhibit F – Form of Estoppel Certificate

Exhibit G – Form of Non-Disturbance Agreement  
Exhibit H – Existing Equipment  
Exhibit I – Refrigeration Equipment  
Exhibit J – Form of Letter of Credit

Section 1.02 Lease of Premises. Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the Premises, under the terms and conditions herein.

## ARTICLE 2 - TERM AND POSSESSION

Section 2.01 Term. The Commencement Date and Lease Term shall be as set forth in Section 1.01 above. Landlord shall not be liable to Tenant if Landlord does not deliver possession of the Premises to Tenant on the Commencement Date. The obligations of Tenant under this Lease shall not be affected thereby, except that the Commencement Date shall be delayed until Landlord delivers possession of the Premises to Tenant, and the Lease Term shall be extended by a period equal to the number of days of delay in delivery of possession of the Premises to Tenant (not to exceed sixty (60) days), plus the number of days necessary to end the Lease Term on the last day of a calendar month.

### Section 2.02 Condition of the Premises; Access.

(a) “As-Is” Condition. Subject to Section 2.02(c) below, Tenant shall accept the Premises in its existing “as-is” condition and Landlord shall not be obligated to provide or pay for any improvement work or services related to the improvement of the Premises. Tenant also acknowledges that neither Landlord nor any agent of Landlord has made any other representation or warranty regarding the condition of the Premises, including, but not limited to, any improvements located thereon, with respect to the suitability of any of the foregoing for the conduct of Tenant’s business. The taking of possession of the Premises by Tenant shall conclusively establish that the Premises was at such time in good and sanitary order, condition and repair. Notwithstanding the foregoing, this Section 2.02(a) shall not apply to the Initial Improvement Work, which shall be governed by Section 2.02(d) below.

(b) Existing Equipment. Tenant hereby acknowledges that the Premises are being delivered to Tenant with the racking and other equipment items listed on Exhibit H attached hereto (collectively, the “Existing Equipment”) (which for purposes of this Section 2.02(b) excludes the Refrigeration Equipment) located therein, and Tenant agrees to accept such Existing Equipment in their “AS-IS,” “WHERE-IS,” “WITH ALL FAULTS” condition, and without any representations or warranties whatsoever by Landlord (including, without limitation, as to title, ownership, encumbrances, condition, suitability, merchantability or fitness). Tenant hereby agrees that the Existing Equipment shall at all times under this Lease be deemed to be the personal property of Landlord; provided, however, Tenant shall be solely responsible at all times during the term of the Lease, at Tenant’s sole cost and expense, for: (i) obtaining and maintaining physical damage insurance with respect to the Existing Equipment, covering “all risks” of physical loss or damage, for the full replacement cost value as new without deduction for depreciation; (ii) maintaining, repairing and replacing the Existing Equipment as and when

necessary; and (iii) keeping the Existing Equipment in good order, repair and condition. Tenant may modify the Existing Equipment in accordance with the provisions herein but, other than in connection with the TI Work as approved by Landlord, shall not remove any of the Existing Equipment from the Premises at any time except to replace any Existing Equipment items that are stolen, damaged, broken or no longer repairable with items of equal or greater value, style and quality as the original Existing Equipment items so replaced. Tenant shall keep a detailed log of all repairs and replacements made to the Existing Equipment, and shall provide Landlord with a copy of such log upon request. Tenant shall use and operate the Existing Equipment in compliance with all applicable laws (including all fire and life safety codes). Tenant shall have no authority or power to cause or permit any lien or encumbrance of any kind whatsoever to attach to or be placed upon the Existing Equipment. Under no circumstances shall Landlord have any liability or responsibility with respect to the Existing Equipment, and Landlord shall have no responsibility to repair or refurbish the Existing Equipment at any time. Notwithstanding anything to the contrary contained in this Lease, Landlord is not hereby transferring ownership of the Existing Equipment to Tenant, and upon the expiration or earlier termination of the Lease Term for this Lease, Tenant shall surrender the Existing Equipment to Landlord in good order, repair and condition, reasonable wear and tear excepted (including that all Existing Equipment, to the extent modified by Tenant, shall be surrendered in a condition that is in compliance with all applicable laws (including all fire and life safety codes), provided, however, that Tenant shall not be responsible for otherwise restoring the Existing Equipment to the configuration with which it was delivered as of the Commencement Date.

(c) Limited Warranty. Notwithstanding anything in the foregoing to the contrary, Landlord hereby warrants that as of the Commencement Date, the existing electrical, plumbing and sewer, fire life safety system (which system includes in rack sprinklers), lighting, office areas (including the ceiling tiles, paint, carpet and heating, ventilating and air conditioning system serving the office area), mechanical refrigeration systems, including any electrical fans, compressors, freezer/cooler doors and heaters in the Premises and other specific items as noted on Exhibit I attached hereto (collectively, the "Refrigeration Equipment"), cold storage panels, vapor barrier, freezer slab insulation, roof membrane, fire sprinklers, glycol underfloor heating systems, loading doors/levelers/seals/locks/chocks of the Premises, other than those constructed or altered by Tenant, shall be in good operating condition, provided that Tenant shall be solely responsible for determining whether the Refrigeration Equipment is suitable for Tenant's permitted use and the conduct of Tenant's business in the Premises. If a non-compliance with either of the foregoing warranties exists as of the Commencement Date, then Landlord shall, as Landlord's sole obligation with respect to such matter, except as otherwise provided in this Lease, promptly after receipt of written notice from Tenant setting forth with specificity the nature and extent of such non-compliance, rectify the same at Landlord's expense. If Tenant does not give Landlord written notice of any non-compliance with the foregoing warranties (i) within six (6) months after the Commencement Date with respect to any repair or replacement of the Refrigeration Equipment (beyond normal repair/maintenance that would be covered by the applicable Maintenance Contract, as defined below), or (ii) within thirty (30) days after the Commencement Date with respect to other elements of the Premises specified hereinabove, then the correction of such non-compliance shall be the obligation of Tenant at Tenant's sole cost and expense (except to the extent otherwise provided in Article 7 below).

(d) Initial Improvement Work. Notwithstanding anything to the contrary in the foregoing, Landlord shall, at Landlord's cost, using Landlord's standard materials and in accordance with applicable law, perform the following work (the "Initial Improvement Work"): installation of evaporators in west processing room, and the wastewater monitoring system. Landlord shall use commercially reasonable efforts to cause the Initial Improvement Work to be Substantially Completed on or before December 31, 2021. For purposes of this Lease, the Initial Improvement Work shall be deemed "Substantially Completed" upon the completion of construction or performance, as the case may be, of the Initial Improvement Work substantially in accordance with this Section 2.02(d), with the exception of any "punch-list" items. If Landlord shall encounter any delays in causing the Initial Improvement Work to be Substantially Completed solely as a result of any acts or omissions of Tenant, or its agents, contractors or employees ("Tenant Delays"), then, notwithstanding anything to the contrary set forth in this Lease and regardless of the actual date the Initial Improvement Work is Substantially Completed, the Initial Improvement Work shall be deemed to have been Substantially Completed on the date that the Initial Improvement Work would have been Substantially Completed if no such Tenant Delays, as set forth above, had occurred.

(e) Access. Except when and where Tenant's right of access is specifically excluded as a result of (a) an emergency, or (b) an express provision set forth in this Lease, Tenant shall have the right of access to the Premises twenty-four (24) hours per day, seven (7) days per week, fifty-two (52) weeks per year, during the Lease Term.

Section 2.03 Surrender of the Premises. Upon the expiration or earlier termination of this Lease, Tenant shall, at its sole cost and expense, immediately (a) surrender the Premises (including any then remaining Existing Equipment) to Landlord in broom-clean condition and in good order, condition and repair, reasonable wear and tear excepted, and in accordance with all applicable laws and codes (including, without limitation, all fire and life safety codes), (b) remove from the Premises (i) Tenant's Property (as defined in Section 8.01 below), including, without limitation, restoring the Premises to be compliant with all fire and life safety codes as a result of the removal and/or reconfiguration of Tenant's Property, (ii) all data and communications wiring and cabling (including above ceiling, below raised floors and behind walls), and (iii) any alterations required to be removed pursuant to Section 7.03 below, and (c) repair any damage caused by any such removal and restore the Premises to the condition existing upon the Commencement Date, reasonable wear and tear excepted. All of Tenant's Property that is not removed within ten (10) days following the expiration or earlier termination of this Lease shall be conclusively deemed to have been abandoned and Landlord shall be entitled to dispose of such property at Tenant's cost without incurring any liability to Tenant. Notwithstanding any contrary provision of this Lease, including but not limited to this Section 2.03, the Existing Equipment and any Refrigeration Equipment and related components thereto on the Premises, including racking and any non-structural partitions, cabling and other items not specific to Tenant's particular use of the Premises, whether part of Tenant's Property or otherwise, are hereby deemed to be fixtures attached to the Building or other portions of the Premises, as applicable, necessary for the operation and use of the Premises and shall not be removed by Tenant without Landlord's prior written consent, which may be withheld in Landlord's sole discretion. This Section 2.03 shall survive the expiration or any earlier termination of this Lease. In addition, Tenant shall comply

with all requirements relating to Hazardous Substances upon surrender of the Premises in accordance with Section 15.07 below.

Section 2.04 Holding Over. If Tenant remains in possession of the Premises after the expiration or earlier termination of this Lease, such tenancy shall be deemed a tenancy at sufferance and the Base Rent shall be an amount equal to one hundred fifty percent (150%) of the Base Rent in effect upon the date of such expiration or earlier termination, and otherwise upon the terms, covenants and conditions herein specified, so far as applicable. Acceptance by Landlord of Rent (as hereinafter defined) after such expiration or earlier termination shall not result in a renewal of this Lease, nor shall such acceptance create a month-to-month tenancy. This Section 2.04 shall in no way constitute a consent by Landlord to any holding over by Tenant upon the expiration or earlier termination of this Lease, nor limit Landlord's remedies in such event.

Section 2.05 TI Allowance.

(a) In addition to Landlord's performance of the Initial Improvement Work, Tenant shall be entitled to receive from Landlord a one (1) time improvement allowance in the amount of up to, but not exceeding, \$1,098,981.00 (the "TI Allowance"), to help reimburse Tenant for the costs actually incurred and paid for by Tenant (collectively, the "TI Costs") during the period from the date of this Lease through the eighteen (18) month anniversary of the Commencement Date (the "TI Period") for certain tenant improvement work that Tenant desires to be performed at the Premises (collectively, the "TI Work"). The TI Work shall be undertaken by Tenant in accordance with, and subject to, the applicable provisions of Article 7 below, and shall be completed prior to the expiration of the TI Period. In no event shall Landlord be obligated to make disbursements pursuant to this Section 2.05 in a total amount which exceeds the TI Allowance.

(b) Landlord shall disburse the portion of the TI Allowance to be used to reimburse Tenant for the TI Costs within thirty (30) days after Landlord has received all of the following (collectively, the "TI Work Draw Documents"): (i) a written request for payment in a minimum amount of \$25,000.00 from Tenant certifying that the applicable TI Work has been completed; (ii) factually correct invoices for labor and materials rendered in connection with and evidencing the applicable TI Work and the TI Costs and Tenant's payment thereof; (iii) copies of any permits as required by any relevant governmental authority applicable to any TI Work performed; and (iv) final, unconditional executed mechanic's lien waivers on commercially reasonable forms from all contractors, subcontractors and other persons or entities performing the applicable TI Work. Notwithstanding the foregoing to the contrary, Landlord shall have no obligation to disburse any portion of the TI Allowance with respect to any TI Work that is performed or TI Costs which are incurred or paid for after the expiration of the TI Period. All TI Work Draw Documents must be submitted by Tenant, if at all, within thirty (30) days following the expiration of the TI Period. Any such unused amounts of the TI Allowance as of the end of the TI Period billing deadline shall revert to Landlord and Tenant shall have no further rights with respect thereto.

Section 2.06 Early Access to Premises. Notwithstanding any provision herein to the contrary, at any time following the date Landlord shall have vacant possession of the Premises

free of any tenants or other occupants (or as soon thereafter as shall be reasonably practicable or earlier if permitted under such tenant's lease), Landlord shall permit Tenant's designee(s) to access the Premises prior to the Commencement Date (the "Early Access Period") for the limited purpose of constructing the TI Work, stocking inventory, and conducting hiring and training and otherwise preparing the Premises for occupancy (the "Early Access Activities"), provided that, (a) prior to such entry of the Premises, Tenant shall provide evidence reasonably satisfactory to Landlord that Tenant's insurance, as described in Section 8.03 below, shall be in effect as of the time of such entry, (b) Tenant shall not unreasonably interfere with Landlord or Landlord's contractor in completing the Initial Improvement Work and (c) Landlord may require that Landlord's designee accompany Tenant and/or its designee during any such entry. Tenant agrees to comply with Landlord's reasonable rules and regulations related to any entry by Tenant prior to the Commencement Date. In the event that Tenant unreasonably interferes with Landlord or Landlord's contractor in completing the Initial Improvement Work, if Landlord notifies Tenant of any such interference and Tenant fails to remedy such interference within two (2) business days after receipt of such notice, then Landlord may revoke the permission granted to Tenant under this Section 2.06 upon forty-eight (48) hours' notice and Tenant shall cease its Early Access Activities in the Premises (or the portion thereof causing such interference) until Landlord notifies Tenant that such activities may recommence without material interference with the Initial Improvement Work. Tenant acknowledges and agrees that any such entry into and occupancy of the Premises or any portion thereof during the Early Access Period by Tenant or any person or entity working for or on behalf of Tenant shall be deemed to be subject to all of the terms, covenants, conditions and provisions of this Lease (including Tenant's insurance obligations hereunder, and prior to such entry, Tenant shall provide Landlord with a certificate of insurance naming Landlord, Landlord's property manager and Landlord's mortgagee as additional insureds), excluding only the covenant to pay Rent (as hereinafter defined) until the occurrence of the Commencement Date; provided, however, that Tenant shall be responsible to pay the cost of all utilities and services serving the Premises during the Early Access Period. Tenant further acknowledges and agrees that except for the negligence or willful misconduct of Landlord, its agents, employees, contractors or invitees, Landlord shall not be liable for any injury, loss or damage which may occur to any of Tenant's work made in or about the Premises in connection with such entry or to any property placed therein prior to the Commencement Date, the same being at Tenant's sole risk and liability. Tenant shall be liable to Landlord for any damage to any portion of the Premises to the extent caused by Tenant or any of Tenant's employees, agents, contractors, consultants, workmen, mechanics, suppliers and invitees. Tenant shall hold Landlord harmless from and indemnify, protect and defend Landlord against any loss or damage to the Premises and against injury to any persons to the extent caused by any negligent act or omission (where a duty to act exists) of Tenant, or an intentional act of Tenant outside the scope of conduct which is appropriate to be performed in, on or about the Premises, in each case during the Early Access Period. For the avoidance of doubt, such limited early access to the Premises shall not accelerate any commencement or termination dates of this Lease and Tenant shall not be obligated to pay Base Rent under this Lease until the Commencement Date. Tenant agrees that except for the negligence or willful misconduct of Landlord, its agents, employees, contractors or invitees, Landlord shall not be liable in any way for any injury, loss or damage which may occur to any of Tenant's property placed upon or installed in the Premises prior to the Commencement Date, the same being at Tenant's sole risk, and except for the negligence or willful misconduct of

Landlord, its agents, employees, contractors or invitees, Tenant shall be liable for all injury, loss or damage to persons or property arising as a result of such entry into the Premises by Tenant or its representatives.

### ARTICLE 3 - RENT

#### Section 3.01 Base Rent.

(a) Tenant shall pay to Landlord monthly installments of Base Rent in advance, without demand, abatement, deduction or offset, throughout the Lease Term on or before the first day of each and every calendar month. Installments of Base Rent for partial calendar months shall be prorated. Tenant shall be responsible for delivering all installments of Base Rent due hereunder to Landlord's address set forth in Section 1.01 above, or any other address as may be designated by Landlord from time to time. The monthly installment of the Base Rent and estimated Operating Expenses (hereinafter defined) for the first (1st) full month of the initial Lease Term shall be paid at the time of Tenant's execution of this Lease.

(b) Notwithstanding any contrary provisions set forth in this Article 3 and Section 1.01(a) above, Tenant shall not be obligated to pay the monthly installments of Base Rent (the "Base Rent Abatement") for the three (3) month period commencing on the first (1st) full calendar month of the Lease Term, and ending on the last day of the third (3rd) full calendar month of Lease Term (the "Abatement Period"). In connection with the foregoing, the Base Rent Abatement provided to Tenant pursuant to this Section 3.01(b) during the Base Rent Abatement Period shall not exceed an aggregate of \$345,975.48. Tenant acknowledges and agrees that during such Base Rent Abatement Period, such abatement of Base Rent shall have no effect on the calculation of any Operating Expenses payable by Tenant pursuant to the terms of this Lease, which any Operating Expenses shall be payable during the Base Rent Abatement Period without regard to the Base Rent Abatement. Additionally, notwithstanding the foregoing, Tenant shall remain and be obligated to pay during the Base Rent Abatement Period all "Additional Rent," as that term is defined in Section 3.02 below. The foregoing Base Rent Abatement has been granted to Tenant as additional consideration for entering into this Lease, and for agreeing to pay the rent and performing the terms and conditions otherwise required under this Lease. If Tenant shall be in default under this Lease at any time during the Lease Term, and shall fail to cure such default within the applicable notice and cure period, if any, permitted for cure pursuant to Section 13.01 of this Lease, and as a result of such default, Landlord terminates this Lease, then the unamortized portion of the Base Rent Abatement granted to Tenant pursuant to this Section 3.01(b) may be considered when determining the remedies available to Landlord pursuant to the terms of Article 13 of this Lease.

#### Section 3.02 Payment of Additional Rent.

(a) Any amount required to be paid by Tenant hereunder (in addition to Base Rent) and any charges or expenses incurred by Landlord on behalf of Tenant in accordance with the terms of this Lease shall be considered "Additional Rent" payable in the same manner and upon the same terms and conditions as the Base Rent reserved hereunder, except as set forth



herein to the contrary. Any failure on the part of Tenant to pay such Additional Rent when and as the same shall become due shall entitle Landlord to the remedies available to it for non-payment of Base Rent. Base Rent and Additional Rent shall be collectively referred to herein as "Rent".

(b) In addition to the Base Rent, commencing as of the Commencement Date, Tenant shall pay to Landlord as Additional Rent for the Premises, in each calendar year or partial calendar year during the Lease Term, an amount equal to the Operating Expenses for such calendar year. Landlord shall estimate the amount of Operating Expenses annually, and written notice thereof shall be given to Tenant prior to the beginning of each calendar year. Tenant shall pay to Landlord each month, at the same time the Base Rent installment is due, an amount equal to one-twelfth (1/12) of the estimated Operating Expenses for such calendar year. Tenant shall be responsible for delivering all Additional Rent payments to Landlord's address as set forth in Section 3.01 above in accordance with this Section 3.02. If Operating Expenses increase during a calendar year, Landlord may increase the estimated Operating Expenses for such year by giving Tenant written notice to that effect, and thereafter Tenant shall pay to Landlord, in each of the remaining months of such calendar year, an amount equal to the amount of such increase in the estimated Operating Expenses for such calendar year divided by the number of months remaining in such year. Within a reasonable time after the end of each calendar year, Landlord shall prepare and deliver to Tenant a statement showing the actual amount of Operating Expenses for such calendar year (each, a "Statement"). Within thirty (30) days after receipt of a Statement, Tenant shall pay to Landlord the full amount of the Operating Expenses for such calendar year, less the amounts, if any, paid during such calendar year as the estimated Operating Expenses. If any Statement reflects that Tenant has overpaid Operating Expense for such calendar year, then Landlord shall, at Landlord's option, either (i) remit such overpayment to Tenant within thirty (30) days after such applicable Statement is delivered to Tenant, or (ii) credit such overpayment toward the additional rent next due and payable to Tenant under this Lease. This Section 3.02 shall survive the expiration or any earlier termination of this Lease.

Section 3.03 Late Charges. Tenant acknowledges that Landlord shall incur certain additional unanticipated administrative and legal costs and expenses if Tenant fails to pay timely any payment required hereunder. Therefore, in addition to the other remedies available to Landlord hereunder, if any payment required to be paid by Tenant to Landlord hereunder shall become overdue for more than five (5) days, a late charge in an amount equal to five percent (5%) of the unpaid amount plus any attorneys' fees incurred by Landlord in connection therewith shall be payable to Landlord as Additional Rent. In addition, if any amount remains unpaid for more than ten (10) days, such unpaid amount shall bear interest from the due date thereof to the date of payment at the rate (the "Interest Rate") that is the lesser of (i) the prime rate of interest, as reported in the Wall Street Journal plus six percent (6%) per annum and (ii) the maximum legal rate of interest.

Section 3.04 Operating Expense Definitions. For purposes of this Article 3, the following terms shall be defined as follows:

(a) "Operating Expenses" shall mean all expenses, costs and amounts of every kind and nature that Landlord shall pay during any calendar year because of or in connection with the ownership, management, maintenance, repair, restoration or operation of the Premises,

including but not limited to: (i) all premiums incurred by Landlord for Landlord's Insurance and all deductibles paid by Landlord pursuant to such insurance policies; (ii) property management fees incurred by Landlord in connection with the Premises not to exceed 3% of Base Rent payable hereunder; (iii) Taxes (as hereinafter defined); (iv) Intentionally Omitted; (v) cleaning, maintenance, repair, replacement of the exterior walkways, driveways necessary for access to the Premises, parking areas and truck courts (including sweeping, striping and slurry coating, said slurry and striping not to occur more frequently than every 5 years during the Lease Term); and (vi) any Real Estate Taxes (as hereinafter defined) levied against, or attributable to, the Premises. The cost of any Operating Expenses that are required to be capitalized under generally accepted accounting principles shall be amortized over the applicable Amortization Period (as defined below) with interest at 7%, and only the amortized portion shall be included in Operating Expenses (collectively, "Permitted Capital Costs"). Notwithstanding anything contained herein to the contrary, in no event shall Operating Expenses include the following: any administrative fees or the like; the cost of any item for which Landlord is reimbursed by insurance or otherwise; the cost of repairs made in accordance with Landlord's obligations pursuant to Section 7.01; the cost of any alterations, additions, changes, replacements, improvements and repairs and other items which under generally accepted accounting and auditing principles consistently applied (as pertaining to the real estate industry) are properly classified as capital expenditures (except as provided above as Permitted Capital Costs) or which are made in order to prepare space for occupancy by a new tenant or other occupant; costs for improvements, alterations, modifications, repairs or replacements performed to comply with governmental laws, rules, or regulations including, but not limited to, zoning regulations and The Americans with Disabilities Act of 1990 (as the same may be amended) (the "ADA" provided, however, costs for changes to the Premises due to changes in the ADA after the Effective Date hereof shall be permissible costs); reserves for the replacement or repair of portions of, or for equipment and machinery; legal, accounting and other professional fees; interest or amortization payments in connection with the Building; leasing commissions, advertising expenses and other costs incurred in leasing or attempting to lease any portion of the Building; the cost of any services, maintenance, or repairs performed specifically for certain tenants and not for the common use and benefit of all the tenants; the cost of correcting defects in the construction of the buildings, improvements and equipment; the cost of Landlord's membership (and costs related thereto) in any organizations representing owners; any political or charitable contributions; and the salary, wages, compensation, payroll taxes and benefits of employees, contractors or agents of Landlord, except for those persons directly engaged in the operation, repair, management or maintenance of the Premises.

(b) "Amortization Period" shall mean (i) fifteen (15) years for the parking lot(s) and/or truck court(s), (ii) twenty (20) years for the roof membrane(s) and (iii) ten (10) years for all other applicable items.

(c) "Real Estate Taxes" shall mean any form of real estate tax or assessment or service payments in lieu thereof, and any license fee, commercial rental tax, improvement bond or other similar charge or tax (other than inheritance, personal income or estate taxes) imposed upon the Premises or any portion thereof, including, but not limited to any tax, fee, levy, assessment or charge which is imposed on the Premises during the Lease Term (including increases or reassessments which are a result of a reassessment of the Premises in the ordinary course of business for the taxing authority following a transfer, either partial or total, of Landlord's interest

in this Lease or the Premises but expressly excluding any Transfer Taxes (as hereinafter defined)), by any authority having the power to so charge or tax, whether general, special, ordinary or extraordinary, together with costs and expenses of contesting the validity or amount thereof.

(d) "Transfer Taxes" mean any federal, state, county, local, and other transfer, conveyance, documentary transfer, stamp duty, recording or other similar Tax, fee or charge (including any interest, penalties and additions attributable thereto) imposed in connection with the recording of any sale, transfer, or assignment of the Premises or Landlord's interest therein.

(e) "Taxes" shall mean (i) all federal, state, county, or local governmental or municipal taxes, fees, assessments, charges or other impositions of every kind and nature, whether general, special, ordinary or extraordinary, general and special assessments, transit assessments, fees and taxes, leasehold taxes or taxes based upon the receipt of rent, including gross receipts or sales taxes applicable to the receipt of rent, personal property taxes imposed upon the Tenant's Property, which Landlord shall pay during any calendar year because of or in connection with the ownership, leasing and operation of the Premises or Landlord's interest therein; and (ii) any reasonable expenses incurred by Landlord in contesting such taxes or assessments and/or the assessed value of the Premises.

Notwithstanding anything to the contrary in this Lease, Real Estate Taxes and Taxes shall not include Transfer Taxes, net income taxes of Landlord, franchise, corporate, capital stock, gift, transfer, intangible estate, succession, or inheritance taxes or any federal, state or local documentary taxes impact fees or special assessments, penalties, late charges or the like attributable to the late payment by Landlord of Taxes or Real Estate Taxes. Taxes and Real Estate Taxes shall reflect any discount available to Landlord by prompt payment of such tax bill regardless of whether such prompt payment is actually made but only so long as Tenant shall have made its contribution within the applicable discount period.

Section 3.05 Tenant shall pay prior to delinquency all taxes assessed against and levied upon any of Tenant's Property (as hereinafter defined). Whenever possible, Tenant shall cause Tenant's Property to be assessed and billed separately from the real property of Landlord. If any of Tenant's Property shall be assessed with Landlord's real property, Tenant shall pay to Landlord the taxes attributable to Tenant within ten (10) business days after receipt of a written statement from Landlord setting forth the taxes applicable to Tenant's Property.

#### **ARTICLE 4 - SECURITY DEPOSIT**

Section 4.01 Security Deposit. Upon execution and delivery of this Lease by Tenant, Tenant shall deposit \$1,000,000.00 of the Security Deposit in cash (the "Initial Security Deposit") with Landlord; provided, however, that within forty-five (45) days following the execution and delivery of this Lease by Tenant (the "LOC Delivery Date"), Tenant shall deliver to Landlord the full Security Deposit in the amount set forth in Section 1.01 above in the form of a letter of credit (such letter of credit, together with any additional letters of credit required herein, and any renewals or replacements thereof, which complies with the requirements of Section 4.02 below,

collectively, the "Letter of Credit") in the amount of such full Security Deposit (the "LC Amount") and naming either Landlord or Landlord's mortgagee as beneficiary. Upon receipt by Landlord of the foregoing Letter of Credit, Landlord shall return the Initial Security Deposit to Tenant. The Security Deposit (including as and when applicable, the Initial Security Deposit) shall be held by Landlord as security for the performance by Tenant of all the terms, covenants, and conditions of this Lease to be kept and performed by Tenant during the Lease Term. In the event of a Default (hereinafter defined), Landlord may at its option apply all or any part of the Security Deposit to cure all or any part of such Default, or to compensate Landlord for any loss or damage that Landlord may suffer by reason of such Default; provided, however, that any such application by Landlord shall not be or be deemed to be an election of remedies by Landlord or considered or deemed to be liquidated damages. If the Security Deposit or any portion thereof is so applied by Landlord, Tenant agrees promptly, upon demand (but in no event later than five (5) days after receipt thereof), to deposit such additional sum with Landlord as may be required to maintain the full amount of the Security Deposit. All sums held by Landlord pursuant to this Article 4 shall be without interest and may be commingled by Landlord. Promptly after the end of the Lease Term, provided that there is then no uncured Default or any repairs required to be made by Tenant pursuant to Section 2.03 above or Section 7.02 below, Landlord shall return the Security Deposit to Tenant. Tenant hereby waives the provisions of any law, now or hereafter in force, which provide that Landlord may claim from a security deposit only those sums reasonably necessary to remedy defaults in the payment of Rent, to repair damage caused by Tenant or to clean the Premises, it being agreed that Landlord may, in addition, claim those sums reasonably necessary to compensate Landlord for any other loss or damage, foreseeable or unforeseeable, caused by the act or omission of Tenant or any officer, employee, agent or invitee of Tenant.

#### Section 4.02 Letter of Credit.

(a) The Letter of Credit for the Security Deposit shall (i) provide by its terms that it may be drawn in Orange County, California, (ii) be issued by a bank approved by Landlord in accordance with Section 4.02(c) below, which satisfies the LC Issuer Requirements, (iii) be clean, unconditional, transferable, and irrevocable, (iv) contain "evergreen provisions" requiring annual automatic renewal with a final expiration date no earlier than sixty (60) days after the end of the Lease Term, as the same may be extended (including during any holding over by Tenant) (the "LC Expiration Date"), (v) have an initial expiration date not sooner than twelve (12) months from the issuance thereof, (vi) otherwise be in the form and content identical to the form attached to this Lease as Exhibit J, and (vii) in any event, be subject to Landlord's prior written approval (as determined in Landlord's sole and absolute discretion). Except with the express written approval of Landlord, which approval may be given or withheld by Landlord for any reason or no reason at any time or from time to time in the sole, absolute and unfettered discretion of Landlord, Tenant may not be the applicant (as defined in Article 5 of the UCC) for any Letter of Credit nor otherwise be liable in any manner, or to any extent, to reimburse proceeds of any Letter of Credit.

(b) Tenant shall keep the Letter of Credit in full force and effect at all times during the Lease Term, as the same may be extended and through and including the LC Expiration Date. If, at any time prior to the end of the Lease Term, (i) the Letter of Credit then held by Landlord would by its terms expire, or (ii) the issuer shall notify Landlord that the Letter of Credit then held by Landlord will not be renewed, Tenant shall deliver a replacement letter of

credit to Landlord in form and content identical to the Letter of Credit except as to expiration and renewal dates and otherwise acceptable to Landlord in its sole and absolute discretion not later than sixty (60) days prior to the expiration of the then current Letter of Credit. Tenant shall be responsible for obtaining such replacement Letter of Credit at its sole expense. If Tenant shall fail to deliver a replacement letter of credit in strict accordance with the foregoing requirements, Landlord shall thereupon be authorized, without notice to Tenant or providing any opportunity to cure to Tenant, each and all of which are hereby irrevocably waived, to immediately draw the entire amount then remaining available under the Letter of Credit.

(c) The Letter of Credit shall be issued by a commercial bank acceptable to Landlord in its sole and absolute discretion (i) that is chartered under the laws of the United States, any State thereof or the District of Columbia, and which maintains deposits insured by the Federal Deposit Insurance Corporation; and (ii) whose long-term, unsecured and unsubordinated debt obligations are rated "investment grade" by Moody's Investors Service, Inc. (Moody's) or Standard & Poor's Ratings Services (S&P) or their respective successors (the "Rating Agencies") (which shall mean Baa3 or higher by Moody's and BBB- or higher by Standard & Poor's), or, if not rated by the Rating Agencies, having a BauerFinancial, Inc. rating of at least four (4) stars (collectively, the "LC Issuer Requirements"). If at any time the LC Issuer Requirements are not met, or if the financial condition of such issuer changes in any other materially adverse way, as determined by Landlord in its sole and absolute discretion, Tenant shall, within five (5) business days after transmittal of written notice by Landlord to Tenant, deliver to Landlord a replacement Letter of Credit in form and content identical to the Letter of Credit issued by a bank that then satisfies the LC Issuer Requirements (and Tenant's failure to do so shall, notwithstanding anything in this Lease to the contrary, constitute a Default for which there shall be no notice or grace or cure periods being applicable thereto other than the aforesaid five-day period). In addition to and not in limitation or derogation of all rights and remedies accorded to Landlord upon the occurrence of a Default under this Lease and/or by applicable law, Landlord shall thereupon be authorized, without notice to Tenant or providing any opportunity to cure to Tenant, each and all of which are hereby irrevocably waived, to immediately draw the entire amount then remaining available under the Letter of Credit.

(d) If the issuer of any Letter of Credit held by Landlord is insolvent or is placed into receivership or conservatorship by the Federal Deposit Insurance Corporation, or any successor or similar entity, or if a trustee, receiver or liquidator is appointed for the issuer, then, effective as of the date of such occurrence, said Letter of Credit shall be deemed to not satisfy the LC Issuer Requirements, and Tenant shall, within five (5) business days after transmittal of written notice by Landlord to Tenant, (i) deposit with Landlord in an amount equal to the LC Amount or (ii) deliver to Landlord a replacement Letter of Credit in form and content identical to the Letter of Credit issued by a bank that then satisfies the LC Issuer Requirements (and Tenant's failure to do so shall, notwithstanding anything in this Lease to the contrary, constitute a Default for which there shall be no notice or grace or cure periods being applicable thereto other than the aforesaid five business-day period).

(e) In the event of the occurrence of a Default, in addition to and not in limitation or derogation of any or all of its other remedies contained in this Lease and/or applicable law, Landlord shall have the right (but not the obligation) to immediately draw all or

any part of the amount then remaining available under the Letter of Credit. In the event of any such draw, Tenant shall forthwith provide Landlord with an additional letter of credit in an amount sufficient to restore the aggregate amounts of the Letter(s) of Credit held by Landlord to the LC Amount.

(f) Landlord may use or apply the whole or any part of the amounts drawn on the Letter of Credit (the "LC Proceeds") for the payment of any of Tenant's obligations under this Lease. At Landlord's election, any LC Proceeds not otherwise applied to amounts then due Landlord shall be held to secure the prompt, full, and faithful payment and performance by Tenant of each and all of the obligations of Tenant under this Lease. Tenant's obligation to furnish the Letter of Credit and any use, application or retention by Landlord of all or any part of the LC Proceeds shall not be deemed in any way to constitute liquidated damages for any default by Tenant, or to limit the remedies to which Landlord is otherwise entitled under the terms of this Lease and/or applicable law. In the event the LC Proceeds are reduced below the LC Amount by any such use or application, Tenant shall deposit with Landlord, within ten (10) days after notice, an amount sufficient to restore the amount of the LC Proceeds to the LC Amount. Landlord shall not be required to keep the LC Proceeds separate from Landlord's general funds or pay interest on the LC Proceeds. Provided Tenant has performed all of its obligations under this Lease, any remaining portion of the LC Proceeds shall be returned to Tenant within thirty (30) days after the LC Expiration Date. No trust or fiduciary relationship is created herein between Landlord and Tenant with respect to the LC Proceeds.

(g) In the event of a transfer of Landlord's interest in the Premises, Landlord shall have the right to transfer the Letter of Credit and/or any LC Proceeds to the transferee and Landlord shall thereupon and without any further agreement between the parties, be forever released by Tenant from all liability therefor (including, without limitation, from all liability for the return of the LC Proceeds), and it is agreed that the provisions hereof shall apply to every transfer of said Letter of Credit to a new landlord.

(h) Landlord shall return the Letter of Credit to Tenant within thirty (30) days following the expiration of the Lease Term; provided however, no such return shall be required if Tenant shall have failed to perform each and all of its obligations under the Lease as and when required under the terms of the Lease, without regard to the expiration of any applicable notice or cure periods, and without regard to whether a Default then exists under this Lease.

Section 4.03 Potential Reduction. Notwithstanding any of the foregoing, provided Tenant is not then in Default, and has made timely and complete payments of Rent for each of the preceding twelve (12) months, then the Security Deposit shall be reduced by \$533,000 each year (but in any event, not below \$601,000), provided that the first possible reduction thereof shall in no event occur prior to the date that is thirteen (13) months from the first day of the first month immediately following the Commencement Date. If the Security Deposit is in the form of a Letter of Credit which is not self-reducing, then Tenant may (but shall not be required to) deliver to Landlord (i) in cooperation with Landlord, an endorsement to the Letter of Credit evidencing such reduction or (ii) a replacement letter of credit in the applicable reduced amount (in the same form as the Letter of Credit).

## ARTICLE 5 - OCCUPANCY AND USE

Section 5.01 Use. Tenant shall use the Premises for the Permitted Use in compliance with all applicable laws and for no other purpose without the prior written consent of Landlord, which may be granted or withheld in Landlord's sole and absolute discretion.

### Section 5.02 Covenants of Tenant Regarding Use.

(a) Tenant shall (i) use and maintain the Premises and conduct its business thereon in a safe, careful, reputable and lawful manner, (ii) comply with all covenants that encumber the Premises and all laws, rules, regulations, orders, ordinances, directions and requirements of any governmental authority or agency, now in force or which may hereafter be in force, including, without limitation, those which shall impose upon Landlord or Tenant any duty with respect to or triggered by a change in the use or occupation of, or any improvement or alteration to, the Premises and all applicable Environmental Laws, and (iii) comply with and obey all reasonable directions, rules and regulations of Landlord, including without limitation the "Rules and Regulations" attached hereto as **Exhibit E** and made a part hereof, as may be modified from time to time by Landlord on reasonable notice to Tenant and relating to the usage of Hazardous Substances as set forth in Article 15 below. Tenant covenants and agrees that it shall not permit any of its employees, agents, contractors, vendors or shippers to park, stack or queue trucks, automobiles, trailers or other vehicles on any of the public streets in the general vicinity of the Premises. Tenant further covenants and agrees that, unless Tenant has received Landlord's prior written consent (which consent may be withheld by Landlord in its sole and absolute discretion) Tenant shall not cause, allow or permit any rail transportation service or rail car use, storage, movement or activity at the Premises.

(b) Tenant shall not overload any structures or systems of the Building or other portion of the Premises. All damage to the floor structure or foundation of the Building due to improper positioning or storage of items or materials shall be repaired by Landlord at the sole expense of Tenant, who shall reimburse Landlord immediately therefor upon demand. Tenant shall not use the Premises, nor allow the Premises to be used, for any purpose or in any manner that would (i) invalidate any policy of insurance now or hereafter carried by Landlord on the Building, or (ii) increase the rate of premiums payable on any such insurance policy unless Tenant reimburses Landlord for any increase in premium charged.

(c) [Intentionally Omitted]

(d) Tenant covenants and agrees to keep the Premises free and clear of and from any and all mechanics' materialmens' and other liens for work or labor done, services performed, materials, appliances, transportation or power contributed, used or furnished or to be used in or about the Premises for or in connection with any operations of Tenant, any alterations, improvements, repairs or additions, which Tenant may make or permit or cause to be made, or any work or construction by, for or permitted by Tenant on or about the Premises; and at all times Tenant shall promptly and fully pay and discharge any and all claims upon which any such lien may or could be based; and Tenant shall save and hold Landlord and all of the Premises free and

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harmless of and from any and all such liens and claims of liens and suits or other proceedings pertaining thereto.

Section 5.03 Landlord's Rights Regarding Access and Use. Without limiting any of Landlord's rights specified elsewhere in this Lease, Landlord, its agents, employees and contractors and any mortgagee of the Premises or any portion thereof shall have the right to enter any part of the Premises at reasonable times upon reasonable notice (except in the event of an emergency where no notice shall be required) for the purposes of examining or inspecting the same (including, without limitation, testing to confirm Tenant's compliance with this Lease), showing the same to prospective purchasers, mortgagees or tenants, and making such repairs, alterations or improvements to the Building or any other portion of the Premises as Landlord may deem necessary or desirable, including to perform any work therein that may be necessary by reason of Tenant's Default under the provisions of this Lease. Landlord shall incur no liability to Tenant for such entry except to the extent directly caused by the gross negligence or wilfull misconduct of Landlord or, its agents, employees and contractors, nor shall such entry constitute an actual or constructive eviction of Tenant or a termination of this Lease, or entitle Tenant to any abatement of rent therefor.

## **ARTICLE 6 - UTILITIES**

Tenant shall obtain in its own name and pay directly to the appropriate supplier the cost of all utilities and services serving the Premises. Landlord shall not be liable in damages or otherwise for any failure or interruption of any utility or other such service or utility and no such failure or interruption shall entitle Tenant to terminate this Lease or withhold sums due hereunder or constitute an actual or constructive eviction of Tenant. Notwithstanding the foregoing, in the event that Tenant is prevented from using the Premises or any portion thereof as a result of a disruption of utilities to the Premises caused solely by the intentional acts of Landlord (a "Trigger Event"), then Tenant shall give Landlord written notice thereof and if such Trigger Event continues for three (3) consecutive business days from the date which Landlord has received notice (such period herein called the "Eligibility Period"), then Base Rent shall be equitably abated or reduced, as the case may be, after expiration of the Eligibility Period for such period of time that Tenant continues to be so prevented from using the Premises or a portion thereof to the extent of the interference.

## **ARTICLE 7 - REPAIRS, MAINTENANCE AND ALTERATIONS**

Section 7.01 Landlord Repair and Maintenance Obligations. Landlord shall be responsible for (a) with reimbursement from Tenant as Permitted Capital Costs (i.e. with the amortized cost thereof included in Operating Expenses provided in Article 3 above, notwithstanding that such costs would not otherwise be deemed Operating Expenses), the performance of all necessary replacements to the roof membrane and the parking lot and truck court areas and (b) at its sole cost and expense (i.e. without reimbursement as Operating Expenses), (i) the performance of all necessary repairs and maintenance to the Building footings, roof structure (as opposed to the roof membrane), under-floor heating/insulation items and equipment under and within the Building's foundation (excluding, however, the under-floor heating/insulation mechanical system which shall be Tenant's responsibility), load bearing walls,



foundation, and structural frame of the Building, and (ii) the performance of all necessary replacements to the Building footings, foundation, under-floor heating/insulation items and equipment under and within the Building's foundation (excluding, however, the under-floor heating/insulation mechanical system which shall be Tenant's responsibility) and structural frame of the Building, roof, load bearing walls, and all plumbing, sewer and electrical systems from the street to the walls of the Premises. Notwithstanding the foregoing, to the extent any such repairs, replacements or maintenance are required because of any gross negligence or willful misconduct on the part of Tenant, its employees, agents, contractors, customers or invitees, Landlord shall make such repairs at Tenant's sole expense. Landlord shall not be obligated to maintain or to make any repairs or replacements of any kind, nature or description whatsoever to the Premises or any thereon for any reason whatsoever, except as clearly and specifically stated to be a Landlord obligation in this Lease.

Section 7.02 Tenant Repair and Maintenance Obligations. Subject to Section 7.01 above, Tenant shall be responsible for all repair, maintenance and replacement obligations relating to the Premises at its own cost and expense, and shall maintain the Premises in good and fully operating condition and repair, regularly servicing and promptly making all repairs thereto, including but not limited to roof membrane (repair and maintenance only), fire life safety systems (including any in-rack sprinklers), parking lot and truck court areas, landscaping, Refrigeration Equipment (including the under-floor heating/insulation mechanical system), plate glass, floors, windows and doors, dockdoors, levelers, trash compactors, all plumbing, sewer and electrical systems exclusively serving the Premises from the connection point from the walls of the Premises, heating, ventilating and air-conditioning ("HVAC") systems, water treatment, fire life safety monitoring, and generators. In addition, Tenant shall be responsible at its own cost and expense for all security at the Premises and the performance of all necessary (i) replacements to the fire life safety systems (including any in-rack sprinklers) and (ii) snow removal and pest control at the Premises. Without limiting the generality of Tenant's obligations in the immediately preceding sentence, Tenant shall cause the roof membrane and all HVAC and Refrigeration Equipment within the Premises to each be covered, throughout the Lease Term (as may be extended), by a current full-service inspection and repair maintenance contract with an accredited roof contractor as required pursuant to Landlord's roof warranty, accredited HVAC maintenance firm and an accredited Refrigeration Equipment maintenance firm, respectively, and in a form of contract (including services to be provided) approved in advance by Landlord prior to execution (such roof membrane maintenance contract so approved by Landlord shall be referred to herein as the "Roof Maintenance Contract," such HVAC equipment maintenance contract so approved by Landlord shall be referred to herein as the "HVAC Maintenance Contract" and such Refrigeration Equipment maintenance contract so approved by Landlord shall be referred to herein as the "Refrigeration Maintenance Contract" and the foregoing shall be collectively referred to herein as the "Maintenance Contracts"). In no event shall Landlord's approval of the Maintenance Contracts be unreasonably withheld, conditioned or delayed and failure of Landlord to respond to any approval request from Tenant for the Maintenance Contracts shall be deemed approved should Landlord fail to respond with five (5) business days from Tenant's request. The Maintenance Contracts and services included therein shall be paid for by the Tenant directly to the applicable maintenance provider. A copy of each signed Maintenance Contract shall be forwarded to Landlord within ten (10) days following execution thereof. Tenant shall comply with and abide by all Codes affecting the Premises, the improvements thereon, the business to be

conducted therein and thereon by Tenant, or any activity or condition on or in the Premises. Except for items that are expressly identified in this Lease as being the responsibility of Landlord, Tenant shall promptly replace any portion of the Premises or any system, equipment or component in or serving the Premises that cannot be fully repaired, regardless of whether the benefit of such replacement extends beyond the Lease Term. Tenant shall maintain the Premises in an orderly, first-class and fully operating condition as required for the Permitted Use. Except for Landlord's obligations set forth in Section 7.01 above, Landlord shall have no obligation to repair or maintain the Premises, the improvements or any areas adjacent thereto. Notwithstanding anything to the contrary in this Lease, if (1) Tenant is required to incur an expense under this Section 7.02 in connection with a repair or replacement of the Refrigeration Equipment and mechanical refrigeration system (other than as a result of any acts or omissions of Tenant, excluding ordinary wear and tear), and (2) the expense is the result of a single repair, replacement, addition, alteration, change or improvement estimated to cost in excess of \$25,000, after expiration of the Refrigeration Warranty Period then (i) Landlord shall perform and pay for such repair or replacement and (ii) the cost thereof shall be amortized over the Lease Term with interest at 7%, and the portion thereof amortized over the Lease Term included, as amortized, as part of the Operating Expenses payable by Tenant hereunder. Tenant shall comply with and abide by all applicable laws affecting the Premises, the improvements thereon, the business to be conducted therein and thereon by Tenant, and any activity or condition on the Premises. If Landlord notifies Tenant of failure to perform any repair, replacement, or maintenance required hereunder, and Tenant does not commence performance of such repair, replacement or maintenance within ten (10) business days of receipt of such notice, then Landlord may (but shall have no obligation to) perform such repair, replacement or maintenance, and Tenant shall pay to Landlord within ten (10) days of receipt of Landlord's invoice therefor, the amount of all costs incurred by Landlord in connection therewith plus an overhead allowance equal to fifteen percent (15%) of such costs.

Section 7.03 Alterations. Tenant shall not make any additions, alterations, changes or improvements (each, an "Alteration") to the Premises or any portion thereof without the prior written approval of Landlord, which shall not be unreasonably withheld unless the same shall affect any portion of the Property for which Landlord is responsible pursuant to Section 7.01 of this Lease; provided, however, without the consent of Landlord, Tenant shall be permitted to make Alterations costing less than (i) \$25,000.00 with respect to any single project and (ii) \$100,000.00 during any consecutive 12-month period, provided the same do not affect any portion of the Property for which Landlord is responsible pursuant to Section 7.01 of this Lease or the HVAC or other Building system (each, a "Minor Alteration"). Any request for Landlord's approval of an Alteration shall be presented to Landlord in writing, accompanied by detailed drawings and specifications. Landlord shall use commercially reasonable efforts to respond within seven (7) business days to any request by Tenant for approval of any such Alteration. Upon termination of this Lease, all such Alterations shall become a part of the realty and the property of Landlord, and shall not be removed by Tenant, and Tenant shall not be obligated to restore the Premises to its pre-Alteration configuration as of the Commencement Date. Tenant shall ensure that all Alterations shall be made in accordance with all applicable laws, regulations and building codes, in a good and workmanlike manner and of quality equal to or better than the original construction of the Building or applicable portion of the Premises.

Section 7.04 ADA. Notwithstanding any provision to the contrary in this Lease, Landlord and Tenant hereby agree that Tenant, at its sole cost, is responsible for making any repairs within the Premises to correct violations of construction-related accessibility standards under The Americans with Disabilities Act of 1990 (as the same may be amended) or any other applicable law; and, if anything done by or for Tenant in its use or occupancy of the Premises, including without limitation making any Alterations or constructing any tenant improvements, shall require or otherwise trigger repairs to the Building to correct violations of construction-related accessibility standards, then Tenant shall, at Landlord's option, either perform such repairs at Tenant's sole cost and expense or reimburse Landlord upon demand, as Additional Rent, for the cost to Landlord of performing such repairs.

## **ARTICLE 8 - INDEMNITY AND INSURANCE**

Section 8.01 Release. All of Tenant's trade fixtures, merchandise, inventory and all other personal property in or about the Premises which is deemed to include the trade fixtures, equipment, merchandise, inventory and personal property of others located in or about the Premises at the invitation, direction or acquiescence (express or implied) of Tenant (all of which property shall be referred to herein, collectively, as "Tenant's Property"), shall be and remain at Tenant's sole risk. Landlord shall not be liable to Tenant or to any other person for, and Tenant hereby releases Landlord from (a) any and all liability for theft or damage to Tenant's Property, and (b) any and all liability for any injury to Tenant or its employees, agents, contractors, guests and invitees in or about the Premises except to the extent of personal injury (but not property loss or damage) caused directly by the gross negligence or willful misconduct of Landlord, its agents, employees or contractors. Nothing contained in this Section 8.01 shall limit (or be deemed to limit) the waivers contained in Section 8.05 below. In the event of any conflict between the provisions of Section 8.05 below and this Section 8.01, the provisions of Section 8.05 shall prevail. This Section 8.01 shall survive the expiration or earlier termination of this Lease.

Section 8.02 Indemnification. Tenant hereby assumes all risk of damage to property and injury to persons, in, on, or about the Premises from any cause whatsoever and covenants and agrees that Landlord, and its members, sub-members, managers, shareholders, partners and subpartners, and their respective officers, directors, agents, property managers, servants, employees, and independent contractors (collectively, "Landlord Representatives") shall not at any time or to any extent whatsoever be liable, responsible, or in any way be accountable for any loss, injury, death or damage to persons or property which at any time may be suffered or sustained by Tenant or by any person or entity who may at any time be using, occupying or visiting the Premises during the Lease Term, or be in, on, or about the same, whether such loss, injury, death or damage shall be caused by or in any way result from or arise out of any act, omission or negligence of Tenant or any occupant, subtenant, visitor or user of any portion of the Premises or from fire, steam, electricity, water, rain, act of God, or from breakage or leakage or any defect in any pipes, sprinklers or fixtures, or plumbing, electrical or heating and air conditioning systems, or from any other cause other than resulting from the gross negligence or willful misconduct of Landlord or any Landlord Representative or any of Landlord's members, shareholders, managers, contractors, invitees, or subtenants. Tenant hereby releases Landlord and Landlord's Representatives and agrees to protect, indemnify, defend, hold and save Landlord and

Landlord's Representatives free and harmless of, from, and against any and all claims, damages, demands, penalties, costs, liabilities, losses, and expenses (including without limitation reasonable attorneys' fees and expenses at the trial and appellate levels) arising from any cause in, on or about the Premises during the Lease Term or Tenant's occupancy of the Premises (including, without limitation, Tenant's installation, placement and removal of alterations, improvements, fixtures and/or equipment in, on or about the Premises), and any acts, omissions or negligence of Tenant or of any person claiming by, through or under Tenant, or of the Tenant Parties or any such person, in, on or about the Premises, in all such cases except to the extent of personal injury (but not property loss or damage) caused directly by the gross negligence or willful misconduct of Landlord or any Landlord Representative. Nothing contained in this Section 8.02 shall limit (or be deemed to limit) the waivers contained in Section 8.05 below. In the event of any conflict between the provisions of Section 8.05 below and this Section 8.02, the provisions of Section 8.05 shall prevail. This Section 8.02 shall survive the expiration or earlier termination of this Lease.

Section 8.03 Tenant's Insurance. From and after the date (the "Insurance Start Date") which is the earlier of (i) the date Tenant enters any portion of the Premises for any reason, or (ii) the Commencement Date, and continuing thereafter throughout the Lease Term, Tenant, at Tenant's sole cost and expense, shall procure and maintain in full force and effect, the following coverages in the following amounts.

(a) Commercial General Liability Insurance covering the insured against claims of bodily injury, personal injury and property damage arising out of Tenant's operations, assumed liabilities or use of the Premises, including a Broad Form Commercial General Liability endorsement covering the insuring provisions of this Lease and the performance by Tenant of the indemnity agreements set forth in Section 8.02 above, for limits of liability not less than:

Bodily Injury and Property Damage Liability	\$5,000,000.00 each occurrence \$5,000,000.00 annual aggregate
Personal Injury Liability	\$5,000,000.00 each occurrence \$5,000,000.00 annual aggregate 0% Insured's participation

(b) Physical Damage Insurance covering (i) all furniture, trade fixtures, equipment, merchandise, inventory, stock-in-trade and all other items of Tenant's property on the Premises installed by, for, or at the expense of Tenant, and other Tenant's Property; and (ii) all Leasehold Improvements (as defined below). Such insurance shall be written on an "all risks" of physical loss or damage basis, for the full replacement cost value new without deduction for depreciation of the covered items and in amounts that meet any co-insurance clauses of the policies of insurance and shall include a vandalism and malicious mischief endorsement, sprinkler leakage coverage, business interruption and earthquake sprinkler leakage coverage. For purposes hereof, the "Leasehold Improvements" shall collectively mean all tenant and other improvements in and to the Premises, including, without limitation, all such tenant and other improvements in, on or to the Premises as of the date of mutual execution and delivery of this Lease and all

additions, alterations, changes and improvements made in or to the Premises after the date of mutual execution and delivery of this Lease.

(c) If any boiler or machinery is operated in the Premises, then boiler and machinery insurance.

(d) Comprehensive Automobile liability insurance having a combined single limit of not less than One Million and 00/100 Dollars (\$1,000,000.00) per accident and insuring Tenant against liability for claims arising out of Tenant's ownership, maintenance and/or use of any owned, hired or non-owned automobiles.

(e) Workers' compensation and employer's liability insurance in amounts as required under all applicable laws.

(f) Business interruption, loss-of-income and extra expense insurance in such amounts as will reimburse Tenant for direct or indirect loss of earnings attributable to all perils commonly insured against by prudent tenants or attributable to prevention of access to the Premises as a result of such perils.

(g) Coverage for earthquake and flood risks.

Under no circumstance shall the minimum limits of policies of insurance required of Tenant under this Lease limit the liability of Tenant under this Lease. Such insurance shall: (i) name Landlord, Landlord's property manager, Landlord's mortgagee(s) of the Premises (or any portion thereof) and any other party Landlord specifies in writing to Tenant which has an interest in the Premises as an additional insured or loss payee (as their respective interests may appear); (ii) with respect to Tenant's liability insurance, specifically cover the liability assumed by Tenant under this Lease, including, but not limited to, Tenant's obligations under Section 8.02 above (as applicable); (iii) be issued by an insurance company having a rating of not less than A-X in Best's Insurance Guide and a claims paying ability rating of AA or better by S&P, or which is otherwise acceptable to Landlord and licensed to do business in the state in which the Premises is located; (iv) be primary insurance as to all claims thereunder and provide that any insurance carried by Landlord is excess and is non-contributing with any insurance requirement of Tenant; provided, however, the Landlord's Insurance as described in Section 8.04 shall be primary as to any Building loss; (v) provide that said insurance shall not be canceled or coverage changed unless thirty (30) days' prior written notice shall have been given to Landlord and any mortgagee or ground or underlying lessor of Landlord; (vi) contain a cross-liability endorsement or severability of interest clause acceptable to Landlord; and (vii) have deductible amounts reasonably acceptable to Landlord. Tenant shall deliver certificates evidencing the required coverages to Landlord on or before the Insurance Start Date and at least ten (10) days before the expiration dates of the applicable policies. If Tenant shall fail to procure such insurance, or to deliver such policies or certificate, within such time periods, Landlord may, at its option, in addition to all of its other rights and remedies under this Lease, and without regard to any notice and cure periods set forth in Section 13.01, procure such policies for the account of Tenant, and the cost thereof shall be paid to Landlord as Additional Rent within ten (10) days after delivery of bills therefor. In

addition, upon request from Landlord, Tenant shall deliver to Landlord an insurance loss run report for the Premises.

Section 8.04 Landlord's Insurance. During the Lease Term, Landlord shall keep the Premises (including but not limited to the Buildings, but excluding Tenant's Property) insured in such form and with such policy limits as Landlord may determine from time to time against (i) all risks (as the term "all risk" is used in the insurance industry), (ii) earthquake and flood risks, and (iii) any other insurance coverage deemed appropriate by Landlord (or, if applicable, required by Landlord's lender), in such form and with such policy limits as Landlord may determine from time to time. In the event of any insured loss, tenant shall be liable to Landlord for any deductible or coinsurance amount claimed by the insurance carrier. The insurance set forth in this Section 8.04 shall be referred to collectively herein as "Landlord's Insurance" and the cost therefor shall be included in Operating Expenses to the extent permitted in Article 3 above. All insurance maintained by Landlord shall be in addition to and not in lieu of the insurance required to be maintained by Tenant.

Section 8.05 Waiver of Subrogation. Notwithstanding anything to the contrary in this Lease, Landlord and Tenant mutually waive their respective rights of recovery against each other and each other's officers, directors, constituent partners, members, agents and employees, and Tenant further waives such rights against (a) each lessor under any ground or underlying lease encumbering the Premises and (b) each lender under any mortgage or deed of trust or other lien encumbering the Premises (or any portion thereof or interest therein), to the extent any loss is insured against or required to be insured against under this Lease, including, but not limited to, losses, deductibles or self-insured retentions covered by Landlord's or Tenant's insurance required to be obtained hereunder. This provision is intended to waive, fully and for the benefit of each party to this Lease, any and all rights and claims that might give rise to a right of subrogation by any insurance carrier. Each party shall cause its respective insurance policy(ies) to be endorsed to evidence compliance with such waiver.

## **ARTICLE 9 - CASUALTY**

In the event of total or partial destruction of the Building or the Premises as a whole by fire or other casualty, Landlord agrees to promptly restore and repair the same; provided, however, Landlord's obligation hereunder shall be limited to the improvements on the Premises constructed by Landlord as they existed as of the Commencement Date, and shall specifically exclude Tenant's Property (the restoration and repair of which shall be completed by Tenant promptly following the casualty date). Rent shall proportionately abate during the time that the Premises or portion thereof is unusable because of any such damage to the extent Tenant does not actually use the Premises or applicable portion thereof. Notwithstanding the foregoing, if the damage to the Premises (a) cannot reasonably be repaired or rebuilt within two hundred ten (210) days from the casualty date, as determined by Landlord or such casualty occurs in the final year of the Lease Term; or (b) is not covered by the insurance required hereunder or, if covered, such insurance proceeds are not released by any mortgagee entitled thereto or are insufficient to rebuild the Building and/or the Premises as a whole; then, in case of a clause (a) casualty, either Landlord or Tenant may, or, in the case of a clause (b) casualty, then Landlord may, upon thirty (30) days' written notice to the other party, terminate this Lease with respect to matters thereafter accruing.

To the fullest extent permitted by law, Tenant waives any right under applicable laws currently or hereinafter in effect that is inconsistent with the terms of this paragraph.

#### **ARTICLE 10 - EMINENT DOMAIN**

If all or any substantial portion of the Premises shall be acquired by the exercise of eminent domain, Landlord may terminate this Lease by giving written notice to Tenant on or before the date possession thereof is so taken. If all or any portion of the Premises shall be acquired by the exercise of eminent domain so that the Premises shall become impractical for Tenant to use for the Permitted Use, Tenant may terminate this Lease by giving written notice to Landlord prior to the date possession thereof is so taken. All damages awarded shall belong to Landlord; provided, however, that Tenant may claim dislocation damages only to the extent such claim does not decrease Landlord's award of damages, and Tenant may claim damages related to Tenant's personal property, if any.

#### **ARTICLE 11 - ASSIGNMENT AND SUBLEASE**

Section 11.01 General Transfer Requirements; Procedure. Tenant shall not assign, mortgage, pledge, hypothecate, encumber, or otherwise transfer, this Lease or any interest hereunder or sublet the Premises or any portion thereof (each, a "Transfer"), without Landlord's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. At least ninety (90) days prior to the effective date of any proposed Transfer, Tenant shall deliver written notice to Landlord thereof, which shall include the name of the proposed transferee, the term, use, rental rate and other relevant particulars of the proposed Transfer, including, without limitation, evidence satisfactory to Landlord that such proposed Transferee will not use, store or dispose of any Hazardous Substances in or on the Premises (the "Transfer Notice"). By way of example and not limitation, Landlord shall be deemed to have reasonably withheld consent to a proposed Transfer if in Landlord's opinion (i) the financial worth of the proposed transferee is insufficient to meet the obligations hereunder or is otherwise less than that of the originally named Tenant hereunder, (ii) the proposed transferee proposes to change the use of the Premises for other than the Permitted Use and such proposed use is not a then legal use, (iii) the proposed transferee and/or its proposed use of the Premises violates any exclusive use covenants within the development, if applicable, or (iv) the proposed transferee is a current tenant of the Premises or is a bona-fide third-party prospective tenant. No Transfer of this Lease shall be effective and valid unless and until Tenant has delivered (a) any additional evidence, documentation, or other information Landlord may reasonably require to inform its decision to grant or withhold its consent, and (b) an executed counterpart of the document evidencing the Transfer which is in a form reasonably approved by Landlord and contains the same terms and conditions as stated in the Transfer Notice.

Section 11.02 Effect of Transfer. Any attempted Transfer without Landlord's consent shall constitute a Default and shall be voidable at Landlord's option. Any Transfer consented to by Landlord shall not relieve Tenant (or any applicable transferee) from obtaining Landlord's consent to any subsequent Transfer. In the event of any Transfer, Tenant shall remain primarily liable hereunder, and any renewal, extension, or other similar rights or options granted to Tenant under this Lease shall be rendered void and of no further force or effect. The acceptance of Rent

from any other entity or person shall not be deemed to be a waiver of any of the provisions of this Lease or to be a consent to any Transfer. If Landlord receives a Transfer Notice for a Transfer other than a Permitted Transfer as set forth in Section 11.05 below, Landlord may, at its option, within thirty (30) days after receipt thereof, terminate this Lease by giving Tenant notice of such election to terminate at least thirty (30) days prior to the effective date thereof, and upon such termination neither Landlord nor Tenant shall have any further rights or obligations under this Lease except for those that have accrued prior to the date thereof and which expressly survive the expiration or earlier termination of this Lease.

Section 11.03 Transfer Premium; Landlord's Fees. If Tenant shall make any Transfer with Landlord's consent and the terms of such Transfer include a rental amount in excess of the Rent payable under this Lease, Tenant shall pay to Landlord fifty percent (50%) of any such excess rental upon receipt. Whether or not Landlord consents to any proposed Transfer, Tenant shall pay Landlord's review and processing fees, as well as any reasonable professional fees (including, without limitation, attorneys', accountants', architects', engineers' and consultants' fees) incurred by Landlord, within thirty (30) days after written request by Landlord; provided, however, the foregoing fees shall not exceed Three Thousand Five Hundred and 00/100 Dollars (\$3,500.00).

Section 11.04 Deemed Transfers. For purposes of this Lease, the term "Transfer" shall also include, whether voluntary or involuntary and whether effected by death, operation of law or otherwise, (i) if Tenant is a partnership, the withdrawal or change, voluntary, involuntary or by operation of law, of more than fifty percent (50%) or more of the partners, or transfer of more than fifty percent (50%) or more of partnership interests, within a twelve (12)-month period, or the dissolution of the partnership without immediate reconstitution thereof, and (ii) if Tenant is a closely held corporation (*i.e.*, whose stock is not publicly held and not traded through an exchange or over the counter), (A) the dissolution, merger, consolidation or other reorganization of Tenant or (B) the sale or other transfer of an aggregate of more than fifty percent (50%) or more of the voting shares of Tenant (other than to immediate family members by reason of gift or death), within a twelve (12)-month period, or (C) the sale, mortgage, hypothecation or pledge of an aggregate of more than fifty percent (50%) or more of the value of the unencumbered assets of Tenant within a twelve (12)-month period.

Section 11.05 Permitted Transfers. Notwithstanding anything to the contrary in this Lease, a Permitted Transfer shall not be deemed an assignment, sublease or Transfer under this Lease, shall not require Landlord's consent and shall not trigger any recapture or rent-sharing provisions of this Lease, provided that (i) Tenant provides Landlord with notice promptly following the consummation of the applicable transaction, (ii) following the closing of such Permitted Transfer, Tenant promptly supplies Landlord with any documents or information reasonably requested by Landlord regarding such Permitted Transfer or such Permitted Transferee, (iii) such Permitted Transfer is not a subterfuge by Tenant to avoid its obligations under this Lease, and (iv) the Permitted Transferee shall have a tangible net worth (not including goodwill as an asset) computed in accordance with generally accepted accounting principles ("Net Worth") at least equal to the Net Worth of Tenant on the day immediately preceding the effective date of such Permitted Transfer. Any Permitted Transferee in connection with a Permitted Transfer shall be deemed the original Tenant for all purposes of this Lease (including without



limitation options to renew or expand, and signage rights). As used herein, the term “Permitted Transfer” means a Transfer: (i) to any entity controlling Tenant, controlled by Tenant, or under common control with Tenant, (ii) to an entity into which Tenant is merged or consolidated, or (iii) to an entity to which all or substantially all of Tenant’s assets are transferred, but any merger, consolidation, or transfer of assets must be for a legitimate business purpose and not principally for the purpose of transferring Tenant’s interest in this Lease, or (iv) in connection with a public offering or private sale of 100% of the equity interest of Tenant. As used herein, the term “Permitted Transferee” means any transferee or the resulting Tenant arising from or in connection with a Permitted Transfer.

## **ARTICLE 12 - TRANSFERS BY LANDLORD**

Section 12.01 Sale of the Premises. Landlord shall have the right to sell the Premises, or any portion thereof, at any time during the Lease Term, and such sale shall operate to release Landlord from liability hereunder after the date of such conveyance.

Section 12.02 Estoppel Certificate. Within ten (10) days following receipt of a written request from Landlord, Tenant shall execute and deliver to Landlord, an estoppel certificate substantially in the form attached hereto as **Exhibit E**, which estoppel certificate may be relied upon by Landlord and by any purchaser or mortgagee of the Building, and/or any other party as may be reasonably specified by Landlord. Tenant’s failure or refusal to execute and deliver such statement within such ten-day period shall, at the option of Landlord, constitute a Default under this Lease, and in any event, shall be conclusive and binding upon Tenant that: (a) this Lease is in full force and effect, without modification, except as may be represented by Landlord; (b) there are no uncured defaults in Landlord’s performance and that Tenant has no right of offset, counterclaim or deduction against Base Rent or other payment obligations under this Lease; and (c) no more than one (1) months’ Base Rent or other payment obligations under this Lease has been paid in advance.

Section 12.03 Subordination; Attornment. Subject to the terms of this Section 12.03 and any SNDA, this Lease shall be subject and subordinate at all times to any mortgage, deed to secure debt, ground lease, deed of trust or other instrument in the nature thereof, and any amendments or modifications thereto (each, a “Mortgage”) presently existing or hereafter encumbering the Premises and Tenant shall recognize as its landlord and attorn to any person succeeding to Landlord under this Lease upon any foreclosure, or deed in lieu of foreclosure, of such Mortgage at the election of such successor-in-interest (such party herein called a “New Owner”). Such subordination shall be self-operative and no further instrument of subordination need be required by any owner or holder of any such Mortgage; provided, however, Landlord shall use commercially reasonable efforts to deliver to Tenant a subordination non-disturbance and attornment agreement in a commercially reasonable form executed by Landlord and the appropriate holder of such Mortgage (each, an “SNDA”). In connection with the foregoing, within thirty (30) days after Tenant’s execution of this Lease, Landlord shall use commercially reasonable efforts to provide Tenant with a commercially reasonable and mutually acceptable SNDA from the holder of the current Mortgage encumbering the Premises in substantially the form attached hereto as **Exhibit G**; provided, however, that neither the failure nor refusal of any Mortgage holder to execute and deliver an SNDA shall render Landlord liable therefor.

Furthermore, within ten (10) days following receipt of a written request from Landlord, Tenant shall execute and deliver to Landlord, without cost, an SNDA in substantially the form attached hereto as **Exhibit G** to the holder of a Mortgage, or New Owner deems reasonably necessary or desirable to confirm the subordination of this Lease and Tenant's attornment obligations. Notwithstanding the foregoing, any holder of a Mortgage shall have the right to elect, by written notice given to Tenant, to have this Lease be superior to its Mortgage. As long as Tenant is not in default (after notice and opportunity to cure as set forth in this Lease) under this Lease when New Owner acquires title to the Premises, New Owner will not disturb or otherwise interfere with Tenant's possession of the Premises for the remainder of the Lease Term, subject to the terms and conditions of the applicable SNDA.

### **ARTICLE 13 - DEFAULT AND REMEDY**

Section 13.01 Default. The occurrence of any of the following shall be a "Default":

(a) Tenant fails to pay any installments of Base Rent or Additional Rent within five (5) days after the same is due.

(b) Tenant fails to perform or observe any other term, condition, covenant or obligation required under this Lease for a period of thirty (30) days after written notice thereof from Landlord; provided, however, that if the nature of Tenant's Default is such that more than thirty (30) days is reasonably required to cure, then Tenant shall have such additional time to cure such Default as is reasonably necessary under the circumstances in question, provided that Tenant commences such curative efforts as soon as is reasonably practical within said thirty (30) day-period and thereafter diligently completes the required action within a reasonable time (not to exceed sixty (60) additional days).

(c) Tenant shall (i) abandon the Premises and/or (ii) cease to conduct its operations at the Premises in each case for a period of at least fourteen (14) consecutive days, regardless of whether or not a Default then exists under Section 13.01(a) above, except as a result of a Force Majeure event.

(d) Tenant shall Transfer all or a portion of the Premises in contravention of the provisions of Article 11 of this Lease.

(e) Tenant fails to comply with the restrictions contained in Section 5.02(a) of this Lease prohibiting on-street parking, stacking or queuing, or rail car usage.

(f) Tenant makes a general assignment for the benefit of creditors, files a voluntary petition of bankruptcy or reorganization, is the subject of an involuntary petition of bankruptcy or reorganization (which is not dismissed within twenty (20) days of such filing), or is subject to a receivership, attachment of judicial seizure of the Premises or substantially all of Tenant's assets on the Premises (any of which is not dismissed within twenty (20) days of such filing).

(g) Tenant fails to procure, maintain and deliver to Landlord evidence of the insurance policies and coverages as required under Article 8 above.

(h) Tenant fails to deliver the Initial Security Deposit concurrently with execution hereof.

(i) Tenant fails to deliver the Letter of Credit on or before the LOC Delivery Date.

(j) Tenant fails to provide Landlord with a replacement Letter of Credit or an amendment to the Letter of Credit after Landlord draws upon the Letter of Credit or for payment to apply the proceeds thereof in strict accordance with the provisions of Article 4 within ten (10) business days after the date of such draw upon the Letter of Credit.

(k) The delivery by Tenant to Landlord of any letter of credit that does not conform to the form of Letter of Credit attached hereto as **Exhibit J**.

In addition to the Defaults described above, the parties agree that if Tenant receives written notice of a violation of the performance of any (but not necessarily the same) term or condition of this Lease three (3) or more times during any twelve (12) month period, regardless of whether such violations are ultimately cured, then such conduct shall, at Landlord's option, be deemed a Default.

Section 13.02 Remedies. Upon the occurrence of any Default, and without further notice to Tenant, Landlord shall have the following rights and remedies, in addition to those stated elsewhere in this Lease and those allowed by law or in equity (all of which rights and remedies shall be distinct, separate and cumulative):

(a) Tenant's Right to Possession Not Terminated. Landlord can continue this Lease in full force and effect, and this Lease will continue in effect as long as Landlord does not terminate Tenant's right to possession, and Landlord shall have the right to collect Rent when due. During the period Tenant is in Default, Landlord can enter the Premises and relet the Premises, or any portion thereof, to third parties for Tenant's account. Tenant shall be liable immediately to Landlord for all costs Landlord incurs in reletting the Premises, including, without limitation, broker's commissions, expenses of remodeling the Premises required by the reletting, and like costs. Reletting can be for a period shorter or longer than the remaining Lease Term. Tenant shall pay to Landlord all Rent due under this Lease on the dates such Rent is due, less the Rent Landlord receives from any reletting. No act by Landlord allowed by this Section 13.02(a) shall terminate this Lease unless Landlord notifies Tenant that Landlord elects to terminate this Lease. After Tenant's Default and for so long as Landlord does not terminate Tenant's right to possession of the Premises, subject only to reasonable limitations, Landlord shall have the right to assign or sublet Tenant's interest in this Lease, but Tenant shall not be released from any liability hereunder.

(b) Termination of Tenant's Right to Possession. Landlord can terminate Tenant's right to possession of the Premises at any time. No act by Landlord other than giving notice to Tenant shall terminate this Lease, and Tenant hereby irrevocably waives any right otherwise available under any applicable laws to redeem or reinstate this Lease. Acts of maintenance, efforts to relet the Premises, or the appointment of a receiver on Landlord's

initiative to protect Landlord's interest under this Lease shall not constitute a termination of Tenant's right to possession. On termination Landlord has the right to recover from Tenant:

(i) The worth, at the time of the award of the unpaid Rent that had been earned at the time of termination of this Lease;

(ii) The worth, at the time of the award of the amount by which the unpaid Rent that would have been earned after the date of termination of this Lease until the time of award exceeds the amount of the loss of Rent that Tenant proves could have been reasonably avoided;

(iii) The worth, at the time of the award of the amount by which the unpaid Rent for the balance of the Lease Term after the time of award exceeds the amount of the loss of Rent that Tenant proves could have been reasonably avoided; and

(iv) Any other amount, and court costs, necessary to compensate Landlord for all detriment proximately caused by Tenant's Default. "The worth, at the time of the award," as used in (i) and (ii) of this Section 13.02(b), is to be computed by allowing interest at a rate equal to ten percent (10%) per annum. "The worth, at the time of the award," as referred to in (iii) of this Section 13.02(b), is to be computed by discounting the amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of the award, plus one percent (1%).

(c) Appointment of Receiver. Landlord shall have the right to have a receiver appointed to collect Rent. Neither the filing of a petition for the appointment of a receiver nor the appointment itself shall constitute an election by Landlord to terminate this Lease.

(d) Cure at Tenant's Cost. Landlord, may, at Landlord's option, cure a Default at Tenant's cost. If Landlord at any time, by reason of Tenant's Default, pays any sum or does any act that requires the payment of any sum, the sum paid by Landlord shall be due immediately from Tenant to Landlord at the time the sum is paid, and if paid at a later date shall bear interest at the Interest Rate from the date the sum is paid by Landlord until Landlord is reimbursed by Tenant. The sum, together with interest thereon, shall be deemed Additional Rent

(e) Other Available Remedies. Landlord may pursue any other remedy now or hereafter available under any laws or provision of this Lease without prior demand or notice except as required by applicable law, to seek any declaratory, injunctive or other equitable relief, and specifically enforce this Lease, or restrain or enjoin a violation or breach of any provision hereof. The expiration or termination of this Lease and/or the termination of Tenant's right to possession shall not relieve Tenant from liability under any indemnity provisions of this Lease as to matters occurring or accruing during the Lease Term or by reason of Tenant's occupancy of the Premises.

(f) Subleases of Tenant. Whether or not Landlord elects to terminate this Lease on account of any Default, Landlord shall have the right to terminate any and all subleases, licenses, concessions or other consensual arrangements for possession entered into by Tenant and affecting the Premises or may, in Landlord's sole discretion, succeed to Tenant's interest in such subleases, licenses, concessions or arrangements.

Section 13.03 Limitation of Landlord's Liability. IF LANDLORD SHALL FAIL TO PERFORM ANY TERM, CONDITION, COVENANT OR OBLIGATION REQUIRED TO BE PERFORMED BY IT UNDER THIS LEASE AND IF TENANT SHALL, AS A CONSEQUENCE THEREOF, RECOVER A MONEY JUDGMENT AGAINST LANDLORD, TENANT AGREES THAT IT SHALL LOOK SOLELY TO LANDLORD'S RIGHT, TITLE AND INTEREST IN AND TO THE PREMISES FOR THE COLLECTION OF SUCH JUDGMENT; AND TENANT FURTHER AGREES THAT NO OTHER ASSETS OF LANDLORD, OR OF ANY OWNER, PARTNER, MEMBER OR MANAGER IN OR OF LANDLORD, SHALL BE SUBJECT TO LEVY, EXECUTION OR OTHER PROCESS FOR THE SATISFACTION OF TENANT'S JUDGMENT.

Section 13.04 Nonwaiver of Defaults. Landlord's failure or delay in exercising any of its rights or remedies or other provisions of this Lease shall not constitute a waiver thereof or affect its right thereafter to exercise or enforce such right or remedy or other provision. No waiver of any Default shall be deemed to be a waiver of any other Default. Landlord's receipt of less than the full Rent due shall not be construed to be other than a payment on account of Rent then due, nor shall any statement on Tenant's check or any letter accompanying Tenant's check be deemed an accord and satisfaction. No act or omission by Landlord or its employees or agents during the Lease Term shall be deemed an acceptance of a surrender of the Premises, and no agreement to accept such a surrender shall be valid unless in writing and signed by Landlord.

Section 13.05 Attorneys' Fees. In the event of any action or proceeding brought by either party against the other under this Lease, the prevailing party shall be entitled to recover its attorneys' fees in such action or proceeding, including costs of appeal, if any, in such amount as the court or arbitrator may adjudge reasonable as and for attorneys' fees

#### **ARTICLE 14 - INTENTIONALLY OMITTED**

#### **ARTICLE 15 - TENANT'S RESPONSIBILITY REGARDING ENVIRONMENTAL LAWS AND HAZARDOUS SUBSTANCES**

##### **Section 15.01 Definitions**

(a) "Environmental Laws" shall mean all present or future federal, state and municipal laws, ordinances, rules and regulations regulating or relating to health, safety, or environmental conditions at, on, in, under, or about the Premises or the environment or natural resources, including but not limited to the following: the Comprehensive Environmental Response, Compensation and Liability Act; the Resource Conservation and Recovery Act; the Clean Air Act; the Clean Water Act; the Toxic Substances Control Act and all state and local counterparts thereto, and any common or civil law obligations including but not limited to nuisance or trespass.

(b) "Hazardous Substances" shall mean and include any substance, material, waste, pollutant, or contaminant that is or could be regulated under any Environmental Laws or that may adversely affect human health or the environment, including but not limited to any solid or hazardous waste, hazardous substance, asbestos, petroleum (including but not limited to crude

oil or any fraction thereof, natural gas, synthetic gas, polychlorinated biphenyls (PCBs), and radioactive material).

Section 15.02 Required Documentation; Transfer of Regulatory Ownership and System Responsibility.

(a) Prior to Tenant's execution of this Lease, Tenant shall deliver to Landlord an executed "Hazardous Substances Disclosure Certificate" in the form attached hereto as **Exhibit C**, describing Tenant's use of Hazardous Substances in the operation of its business, and any other reasonably necessary documents as requested by Landlord.

(b) If Tenant is required by applicable law or regulation, or by Landlord upon request, to prepare a hazardous materials business plan ("HMBP"), then Tenant shall provide Landlord with a copy of the current version of the HMBP on or before the fifteenth (15<sup>th</sup>) day of each calendar year throughout the Lease Term and any extension thereof.

(c) In addition, Tenant shall ensure, and provide documentation to Landlord for, compliance with all state and federal regulatory requirements applicable to Tenant's use and occupancy of the Premises, specifically including but not limited to the following:

(i) Occupational Safety and Health Organization (OSHA) Process Safety Management (PSM) Program—Code of Federal Regulations, Title 29, Subtitle B, Chapter XVII, Part 1910; "Occupational Safety and Health Standards";

(ii) Environmental Protection Agency (EPA) Risk Management Plan (RMP)—Code of Federal Regulations, Title 40, Chapter 1, Part 68; "Chemical Accident Prevention Provisions";

(iii) Tier II Reporting – Code of Federal Regulations, Title 42, Chapter 116, Section 11022, "Emergency and Hazardous Chemical Inventory Forms" as part of the "Emergency Planning and Community Right to Know; and

(iv) Department of Homeland Security – Chemical Facilities Anti-Terrorism Standard (CFATS) – Code of Federal Regulations, Title 6, Chapter 1, Subchapter 16 – "Chemical Facility Anti-Terrorism Standards".

Section 15.03 Hazardous Substances Usage. Tenant shall not, nor shall it cause or permit, the use, transportation, generation, release, manufacture, refining, production, processing, storage or disposal of any Hazardous Substances on, under or about the Premises, or the transportation to or from the Premises of any Hazardous Substances without Landlord's prior written consent, except for the use or storage of reasonable quantities of cleaning products and other products as are reasonably necessary to clean and maintain the Premises, or operate the Refrigeration Equipment, so long as such products are used, stored and disposed of in accordance with all Environmental Laws (collectively, the "Hazardous Substance Exceptions"). Tenant, at its sole cost and expense, shall operate its business in the Premises and on the Premises in compliance with all Environmental Laws and all requirements of this Lease, and, subject the Hazardous Substance Exceptions, shall remove all Hazardous Substances stored, disposed of or otherwise

released by Tenant onto or from the Premises as accordance with Section 15.04(b) below. Tenant shall not be entitled nor permitted to install any tanks under, on or about the any portion of the Premises for the storage of Hazardous Substances without the express written consent of Landlord, which may be given or withheld in Landlord's sole and absolute discretion.

Section 15.04 Notices; Remediation Obligations.

(a) Tenant shall immediately (a) notify Landlord of (i) any actual or alleged violation by Tenant, its employees, agents, representatives, customers, invitees or contractors of any Environmental Laws on, under or about the Premises, or (ii) the presence or suspected presence of any Hazardous Substances on, under or about the Premises other than as a result of any Hazardous Substance Exceptions, and (b) deliver to Landlord any notice received by Tenant relating to (a)(i) and (a)(ii) above from any source. Tenant shall execute affidavits, representations and the like within five (5) days of Landlord's request therefor concerning Tenant's best knowledge and belief regarding the presence of any Hazardous Substances on, under or about the Premises.

(b) Tenant, at its sole cost and expense, covenants and warrants to promptly investigate, clean up, remove, restore and otherwise remediate (including, without limitation, preparation of any feasibility studies or reports and the performance of any and all closures) any spill, release, discharge, disposal, emission, migration or transportation, incident or other consequences of its usage of Hazardous Substances arising from the acts or omissions of Tenant or Tenant's agents such that the affected portions of the Premises and any adjacent property are returned to the condition existing prior to such incident or Tenant's commencement of such usage of Hazardous Substances. Tenant shall provide a written certification to Landlord indicating that Tenant has complied with all applicable reporting requirements. Any such investigation, clean up, removal, restoration and other remediation shall only be performed after Tenant has obtained Landlord's prior written consent in its sole and absolute discretion. Further, any such investigation, clean up, removal, restoration and other remediation shall be performed in compliance with applicable laws, and in accordance with this Lease. Notwithstanding the foregoing, Tenant shall be entitled to respond immediately to an emergency without first obtaining Landlord's prior written consent.

Section 15.05 Tenant's Indemnification. Tenant shall indemnify, hold harmless, and, at Landlord's option (with such attorneys as Landlord may approve in advance and in writing), defend Landlord and Landlord's officers, directors, shareholders, partners, members, managers, employees, contractors, property managers, agents and mortgagees and other lien holders, from and against any and all "Losses" (hereinafter defined) arising from or related to: (a) any violation or alleged violation by Tenant or any of Tenant's agents of any applicable laws, including but not limited to Environmental Laws; (b) any breach of the provisions of this Article 15 by Tenant or any of Tenant's agents; or (c) any usage of any Hazardous Substances on, about or from the Premises of any Hazardous Material approved by Landlord under this Lease. The term "Losses" shall mean all claims, demands, expenses, actions, judgments, damages (whether consequential, direct or indirect, known or unknown, foreseen or unforeseen), penalties, fines, liabilities, losses of every kind and nature (including, without limitation, property damage, diminution in value of Landlord's interest in the Premises, damages for the loss or restriction on use of any space or

amenity within the Premises, sums paid in settlement of claims and any costs and expenses associated with injury, illness or death to or of any person), suits, administrative proceedings, costs and fees, including, but not limited to, attorneys' and consultants' fees and expenses, and the costs of cleanup, remediation, removal and restoration, that are in any way related to any matter covered by the foregoing indemnity.

Section 15.06 Inspections and Tests. Landlord shall have the sole right at all times during the Lease Term to (i) enter and inspect the Premises, (ii) conduct tests and investigations periodically and from time to time to determine whether Tenant is in compliance with the provisions of this Article 15 or to determine if Hazardous Substances are present in, on or about the Premises, and (iii) request lists identifying by type and amount all Hazardous Substances used, stored or otherwise located on, under or about any portion of the Premises. If as a result of such inspections, tests and/or investigations Landlord reasonably determines that contamination has occurred on the Premises and that Tenant or any of Tenant's agents are responsible in any manner for such contamination, the commercially reasonable cost of all such inspections, tests and investigations shall be borne by Tenant. The aforementioned rights granted herein to Landlord and its representatives shall not create (a) a duty on Landlord's part to inspect, test, investigate, monitor or otherwise observe the Premises or the activities of Tenant and Tenant's Agents with respect to Hazardous Substances, including without limitation, Tenant's operation, use and any remediation related thereto, or (b) liability on the part of Landlord and its representatives for Tenant's use, storage, disposal or remediation of Hazardous Substances, it being understood that Tenant shall be solely responsible for all liability in connection therewith.

Section 15.07 Tenant's Obligations upon Surrender. At the expiration or earlier termination of the Lease Term, Tenant, at the reasonable written request of Landlord and at Tenant's sole cost and expense, shall: (i) cause an environmental assessment of the Premises to be conducted in accordance with this Section 15.07; (ii) cause all Hazardous Substances to be removed from the Premises and managed or disposed of in accordance with all Environmental Laws and as necessary to allow the Premises to be used for any purpose; and (iii) cause to be removed all containers installed or used by Tenant or Tenant's agents to store any Hazardous Substances on the Premises, and cause the repair of any damage to the Premises resulting from such removal. If required, Tenant shall submit to Landlord, at least one hundred twenty (120) days prior to the expiration date of this Lease (or in the event of an earlier termination of this Lease, as soon as reasonably possible following such termination), an environmental assessment of the Premises by a competent and experienced environmental engineer or engineering firm reasonably satisfactory to Landlord (pursuant to a contract approved by Landlord and providing that Landlord can rely on the environmental assessment), which (a) evidences that the Premises are in a clean and safe condition and free and clear of any Hazardous Substances; and (b) includes a review of the Premises by an environmental consultant for asbestos, mold, fungus, spores, and other moisture conditions, on-site chemical use, and lead-based paint. If such environmental assessment reveals that remediation or clean-up, for which Tenant has responsibility under this Article 15, is required under any Environmental Laws, Tenant shall submit a remediation plan prepared by a recognized environmental consultant and shall be responsible for all costs of remediation and clean-up, as provided in this Article 15.



Section 15.08 Landlord Cure Right. If Tenant fails to comply with the terms of this Article 15, including, without limitation, if Tenant fails to promptly investigate, clean up, remove, restore, or otherwise so remediate the Premises as required by Environmental Laws, Landlord may, but without obligation to do so, take any and all steps necessary to rectify the same and Tenant shall promptly reimburse Landlord, upon demand, for all costs and expenses incurred by Landlord in connection therewith.

Section 15.09 Survival. The obligations of Landlord and Tenant under this Article 15 shall survive the expiration or earlier termination of this Lease. The rights and obligations of Landlord and Tenant with respect to issues relating to Hazardous Substances are exclusively established by this Article 15. In the event of any inconsistency between any other part of this Lease and this Article 15, the terms of this Article 15 shall control.

## **ARTICLE 16 - MISCELLANEOUS**

Section 16.01 Benefit of Landlord and Tenant. This Lease shall inure to the benefit of and be binding upon Landlord and Tenant and their respective successors and assigns.

Section 16.02 Governing Law. This Lease shall be governed in accordance with the laws of the state in which the Premises is located.

Section 16.03 Force Majeure. Landlord and Tenant (except with respect to the payment of Rent) shall be excused for the period of any delay in the performance of any obligation hereunder when such delay is occasioned by causes beyond its control, including but not limited to work stoppages, boycotts, slowdowns or strikes; shortages of materials, equipment, labor or energy; unusual weather conditions; or acts or omissions of governmental or political bodies.

Section 16.04 Examination of Lease. Submission of this instrument by Landlord to Tenant for examination or signature does not constitute an offer by Landlord to lease the Premises. This Lease shall become effective, if at all, only upon the execution and delivery of this Lease by both Landlord and Tenant.

Section 16.05 Indemnification for Leasing Commissions. Landlord and Tenant each hereby represent and warrant to the other party that it has not authorized, retained or employed, or acted by implication to authorize, retain or employ, any real estate broker or salesman to act for it or on its behalf in connection with this Lease except for the respective Brokers identified in Section 1.01 above. Landlord and Tenant shall each indemnify, defend and hold the other party harmless from and against any and all claims by any real estate broker or salesman (other than the Brokers) whom the indemnifying party authorized, retained or employed, or acted by implication to authorize, retain or employ, to act for the indemnifying party in connection with this Lease. The parties shall pay any commissions due Brokers based on this Lease pursuant to separate agreements between Landlord and/or Tenant, as applicable, and the applicable Broker.

Section 16.06 Notices. All notices, demands, requests, consents, waivers, approvals and other communications (each, a "Notice") shall be in writing and shall be deemed given (i) upon the hand delivery thereof during business hours provided a receipt is obtained, (ii) upon the earlier of delivery or tender for delivery if sent by certified mail, return receipt requested, postage

charges prepaid, (iii) on the next business day following delivery to a recognized overnight delivery service such as Federal Express or Express Mail, freight charges prepaid or (iv) on the day sent if sent by email on a business day before 5:00 p.m. (in the time zone applicable to the location of the Premises) and provided an original is received, via a nationally recognized overnight courier within one (1) business day after the email is sent. In any event, the requirements set forth hereinabove shall apply to each party set forth in Section 1.01 above (including but not limited to Landlord's property manager (the "Property Manager")) in order for a Notice to be deemed given under this Lease. Additionally, Tenant shall ensure that the Property Manager is included as a notice party (or otherwise receives written notification) for mechanical refrigeration alarms, fire and life safety alarms and other related equipment notices applicable to the Premises.

Section 16.07 Partial Invalidity; Complete Agreement. If any provision of this Lease shall be held to be invalid, void or unenforceable, the remaining provisions shall remain in full force and effect. This Lease represents the entire agreement between Landlord and Tenant covering everything agreed upon or understood in this transaction. There are no oral promises, conditions, representations, understandings, interpretations or terms of any kind as conditions or inducements to the execution hereof or in effect between the parties. No change or addition shall be made to this Lease except by a written agreement executed and delivered by both Landlord and Tenant.

Section 16.08 Financial Information. Subject to Landlord executing a confidentiality agreement in form acceptable to Tenant, from time to time during the Lease Term, but not more than twice per calendar year, except in connection with prospective purchasers or lenders or if Tenant is in Default (in which case, no such limit shall apply), Tenant shall deliver to Landlord information and documentation describing and concerning Tenant's financial condition in form and substance reasonably acceptable to Landlord or any such prospective purchaser or lender (including but not limited to Tenant's financial statements for the past three (3) years), within ten (10) days following Landlord's written request therefor. Upon Landlord's request, Tenant shall provide to Landlord the most currently available audited financial statement of Tenant prepared in accordance with GAAP. Furthermore, upon the delivery of any such financial information from time to time during the Lease Term, Tenant shall be deemed to automatically represent and warrant to Landlord that the financial information delivered to Landlord is true, accurate and complete, and that there has been no adverse change in the financial condition of Tenant or any guarantor since the date of the then-applicable financial information.

Section 16.10 Waiver of Jury Trial. LANDLORD AND TENANT, TO THE FULLEST EXTENT THAT THEY MAY LAWFULLY DO SO, HEREBY WAIVE TRIAL BY JURY IN ANY ACTION OR PROCEEDING BROUGHT BY ANY PARTY TO THIS LEASE WITH RESPECT TO THIS LEASE, THE PREMISES, OR ANY OTHER MATTER RELATED TO THIS LEASE OR THE PREMISES.

Section 16.11 Representations and Warranties.

(a) Tenant hereby represents and warrants that (i) Tenant is duly organized, validly existing and in good standing (if applicable) in accordance with the laws of the state under

which it was organized; (ii) Tenant is authorized to do business in the state where the Premises is located; and (iii) the individual(s) executing and delivering this Lease on behalf of Tenant has or each have been properly authorized to do so, and such execution and delivery shall bind Tenant to its terms.

(b) Landlord hereby represents and warrants that (i) Landlord is duly organized, validly existing and in good standing (if applicable) in accordance with the laws of the state under which it was organized; (ii) Landlord is authorized to do business in the state where the Premises is located; and (iii) the individual(s) executing and delivering this Lease on behalf of Landlord has or have each been properly authorized to do so, and such execution and delivery shall bind Landlord to its terms.

(c) Tenant represents and warrants that neither Tenant nor any of its affiliates, nor any of their respective partners, members, shareholders or other equity owners, and none of their respective employees, officers, directors, representatives or agents is, nor will they become, a person or entity with whom U.S. persons or entities are restricted from doing business under regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) or under any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action and is not and will not Transfer this Lease to, contract with or otherwise engage in any dealings or transactions or be otherwise associated with such persons or entities.

Section 16.12 Signage. All signage installed by or on behalf of Tenant in or about the Premises shall be first approved by Landlord (which approval shall include without limitation the location, size and style thereof), in Landlord's sole and absolute discretion, and shall be in compliance with all applicable laws, specifically including but not limited to codes and recorded restrictions applicable to the signage or the Premises, and installed by Tenant at its sole cost and expense. Tenant agrees to, at its sole cost and expense, maintain any and all such signage in a good state of repair, and upon expiration or earlier termination of the Lease Term, to promptly (but in no event later than fifteen (15) days thereafter) remove all such signage and repair any damage to the Premises resulting therefrom.

Section 16.13 Parking. Tenant shall be entitled to use the parking facilities designated by Landlord within the Premises in connection with its lease of the Premises, provided that Tenant's use of such parking facilities shall at all times be in compliance with all applicable Rules and Regulations and other terms set forth in this Lease, any other reasonable requirements of Landlord of which Tenant has received notice, and all applicable laws.

Section 16.14 Area Calculations. Any statement of square footage or acreage set forth in this Lease or that may have been used in calculating Rent or any other charges payable by Tenant is an approximation that Landlord and Tenant agree is reasonable and is not subject to revision or adjustment whether the actual square footage is more or less.

Section 16.15 Time. Time is of the essence of each term and provision of this Lease.

*(SIGNATURES CONTAINED ON FOLLOWING PAGE)*

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the day and year first above written.

**LANDLORD:**

**HP-A BOLINGBROOK, LLC**, a Delaware limited liability company

By: AGRE HP Industrial Platform JV IV LLC,  
a Delaware limited liability company,  
its Sole Member

By: Highridge Provender, L.L.C.,  
a Delaware limited liability company,  
its Administrative Member

By: /s/ Neil Johnson  
Name: Neil Johnson  
Title: President

**TENANT:**

**THE REAL GOOD FOOD COMPANY, LLC**, a California limited liability company

By: /s/ Gerard G. Law  
Name: Gerard Law  
Title: Chief Executive Officer

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**EXHIBIT A**

**LEGAL DESCRIPTION OF REAL PROPERTY**

All that certain real property in the Village of Bolingbrook, County of Will, State of Illinois, described as follows:

Lot 3 in Crossroads Business Park Resubdivision No. 5, being a Resubdivision of part of Lot 1 in Block 1 of Crossroads Business Park, being a Subdivision of part of Section 21, Township 37 North, Range 10, East of the Third Principal Meridian, according to the Plat thereof recorded December 10, 1997 as document number R97-110070, in Will County, Illinois.

Permanent Tax No.: 02 21 477 002

Property Street Address: 525 W. Crossroads Pkwy, Bolingbrook, Illinois 60440

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**EXHIBIT B**

**DEPICTION OF PREMISES**

See attached.

**OUTLOT 'A'  
CROSSROADS  
BUSINESS PARK  
RESUBDIVISION NO. 5**

Crossroads Distribution Center  
Property Owners  
Association Corporation  
Doc. No. R20199505376  
PIN: 12-02-21-477-001

10' Utility Easement  
Doc. R97-110070  
Doc. R99-154502

(475.50' WxL)  
5475.00' WxL

Found Iron Pin  
W/Cap (Reagle)

Now or Formerly:  
TGA PARK 55, LLC,  
a Delaware limited liability company  
Doc. No. R2019078939  
PIN: 12-02-29-201-003

**LOT 3  
CROSSROADS  
BUSINESS PARK  
RESUBDIVISION NO. 5**

VESTED IN:  
WEST LIBERTY FOODS, LLC,  
an Iowa limited liability company  
Doc. No. R2014085884  
PIN: 12-02-21-477-002

TOTAL LAND AREA:  
187,308 Square Feet  
4.3000 Acres

1-Story Concrete Building  
80,040 Square Feet  
Height=30'

Non-Exclusive Ingress  
& Egress Easement  
Doc. R2008180286

8' x 18' Metal Building  
Height=12'

Concrete Loading Dock Area

Retaining Wall

Concrete Loading Dock Area

Retaining Wall

10' Utility Easement  
Doc. R97-110070  
Doc. R99-154502

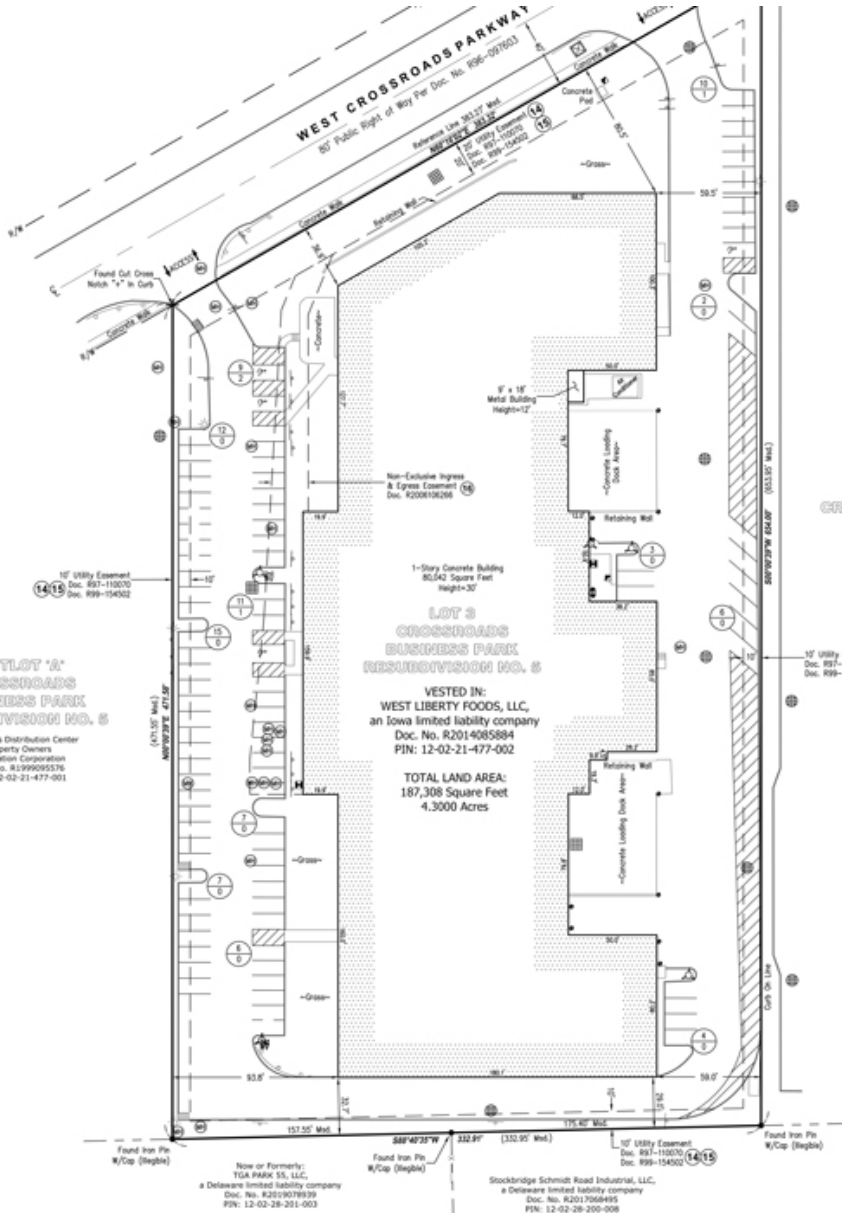
Stockbridge Schmidt Road Industrial, LLC,  
a Delaware limited liability company  
Doc. No. R2017668495  
PIN: 12-02-29-200-008

5475.00' WxL

Found Iron Pin  
W/Cap (Reagle)

**LOT 2  
CROSSROADS BUSINESS PARK  
RESUBDIVISION NO. 5**

LTC Real Estate, LLC,  
an Illinois limited liability company  
Doc. No. R2018022760  
PIN: 12-02-21-477-003



**WEST CROSSROADS PARKWAY**  
80' Public Right of Way Per Doc. No. R96-097603

Reference Line 503.12' WxL  
Doc. R97-110070  
Doc. R99-154502

10' Utility Easement  
Doc. R97-110070  
Doc. R99-154502

Concrete Pier

Grass

Concrete Pier

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EXHIBIT C

FORM OF HAZARDOUS SUBSTANCES DISCLOSURE CERTIFICATE

HAZARDOUS MATERIALS QUESTIONNAIRE

Property Address: \_\_\_\_\_

Lease: Industrial Building Lease (Triple Net Single-Tenant) between \_\_\_\_\_, a  
\_\_\_\_\_, as Landlord, and \_\_\_\_\_, a \_\_\_\_\_, as  
Tenant, dated \_\_\_\_\_

Instructions: The following questionnaire is to be completed by the Tenant representative with knowledge of the planned operations for the specified building/location. Please print clearly and attach additional sheets as necessary.

**1.0 PROCESS INFORMATION**

Describe planned use, and include brief description of manufacturing processes employed.

**2.0 HAZARDOUS MATERIALS**

Are hazardous materials used or stored? If so, continue with the next question. If not, go to Section 3.0.

2.1 Are any of the following materials handled on the Property? Yes ☐ No ☐

(A material is handled if it is used, generated, processed, produced, packaged, treated, stored, emitted, discharged, or disposed.) If so, complete this section. If this question is not applicable, skip this section and go on to Section 5.0.

- |   |                                    |  |
|---|------------------------------------|--|
| <input type="checkbox"/> Explosives             | <input type="checkbox"/> Fuels     | <input type="checkbox"/> Oils                  |
| <input type="checkbox"/> Solvents               | <input type="checkbox"/> Oxidizers | <input type="checkbox"/> Organics/Inorganics   |
| <input type="checkbox"/> Acids                  | <input type="checkbox"/> Bases     | <input type="checkbox"/> Pesticides            |
| <input type="checkbox"/> Gases                  | <input type="checkbox"/> PCBs      | <input type="checkbox"/> Radioactive Materials |
| <input type="checkbox"/> Other (please specify) |                                    |  |

2-2. If any of the groups of materials checked in Section 2.1, please list the specific material(s), use(s), and quantity of each chemical used or stored on the site in the Table below. If convenient, you may substitute a chemical inventory and list the uses of each of the chemicals in each category separately.



<u>Material</u>	<u>Physical State (Solid, Liquid, or Gas)</u>	<u>Usage</u>	<u>Container Size</u>	<u>Number of Containers</u>	<u>Total Quantity</u>
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2-3. Describe the planned storage area location(s) for these materials. Please include site maps and drawings as appropriate.

3.0 HAZARDOUS WASTES

Are hazardous wastes generated? Yes ☐ No ☐

If yes, continue with the next question. If not, skip this section and go to section 4.0.

3.1 Are any of the following wastes generated, handled, or disposed of (where applicable) on the Property?

- ☐ Hazardous wastes
- ☐ Waste oils
- ☐ Air emissions
- ☐ Regulated Wastes
- ☐ Industrial Wastewater
- ☐ PCBs
- ☐ Sludges
- ☐ Other (please specify)

3-2. List and quantify the materials identified in Question 3-1 of this section.

<u>WASTE GENERATED</u>	<u>RCRA listed Waste?</u>	<u>SOURCE</u>	<u>APPROXIMATE MONTHLY QUANTITY</u>	<u>WASTE CHARACTERIZATION</u>	<u>DISPOSITION</u>
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3-3. Please include name, location, and permit number (e.g. EPA ID No.) for transporter and disposal facility, if applicable). Attach separate pages as necessary.

3-4. Are pollution controls or monitoring employed in the process to prevent or minimize the release of wastes into the environment? Yes ☐ No ☐

3-5. If so, please describe.

4.0 USTS/ASTS

4.1 Are underground storage tanks (USTs), aboveground storage tanks (ASTs), or associated pipelines used for the storage of petroleum products, chemicals, or liquid wastes present on site (lease renewals) or required for planned operations (new tenants)? Yes ☐ No ☐

If not, continue with section 5.0. If yes, please describe capacity, contents, age, type of the USTs or ASTs, as well any associated leak detection/spill prevention measures. Please attach additional pages if necessary.

Capacity	Contents	Year Installed	Type (Steel, Fiberglass, etc)	Associated Leak Detection / Spill Prevention Measures*
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\*Note: The following are examples of leak detection / spill prevention measures:

Integrity testing	Inventory reconciliation	Leak detection system
Overfill spill protection	Secondary containment	Cathodic protection

4-2. Please provide copies of written tank integrity test results and/or monitoring documentation, if available.

4-3. Is the UST/AST registered and permitted with the appropriate regulatory agencies? Yes ☐ No☐ If so, please attach a copy of the required permits.

4-4. If this Questionnaire is being completed for a lease renewal, and if any of the USTs/ASTs have leaked, please state the substance released, the media(s) impacted (e.g., soil, water, asphalt, etc.), the actions taken, and all remedial responses to the incident.

4-5. If this Questionnaire is being completed for a lease renewal, have U STs/ASTs been removed from the Property? Yes ☐ No ☐

If yes, please provide any official closure letters or reports and supporting documentation (e.g., analytical test results, remediation report results, etc.).

4-6. For Lease renewals, are there any above or below ground pipelines on site used to transfer chemicals or wastes? Yes ☐ No ☐

For new tenants, are installations of this type required for the planned operations?

Yes ☐ No ☐

If yes to either question, please describe.

## 5.0 ASBESTOS CONTAINING BUILDING MATERIALS

Please be advised that an asbestos survey may have been performed at the Property. If provided, please review the information that identifies the locations of known asbestos containing material or presumed asbestos containing material. All personnel and appropriate subcontractors should be notified of the presence of these materials, and informed not to disturb these materials. Any activity that involves the disturbance or removal of these materials must be done by an appropriately trained individual/contractor.

## 6.0 REGULATORY

6-1. Does the operation have or require a National Pollutant Discharge Elimination System (NPDES) or equivalent permit? Yes ☐ No ☐

If so, please attach a copy of this permit.

6-2. Has a Hazardous Materials Business Plan been developed for the site? Yes ☐ No ☐

If so, please attach a copy.

## CERTIFICATION

I am familiar with the real property described in this questionnaire. By signing below, I represent and warrant that the answers to the above questions are complete and accurate to the best of my knowledge. I also understand that Landlord will rely on the completeness and accuracy of my answers in assessing any environmental liability risks associated with the property.

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

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**EXHIBIT D**

**EXTENSION OPTION RIDER**

This Extension Option Rider ("Extension Rider") is attached to and made a part of the Lease by and between Landlord and Tenant. The agreements set forth in this Extension Rider shall have the same force and effect as if set forth in the Lease. To the extent the terms of this Extension Rider are inconsistent with the terms of the Lease, the terms of this Extension Rider shall control.

1. Extension Options. Landlord hereby grants Tenant two (2) successive options (each, an "Extension Option") to extend the initial Lease Term for a period of five (5) years each (each, an "Option Term"), which Extension Options shall be exercisable only by written Exercise Notice (as defined below) delivered by Tenant to Landlord as provided below. Upon the proper exercise of an Extension Option, the then current Lease Term shall be extended for the applicable Option Term. Notwithstanding the foregoing, at Landlord's option, in addition to any other remedies available to Landlord under the Lease, at law or in equity, no Extension Option shall be deemed properly exercised if as of the date of delivery of the applicable Exercise Notice by Tenant: Tenant is currently in Default under the Lease. The Extension Option is personal to the original Tenant executing the Lease (the "Original Tenant") and may only be exercised by the Original Tenant (and not any assignee, sublessee or other transferee of Tenant's interest in the Lease except for a Permitted Transferee) if the Original Tenant occupies the entire Premises as of the date of Tenant's delivery of the Exercise Notice.

2. Option Rent. The Monthly Base Rent payable by Tenant during the initial 12 months of the applicable Option Term shall be equal to 103% of the Base Rent in effect immediately prior to the commencement of such Option Term and shall increase at a rate equal to 103% on each anniversary of the commencement date of such Option Term. All other terms and conditions of the Lease shall apply throughout each Option Term; however, in no event shall Tenant have the option to extend the Lease Term beyond the second Option Term described in Section 1 above.

3. Exercise of Option. Each Extension Option shall be exercised by Tenant, if at all, by delivering written notice to Landlord at least nine (9) months prior to the expiration of the then current Lease Term (the "Exercise Notice"). Tenant's failure to deliver the Exercise Notice on or before the delivery date therefor shall be deemed to constitute Tenant's waiver of all then available Extension Options.

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## EXHIBIT E

### RULES AND REGULATIONS

1. The sidewalks, entrances, driveways and roadways serving and adjacent to the Premises shall not be obstructed or used for any purpose other than ingress and egress.
2. No awnings or other projections shall be attached to the outside walls of the Building. No curtains, blinds, shades or screens shall be attached to or hung in, or used in connection with, any window or door of the Premises other than Landlord standard window coverings without Landlord's prior written approval. All electric ceiling fixtures hung in offices or spaces along the perimeter of the Building must be fluorescent, of a quality, type, design and tube color approved by Landlord. Neither the interior nor the exterior of any windows shall be coated or otherwise sunscreened without written consent of Landlord.
3. No sign, advertisement, notice or handbill shall be exhibited, distributed, painted or affixed by any tenant on, about or from any part of the Premises, including the parking area without the prior written consent of Landlord. In the event of the violation of the foregoing by any tenant, Landlord may remove or stop same without any liability, and may charge the expense incurred in such removal or stopping to tenant.
4. The sinks and toilets and other plumbing fixtures shall not be used for any purpose other than those for which they were constructed, and no sweepings, rubbish, rags, or other substances shall be thrown therein. All damages resulting from any misuse of the fixtures shall be borne by the tenant who, or whose subtenants, assignees or any of their servants, employees, agents, visitors or licensees shall have caused the same.
5. No boring, cutting or stringing of wires or laying of any floor coverings shall be permitted, except with the prior written consent of the Landlord and as the Landlord may direct. Landlord shall direct electricians as to where and how telephone or data cabling are to be introduced. The location of telephones, call boxes and other office equipment affixed to the Premises shall be subject to the approval of Landlord.
6. No bicycles, vehicles, birds or animals of any kind (except seeing eye dogs) shall be brought into or kept in or about the Premises, and no cooking shall be done or permitted by any tenant on the Premises, except microwave cooking, and the preparation of coffee, tea, hot chocolate and similar items for tenants and their employees. No tenant shall cause or permit any unusual or objectionable odors to be produced in or permeate from the Premises.
7. The Premises shall not be used for manufacturing other than in connection with the Permitted Use, unless such use conforms to the zoning applicable to the area, and the Landlord provides written consent. No tenant shall occupy or permit any portion of the Premises to be occupied as an office for the manufacture or sale of liquor, narcotics, or tobacco in any form, or as a medical office, or as a barber or manicure shop, or a dance, exercise or music studio, or any type of school or daycare or copy, photographic or print shop or an employment bureau without the express written consent of Landlord. The Premises shall not be used for lodging or sleeping or for any immoral or illegal purpose.

8. No tenant shall make, or permit to be made any unseemly, excessive or disturbing noises or disturb or interfere with occupants of this or neighboring buildings or premises or those having business with them, whether by the use of any musical instrument, radio, phonograph, unusual noise, or in any other way. No tenant shall throw anything out of doors, windows or down the passageways.

9. No tenant, subtenant or assignee nor any of its servants, employees, agents, visitors or licensees, shall at any time bring or keep upon the Premises any flammable, combustible or explosive fluid, chemical or substance or firearm.

10. No additional locks or bolts of any kind shall be placed upon any of the doors or windows by any tenant, nor shall any changes be made to existing locks or the mechanism thereof. Each tenant must upon the termination of its tenancy, restore to the Landlord all keys of doors, offices, and toilet rooms, either furnished to, or otherwise procured by, such tenant and in the event of the loss of keys so furnished, such tenant shall pay to the Landlord the cost of replacing the same or of changing the lock or locks opened by such lost key if Landlord shall deem it necessary to make such changes.

11. No tenant shall overload the floors of the Building. All damage to the floor, structure or foundation of the Building due to improper positioning or storage items or materials shall be repaired by Landlord at the sole cost and expense of tenant, who shall reimburse Landlord immediately therefor upon demand.

12. Each tenant shall be responsible for all persons entering the Premises at tenant's invitation, express or implied. Landlord shall in no case be liable for damages for any error with regard to the admission to or exclusion from the Premises of any person. In case of an invasion, mob riot, public excitement or other circumstances rendering such action advisable in Landlord's opinion, Landlord reserves the right without any abatement of rent to require all persons to vacate the Premises and to prevent access to the Premises during the continuance of the same for the safety of the tenants and the protection of the Premises and the property thereon.

13. Canvassing, soliciting and peddling on the Premises are prohibited, and each tenant shall report and otherwise cooperate to prevent the same.

14. All equipment of any electrical or mechanical nature shall be placed by tenant in the Premises in settings that will, to the maximum extent possible, absorb or prevent any vibration, noise and annoyance.

15. There shall not be used in any space, either by any tenant or others, any hand trucks except those equipped with rubber tires and rubber side guards.

16. The scheduling of tenant move-ins shall be before or after normal business hours and on weekends, subject to the reasonable discretion of Landlord.

17. The Building is a smoke-free Building. Smoking is strictly prohibited within the Building. Smoking shall only be allowed in areas designated as a smoking area by Landlord. Tenant and its employees, representatives, contractors or invitees shall not smoke within the Building or throw cigar or cigarette butts or other substances or litter of any kind in or about the Building, except in receptacles for that purpose. Landlord may, at its sole discretion, impose a charge against monthly rent of \$50.00 per violation by tenant or any of its employees, representatives, contractors or invitees, of this smoking policy.

18. Tenants will insure that all doors are securely locked, and water faucets, electric lights and electric machinery are turned off before leaving the Building.

19. Tenant, its employees, customers, invitees and guests shall, when using the parking facilities in and around the Premises, observe and obey all signs regarding fire lanes and no-parking and driving speed zones and designated handicapped and visitor spaces, and when parking always park between the designated lines. Landlord reserves the right to tow away, at the expense of the owner, any vehicle which is improperly parked or parked in a no-parking zone or in a designated handicapped area, and any vehicle which is left in any parking lot in violation of the foregoing regulation. All vehicles shall be parked at the sole risk of the owner, and Landlord assumes no responsibility for any damage to or loss of vehicles.

20. Tenant shall be responsible for and cause the proper disposal of medical waste, including hypodermic needles, created by its employees.

21. No outside storage is permitted including without limitation the storage of trucks and other vehicles.

22. No tenant shall be allowed to conduct an auction from the Premises without the prior written consent of Landlord.

It is Landlord's desire to maintain the Premises with the highest standard of dignity and good taste consistent with comfort and convenience for tenants. Any action or condition not meeting this high standard should be reported directly to Landlord. The Landlord reserves the right to make such other and further rules and regulations as in its judgment may from time to time be necessary for the safety, care and cleanliness of the Premises, and for the preservation of good order therein.



EXHIBIT F

FORM OF ESTOPPEL CERTIFICATE

To: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
("Lender")

Re: Lease Date: [\*\*DATE\*\*]  
Tenant: \_\_\_\_\_, a \_\_\_\_\_  
Landlord: \_\_\_\_\_, a \_\_\_\_\_

The undersigned hereby states, declares, represents, warrants and agrees, on behalf of itself and its successors and assigns, for the benefit of [Buyer,] [Buyer's lender or other party which may now or hereafter provide financing to Buyer or otherwise hold a security interest in the real property comprising the Premises ("Lender"), and each of their respective successors and assigns (the "Reliance Parties"), as follows:

\_\_\_\_\_, a \_\_\_\_\_, as "Tenant" and \_\_\_\_\_, a \_\_\_\_\_, as "Landlord" entered into a written Lease dated [\*\*DATE\*\*] (the "Lease"), pursuant to which Landlord leased to Tenant that certain Premises located in the County of \_\_\_\_\_, State of \_\_\_\_\_, commonly known as [\*\*ADDRESS\*\*] ("Premises").

The Lease is in full force and effect, has not been modified, changed, altered or amended in any respect (except as otherwise disclosed herein), and is the only Lease between Tenant and Landlord affecting the Premises. A true and complete copy of the Lease, together with all amendments, supplements, extensions and other modifications thereto, is attached hereto as Schedule 1.

Tenant is paying the full Lease rent, and no rent, security deposit, additional rent, or other charges under the Lease have been paid for more than thirty (30) days in advance of its due date except \$\_\_\_\_\_ (for \_\_\_\_\_) \$\_\_\_\_\_ (for \_\_\_\_\_), and \$\_\_\_\_\_ (for \_\_\_\_\_). The Base Rent and the amount of any Security Deposit, Additional Rent and other charges Tenant has paid or is presently paying under the Lease are as follows: current Base Rent \$\_\_\_\_\_ per month; Security Deposit \$\_\_\_\_\_; monthly portion of Additional Rent and other charges \$\_\_\_\_\_ (for \_\_\_\_\_) and \$\_\_\_\_\_ (for \_\_\_\_\_).

The Commencement Date of the initial Lease Term is \_\_\_\_\_, 20\_\_\_\_, and the expiration date of the initial Lease Term is \_\_\_\_\_, 20\_\_\_\_.

Tenant has not assigned, subleased, encumbered or otherwise transferred the Lease, the leasehold estate created by the Lease, or any interest of the Tenant therein, except as follows:\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_.

The date upon which, and the amount or method by which the Base Rent and to the extent applicable, any component of Additional Rent, the Security Deposit, and any other charges payable under the Lease, will next be adjusted or increased (if at all), is as follows:\_\_\_\_\_.

There are no option(s) to extend the Lease Term, or if any such option(s) exist, the commencement and expiration dates thereof, and the terms and conditions upon which any such option(s) may be exercised, are as follows: \_\_\_\_\_

\_\_\_\_\_.

There are no rights of first refusal in favor of Tenant to purchase the Premises or to lease additional space contiguous to the Premises, or if any such rights of first refusal exist, the time periods within which, and the terms and conditions upon which, the same may be exercised, are set forth as follows:\_\_\_\_\_

\_\_\_\_\_.

To the best of the knowledge of the undersigned as of the date hereof, there are no uncured defaults of Landlord under the Lease, and Tenant has no right of offset, counterclaim or deduction against Base Rent or any other amount due under the Lease, or if any such defaults, offsets, counterclaims or deductions are claimed or alleged by Tenant, the nature and extent of the same, including the dollar amounts and current status thereof, are as follows:\_\_\_\_\_

\_\_\_\_\_.

As of the date hereof, Landlord has fully performed each and all of Landlord’s construction, repair and maintenance obligations (if any), as well as any work required of Landlord under the Lease, except (if applicable) for \_\_\_\_\_.

\_\_\_\_\_.

\_\_\_\_\_.

\_\_\_\_\_ and Tenant, subject to any such stated exception(s), accepts the Premises in its present condition.

To the best knowledge of the undersigned as of the date hereof, no condition or event has occurred or exists which would prevent the Lease from becoming effective or would permit a cancellation or termination of the Lease by Landlord or by Tenant except as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

Tenant agrees to deliver to Lender written notice of any default by Landlord, concurrently with giving such notice to Landlord, and Tenant agrees to give such notice directly to Lender if Lender acquires Landlord's interest in the Lease.

The person or persons signing this Estoppel Certificate on behalf of the Tenant have the power and authority to execute and deliver this Estoppel Certificate.

also It is intended that this Estoppel Certificate may be relied upon only by the Reliance Parties specifically named above. Capitalized terms that are not otherwise defined in this Estoppel Certificate shall have the meanings ascribed to such terms in the Lease. If a blank in this document is not filled in, the blank will be deemed to read "none".

DATED: \_\_\_\_\_

\_\_\_\_\_,  
a \_\_\_\_\_

By: \_\_\_\_\_  
Name:  
Title:

---

**SCHEDULE 1**

**LEASE**

EXHIBIT G

FORM OF NON-DISTURBANCE AGREEMENT

RECORDING REQUESTED BY:  
COMERICA BANK

AND WHEN RECORDED MAIL TO:

COMERICA BANK  
Attn: National Documentation Services  
Mail Code: 7512  
39200 W. Six Mile Road  
Livonia, MI 48152

SUBORDINATION, NONDISTURBANCE AND ATTORNMENT AGREEMENT

**NOTICE: THIS SUBORDINATION, NONDISTURBANCE AND ATTORNMENT AGREEMENT RESULTS IN THE LEASEHOLD ESTATE IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT.**

THIS SUBORDINATION, NONDISTURBANCE AND ATTORNMENT AGREEMENT (this “**Agreement**”) is entered into as of \_\_\_\_\_, by \_\_\_\_\_, a Delaware limited liability company (“Landlord”), \_\_\_\_\_ (“Tenant”), and COMERICA BANK (“Bank”), with reference to the following facts:

A. Pursuant to that certain \_\_\_\_\_ (the “**Lease**”) between Landlord and Tenant, Tenant is a tenant of (i) approximately \_\_\_\_\_ square feet located within a certain building addressed as \_\_\_\_\_ (collectively, the “**Leased Premises**”) on that certain real property located in the City of \_\_\_\_\_, County of \_\_\_\_\_, State of \_\_\_\_\_, more particularly described in Exhibit A attached hereto (the “**Land**”) (the Land, the Leased Premises being collectively referred to herein sometimes as the “**Property**”).

B. Landlord and Bank have entered into that certain Credit Agreement dated as of \_\_\_\_\_ (the “**Loan Agreement**”), pursuant to which Landlord has executed that certain Promissory Note Secured by Deed of Trust dated \_\_\_\_\_, in favor of Bank (the “**Note**”) evidencing Landlord’s indebtedness to Bank in connection with a loan of up to \_\_\_\_\_ /100 Dollars (\$\_\_\_\_\_ ) made by Bank to Landlord (the “**Loan**”). Landlord, as Trustor, has also executed that certain Deed of Trust, Security Agreement and Fixture Filing (With Assignment of Rents and Leases) (the “**Deed of Trust**”) dated \_\_\_\_\_ for the benefit of Bank, as Beneficiary.

C. As a condition precedent to approving the Lease, Bank has required that Landlord and Tenant unconditionally subordinate the Lease to the lien of the Deed of Trust, subject to the terms of this Agreement.

D. It is to the mutual benefit of Landlord and Tenant that Bank make the Loan to Landlord and approve the Lease, and Landlord and Tenant are willing to subordinate the Lease to the lien of the Deed of Trust as provided herein, provided Tenant is assured of continued possession, occupancy and quiet enjoyment of the Leased Premises under the terms of the Lease as provided herein.

NOW THEREFORE, in consideration of the foregoing facts and the mutual covenants contained herein, the parties hereto hereby agree as follows:

1. Assignment. After notice is given to Tenant by Bank that the Landlord is in default under the Deed of Trust and that the rentals under the Lease should be paid to Bank pursuant to the terms of the Deed of Trust, Tenant shall thereafter pay to Bank or as directed by Bank, all rentals and all other monies due or to become due to Landlord under the Lease. Landlord expressly authorizes Tenant to make payments to Bank in compliance with Bank's written instructions under this paragraph 1 and agrees that Tenant shall be entitled to rely solely upon the notices given by Bank, without any inquiry as to the factual basis for such notice or any prior notice to or consent from Landlord, and despite any instructions from Landlord to the contrary, and Landlord hereby releases Tenant from all liability to Landlord in connection with Tenant's compliance with Bank's notice and agrees to indemnify and hold Tenant harmless from and against any and all losses, claims, damages or liabilities arising out of Tenant's compliance with such notice. Tenant shall be entitled to full credit under the Lease for any rents paid to Bank in accordance with the provisions of this paragraph 1 to the same extent as if such rents were paid directly to Landlord.

2. Priority of Deed of Trust. The Deed of Trust in favor of Bank, and any renewals, modifications and extensions thereof, shall unconditionally be and remain at all times a lien on the Property prior and superior to the Lease. Tenant intentionally and unconditionally waives, relinquishes and subordinates all of Tenant's right, title and interest in and to the Property to the lien of the Deed of Trust and understands that in reliance upon, and in consideration of, this waiver, relinquishment and subordination, specific loans and advances are being and will be made by Bank and, as part and parcel thereof, specific monetary and other obligations are being and will be entered into which would not be made or entered into but for said reliance upon this waiver, relinquishment and subordination.

3. Entire Agreement Regarding Subordination. This Agreement shall be the whole and only agreement with regard to the subordination of the Lease to the lien of the Deed of Trust in favor of Bank, and shall supersede and cancel, but only in so far as would affect the priority between (a) the Lease and (b) the Deed of Trust, any prior agreements as to such subordination, including, but not limited to, those provisions, if any, contained in the Lease which may provide for such subordination. In the event of a conflict between the terms of this Agreement and the terms of the Lease, this Agreement shall control as between Tenant and Bank. However, as between Landlord and Tenant, the Lease shall control.

4. Use of Proceeds. In making disbursements under the Loan Agreement, Bank is under no obligation or duty to, nor has Bank represented that it will, see to the application of such proceeds by the person or persons to whom Bank disburses such proceeds, and any application or use of such proceeds for purposes other than those provided for in the Loan Agreement shall not defeat, in whole or in part, the subordination herein.

5. Successor Landlord. The term “**Successor Landlord**” means any person or entity (including, without limitation, Bank, or any third party) who succeeds to the interest of Landlord in and to the Leased Premises and/or Property and the Lease pursuant to a judicial foreclosure, other proceedings brought to enforce the rights of the holder of the Notes, trustee’s sale or conveyance or sale in lieu of foreclosure, or other means.

6. Attornment. If the interests of Landlord in the Property and under the Lease are acquired by a Successor Landlord, then the Lease shall continue in full force and effect as a direct lease between Tenant and Successor Landlord upon all of the terms, covenants and conditions set forth in the Lease, and in that event, Tenant agrees to attorn to Successor Landlord and Successor Landlord by virtue of such acquisition of the Property shall be deemed to have agreed to accept such attornment; provided, however, that Tenant and Successor Landlord agree that the following provisions of the Lease (if any) shall not be binding on Successor Landlord: (i) any option to purchase with respect to the Property or (ii) any right of first refusal with respect to the Property; and, provided, further, that Successor Landlord shall not be:

(a) Liable for any acts or omissions of any prior landlord (including, but not limited to, Landlord) which have accrued prior to the date on which Successor Landlord shall become the owner of the Property, unless the same represent a continuing covenant of the landlord, such as the obligation to repair and maintain certain aspects of the Property, but only to the extent such failure continues from and after the date when Successor Landlord acquires the Property; or

(b) Subject to any offsets, defenses, abatement or counterclaims which Tenant might have arising out of acts or omissions of any prior landlord (including, but not limited to, Landlord) which shall have accrued in favor of Tenant against any prior landlord prior to the date upon which Successor Landlord shall become the owner of the Property; or

(c) Bound by any amendment or modification of the Lease made without Bank’s prior written consent; or

(d) Obligated to give Tenant a credit for, or acknowledge, any rent or any other sums not actually received by Successor Landlord which Tenant has paid to Landlord which is in excess of the rent due under the Lease at the time Successor Landlord gave Tenant notice of it succeeding to the Landlord’s interests; or

(e) Liable for the repayment of any monies paid by Tenant under the Lease, including without limitation, security deposits, advance rent or otherwise, unless Successor Landlord actually received possession of such monies; or

(f) Bound by or responsible for or affected by any purchase option or right of first offer or first refusal contained in the Lease, which provisions shall be of no force and effect upon Successor Landlord; or

(g) Bound by, or responsible for, any other term or provision of the Lease which is personal to Landlord or which may not reasonably be performed by Successor Landlord or its successors and assigns in the ordinary course of business; or

(h) Bound to commence or complete any construction or to make any contribution toward construction or installation of any improvements upon the Leased Premises required under the Lease or any expansion or rehabilitation of existing improvements thereon, or for restoration of improvements following any casualty not required to be insured under the Lease or for the costs of any restoration in excess of any proceeds recovered under any insurance required to be carried under the Lease; or

(i) Obligated to enforce any restriction on competition or pay any expenses or damages in connection with or arising from such restriction; or

(j) Personally liable under the Lease. Successor Landlord's liability under the Lease shall be limited to the ownership interest of Successor Landlord in the Property.

7. Nondisturbance. If Successor Landlord shall succeed to the interests of Landlord under the Lease, provided that Tenant is not in default (beyond any period given Tenant in the Lease to cure such default) in the payment of rent or any other amounts or in the performance of any of the other terms, covenants or conditions of the Lease to be performed by Tenant, Successor Landlord shall be bound to Tenant under all of the terms, covenants and conditions of the Lease, as modified hereby, and Successor Landlord shall not disturb Tenant's use, quiet enjoyment or occupancy of the Leased Premises.

8. Liability. Anything herein or in the Lease to the contrary notwithstanding, if Successor Landlord acquires title to the Leased Premises, Successor Landlord shall have no obligation, nor incur any liability beyond the then-existing interests, if any, of Successor Landlord in the Property, together with income and proceeds therefrom, and Tenant shall look exclusively to such interest of Successor Landlord in the Property for the payment and discharge of any obligations imposed upon Successor Landlord hereunder or under the Lease. Successor Landlord is hereby released and relieved of any other liability hereunder and under the Lease. If Successor Landlord, by succeeding to the interest of Landlord under the Lease, should become obligated to perform the covenants of Landlord thereunder, then, upon any further transfer of Landlord's interest by Successor Landlord, all of such obligations shall terminate as to Bank.

9. Modification or Termination; Notice. Tenant acknowledges receipt of notice that, without the prior written consent of Bank, Landlord does not have the authority to permit Tenant to cancel, terminate or surrender the Lease, except at the normal expiration of the term of the Lease, or enter into any agreement, amendment or modification of the Lease (except to the extent the preagreed terms of an extension, cancellation, termination, surrender, amendment or modification of the Lease may be expressly and specifically set forth in the Lease). Tenant shall notify Bank of any default by Landlord under the Lease and agrees that, notwithstanding any provisions of the Lease to the contrary, no notice of cancellation thereof or of an abatement of rent shall be effective unless Bank shall have received notice of default giving rise to such cancellation or abatement and shall have failed, within sixty (60) days after receipt of such notice, to cure such default, or if such default cannot be cured within sixty (60) days, shall have failed within sixty (60) days after receipt of such notice to commence and thereafter diligently pursue to completion the cure of such default. Any notice of default under the Lease sent by Tenant to Landlord shall be sent by Tenant to Bank at the same time such notice is sent to Landlord. Bank may, but shall not be obligated to, cure any default by Landlord.



10. Notices. All notices and demands expressly provided hereunder to be given and all notices, demands and other communications of any kind or nature whatever which may be required or may desire to give to or serve shall be in writing, shall be addressed to the appropriate address set forth in this Section, or at such other place as such party may from time to time designate in writing by ten (10) days prior written notice and shall be: (a) hand-delivered, effective upon receipt; or (b) sent by United States Express Mail or by private overnight courier, effective upon receipt; or (c) served by certified mail, return receipt requested, deposited in the United States mail, with postage thereon fully prepaid and addressed to the party so to be served and shall be deemed effective on the day of actual delivery as shown by the addressee's return receipt or the expiration of three (3) business days after the date of mailing, whichever is the earlier in time. Rejection or refusal of delivery shall be deemed to be receipt. The inability to deliver because of a changed address of which no notice was given as provided herein, shall be deemed to be receipt. The addresses of the parties are as follows:

If to Bank: Comerica Bank  
Attn: Monica Pulido, Assistant Vice President  
2000 Avenue of the Stars, Suite 210  
Mail Code 4693  
Century City, CA 90067

If to Tenant:

With a copy to:

If to Landlord: [\_\_\_\_\_]   
c/o Highridge Provender  
1600 Newport Center Drive, Suite 140  
Newport Beach, CA 92660  
Attn: Neil Johnson

With copies to: Gibson, Dunn & Crutcher LLP  
333 South Grand Avenue  
Los Angeles, CA 90071  
Attn: Jesse Shapiro

11. Headings. The captions and headings of various sections of this Agreement are for convenience only and are not to be considered as defining or limiting in any way the scope or intent of the provisions of this Agreement.

12. Miscellaneous. This Agreement shall be governed by and construed in accordance with the laws of the State of [\_\_\_\_\_]. This Agreement may not be modified or amended except in writing signed by all parties hereto. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, but this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which, taken together, shall constitute one and the same agreement.

13. Optional Advances. All non-obligatory additional advances made in connection with any construction of improvements on the Property and secured by the Deed of Trust and any deed of trust used in connection with any refinancing of the Loan, shall unconditionally be and remain at all times a lien on the Property, prior and superior to the Lease.

14. Binding Effect. The provisions of this Agreement shall be binding upon Landlord and Tenant, their respective heirs, successors and permitted assigns, and shall inure to the benefit of Bank, to any subsequent holder of any portion of the Loan and to any Successor Landlords and their respective successors and assigns.

15. Remedies Cumulative. All rights of Bank herein to collect rents on behalf of Landlord under the Lease are cumulative and shall be in addition to any and all other rights and remedies provided by law and by other agreements between Bank and Landlord or others.

16. Incorporation. Exhibit A is attached hereto and incorporated herein by this reference.

**NOTICE: THIS SUBORDINATION AGREEMENT CONTAINS A PROVISION WHICH MAY ALLOW THE PARTIES AGAINST WHOM YOU CLAIM AN EQUITABLE INTEREST IN REAL PROPERTY TO OBTAIN A LOAN A PORTION OF WHICH MAY BE EXPENDED FOR OTHER PURPOSES THAN IMPROVEMENT OF THE LAND. IT IS RECOMMENDED THAT, PRIOR TO THE EXECUTION OF THIS AGREEMENT, THE PARTIES CONSULT WITH THEIR ATTORNEYS WITH RESPECT HERETO.**

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

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

LANDLORD:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.
--

State of California )

County of )

On \_\_\_\_\_ before me, \_\_\_\_\_  
personally appeared \_\_\_\_\_

\_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_  
Signature of Notary Public

(Affix Seal Above)

TENANT:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of \_\_\_\_\_ )  
  
County of \_\_\_\_\_ )  
  
On \_\_\_\_\_ before me, \_\_\_\_\_  
personally appeared \_\_\_\_\_  
\_\_\_\_\_, who proved to me on the basis of satisfactory evidence to  
be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their  
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted,  
executed the instrument.

I certify under PENALTY OF PERJURY under the laws of  
the State of [\_\_\_\_\_] that the foregoing paragraph is  
true and correct.  
  
WITNESS my hand and official seal.  
  
Signature \_\_\_\_\_  
Signature of Notary Public

(Affix Seal Above)

BANK:

COMERICA BANK

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

)

County of

)

On \_\_\_\_\_ before me, \_\_\_\_\_  
personally appeared \_\_\_\_\_

\_\_\_\_\_, who proved to me on the basis of satisfactory evidence to  
be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their  
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted,  
executed the instrument.

I certify under PENALTY OF PERJURY under the laws of  
the State of California that the foregoing paragraph is true  
and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_  
Signature of Notary Public

(Affix Seal Above)

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EXHIBIT A

PROPERTY

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## EXHIBIT H

### EXISTING EQUIPMENT

#### **Boilers**

The facility contains (4) four Fulton boilers and (1) one Kemco boiler. The Fulton boilers were manufactured and installed between 2001-2004. The Fulton boilers were used primarily for cooking processes and utilized heat exchangers to provide hot water to parts of the facility. The Kemco boiler is for sanitation purposes only.

#### **Ovens**

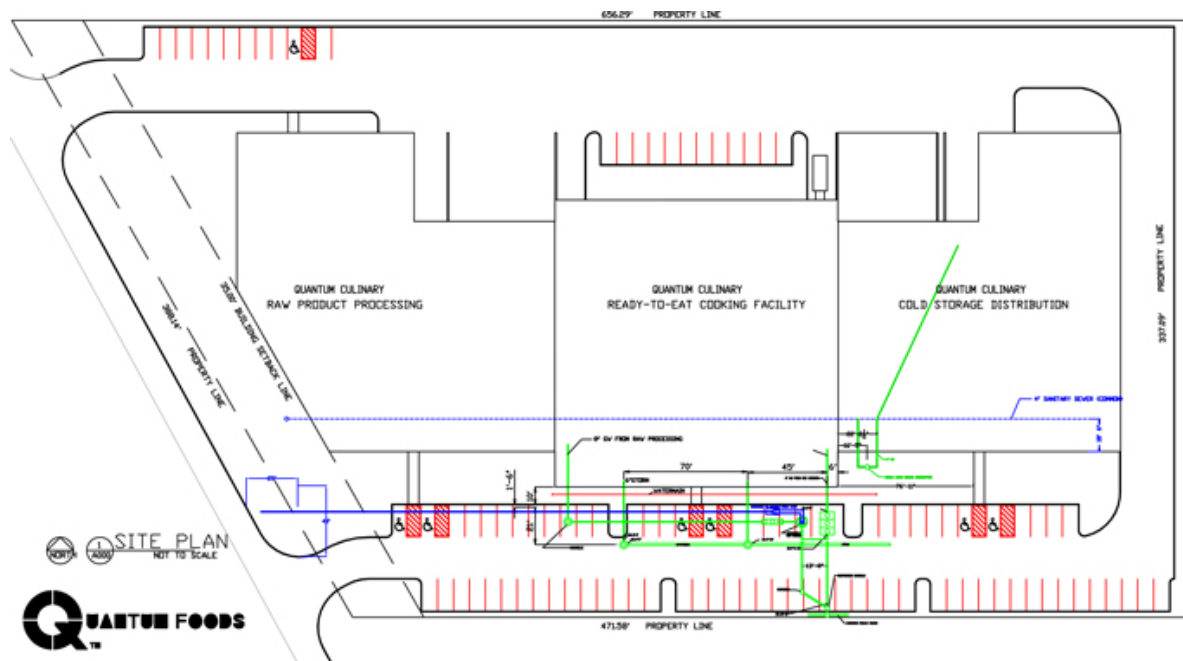
Including 10 Alkar, 4 Vemag, 1 Fessman, and 1 Rasmussen Smoke Houses. 6 PC-6000 direct digital control systems. 4 Smoke Master 5 Generators. 4 liquid smoke systems, and 4 Smoke Generator water damper systems.

#### **Spiral Freezer**

KF-40 Spiral Freezer

#### **Wastewater**

Plumbing plan attached.





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**EXHIBIT I**

**REFRIGERATION EQUIPMENT**

See attached.

NEW FREON EQUIPMENT SCHEDULE																														
NOTES: 1. ALL EXHAUSTORS SHALL BE DESIGNED FOR (2) TWO PPH SYSTEM UNLESS OTHERWISE NOTED										NOTES: 1. ALL EXHAUSTORS SHALL BE DESIGNED FOR (2) TWO PPH SYSTEM UNLESS OTHERWISE NOTED				NOTES: 1. ALL EXHAUSTORS SHALL BE DESIGNED FOR (2) TWO PPH SYSTEM UNLESS OTHERWISE NOTED				NOTES: 1. ALL EXHAUSTORS SHALL BE DESIGNED FOR (2) TWO PPH SYSTEM UNLESS OTHERWISE NOTED												
EQUIPMENT										EQUIPMENT				EQUIPMENT				EQUIPMENT												
ITEM	DESCRIPTION	QTY	UNIT	PRICE	TOTAL	DESCRIPTION	QTY	UNIT	PRICE	TOTAL	DESCRIPTION	QTY	UNIT	PRICE	TOTAL	DESCRIPTION	QTY	UNIT	PRICE	TOTAL	DESCRIPTION	QTY	UNIT	PRICE	TOTAL	DESCRIPTION	QTY	UNIT	PRICE	TOTAL
1	1/2" COPPER TUBING	100	FT	1.50	150.00	1/2" COPPER TUBING	100	FT	1.50	150.00	1/2" COPPER TUBING	100	FT	1.50	150.00	1/2" COPPER TUBING	100	FT	1.50	150.00	1/2" COPPER TUBING	100	FT	1.50	150.00	1/2" COPPER TUBING	100	FT	1.50	150.00
2	3/4" COPPER TUBING	50	FT	2.00	100.00	3/4" COPPER TUBING	50	FT	2.00	100.00	3/4" COPPER TUBING	50	FT	2.00	100.00	3/4" COPPER TUBING	50	FT	2.00	100.00	3/4" COPPER TUBING	50	FT	2.00	100.00	3/4" COPPER TUBING	50	FT	2.00	100.00
3	1" COPPER TUBING	20	FT	2.50	50.00	1" COPPER TUBING	20	FT	2.50	50.00	1" COPPER TUBING	20	FT	2.50	50.00	1" COPPER TUBING	20	FT	2.50	50.00	1" COPPER TUBING	20	FT	2.50	50.00	1" COPPER TUBING	20	FT	2.50	50.00
4	1 1/2" COPPER TUBING	10	FT	3.00	30.00	1 1/2" COPPER TUBING	10	FT	3.00	30.00	1 1/2" COPPER TUBING	10	FT	3.00	30.00	1 1/2" COPPER TUBING	10	FT	3.00	30.00	1 1/2" COPPER TUBING	10	FT	3.00	30.00	1 1/2" COPPER TUBING	10	FT	3.00	30.00
5	2" COPPER TUBING	5	FT	4.00	20.00	2" COPPER TUBING	5	FT	4.00	20.00	2" COPPER TUBING	5	FT	4.00	20.00	2" COPPER TUBING	5	FT	4.00	20.00	2" COPPER TUBING	5	FT	4.00	20.00	2" COPPER TUBING	5	FT	4.00	20.00
6	3" COPPER TUBING	2	FT	5.00	10.00	3" COPPER TUBING	2	FT	5.00	10.00	3" COPPER TUBING	2	FT	5.00	10.00	3" COPPER TUBING	2	FT	5.00	10.00	3" COPPER TUBING	2	FT	5.00	10.00	3" COPPER TUBING	2	FT	5.00	10.00
7	4" COPPER TUBING	1	FT	6.00	6.00	4" COPPER TUBING	1	FT	6.00	6.00	4" COPPER TUBING	1	FT	6.00	6.00	4" COPPER TUBING	1	FT	6.00	6.00	4" COPPER TUBING	1	FT	6.00	6.00	4" COPPER TUBING	1	FT	6.00	6.00
8	5" COPPER TUBING	1	FT	7.00	7.00	5" COPPER TUBING	1	FT	7.00	7.00	5" COPPER TUBING	1	FT	7.00	7.00	5" COPPER TUBING	1	FT	7.00	7.00	5" COPPER TUBING	1	FT	7.00	7.00	5" COPPER TUBING	1	FT	7.00	7.00
9	6" COPPER TUBING	1	FT	8.00	8.00	6" COPPER TUBING	1	FT	8.00	8.00	6" COPPER TUBING	1	FT	8.00	8.00	6" COPPER TUBING	1	FT	8.00	8.00	6" COPPER TUBING	1	FT	8.00	8.00	6" COPPER TUBING	1	FT	8.00	8.00
10	7" COPPER TUBING	1	FT	9.00	9.00	7" COPPER TUBING	1	FT	9.00	9.00	7" COPPER TUBING	1	FT	9.00	9.00	7" COPPER TUBING	1	FT	9.00	9.00	7" COPPER TUBING	1	FT	9.00	9.00	7" COPPER TUBING	1	FT	9.00	9.00
11	8" COPPER TUBING	1	FT	10.00	10.00	8" COPPER TUBING	1	FT	10.00	10.00	8" COPPER TUBING	1	FT	10.00	10.00	8" COPPER TUBING	1	FT	10.00	10.00	8" COPPER TUBING	1	FT	10.00	10.00	8" COPPER TUBING	1	FT	10.00	10.00
12	9" COPPER TUBING	1	FT	11.00	11.00	9" COPPER TUBING	1	FT	11.00	11.00	9" COPPER TUBING	1	FT	11.00	11.00	9" COPPER TUBING	1	FT	11.00	11.00	9" COPPER T									

[illegible]



## MECHANICAL SYSTEMS, INC.

140 E. 17th Street, Suite 2000, Chicago, Illinois 60602  
(312) 887-1700 FAX (312) 887-0170

REGISTERED WITH THE STATE OF ILLINOIS DEPT. OF PROFESSIONAL REGULATION AS A PROFESSIONAL  
DESIGN FIRM AND PROFESSIONAL ENGINEERING FIRM LICENSE NO. 0004-000000



BUILDING CONTROLS  
DESIGN FIRM  
REGISTERED WITH THE STATE OF ILLINOIS DEPT. OF PROFESSIONAL REGULATION AS A PROFESSIONAL  
DESIGN FIRM AND PROFESSIONAL ENGINEERING FIRM LICENSE NO. 0004-000000

EVAPORATOR SCHEDULE (FREQ)

QUANTUM - QUANTUM

R-0

**EXHIBIT J**

**LETTER OF CREDIT**

**IRREVOCABLE STANDBY LETTER OF CREDIT**

Number: \_\_\_\_\_

Date: \_\_\_\_\_

Amount: \_\_\_\_\_

Expiration: \_\_\_\_\_

**BENEFICIARY**

**ACCOUNT PARTY**

[\_\_\_\_\_]

c/o Highridge Provender  
1600 Newport Center Drive, Suite 140  
Newport Beach, CA 92660  
Attention: Neil Johnson

We hereby issue our Irrevocable Letter of Credit No. \_\_\_\_\_ in favor of [LANDLORD]/[LENDER] ("Beneficiary"), its successors and assigns, for the account of \_\_\_\_\_. We undertake to honor your sight draft, upon presentation at our office in \_\_\_\_\_, California, for any sum or sums not to exceed a total of \_\_\_\_\_ (\$\_\_\_\_\_) in favor of Beneficiary when accompanied by the original of this Letter of Credit.

Partial and multiple drawings are permitted under this Letter of Credit. In the event of a partial draw, the amount of the draft shall be endorsed on the reverse side hereof by the negotiating bank.

This Letter of Credit is transferable in its entire undrawn balance to a successor beneficiary upon presentation by Beneficiary of the original of this Letter of Credit, together with a written request for transfer executed by Beneficiary.

DEMANDS FOR PAYMENT UP TO THE MAXIMUM AGGREGATE AMOUNT AVAILABLE UNDER THIS LETTER OF CREDIT SHALL BE PAID BY US AT OR BEFORE 1:00 P.M. \_\_\_\_\_ TIME ON THE NEXT SUCCEEDING BUSINESS DAY AFTER OUR RECEIPT ON OR PRIOR TO OUR CLOSE OF BUSINESS ON THE EXPIRATION DATE, OF ONE OR MORE SIGHT DRAFTS SIGNED BY YOUR AUTHORIZED OFFICER OR REPRESENTATIVE OR, IF THIS LETTER OF CREDIT IS TRANSFERRED, BY AN AUTHORIZED OFFICER OR REPRESENTATIVE OF ANY TRANSFEREE BENEFICIARY.

“BUSINESS DAY” MEANS ANY DAY ON WHICH BANKS IN NEWPORT BEACH, CALIFORNIA AND NEW YORK, NEW YORK ARE NOT AUTHORIZED OR REQUIRED BY LAW TO CLOSE AND ON WHICH THE NEW YORK STOCK EXCHANGE IS NOT CLOSED.

DRAW REQUESTS MAY BE SUBMITTED IN PERSON, BY COURIER, OR BY MAIL TO OUR ADDRESS STATED ABOVE. WE HEREBY WAIVE AND DISCLAIM RIGHTS OF SUBROGATION IN RESPECT OF ANY DRAW MADE BY YOU, WHETHER ARISING UNDER THE UNIFORM COMMERCIAL CODE OR OTHERWISE.

It is a condition of this Letter of Credit that it shall remain enforceable against us for a period of \_\_\_\_\_ from this date and further, that it shall be deemed automatically extended for successive one-year periods without amendment thereafter unless sixty (60) days prior to the expiration date set forth above, or within sixty (60) days prior to the end of any yearly Anniversary Date thereafter, you shall receive our notice in writing by both certified mail, return receipt requested, and email at [njohnson@provenderpartners.com] that we elect not to renew this Letter of Credit for any subsequent year.

The draft must be marked “Drawn under \_\_\_\_\_ Letter of Credit No. \_\_\_\_\_ dated \_\_\_\_\_.”

There are no other conditions of this letter of credit. Except so far as otherwise stated, this credit is subject to the International Standby Practices, ICC Publication No. 590 (“ISP 98”), and any subsequent revision thereof, except to the extent the same would be inconsistent with the express provisions hereof, and is otherwise governed by the laws of the State of California.

\_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We have issued our report dated October 12, 2021, with respect to the balance sheet of Project Clean, Inc. contained in this Registration Statement and Prospectus. We consent to the use of the aforementioned report in the Registration Statement and Prospectus, and to the use of our name as it appears under the caption "Experts."

*/s/ Grant Thornton LLP*

Newport Beach, California  
October 28, 2021

**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We have issued our report dated October 12, 2021, with respect to the financial statements of The Real Good Food Company, LLC contained in the Registration Statement and Prospectus. We consent to the use of the aforementioned report in the Registration Statement and Prospectus, and to the use of our name as it appears under the caption “Experts.”

*/s/ Grant Thornton LLP*

Newport Beach, California  
October 28, 2021

**CONSENT OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS**

We have issued our report dated July 30, 2021, with respect to the statement of assets acquired and liabilities assumed of the Food Manufacturing Business of SSRE Holdings, LLC contained in the Registration Statement and Prospectus. We consent to the use of the aforementioned report in the Registration Statement and Prospectus, and to the use of our name as it appears under the caption "Experts."

*/s/ Grant Thornton LLP*

Newport Beach, California  
October 28, 2021