CAPSTONE THERAPEUTICS CORP.

State of Incorporation: Delaware

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SIC Code: 3845

QUARTERLY REPORT

For the quarterly period ended June 30, 2020
(the "Reporting Period")

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock	CAPS	OTCQB

The number of shares outstanding of our common stock, par value $0.0005 per share ("common stock"), is 54,377 shares as of June 30, 2020 and December 31, 2019 (after effect of a 1000-to-1 reverse stock split on September 10, 2019).

The number of shares outstanding of our common stock was 54,385,411 shares as of December 31, 2018 and December 31, 2017.

Indicate by check mark whether the company is a shell company (as defined in Rule 405 of the Securities Act of 1933 and Rule 12b-2 of the Exchange Act of 1934):

☐ Yes ☒ No

Indicate by check mark whether the company's shell status has changed since the previous reporting period:

☐ Yes ☒ No

Indicate by check mark whether a change in control of the company has occurred over this reporting period:

☐ Yes ☒ No

Capstone Therapeutics Corp.
Quarterly Report
For the Second Quarter ended June 30, 2020

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Forward Looking Statements

We may from time to time make written or oral forward-looking statements, including statements contained in our filings with the OTCQB Market or Securities and Exchange Commission and our reports to stockholders. The safe harbor for forward-looking statements contained in the Private Securities Litigation Reform Act of 1995 protects companies from liability for their forward looking statements if they comply with the requirements of that Act. This Quarterly Report should be read in conjunction with our Annual Report for the year ended December 31, 2019 filed with the OTCQB on March 27, 2020, and the Annual Report on Form 10-K for the year ended December 31, 2018, filed with the Securities and Exchange Commission ("SEC") on March 22, 2019, and contains forward-looking statements made pursuant to that safe harbor. These forward-looking statements relate to future events or to our future financial performance, and involve known and unknown risks, uncertainties and other factors that may cause our actual results, levels of activity, performance, or achievements to be materially different from any future results, levels of activity, performance or achievements expressed or implied by these forward-looking statements. In some cases, you can identify forward-looking statements by the use of words such as "may," "could," "expect," "intend," "plan," "seek," "anticipate," "believe," "estimate," "predict," "potential," "continue," or the negative of these terms or other comparable terminology. You should not place undue reliance on forward-looking statements since they involve known and unknown risks, uncertainties and other factors which are, in some cases, beyond our control and which could materially affect actual results, levels of activity, performance or achievements. Factors that may cause actual results to differ materially from current expectations, which we describe in more detail in this section titled "Risks," include, but are not limited to:

- the impact of the terms or conditions of agreements associated with funds obtained to fund operations, including the Company's Securities Purchase, Loan and Security Agreement;
- the impact of present and future merger, acquisition, joint venture, collaborative or partnering agreements or the lack thereof;
- failure of the Company's common stock to continue to be listed at the OTCQB stock market; and
- the impact of COVID-19 on operations.

If one or more of these or other risks or uncertainties materialize, or if our underlying assumptions prove to be incorrect, actual results may vary significantly from what we projected. Any forward-looking statement you read in this Quarterly Report reflects our current views with respect to future events and is subject to these and other risks, uncertainties and assumptions relating to our operations, results of operations, business strategy and liquidity. We assume no obligation to publicly update or revise these forward-looking statements for any reason, or to update the reasons actual results could differ materially from those anticipated in these forward-looking statements, even if new information becomes available in the future.

Available Information

In 2019, the Company deregistered its common stock with the U.S. Securities and Exchange Commission ("SEC). By deregistering its common stock with the SEC, the Company is no longer required to file annual, quarterly and current reports with the SEC. The Company's common stock is currently quoted on the OTCQB under the trading symbol "CAPS". As part of the OTCQB listing requirements, the Company is required to prepare and post material news, quarterly financial reports and annual audited financial reports on the OTCQB's website. Although the Company is no longer required to file certain SEC reports, there are some references throughout this document to former filings with the SEC. These references are integral to the readers' understanding of these financial statements and should be read in conjunction with this Quarterly Report. This Quarterly Report also summarizes various documents and other information. These summaries are qualified in their entirety by reference to the documents and information to which they relate.

Item 1. Exact Name of the Issuer and the Address of its Principal Executive Offices.
Exact name of issuer:

Capstone Therapeutics Corp.
Principal Executive Offices:
5141 W 122nd Street
Alsip, IL 60803
Phone: 708-371-0660
Fax: 708-371-0686
Website: www.capstonethx.com

Investor Relations Officer:
Michael M. Toporek
Chairman/CEO
5141 W 122nd Street
Alsip, IL 60803
Phone: 708-371-0660
Fax: 708-371-0686

Email Address: investorinquiries@capstonethx.com

Item 2. Shares Outstanding:

Preferred Stock – 2,000,000 shares authorized, none outstanding in 2020, 2019, or 2018.

Common Stock, par value $.0005, 150,000,000 authorized, 54,377 outstanding (after the 1,000 to 1 reverse stock split on September 10, 2019) at June 30, 2020 and December 31, 2019. At December 31, 2018,, 54,385,411 shares were outstanding (54,385 shares after the 1,000 to 1 reverse stock split in September 2019).

Public Float (1) at June 30, 2020 was approximately 27,437 shares. Public Float (1) at December 31, 2019 was approximately 27,297 (after September 2019 1,000 to 1 reverse stock split). Public Float (1) at December 31, 2018 was approximately 27,189,483 shares (prior to September 10, 2019 1,000 to 1 reverse stock split).

Beneficial shareholders owning at least 100 shares (2) was approximately 165 at June 30, 2020. Beneficial shareholders owning at least 100 shares (2) was approximately 165 at December 31, 2019. Beneficial shareholders owning at least 100 shares (2) was approximately 2,000 at December 31, 2018 (prior to reverse stock split in September 2019).

Stockholders of record at June 30, 2020 was approximately 29. Stockholders of record were approximately 22 at December 31, 2019 and 347 at December 31, 2018.

(1) For purposes of this calculation only, shares of common stock held by each of the Company's directors and officers on the given date and by each person who the Company knows beneficially owned 5% or more of the outstanding common stock on that date have been excluded in that such persons may be deemed to be affiliates.

(2) Estimate based on beneficial share range analysis, received from Computershare.

Item 3. Interim Financial Statements

CAPSTONE THERAPEUTICS CORP.
CONSOLIDATED BALANCE SHEETS
(in thousands, except share and per share data)
(Unaudited)

(in thousands, except share and per share data)	June 30, 2020	December 31, 2019
	(Unaudited)	
ASSETS		
Current assets:		
Cash, including discontinued operations of $35 and $41 in		
2020 and 2019, respectively	$ 236	$ 58
Accounts Receivable, net	7,222	
Inventories, including prepaid inventory at June 30, 2020 of $784	8,969	
Other current assets	368	146
Other current assets - discontinued operations	64	80
Total current assets	16,859	284
Long-term assets:		-
Property and equipment, net	1,096	-
Goodwill and other intangible assets	23,273	-
Other long-term assets	48	-
Total long-term assets	24,417	-
Total assets	$ 41,276	$ 284
LIABILITIES AND EQUITY		
Current liabilities:		
Borrowing under line of credit	$ 5,921	$ -
Accounts payable and other accrued liabilities	5,851	379
Current portion of term loan	292	
Other current liabilities	19	
Accounts payable and other accrued liabilities - discontinued operations	807	776
Total current liabilities	12,890	1,155
Long-term liabilities:		
Secured debt and accrued interest, net of unamortized issuance costs	3,378	3,071
Term loan	48	
Mezzanine loan	2,576	
Long-term NMD seller's note	1,870	
Long-term NMD contingent value note	943	
Accrued related party management fee	775	
Care Act PPP loan	780	
Other long-term liabilities	56	-
Total long-term debt	10,426	3,071
Totalstone, LLC Class B units with preferred return	22,065	-
Equity		
Capstone Therapeutics Corp. Stockholders' Equity		
Common Stock $.0005 par value;	-	-
150,000,000 shares authorized; 54,377 shares outstanding		
on June 30, 2020 and December 31, 2019		
Additional paid-in capital	190,533	190,526
Accumulated deficit	(193,946)	(193,827)
Total Capstone Therapeutics Corp. stockholders'equity (deficit)	(3,413)	(3,301)
Noncontrolling interest	(692)	(641)
Total equity	(4,105)	(3,942)
Total liabilities, Totalstone, LLC Class B units and equity	$ 41,276	$ 284
See notes to unaudited consolidated financial statements		

CAPSTONE THERAPEUTICS CORP.
CONSOLIDATED STATEMENTS OF OPERATIONS
(in thousands, except share and per share data)
(Unaudited)

	Three months ended June 30,		Six months ended June 30,	
	2020	2019	2020	2019
Sales	$ 14,012	$ -	$ 14,012	$ -
Sales returns and allowances	(43)		(43)	
Net sales	13,969	-	13,969	-
Cost of goods sold	10,599	-	10,599	-
Gross Profit	3,370	-	3,370	-
Selling, general and administrative expenses	2,222	178	2,412	366
Income (loss) from operations	1,148	(178)	958	(366)
Interest and other income (expense), net	(329)	(63)	(399)	(126)
Income (loss) from operations before taxes	819	(241)	559	(492)
Income tax benefit (expense)	(10)	-	14	-
Net Income (Loss) from continuing operations	809	(241)	573	(492)
Discontinued Operations	-	(427)	(51)	(1,031)
Net Income (Loss)	809	(668)	522	(1,523)
Less: Net (Income) Loss attributable to the Noncontrolling interest	-	-	51	-
Class B units preferred return	(692)	-	(692)	-
Net Income (Loss) attributable to Capstone Therapeutics Corp. stockholders	$ 117	$ (668)	$ (119)	$ (1,523)
Net Income (Loss) attributable to Capstone Therapeutics Corp. stockholders				
Continuing operations	$ 117	$ (241)	$ (119)	$ (492)
Discontinued operations	-	(427)		(1,031)
	$ 117	$ (668)	$ (119)	$ (1,523)
Per Share Information:				
Net Income (Loss), basic and diluted:				
Continuing operations	$ 2.15	$ (4.48)	$ (2.19)	$ (9.15)
Discontinued operations	-	(7.94)		(19.17)
Total	$ 2.15	$ (12.42)	$ (2.19)	$ (28.32)
Basic and diluted shares outstanding (reflecting September 2019 reverse stock split)	54,377	54,377	54,377	54,377

See notes to unaudited consolidated financial statements

CAPSTONE THERAPEUTICS CORP.
CONSOLIDATED STATEMENTS OF CASH FLOWS
(in thousands)
(Unaudited)

	Six months ended June 30,	
	2020	**2019**
OPERATING ACTIVITIES		
Net income (loss)	$ 522	$ (1,523)
Non cash items:		
Depreciation and amortization	87	39
Non-cash interest expense	195	119
Non-cash stock based interest expense	7	7
Change in other operating items:		
Other current assets	855	(274)
Accounts payable and other accrued liabilities	(20)	546
TotalStone, LLC class B units	(692)	-
Cash flows provided by (used in) operating activities	954	(1,086)
INVESTING ACTIVITIES		
Purchase of property and equipment, net	-	-
Cash flows provided by (used in) investing activities	-	-
FINANCING ACTIVITIES		
Borrowings (payments) under line of credit, net	(1,389)	-
Care Act funding	780	-
Financed insurance premium	-	-
Payments on financed insurance premium	(28)	
Secured debt funding	(139)	50
Cash flows provided by (used in) financing activities	(776)	50
NET INCREASE (DECREASE) IN CASH	178	(1,036)
CASH, BEGINNING OF PERIOD	58	1,341
CASH, END OF PERIOD	$ 236	$ 305

See notes to unaudited consolidated financial statements

CAPSTONE THERAPEUTICS CORP.
NOTES TO UNAUDITED CONSOLIDATED FINANCIAL STATEMENTS
June 30, 2020

NOTE A: OVERVIEW OF BUSINESS

Description of the Business

Capstone Therapeutics Corp. (the "Company", "we", "our" or "us") was a biotechnology company committed to developing a pipeline of novel peptides and other molecules aimed at helping patients with under-served medical conditions. Previously, we were focused on the development and commercialization of two product platforms: AZX100 and Chrysalin (TP508). In 2012, we terminated the license for Chrysalin (targeting orthopedic indications). In 2014, we terminated the license for AZX100 (targeting dermal scar reduction). Capstone no longer has any rights to or interest in Chrysalin or AZX100.

On August 3, 2012, we invested in a new company, LipimetiX Development, LLC, (now LipimetiX Development, Inc.), ("LIPI"), to develop Apo E mimetic peptide molecule AEM-28 and its analogs. LIPI has a development plan to pursue regulatory approval of AEM-28, or an analog, as treatment for Homozygous Familial Hypercholesterolemia, other hyperlipidemic indications, and acute coronary syndrome/atherosclerosis regression. The initial AEM-28 development plan extended through Phase 1a and 1b/2a clinical trials and was completed in the fourth quarter of 2014. The clinical trials had a safety primary endpoint and an efficacy endpoint targeting reduction of cholesterol and triglycerides.

In early 2014, LIPI received allowance from regulatory authorities in Australia permitting LIPI to proceed with the planned clinical trials. The Phase 1a clinical trial commenced in Australia in April 2014 and the Phase 1b/2a clinical trial commenced in Australia in June 2014. The clinical trials for AEM-28 were randomized, double-blinded, placebo-controlled studies to evaluate the safety, tolerability, pharmacokinetics and pharmacodynamics of six escalating single doses (Phase 1a in healthy patients with elevated cholesterol) and multiple ascending doses of the three highest doses from Phase 1a (Phase 1b/2a in patients with hypercholesterolemia and healthy volunteers with elevated cholesterol and high Body Mass Index). The Phase 1a clinical trial consisted of 36 patients and the Phase 1b/2a consisted of 15 patients. Both clinical trials were completed in 2014 and the Medical Safety Committee, reviewing all safety-related aspects of the clinical trials, observed a generally acceptable safety profile. As first-in-man studies, the primary endpoint was safety; yet efficacy measurements analyzing pharmacodynamics yielded statistical significance in the pooled dataset favoring AEM-28 versus placebo in multiple lipid biomarker endpoints.

Concurrent with the clinical development activities of AEM-28, LIPI has performed pre-clinical studies that have identified analogs of AEM-28, and new formulations, that have the potential of increased efficacy, higher human dose toleration and an extended composition of matter patent life (application filed with the U.S. Patent and Trademark Office in 2014). LIPI is exploring fundraising, partnering or licensing, to obtain additional funding to continue development activities and operations.

On August 23, 2019 the Company adopted a Contingent Value Rights Agreement, filed on Form 8-K with the SEC on August 26, 2019, and under that agreement, the net proceeds, if any, from the Company's investment in LIPI, will be distributed to the Company's July 10, 2019 shareholders of record. Accordingly, at June 30, 2020, the Company effectively has no financial interest in LIPI, other than the possible collection of amounts owed to the Company, which currently consists of the loan,

accrued interest and accounting fees described in Note B in the Company's financial statements, and LIPI's operations are shown as discontinued operations in the Company's financial statements.

The Company has been exploring fundraising or a merger/acquisition, to obtain additional funding to continue operations. As described in Note N to the Financial Statements included in this Quarterly Report, in March 2020 the Company entered into a transaction, which was effective April 1, 2020, whereby it has obtained an interest in a materials distribution company (Totalstone, LLC) that distributes masonry stone products for residential and commercial construction in the Midwest and Northeast United States, under the trade names Instone and Northeast Masonry Distributors (NMD), which going forward will be the Company's primary business activity.

Description of Current LIPI Peptide Drug Candidates.

Apo E Mimetic Peptide Molecule – AEM-28 and its analogs

Apolipoprotein E is a 299 amino acid protein that plays an important role in lipoprotein metabolism. Apolipoprotein E (Apo E) is in a class of protein that occurs throughout the body. Apo E is essential for the normal metabolism of cholesterol and triglycerides. After a meal, the postprandial (or post-meal) lipid load is packaged in lipoproteins and secreted into the blood stream. Apo E targets cholesterol and triglyceride rich lipoproteins to specific receptors in the liver, decreasing the levels in the blood. Elevated plasma cholesterol and triglycerides are independent risk factors for atherosclerosis, the buildup of cholesterol rich lesions and plaques in the arteries. AEM-28 is a 28 amino acid mimetic of Apo E and AEM-28 analogs are also 28 amino acid mimetics of Apo E (with an aminohexanoic acid group and a phospholipid). Both contain a domain that anchors into a lipoprotein surface while also providing the Apo E receptor binding domain, which allows clearance through the heparan sulfate proteoglycan (HSPG) receptors (Syndecan-1) in the liver. AEM-28 and its analogs, as Apo E mimetics, have the potential to restore the ability of these atherogenic lipoproteins to be cleared from the plasma, completing the reverse cholesterol transport pathway, and thereby reducing cardiovascular risk. This is an important mechanism of action for AEM-28 and its analogs. Atherosclerosis is the major cause of cardiovascular disease, peripheral artery disease and cerebral artery disease, and can cause heart attack, loss of limbs and stroke. Defective lipid metabolism also plays an important role in the development of adult onset diabetes mellitus (Type 2 diabetes), and diabetics are particularly vulnerable to atherosclerosis, heart and peripheral artery diseases. LIPI has an Exclusive License Agreement with the University of Alabama at Birmingham Research Foundation for a broad domain of Apo E mimetic peptides, including AEM-28 and its analogs.

Company History

Prior to November 2003, we developed, manufactured and marketed proprietary, technologically advanced orthopedic products designed to promote the healing of musculoskeletal bone and tissue, with particular emphasis on fracture healing and spine repair. Our product lines, which included bone growth stimulation and fracture fixation devices, are referred to as our "Bone Device Business." In November 2003, we sold our Bone Device Business.

In August 2004, we purchased substantially all of the assets and intellectual property of Chrysalis Biotechnology, Inc., including its exclusive worldwide license for Chrysalin, a peptide, for all medical indications. Subsequently, our efforts were focused on research and development of Chrysalin with the goal of commercializing our products in fresh fracture healing. (In March 2012, we returned all rights to the Chrysalin intellectual property and no longer have any interest in, or rights to, Chrysalin.)

In February 2006, we purchased certain assets and assumed certain liabilities of AzERx, Inc. Under the terms of the transaction, we acquired an exclusive license for the core intellectual property relating to AZX100, an anti-fibrotic peptide. In 2014, we terminated the License Agreement with AzTE (Licensor) for the core intellectual property relating to AZX100 and returned all interest in and rights to the AZX100 intellectual property to the Licensor.

On August 3, 2012, we invested in a new company (As described in Note B below) to develop Apo E mimetic peptide molecule AEM-28 and its analogs. On August 23, 2019 the Company adopted a Contingent Value Rights Agreement, filed on Form 8-K with the SEC on August 26,2019, and under that agreement, the net proceeds, if any, from the Company's investment in LIPI, will be distributed to the Company's July 10, 2019 shareholders of record. Accordingly, at June 30, 2020, the Company effectively has no financial interest in LIPI, other than the possible collection of amounts owed to the Company, which currently consists of the loan, accrued interest and accounting fees described in Note B in the Company's financial statements, and LIPI operations are shown as discontinued operations in the Company's financial statements.

The Company has been exploring fundraising or a merger/acquisition, to obtain additional funding to continue operations. As described in Note N to the Financial Statements included in this Quarterly Report, in March 2020 the Company entered into a transaction, which was effective April 1, 2020, whereby it has obtained an interest in a materials distribution company (Totalstone, LLC), which going forward will be the Company's primary business activity.

TotalStone, LLC (T/A "Instone"), a Delaware limited liability company, was formed on October 4, 2006. The Company is engaged in the distribution of pre-cast specialty items and thin stone products and related accessories. All of its operations are performed in Illinois, Ohio and New Jersey. Its administrative functions are performed in Illinois and New Jersey. Instone services the Northeast and Midwest regions, which comprise twenty-five states.

TotalStone, LLC has a wholly owned single member limited liability company, Northeast Masonry Distributors, LLC ("NMD", f/k/a NEM Purchaser, LLC), a Delaware limited liability company. NMD was formed on September 23, 2019. On November 14, 2019, NEM Purchaser, LLC completed the purchase from Northeast Masonry Distributors, LLC of substantially all of the assets, relating to a distribution center in Plainville, Massachusetts. NEM Purchaser, LLC also assumed liabilities, receivables, fixed assets, and other assets. The aggregate purchase price was $6,029,342. NMD is engaged in the light fabrication and distribution of natural stone products. All of its manufacturing and distribution operations are performed in Massachusetts. Administrative functions are performed in Massachusetts and New Jersey. NMD services the Northeast and Midwest regions, which comprise twenty-five states.

OrthoLogic Corp. commenced doing business under the trade name of Capstone Therapeutics on October 1, 2008, and we formally changed our name from OrthoLogic Corp. to Capstone Therapeutics Corp. on May 21, 2010.

In these notes, references to "we", "our", "us", the "Company", "Capstone Therapeutics", "Capstone", and "OrthoLogic" refer to Capstone Therapeutics Corp. References to "LIPI", refer to LipimetiX Development, Inc. (formerly LipimetiX Development, LLC). References to "TotalStone" or "Instone" refer to TotalStone, LLC. References to NMD refer to Totalstone's wholly owned subsidiary Northeast Masonry Distributors, LLC.

Basis of presentation, Going Concern, and Management's Plans. The accompanying financials statements have been prepared assuming the Company will continue as a going concern, which contemplates the realization of assets and satisfaction of liabilities in the normal course of business.

As described in Note N below, the Company, in March of 2020, acquired an interest in TotalStone, LLC. The funds available from the operations of TotalStone, LLC, as well as the extension of the maturity date for the Secured Debt and accrued interest to March 31, 2022, as discussed in Note E, alleviated the substantial doubt about the entity's ability to continue as a going concern.

In the opinion of management, the financial statements include all adjustments necessary for the fair presentation of our financial position, results of operations, and cash flows, and all adjustments were of a normal recurring nature. The financial statements include the results, after elimination of intercompany accounts and transactions, of Capstone Therapeutics Corp., TotalStone, LLC (subsequent to the merger date of April 1, 2020), and our approximately 60% owned subsidiary, LipimetiX Development, Inc. (shown as a discontinued operation).

Use of estimates. The preparation of financial statements in accordance with accounting principles generally accepted in the United States of America requires that management make a number of assumptions and estimates that affect the reported amounts of assets, liabilities, and expenses in our financial statements and accompanying notes. Management bases its estimates on historical experience and various other assumptions believed to be reasonable. Although these estimates are based on management's assumptions regarding current events and actions that may impact the Company in the future, actual results may differ from these estimates and assumptions.

Our significant estimates include accounting for stock-based compensation and the TotalStone, LLC merger.

Legal and Other Contingencies

The Company is subject to legal proceedings and claims that arise in the course of business. The Company records a liability when it is probable that a loss has been incurred and the amount is reasonably estimable. There is significant judgment required in both the probability determination and as to whether an exposure can be reasonably estimated. In the opinion of management, there was not at least a reasonable possibility the Company may have incurred a material loss with respect to loss contingencies. However, the outcome of legal proceedings and claims brought against the Company are subject to significant uncertainty.

Legal costs related to contingencies are expensed as incurred and were not material in either 2020 or 2019.

On November 14, 2019, NMD contracted to a non-negotiable secured subordinated contingent value promissory with Avelina Masonry, LLC and James Palatine (the "Sellers"). The Earned Amount is comprised of a tranche of up to $462,500 with respect to the 2020 NMD Gross Profit (the "2020 Tranche"), a tranche of up to $462,500 with respect to the 2021 NMD Gross Profit (the "2021 Tranche") and a tranche of $75,000 (the "Palatine Tranche"). All three tranches have a scheduled payment date of June 15, 2022. At June 30, 2020, the Company has determined that it is probable that the long-term contingent value note Tranches will be earned and has accrued a liability of $943,000 (See Note K below).

In December 2019, an outbreak of a new strain of coronavirus, COVID-19, emerged in Wuhan, China. Within weeks, the number of those infected grew significantly, and beyond China's borders. As of the date of this report, the coronavirus has spread globally. The coronavirus outbreak is still evolving, and its effects remain unknown. The Company is unable to predict how changing global economic conditions such as the COVID-19 coronavirus will affect operations.

LipimetiX Development, Inc. Accounting

The Company invested in a new company in which it, at formation, contributed $6,000,000, and the noncontrolling interests have contributed certain patent license rights. As discussed in Note B below, in August 2017, the Company purchased 93,458 shares of LipimetiX Development, Inc.'s Series B-2 Preferred Stock for $1,000,000. Neither the Company nor the noncontrolling interests have an obligation to contribute additional funds to LIPI's or to assume any LIPI's liabilities or to provide a guarantee of either performance or any liability. On August 23, 2019 the Company adopted a Contingent Value Rights Agreement ("CVR"), filed on Form 8-K with the SEC on August 26, 2019, and under that agreement, the net proceeds, if any, from the Company's investment in LIPI, will be distributed to the Company's July 10, 2019 shareholders of record. Accordingly, the Company effectively has no financial interest in LIPI, other than the possible collection of amounts owed to the Company, which currently consists of the loan, accrued interest and accounting fees described in Note B in the Company's financial statements, and LIPI's operations are shown as discontinued operations as required by ASC 205-20 and recorded by restating prior periods.

The Company has accounted for the results of LIPI using the liquidation provisions of the LIPI operating agreement under the hypothetical liquidation at book value accounting method. As of March 31, 2018, losses incurred by LIPI exceeded the capital accounts of LIPI and the Company had recognized losses equal to its investment in LIPI ($7,000,000). The Company has a revolving loan agreement with LIPI and advanced LIPI funds for operations, with the unpaid amount due July 15, 2020, with early payment required upon certain additional funding by non-affiliated parties. The loan balance and accrued interest at June 30, 2020 totaled $1,840,000. The Company has also recorded accounting fees due from LIPI of $580,000 at June 30, 2020. Losses incurred by LIPI in excess of the capital accounts were allocated to the Company to the extent of the outstanding loan, accrued interest and unpaid accounting fees totaling $2,420,000 at June 30, 2020. Accordingly, losses incurred by LIPI may exceed the amounts recorded by the Company if LIPI losses exceed the Company's LIPI investment, loan to and unpaid interest and accounting fees. Subsequently, the Company will evaluate the collectability of the outstanding loan balance and accrued interest at each reporting date.

Concentrations of Credit Risk

The Company maintains its cash accounts in various deposit accounts, the balances of which are periodically in excess of federally insured limits.

Cash.

Cash consists of balances held in a commercial bank account.

Accounts Receivable

The Company carries accounts receivable at cost. On a periodic basis, management evaluates receivables to determine if any portion is uncollectible. As of June 30, 2020, the allowance for doubtful accounts totaled $24,000.

Prepaid Inventory

Prepaid inventory represents deposits placed on inventory purchases for shipments not yet received as of June 30, 2020. As of June 30, 2020, the total prepaid inventory balance was $784,000. Significant prepaid inventory is located overseas.

Inventories

Inventories consisting of finished goods are stated at the lower of cost, determined by the average cost method, or market. At June 30, 2020, the reserve for obsolete inventory totaled $183,000.

Goodwill and Other Intangible Assets

Goodwill represents costs in excess of the estimated fair values of acquired net assets in a business combination. Goodwill and other intangible assets with indefinite lives are reviewed annually for impairment. The Companies do not amortize goodwill and intangible assets with indefinite lives. Intangible assets with finite lives, consists of a non-compete agreement, amortized over the term of the agreement.

Property and Equipment

Property and equipment is stated at cost and is depreciated over the estimated useful lives ranging from three to ten years. Depreciation is computed by using the straight-line method for financial reporting purposes and straight-line and accelerated methods for income tax purposes. Property and equipment is comprised of machinery and equipment, computer equipment, leasehold improvements, software, office equipment, vehicles, and furniture and fixtures. Maintenance and repairs are charged to expense as incurred.

Impairment of Long-lived Assets

Long-lived assets and certain identifiable intangibles are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of assets to be held and used is measured by a comparison of the carrying amount of an asset to future undiscounted net cash flows expected to be generated by the asset. If such assets are considered to be impaired, the impairment to be recognized is measured by the amount by which the carrying amount of the assets exceeds the fair value of the assets. For the period April 1, 2020 to June 30, 2020 no impairment charges were necessary.

Accounts Payable.

Accounts payable includes accrued and deferred officer compensation of $217,000 and $271,000 at June 30, 2020 and December 31, 2019, respectively, that is payable at various times and amounts on occurrence of certain performance levels or approval by the Company's Board of Directors.

Revenue Recognition

Sales are recognized when revenue is realized or becomes realizable and has been earned, net of sales tax. In general, revenue is recognized when the earnings process is complete, and collectability is reasonably assured which is usually upon shipment of the product. Amounts billed related to shipping and handling, which are not significant, are included in revenue. As of June 30, 2020, there are no estimates of variable considerations represented in revenue.

In May 2014, the Financial Accounting Standards Board (FASB) issued Accounting Standards Update (ASU) 2014-09, *Revenue from Contracts with Customers (Topic 606),* that was adopted by TotalStone,LLC in 2019. This guidance outlines a single, comprehensive model for accounting for revenue from contracts with customers. TotalStone, LLC and Subsidiary's revenue is generated from

distribution of pre-cast specialty items and thin stone products and related accessories. Those sales predominantly contain a single delivery element and revenue is recognized at a single point in time when ownership, risks, and rewards transfer.

Shipping and Handling

The Companies include shipping and handling expenses in cost of goods sold.

Advertising

Advertising and promotional expenses are expensed in the period incurred unless there are material costs that benefit future periods. The consolidated financial statements currently do not reflect any prepaid advertising expenses. Advertising expenses were $4,000 for the period from April 1, 2020 to June 30, 2020.

Loss per common share.

In determining income (loss) per common share for a period, we use weighted average shares outstanding during the period for primary shares and we utilize the treasury stock method to calculate the weighted average shares outstanding during the period for diluted shares. Utilizing the treasury stock method for 2020 and 2019, no shares were determined to be outstanding and excluded from the calculation of income (loss) per share because they were anti-dilutive. At June 30, 2020, options and warrants to purchase 2,453,000 and 6,321,930 shares, respectively, of our common stock, at exercise prices for options ranging from $.05 to $.67 per share (warrants see Note E below), were outstanding. Upon exercise of options or warrants, the shares issued will be adjusted for the 1,000 to 1 reverse stock split implemented in September 2019.

Concentrations of Credit Risk

Financial instruments that potentially subject the Company to concentrations of credit risk consist principally of cash and trade accounts receivable. The Company places cash with high credit quality institutions. During the normal course of business, balances in these accounts may exceed the maximum amount insured by the FDIC.

The operations of TotalStone are included in these consolidated financial statements from the merger date of April 1, 2020, however historically, approximately nine (9) percent of TotalStone's sales are to one customer for each of the years ended December 31, 2019 and 2018. Accounts receivable related to two customers approximated thirteen (13) percent of accounts receivable as of June 30, 2020. Approximately sixty-nine (69) percent and seventy five (75) percent of TotalStone's purchases were from one vendor for the years ended December 31, 2019 and 2018, and the purchases from this vendor approximated sixty nine (69) percent of the Company's purchases for the period April 1, 2020 to June 30, 2020.

Concentrations of credit risk with respect to accounts receivable are limited due to the large number of customers comprising the Companies customer base and generally short payment terms. The Companies do not require collateral to support financial instruments subject to credit risk. In addition, the Companies routinely assess the financial strength of its customers and closely monitors the extension of credit while maintaining allowances for potential credit losses. On a periodic basis, the Companies evaluate accounts receivable and establish an allowance for doubtful accounts based on a history of past write-offs and collections and current credit considerations. Management believes there is no business

vulnerability regarding concentrations of accounts receivable and sales due to the strong relationships with customers and the financial strength of such customers.

Recent Accounting Pronouncements

Leases. In February 2016 the FASB issued ASU 2016-02 *Leases (Topic 842)* and subsequently amended the guidance relating largely to transition considerations under the standard in January 2018 and July 2018. The objective of this update is to increase the transparency and comparability among organizations by recognizing lease assets and lease liabilities on the balance sheet and disclosing key information about leasing arrangements. This ASU is effective for fiscal years beginning after December 15, 2018, including interim periods within those annual periods and is to be applied utilizing a modified retrospective approach. The new standard was adopted by the Company in the 1st quarter of 2019 and the adoption did not have a material effect on its financial position or operating results. The Company, at December 31, 2019, has recorded, for the Tempe, Arizona office lease, a right to use asset of $5,000 in Other Current Assets and a lease liability of $5,000 in Accounts Payable and Other Accrued Liabilities in the Financial Statements. The Company's Tempe, Arizona office lease expired March 31, 2020. The adoption of the new standard is a non-monetary transaction and had no effect on the Statement of Cash Flows.

TotalStone leases. The Company, in March of 2020, acquired an interest in TotalStone, LLC., a privately owned company. Totalstone is currently evaluating the requirements of FASB ASU 2016-02 *Leases (Topic 842)* and believes the adoption of the new standard will not have a material effect on its reported operating results.

Subsequent Events

The Company has evaluated subsequent events through August 14, 2020, the date which the financial statements were available to be issued.

NOTE B: DISCONTINUED OPERATIONS - DEVELOPMENT OF APO E MIMETIC PEPTIDE MOLECULE AEM-28 AND ANALOGS

On August 23, 2019 the Company adopted a Contingent Value Rights Agreement, filed on Form 8-K with the SEC on August 26, 2019, and under that agreement, the net proceeds, if any, from the Company's investment in LIPI, will be distributed to the Company's July 10, 2019 shareholders of record. Accordingly, at June 30, 2020, the Company effectively has no financial interest in LIPI, other than the possible collection of amounts owed to the Company, which currently consists of the loan, accrued interest and accounting fees described in this Note B, and LIPI's operations are shown as discontinued operations as required by ASC 205-20. As described previously, the Company has recognized losses equal to its investment in the LIPI, LIPI loan, accrued interest and unpaid accounting fees totaling $9,420,000.

LIPI History

On August 3, 2012, we entered into a Contribution Agreement with LipimetiX, LLC to form a new company, LipimetiX Development, LLC ("LIPI"), to develop Apo E mimetic molecules, including AEM-28 and its analogs. In June 2015, the LIPI converted from a limited liability company to a corporation, LipimetiX Development, Inc. The Company contributed $6 million, which included $1 million for 600,000 voting common ownership units (now common stock), representing 60% ownership in the LIPI, and $5 million for 5,000,000 non-voting preferred ownership units (now Series A Preferred

Stock), which have preferential distribution rights. On March 31, 2016, the Company converted 1,500,000 shares of its preferred stock into 120,000 shares of common stock, increasing its common stock ownership from 60% to 64%. On August 11, 2017, the remaining $3,500,000 (3,500,000 shares) of Series A preferred stock became convertible, at the Company's option, into common stock, at the lower of the Series B Preferred Stock Conversion Price, as may be adjusted for certain events, or the price of the next LipimetiX Development, Inc. financing, exceeding $1,000,000 on independently set valuation and terms. On August 11, 2017, the Company purchased 93,458 shares of LipimetiX Development, Inc.'s Series B-2 Preferred Stock for $1,000,000. As discussed below, the LIPI Series B-1 and B-2 Preferred Stock issuances, because of the participating and conversion features of the preferred stock, effectively changes the Company's ownership in LIPI to 62.2%.

LipimetiX, LLC was formed by the principals of Benu BioPharma, Inc. ("Benu") and UABRF to commercialize UABRF's intellectual property related to Apo E mimetic molecules, including AEM-28 and analogs. Benu is currently composed of Dennis I. Goldberg, Ph.D. and Eric M. Morrel, Ph.D. LipimetiX, LLC contributed all intellectual property rights for Apo E mimetic molecules it owned and assigned its Exclusive License Agreement between The University of Alabama at Birmingham Research Foundation ("UABRF") and LipimetiX, LLC, for the UABRF intellectual property related to Apo E mimetic molecules AEM-28 and its analogs to LIPI, in return for 400,000 voting common ownership units (now common stock), representing a 40% ownership interest in LIPI at formation, and $378,000 in cash (for certain initial patent-related costs and legal expenses).

On August 25, 2016, LipimetiX Development, Inc. closed a Series B-1 Preferred Stock offering, raising funds of $1,012,000 ($946,000 net of issuance costs of approximately $66,000). Individual accredited investors and management participated in the financing. This initial closing of the Series B-1 Preferred Stock offering resulted in the issuance of 94,537 shares of preferred stock, convertible to an equal number of LIPI's common stock at the election of the holders and warrants to purchase an additional 33,088 shares of LIPI preferred stock, at an exercise price of $10.70, with a ten-year term.

As disclosed above, on August 11, 2017, the Company purchased 93,458 shares of LipimetiX Development, Inc.'s Series B-2 Preferred Stock for $1,000,000.

Series B (B-1 and B-2) Preferred Stock is a participating preferred stock. As a participating preferred, the preferred stock will earn a 5% dividend, payable only upon the election by LIPI or in liquidation. Prior to the LIPI common stockholders receiving distributions, the participating preferred stockholders will receive their earned dividends and payback of their original investment. Subsequently, the participating preferred will participate in future distributions on an equal "as-converted" share basis with common stockholders. The Series B Preferred Stock has "as-converted" voting rights and other terms standard to a security of this nature.

The Exclusive License Agreement assigned by LipimetiX, LLC to LIPI on formation of LIPI, as amended, calls for payment of patent filing, maintenance and other related patent fees, as well as a royalty of 3% on Net Sales of Licensed Products during the Term of the Agreement. The Agreement terminates upon the expiration of all Valid Patent Claims within the Licensed Patents, which are currently estimated to expire between 2019 and 2035. The Agreement, as amended, also calls for annual maintenance payments of $25,000, various milestone payments of $50,000 to $500,000 and minimum royalty payments of $500,000 to $1,000,000 per year commencing on January 1 of the first calendar year following the year in which the First Commercial Sale occurs. UABRF will also be paid 5% of Non-Royalty Income received.

KEY LIPI ACCOUNTING POLICIES/ACTIVITY

Revenue Recognition

Upfront License Fees: If a license to the Company's/LIPI's intellectual property is determined to be distinct from the other performance obligations identified in the arrangement, the Company/LIPI recognizes revenues from nonrefundable, upfront license fees based on the relative value prescribed to the license compared to the total value of the arrangement. The revenue is recognized when the license is transferred to the collaborator and the collaborator is able to use and benefit from the license. For licenses that are not distinct from other obligations identified in the arrangement, the Company/LIPI utilizes judgment to assess the nature of the combined performance obligation to determine whether the combined performance obligation is satisfied over time or at a point in time. If the combined performance obligation is satisfied over time, the Company/LIPI applies an appropriate method of measuring progress for purposes of recognizing revenue from nonrefundable, upfront license fees. The Company/LIPI evaluates the measure of progress each reporting period and, if necessary, adjusts the measure of performance and related revenue recognition.

As described in our Current Report on Form 8-K filed with the Securities and Exchange Commission on May 7, 2018, on May 2, 2018, LipimetiX Development, Inc., entered into a License Agreement (the "Sub-License") with Anji Pharmaceuticals Inc. ("ANJI") to sublicense, under its Exclusive License Agreement with the UAB Research Foundation, the use of LIPI's AEM-28 and analogs intellectual property in the Territory of the People's Republic of China, Taiwan and Hong Kong (the "Territory"). The Sub-License calls for an initial payment of $2,000,000, payment of a royalty on future Net Sales in the Territory and cash milestone payments based on future clinical/regulatory events. ANJI will perform all development activities allowed under the Sub-License in the Territory at its sole cost and expense. LIPI recorded the receipt of the $2,000,000 payment as revenue in the second quarter of 2018. Transaction costs related to the revenue totaled $254,000 and consisted of a $100,000 payment to the UAB Research Foundation, as required by the UAB Research Foundation Exclusive License Agreement, a $100,000 advisory fee and $54,000 in legal fees.

A copy of the UAB Research Foundation Exclusive License Agreement was attached as Exhibit 10.7 to the Company's Quarterly Report on Form 10-Q for the period ending June 30, 2012 filed with Securities and Exchange Commission ('SEC") on August 10, 2012. A copy of the First Amendment and Consent to Assignment of the Exclusive License Agreement was attached as Exhibit 10.3 to the Company's Quarterly Report on Form 10-Q for the period ending June 30, 2012 filed with the SEC on August 10, 2012. The Second Amendment to the Exclusive License Agreement was attached as Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on January 30, 2015.

Cooperation Agreement

In May 2018 LIPI entered into an agreement to cooperate with Anji Pharmaceuticals Inc. ("ANJI") in the development of AEM-28 and its analogs. LIPI entered into a License Agreement (the "Sub-License") with ANJI to sublicense, under its Exclusive License Agreement with the UAB Research Foundation, the use of LIPI's AEM-28 and analogs intellectual property in the Territory of the People's Republic of China, Taiwan and Hong Kong (the "Territory"). As both parties intend to develop AEM-28 and its analogs, conducting independent development activities would result in both parties performing the same or similar pre-clinical work and clinical trial drug development. As such, the parties agreed to cooperate by LIPI agreeing to perform certain preclinical work at its expense and for ANJI to cover the cost of clinical trial drug development. For efficiency and cost effectiveness LIPI has agreed to manage the initial clinical trial drug development. Accordingly, the vendors performing the clinical trial drug

development will bill LIPI and ANJI will reimburse LIPI. As provided for in ASC 606 and ASC 808 Cooperation Arrangements, LIPI will net the reimbursements against the clinical trial drug development costs. ANJI cost and reimbursement activity under the Cooperation Agreement as of June 30, 2020 totaled $715,000. In 2019 LIPI charged costs totaling $1,165,000 related to its activities under the Cooperation Agreement, of which $740,000 was incurred in the six months of 2019. No costs related to its activities under the Cooperation Agreement were incurred in 2020.

In May 2014, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") 2018-18 Collaborative Arrangements (Topic 808) - Clarifying the Interaction between Topic 808 and Topic 606. This ASU is effective for effective for fiscal years beginning after December 15, 2019, and interim periods within those fiscal years. As provided for in the ASU, LIPI has elected to early adopt the ASU. The adoption of the ASU did not have a material effect on LIPI's or Company's financial statements at June 30, 2020 or December 31, 2019.

LIPI RESULTS RECORDED BY THE COMPANY

The Company has accounted for the results of LIPI using the liquidation provisions of the LIPI operating agreement under the hypothetical liquidation at book value accounting method. As of March 31, 2018, losses incurred by LIPI exceeded the capital accounts of LIPI and the Company had recognized losses equal to its investment in LIPI ($7,000,000). The Company has a revolving loan agreement with LIPI and advanced LIPI funds for operations, with the unpaid amount due July 15, 2020, with early payment required upon certain additional funding of LIPI by non-affiliated parties. The loan balance and accrued interest at June 30, 2020 and December 31, 2019 totaled $1,840,000 and $1,800,000, respectively. The Company has also recorded accounting fees due from LIPI of $580,000 at June 30, 2020 and December 31, 2019. Losses incurred by LIPI in excess of the capital accounts were allocated to the Company to the extent of the net outstanding loan, accrued interest and unpaid accounting fees totaling $2,420,000 and $2,380,000 at June 30, 2020 and December 31, 2019, respectively. Accordingly, losses incurred by LIPI may exceed the amounts recorded by the Company if LIPI's losses exceed the Company's investment in, loan to and unpaid interest and accounting fees. At June 30, 2020 and December 31, 2019 $.7 million and $.6 million, respectively, of LIPI's losses were not recorded by the Company due to this limitation and have been allocated to noncontrolling interests.

Summarized results of LIPI, for the six months ended June 30, prior to elimination of intercompany charges of $40 in 2020 and $160 in 2019, are as follows ("000,s"):

	2020	2019
Revenue, net	$ -	$ -
Research and development	(51)	(1,031)
Interest and other expenses	(40)	(160)
Net Income (Loss)	$ (91)	$ (1,191)

Summarized cash flow activity for the six months ended June 30 are as follows ("000,s"):

	2020	2019
Cash balance at beginning of period	$ 41	$ 1,093
Cash provided by (used in) operating activities	$ (6)	$ (863)
Cash balance at end of period	$ 35	$ 230

NOTE C: ACCOUNTS RECEIVABLE, NET

The timing of revenue recognition, billings and cash collections results in billed accounts receivable on the consolidated balance sheet. Amounts are billed upon contractual completion in accordance with agreed-upon contractual terms. As of June 30, 2020, accounts receivable, net consisted of the following ("000,s"):

	June 30, 2020
Accounts receivable, gross	$ 7,246
Less: alowance for doubtful accounts	(24)
Total accounts receivable, net	$ 7,222

NOTE D: PROPERTY AND EQUIPMENT, NET

Property and equipment, net consisted of the following at June 30, 2020 and December 31, 2019 ("000,s"):

	June 30, 2020	December 31, 2019
Machinery and equipment	$ 692	$ -
Computer equipment	107	-
Leasehold improvements	561	-
Software	176	-
Office equipment	39	-
Vehicles	45	-
Furniture and fixtures	204	-
Subtotal	$ 1,824	$ -
Less: accumulated depreciation	(728)	-
Totals	$ 1,096	$ -

Depreciation and amortization expense for the six months ended June 30, 2020 and 2019 was $69,000 and $0 respectively.

NOTE E: SALE OF COMMON STOCK AND ISSUANCE OF SECURED DEBT

As described in our Current Report on Form 8-K filed with the Securities and Exchange Commission on July 17, 2017, on July 14, 2017, the Company entered into a Securities Purchase, Loan and Security Agreement (the "Agreement") with BP Peptides, LLC ("Brookstone"). The net proceeds have been used to fund our operations, infuse new capital into our joint venture, LipimetiX Development, Inc. ("LIPI") (As described in Note B above, in August 2017, the Company used $1,000,000 of the net proceeds to purchase 93,458 shares of LipimetiX Development, Inc.'s Series B-2 Preferred Stock.), to

continue its development activities, and pay off the Convertible Promissory Notes totaling $1,000,000, plus $79,000 in accrued interest.

Pursuant to the Agreement, Brookstone funded an aggregate of $3,440,000, with net proceeds of approximately $2,074,000, after paying off the Convertible Promissory Notes and transaction costs, of which $1,012,500 was for the purchase of 13,500,000 newly issued shares of our Common Stock, and $2,427,500 was in the form of a secured loan, due October 15, 2020. On July 14, 2017 Brookstone also purchased 5,041,197 shares of the Company's Common Stock directly from Biotechnology Value Fund affiliated entities, resulting in ownership of 18,541,197 shares (18,541 shares after September 2019 1,000 to 1 reverse stock split) of the Company's Common Stock, representing approximately 34.1% of outstanding shares of the Company's Common Stock at June 30, 2019.

As described in our Current Report on Form 8-K filed with the Securities and Exchange Commission on February 1, 2018, on January 30, 2018, the Company entered into the First Amendment to Securities Purchase, Loan and Security Agreement (the "Amendment") with Brookstone. Interest on the Secured Debt was payable quarterly. The Amendment defers the payment of interest until the Secured Debt's maturity, October 15, 2020. In consideration for the deferral, the Company issued a Warrant to Brookstone to purchase up to 6,321,930 shares of the Company's Common Stock with an exercise price of $.075 per share. The warrant expires October 15, 2025 and provides for quarterly vesting of shares in amounts approximately equal to the amount of quarterly interest payable that would have been payable under the Agreement, converted into shares at $0.75. At June 30, 2020, 5,350,930 shares are fully vested and exercisable. In September 2019 the Company effected a reverse stock split of 1,000 shares to 1 share and, upon exercise, the Warrant shares actually issued will be reduced by the same ratio.

The fair value of the Warrants was determined to be $43,000. The fair value of the Warrants will be amortized over the deferral period, January 30, 2018 to October 15, 2020, on the straight-line basis, as additional interest expense. Amortization expenses totaled $8,000 and $7,000 in 2020 and 2019, respectively, and is included in Interest and other expenses, net, in the Statement of Operations.

As described in our Current Report on Form 8-K filed with the Securities and Exchange Commission on March 19, 2019, on March 15, 2019 the Company entered into the Second Amendment to Securities Purchase, Loan and Security Agreement with Brookstone which provides additional funding for our operations up to a Maximum Amount of $500,000. Any additional amounts advanced will be added to the current Loan and subject to the same terms and conditions. At Brookstone's sole discretion, the Maximum Amount may be increased to an amount not to exceed $700,000. In August 2019 the lender agreed to increase the Maximum Amount to $700,000. The Company borrowed $525,000 against the Maximum Amount through June 30, 2020.

Transaction costs of $287,000 have been deferred and will be written off over the life of the secured loan, thirty-nine months from July 14, 2017 to October 20, 2020, on the straight-line basis. Additional transaction costs of $12,000 were incurred with the Amendment and will be written off over the period of the date of the Amendment, January 30, 2018, to October 15, 2020. At June 30, 2020 transaction costs of $272,000 have been amortized, and $46,000 in 2020 and 2019 has been included in the Statements of Operations in Interest and Other Expenses. At June 30, 2020 and December 31, 2019, unamortized transaction costs of $26,000 and $73,000, respectively, have been netted against the outstanding Secured Debt balance on the Balance Sheets. Interest payable on the Secured Debt is now due at loan maturity, October 15, 2020 (extended to March 31, 2022 – see below), and, at June 30, 2020 and December 31, 2019, accrued interest of $453,000 and $367,000, respectively, has been included in the Secured Debt balance on the Balance Sheets. The interest on the secured debt of $86,000, and $73,000 in 2020 and 2019, respectively, has been included in the Statements of Operations in Interest and Other Expenses.

MODIFICATION OF SECURED DEBT AND WARRANTS

In March 2020, the Company entered into the Third Amendment to Securities Purchase, Loan and Security Agreement (the "Third Amendment"). The Third Amendment extends the Secured Debt's maturity to March 31, 2022, which continues the deferral of interest until the maturity date. In consideration for the deferral, the Company has provided an option, for a period ending December 31, 2021, to convert all or part of the aggregate outstanding principal amount of the Loan, together with all accrued and unpaid interest thereon, into shares of the Company's common stock at a conversion price between $10.00 and $30.00 per share, as determined by an independent valuation. Additionally, the Company amended the Warrants to determine the exercise price per share when exercised, at a price between $10.00 and $30.00 per share (based on 6,322 shares after the reverse stock split), as determined by an independent valuation.

A summary of the Secured Debt activity is as follows ("000,s"):

	June 30, 2020	December 31, 2019
Secured Debt	$ 2,952	$ 2,777
Transaction costs	(299)	(299)
	$ 2,653	$ 2,478
Amortization	272	226
	$ 2,925	$ 2,704
Accrued interest	453	367
	$ 3,378	$ 3,071

The secured loan bears interest at 6% per annum, with interest payable quarterly (now due at loan maturity) and is secured by a security interest in all of our assets. As part of the Agreement, the Company and Brookstone entered into a Registration Rights Agreement granting Brookstone certain demand and piggyback registration rights. A provision in the Agreement entered into with Brookstone also requires the Company to nominate two candidates for a director position that have been recommended by Brookstone as long as Brookstone beneficially owns over 20% of the Company's outstanding common stock and to nominate one candidate for a director position that has been recommended by Brookstone as long as Brookstone beneficially owns over 5% but less than 20% of the Company's outstanding common stock.

On April 18, 2017, the Company and Computershare Trust Company, N.A., as Rights Agent (the "Rights Agent") entered into Tax Benefit Preservation Plan Agreement (the "Plan"), dated as of April 18, 2017, between the Company and the Rights Agent, as described in the Company's Current Report on Form 8-K filed with the Securities and Exchange Commission on April 19, 2017. The Plan is intended to act as a deterrent to any person (together with all affiliates and associates of such person) acquiring "beneficial ownership" (as defined in the Plan) of 4.99% or more of the outstanding shares of Common Stock without the approval of the Board (an "Acquiring Person"), in an effort to protect against a possible limitation on the Company's ability to use its net operating loss carryforwards. The Board, in accordance with the Plan, granted an Exemption to Brookstone with respect to the share acquisition described above, and Brookstone's acquisition of 5,041,197 shares of the Company's Common Stock from Biotechnology Value Fund affiliated entities, making Brookstone an Exempt Person in respect of such transactions.

NOTE F: TOTALSTONE, LLC LINE OF CREDIT

On June 29, 2015, TotalStone, LLC established a Credit Agreement with Capital One, National Association. Under the agreement, TotalStone, LLC is permitted to borrow up to $5,500,000 for working capital purposes. Advances under the credit agreement are limited to a formula based amount of up to eighty-five (85%) percent of the face amount of TotalStone, LLC's "Eligible Accounts Receivable" plus sixty (60%) percent of the face amount of TotalStone, LLC's "Eligible Inventory" up to a maximum amount of $2,750,000. On November 14, 2019 TotalStone, LLC amended their line of credit with Berkshire Bank to include NMD. Under this new agreement, the TotalStone, LLC is permitted to borrow up to $11,500,000 for working capital purposes. Advances under the credit agreement are limited to a formula based amount of up to eighty-five (85%) percent of the face amount of the TotalStone, LLC "Eligible Accounts Receivable" plus sixty (60%) percent of the face amount of the TotalStone, LLC "Finish Goods Inventory" up to a maximum amount of $6,000,000. Under this agreement, TotalStone, LLC is also eligible for a "Seasonal Availability Block" up to $250,000 during the period from March 1st through November 30th of each calendar year, and zero dollars from December 1st through the last day of February. The "Seasonal Availability Block" may be reduced to $250,000 if certain financial covenants are not satisfied. Interest charged on unpaid principal amount of the Credit Agreements bear a rate per annum of LIBOR plus 2.50%.

NOTE G: TOTALSTONE, LLC TERM LOAN

The Term loan was entered into on December 30, 2017 with Berkshire Bank. Principal payments are on a straight-line basis over the course of 36 months at $48,611 per month plus interest. The interest rate will be a 30-day LIBOR plus 3.50%. Remaining approximate payments on the loan are $292,000 in 2020 and $49,000 in 2021.

NOTE H: TOTALSTONE, LLC MEZZANINE LOAN – RELATED PARTY LOAN

On October 30, 2006, TotalStone, LLC entered into a mezzanine term loan of $4,000,000 with Fifth Street Mezzanine Partners II, LP ("Fifth Street"). The note was amended on November 1, 2013 retroactive to July 1, 2013. Effective July 1, 2013, the note accrues interest at a fixed rate of 8% and is payable as follows:

a) Current pay – Accrued interest on the outstanding principal balance equal to a maximum of the rate defined in the amendment ("Current Pay Interest") shall be payable monthly in arrears, on the first day of each month. The initial interest payment was due on November 1, 2006.

b) PIK interest – Accrued interest on the outstanding principal balance in excess of Current Pay Interest (which excess is referred to in the agreement as "PIK Interest") shall be payable as follows: (1) all such PIK Interest not currently paid shall be added to the principal balance on the first day of each month and (2) at the direction of the member, following the occurrence of any Event of Default or Default (as defined in the mezzanine term loan agreement), all accrued interest, including all Current Pay Interest and all PIK Interest, shall be paid in cash on the first day of each month. Notwithstanding the foregoing, TotalStone, LLC may at its option and without incurring any prepayment fee or premium, upon three business day's prior notice to the member, elect to make cash payment to the member of the PIK Interest on the first day of each month. There was $141,000 PIK interest accrued as of June 30, 2020.

The mezzanine term loan is subordinated to the Credit Facility and is collateralized by substantially all of TotalStone, LLC's assets. There is a monthly service fee of $1,650 due until the note is paid in full.

Accordingly, such borrowings under the mezzanine term note have been presented as long-term debt in the accompanying consolidated balance sheets. Cash interest payments will be made on the mezzanine term loan as long as TotalStone, LLC certifies they are not in violation of covenant requirements associated with the Credit Facility.

On March 28, 2012, Fifth Street assigned the term loan facility to BP Mezzanine Capital, LLC.

The note was amended on November 14, 2019 to extend the maturity date to November 14, 2023 and include Stream Finance, LLC as a creditor. Stream Finance, LLC amended the base interest rate. Beginning on the Amended and Restated Closing Date and continuing through the Pricing Date for the fiscal quarter of the Borrower ending March 31, 2020, the corresponding rate per annum will be 10%. Thereafter beginning on the following fiscal quarter and continuing through the maturity date as determined below, interest shall accrue on the outstanding balance of the Loan at a rate per annum equal to the Adjusted Interest Rate and shall be payable monthly in arrears, on the first day of each month (the "Interest Payment Date").

The Adjusted Interest Rate is calculated as the Base Interest Rate divided by the Adjustment Factor of .75 for any applicable period. The Base Rate is taken from Table A or Table B below that results in the highest rate per annum. The Adjusted Interest Rate shall not be more than fifteen percent (15%) per annum.

Table A or Table B

Level	Adjusted EBITDA of TotalStone (exclusive of Northeast)	Rate		Level	Adjusted EBITDA of TotalStone and Northeast	Rate
I	Greater than $2,500,000	12%		I	Greater than $4,000,000	12%
II	Less than or equal to $2,500,000, but greater than or equal to $2,000,000	10%		II	Less than or equal to $4,000,000, but greater than or equal to $3,500,000	10%
III	Less than $2,000,000	8%		III	Less than $3,500,000	8%

NOTE I: TOTALSTONE, LLC AUTO LOAN

On December 27, 2019 NMD, a wholly owned TotalStone, LLC subsidiary, obtained an auto loan from VW Credit, Inc. to purchase a vehicle. Principal and interest payments are on a straight-line basis over the course of 48 months at $830.56 a month. The interest rate on the loan is 3.99%.

The Auto Loan at June 30, 2020 consisted of the following ("000's"):

	June 30, 2020
Auto loan	$ 34
Less: current portion	(3)
Long-term portion	$ 31

The following is a schedule approximating the remaining payments at June 30, 2020 on the auto loan for the years ended December 31 in ("000,s"):

2020	$ 3
2021	10
2022	10
2023	11
	$ 34

NOTE J: TOTALSTONE, LLC NMD SELLER'S NOTE AND CONTIGENT VALUE NOTE

On November 13, 2019, NMD entered into a seller's note with Avelina Masonry, LLC (the "Seller") totaling $2,007,017. The note is due in consecutive, monthly principal payments in the amount of $48,000, to commence on June 13, 2021. The final lump sum payment consisting of interest and unpaid principal is due on its maturity date, November 13, 2022. Interest shall begin to accrue on November 13, 2019 at a rate per annum equal to the sum of LIBOR plus four and one-half percent (4.50%).

	June 30, 2020
NMD Seller's note payable	$ 2,007
Long-term Seller's note	$ 2,007

NOTE K: LONG TERM CONTINGENT VALUE NOTE

On November 14, 2019, NMD contracted to a non-negotiable secured subordinated contingent value promissory with Avelina Masonry, LLC and James Palatine (the "Sellers"). The Earned Amount is comprised of a tranche of up to $462,500 with respect to the 2020 NMD Gross Profit (the "2020 Tranche") and a tranche of up to $462,500 with respect to the 2021 NMD Gross Profit (the "2021 Tranche"). Both tranches have a scheduled payment date of June 15, 2022.

The 2020 Tranche shall be equal to: (A)$462,500, if and only if the 2020 NMD Gross Profit equals or exceeds the Target Gross Profit (the "2020 Condition"), (B) $0, if and only if (x) the 2020 Condition was not satisfied and (y) and the 2020 NMD Gross Profit is less than or equal to 90% of the Target Gross Profit, and (C) if and only if (x) the 2020 Condition was not satisfied and (y) and the 2020 NMD Gross Profit is greater than 90% of the Target Gross Profit but less than 100% of the Target Gross Profit (such percentage of Target Gross Profit, the "2020 Result"), the amount equal to (1) the 2020 Result's percentage of the range from 90% up to 100% multiplied by (2) $462,500 (e.g., (x) a 2020 Result of 95% is 50% of the range from 90% up to 100%, which results in a 2020 Tranche of $231,250 (i.e., 50% * $462,500); (y) a 2020 Result of 92.5% is 25% of the range from 90% up to 100%, which results in a 2020 Tranche of $115,625 (i.e., 25% * $462,500)).

The 2021 Tranche shall be equal to: (A)$462,500, if and only if the 2021 NMD Gross Profit equals or exceeds the Target Gross Profit (the "2021 Condition"), (B) $0, if and only if (x) the 2021Condition was not satisfied and (y) and the 2021 NMD Gross Profit is less than or equal to 90% of the Target Gross Profit, and (C) if and only if (x) the 2021 Condition was not satisfied and (y) and the 2021 NMD Gross Profit is greater than 90% of the Target Gross Profit but less than 100% of the Target Gross Profit (such percentage of Target Gross Profit, the "2021 Result"), the amount equal to (1) the 2020 Result's percentage of the range from 90% up to 100% multiplied by (2) $462,500 (e.g., (x) a 2020 Result of 95% is 50% of the range from 90% up to 100%, which results in a 2020 Tranche of $231,250 (i.e., 50% * $462,500); (y) a 2020 Result of 92.5% is 25% of the range from 90% up to 100%, which results in a 2020 Tranche of $115,625 (i.e., 25% * $462,500)).

(iv) Each of the 2021 Tranche and the 2022 Tranche shall be $462,500 if and only if (A) the 2020 Condition or the 2021 Condition is not satisfied, and (y) the average of the 2020 NMD Gross Profit and the 2021 NMD Gross Profit is equal to or greater than 110% of the Target Gross Profit (the "Combined Condition").

The promissory note shall accrue interest at the rate of the greater of three percent (3%) per annum, or the applicable federal rate beginning on the date of the note through December 31st of the year in which the tranche is calculated, but no later than December 31, 2021. Interest shall accrue at the rate of seven percent (7%) on the applicable earned amount per annum until the earned amount is paid in full on June 15, 2022.

At June 30, 2020, the Company has determined that it is probable that the long-term contingent value note Tranches will be earned and the Company has accrued a liability of $943,000.

NOTE L: INCOME TAXES

At December 31, 2019 we had accumulated approximately $150 million in federal and $16 million in state net operating loss carryforwards ("NOLs") and approximately $5.4 million of research and development and alternative minimum tax credit carryforwards. The federal NOLs expire between 2023 and 2039. The Arizona state NOL's expire between 2032 and 2039. The availability of these NOL's to offset future taxable income could be limited in the event of a change in ownership, as defined in Section 382 of the Internal Revenue Code.

At December 31, 2019 the Company had a deferred tax asset of approximately $38 million. As required by ASC 740, Management has evaluated the available evidence about future taxable income and other possible sources of realization of deferred tax assets and has established a valuation allowance of approximately $38 million at December 31, 2019. The valuation allowance reduces deferred tax assets to an amount that management believes will more likely than not be realized.

We did not file a consolidated tax return with LIPI but will file a consolidated tax return for Federal and State purposes with Totalstone, LLC, subsequent to the merger date of April 1, 2020. Totalstone, LLC is a limited liability company and, in general, is a non-income tax paying entity and its income or losses will be included in its common stock holders Federal and State income tax returns based on their period of ownership.

In 2020 the Company received CARE Act funds of $780,000, as described in Note R. These funds, if the government approves the Company's loan forgiveness application (not yet filed) will result in equal amounts of non-tax-deductible expenses. Federal taxable income for the six-month period ended June 30, 2020 is anticipated to be offset by the Company's net operating loss carryovers. State taxable income for the six-month period ended June 30, 2020 was approximately $127,000 and the Company has accrued $10,000 at June 30, 2020 as an estimate of State income taxes payable based on the Company's state estimated income tax rate of 8.00%.

NOTE M: STOCKHOLDERS EQUITY

In May 2006, our stockholders approved the 2005 Equity Incentive Plan (the "2005 Plan") and reserved 2,000,000 shares of our common stock for issuance. Our stockholders approved the reservation of an additional 1,750,000 shares of common stock for issuance under the 2005 Plan, which increased the total shares available for grant under the 2005 Plan to 3,750,000 shares. The 2005 Plan expired in April 2015. In June 2015, our stockholders approved the 2015 Equity Incentive Plan (the "2015 Plan") and reserved 1,000,000 shares of our common stock for issuance. At June 30, 2020, no shares remained available to grant under the Plans (the 2005 plan and the 2015 plan are collectively referred to as "The Plans") and all granted shares are fully vested.

We use the Black-Scholes model to determine the total fair value of options to purchase shares of our common stock. No options were granted in 2020 or 2019.

Summary

There was no non-cash stock compensation cost for 2020 or 2019. Non-cash stock compensation cost, if any, would be recorded as a general and administrative expense in the Statement of Operations.

No options were exercised in 2020 and 2019.

At June 30, 2020, there was no remaining unamortized non-cash stock compensation costs.

In March 2019, the Company filed Post-Effective Amendments to the Form S-8s for our 2005 Equity Incentive Plan and our 2015 Equity Incentive Plan to terminate the effectiveness of the Registration Statements and to remove from registration all securities that remain unsold under the Plans. This action does not affect the terms of the outstanding options but may subject subsequently exercised options to additional resale restrictions or requirements.

In September 2019 the Company effected a reverse stock split of 1,000 shares to 1 share. The chart below has not been adjusted for the reverse stock split as the Company's intent is to allow the exercise of the options on their original terms and then adjust the Option shares actually issued by the 1,000 shares to 1 reverse stock split ratio. A summary of option activity under our stock option plans for the three months ended June 30, 2020 and the year ended December 31, 2019 is as follows:

	2020		2019		
	Number of Options	Weighted average exercise price	Number of Options	Weighted average exercise price	Weighted average remaining contractual term (years)
Options outstanding at the beginning of the period:	2,707,000	$ 0.28	3,007,000	$ 0.29	
Granted	-		-		
Exercised	-		-		
Expired/Forfeited	(254,000)	$ 0.80	(300,000)	$ 0.45	
Outstanding at end of year	2,453,000	$ 0.22	2,707,000	$ 0.28	3.3
Options exercisable at year-end	2,453,000	$ 0.22	2,707,000	$ 0.28	3.3
Options vested and expected to vest at year period	2,453,000	$ 0.22	2,707,000	$ 0.28	3.3

As described in our Current Report on Form 8-K filed with the Securities and Exchange Commission on February 1, 2018, on January 30, 2018, the Company entered into the First Amendment to Securities Purchase, Loan and Security Agreement (the "Amendment") with BP Peptides, LLC ("Brookstone"). Brookstone currently owns approximately 34.1% of our outstanding common stock. Under the original Agreement (see Note C), interest on the Secured Debt was payable quarterly. The Amendment defers the payment of interest until the Secured Debt's maturity, October 15, 2020. In consideration for the deferral, the Company issued a Warrant to Brookstone to purchase up to 6,321,930 shares of the Company's Common Stock with an exercise price of $.075 per share. The warrant expires October 15, 2025 and provides for quarterly vesting of shares in amounts approximately equal to the amount of quarterly interest payable that would have been payable under the Agreement, converted into shares at $.075. At June 30, 2020, 5,350,930 shares are fully vested and exercisable. In September 2019 the Company effected a reverse stock split of 1,000 shares to 1 share and, upon exercise, the Warrant shares actually issued will be reduced by the same ratio.

In March 2020, the Company entered into the Third Amendment to Securities Purchase, Loan and Security Agreement (the "Third Amendment"). The Third Amendment extends the Secured Debt's maturity to March 31, 2022, which continues the deferral of interest until the maturity date. In consideration for the deferral, the Company has provided an option, for a period ending December 31,

2021, to convert all or part of the aggregate outstanding principal amount of the Loan, together with all accrued and unpaid interest thereon, into shares of the Company's common stock at a conversion price between $10.00 and $30.00 per share, as determined by an independent valuation. Additionally, the Company amended the Warrants to determine the exercise price per share when exercised, at a price between $10.00 and $30.00 per share (based on 6,322 shares after the reverse stock split), as determined by an independent valuation.

NOTE N: COMMITTMENTS AND CAPITAL LEASES

Rent expense for the six months ended June 30, 2020 and 2019, was $237,000 and $19,000, respectively.

In 2007, the Company entered into a lease for office space in a Tempe, Arizona office and research facility. This lease has been extended to March 31, 2020. Effective March 1, 2018 the rentable square feet of space was reduced to 1,379 square feet, with monthly rental payments of approximately $2,500 plus a proportionate share of building operating expenses and property taxes. Effective April 1, 2020 the Company moved its office to a shared facility with Totalstone, LLC .

During 2019, TotalStone, LLC entered into various capital leases for equipment and automobiles. As of June 30, 2020, assets recorded under the capital leases were $73,000, and accumulated depreciation was $8,565. As of June 30, 2020, capital lease obligations included in current liabilities were $7,000 and capital lease obligations in long-term liabilities were $46,000 for total capital lease liabilities $53,000.

2020	$	7
2021	$	13
2022	$	13
2023	$	13
2024	$	7
	$	53

The Companies had noncancelable operating leases for office, warehouse space, and vehicles with expiration dates through May 31, 2023.

Future minimum lease payments under non-cancellable lease as of June 30, 2020 are as follows ("000's"):

2020	$	143
2021	$	221
2022	$	156
2023	$	68
	$	588

NOTE M: AUTHORIZED PREFERRED STOCK

We have 2,000,000 shares of authorized preferred stock, the terms of which may be fixed by our Board of Directors. We presently have no outstanding shares of preferred stock. Our Board of Directors has the authority, without stockholder approval, to create and issue one or more series of such preferred stock and to determine the voting, dividend and other rights of holders of such preferred stock. If we raise

additional funds to continue operations, we may issue preferred stock. The issuance of any of such series of preferred stock may have an adverse effect on the holders of common stock.

The Board of Directors of the Company approved a Tax Benefit Preservation Plan ("Benefit Plan") dated April 18, 2017, between the Company and Computershare. The Benefit Plan and the exercise of rights to purchase Series A Preferred Stock, pursuant to the terms thereof, may delay, defer or prevent a change in control without the approval of the Board. In addition to the anti-takeover effects of the rights granted under the Benefit Plan, the issuance of preferred stock, generally, could have a dilutive effect on our stockholders.

Under the Benefit Plan, each outstanding share of our common stock has attached one preferred stock purchase right. Each share of our common stock subsequently issued prior to the expiration of the Benefit Plan will likewise have attached one right. Under specified circumstances involving an "ownership change," as defined in Section 382 of the Internal Revenue Code (the "Code"), the right under the Benefit Plan that attaches to each share of our common stock will entitle the holder thereof to purchase 1/100 of a share of our Series A preferred stock for a purchase price of $5.00 (subject to adjustment), and to receive, upon exercise, shares of our common stock having a value equal to two times the exercise price of the right. The Benefit Plan expires December 31, 2023.

NOTE O: MERGER TRANSACTION TOTALSTONE, LLC CLASS B PREFERRED UNITS

In March 2020, the Company entered into an agreement, which was effective April 1, 2020, to obtain an interest in a materials distribution company (TotalStone, LLC) that distributes masonry stone products for residential and commercial construction in the Midwest and Northeast United States, under the trade names Instone and Northeast Masonry Distributors (NMD), which going forward will be the Company's primary business activity. The Company will initially own 100% of TotalStone's outstanding common units and receive certain funding from TotalStone, in exchange for the potential benefits to the combined organization from the use of the Company's Federal Net Operating Loss and other tax benefit carryovers. The existing holders of TotalStone's common stock received Class B preferred units valued at $20,500,000, with a quarterly dividend, that if not paid, is added to the preferred units' value, at a rate of between 7% and 20% based on TotalStone's financial performance. The preferred units are redeemable July 1, 2023 (thirty-nine (39) months) and if not redeemed the Class B stockholders will be allowed to appoint three of the five TotalStone, LLC. Board of Directors' members (they now appoint two members).

The accrued preferred return totaled $692,000 for the three months ended June 30, 2020.

As part of the merger, the Mezzanine lender accepted $873, 000 as a special preferred membership interest in lieu of debt. The special preferred membership interest has a preferential distribution position but does not earn a preferred return.

GAAP defines the acquirer in a business combination as the entity that obtains control of one or more businesses in a business combination and establishes the acquisition date as the date that the acquirer achieves control. GAAP requires an acquirer to recognize the assets acquired, the liabilities assumed, and any noncontrolling interest in the acquiree at the acquisition date, measured at their fair values as of that date. GAAP also requires the acquirer to recognize contingent consideration at the acquisition date, measured at its fair value at that date.

The following table summarizes the fair values of the assets acquired and liabilities assumed at the acquisition date ("000's"):

	Acquisition Date
Accounts receivable	$ 6,044
Inventory	9,543
Prepaid Inventory	784
Prepaid expenses and other assets	344
Property and equipment, net	1,178
Other long-term assets	45
Total identifieable assets	17,938
Assumed current liabilities	(13,126)
Assumed notes/loans payable	(454)
Assumed other lon-term obligations	(6,258)
Assumed liabilities	(19,838)
Class B common units	(21,373)
Goodwill acquired	$ 23,273

The Class B common units consisted of the following:

	Acquisition Date
Class B membership	$ 20,500
Special preferred membership interest	873
	$ 21,373

The Company estimated the total fair value of the business utilizing historical results, projections of possible future operating results and the assistance on an independent valuation consulting firm.

Effective April 1, 2020, TotalStone, LLC issued warrants to purchase 1,175 Class A Common Interests (approximately 11.75% of Class A Common Interests if exercised), with an exercise price of $.01 per share and exercisable until March 31, 2030.

NOTE P: RELATED PARTY TRANSACTIONS

TotalStone, LLC is party to an agreement with a related party, BP Peptides, LLC, whereby such entity will provide consulting services totaling $400,000 per annum, billed quarterly (please see note H). The agreement also provides for an additional management fee equal to 5% of EBITDA in excess of $4,000,000. Amounts incurred for such consulting services totaled $150,000 for services April 1, 2020 thru June 30, 2020 and amounts accrued for such consulting services totaled $775,000 as of June 30, 2020 and is included as a non-current liability in the accompanying consolidated financial statements.

Stream Finance is managed by Brookstone Partners, which has 34.1% ownership and two board member seats of the Company.

TotalStone, LLC is currently leasing a facility from a former officer and current Board Member of TotalStone, LLC for $29,000 per month.

NOTE Q: TOTALSTONE, LLC 401(K) RETIREMENT SAVINGS PLAN

TotalStone, LLC maintain a defined contribution pension plan, which covers all employees electing to participate after completing certain service requirements. Employer contributions are made at the Companies discretion. Generally, the Companies make safe harbor matching contributions equal to 100% of employee contribution up to 4% of the employee's Plan Compensation, as defined. Each participant is 100% vested in their salary deferral and the safe harbor Company's matching contributions. Other employer discretionary contributions are subject to a graded vesting schedule.

NOTE R: CARE ACT FUNDING

On April 26, 2020, the Company received $780,000 of proceeds in connection with its incurrence of a loan under the PPP which was created through the Coronavirus Aid, Relief, and Economic Act ("CARES Act") and is administered by the U.S. Small Business Administration ("SBA"). The application for these funds requires the Company to, in good faith, certify that the current economic uncertainty made the loan request necessary to support the ongoing operations of the Company. This certification further requires the Company to take into account our current business activity and our ability to access other sources of liquidity sufficient to support ongoing operations in a manner that is not significantly detrimental to the business. The receipt of these funds, and the forgiveness of the loan attendant to these funds, is dependent on the Company having initially qualified for the loan and qualifying for the forgiveness of such loan based on our future adherence to the forgiveness criteria. The loan has a fixed interest rate of 1% and matures in two years. Interest payments are deferred for six months.

Pursuant to the CARES Act and implementing rules and regulations, the Company may apply to the SBA for the PPP loan to be forgiven in whole or in part beginning no sooner than seven weeks from the date of initial disbursement. The Company intends to use the proceeds of the PPP loan for purposes consistent with the PPP. While the Company currently believes that its use of the loan proceeds will meet the conditions for forgiveness of the loan, the Company cannot assure that it will be eligible for forgiveness of the loan, in whole or in part. Any PPP loan balance remaining following forgiveness by the SBA will be fully re-amortized over the remaining term of the loan.

Item 4. Management's Discussion and Analysis of Plan of Operation.

These statements are based on current expectations and assumptions regarding future events and business performance and involve known and unknown risks, uncertainties and other factors that may cause industry trends or our actual results, level of activity, performance or achievements to be materially different from any future results, levels of activity, performance or achievements expressed or implied by these statements. These financial statements and notes thereto should be read in conjunction with the audited financial statements and related notes included in our Annual Report for the fiscal year ended December 31, 2019, filed with the OTCQB on March 27, 2020 and our Annual Report for the fiscal year ended December 31, 2018, filed with the Securities and Exchange commission on March 22, 2019. The Company undertakes no obligation to publicly update or revise any forward-looking statements, whether as a result of new information, future events or otherwise.

The following is management's discussion of significant events in the three and six months ended June 30, 2020 and 2019, and factors that affected our financial condition and results of operations.

On August 23, 2019 the Company adopted a Contingent Value Rights Agreement, filed on Form 8-K with the SEC on August 26, 2019, and under that agreement, the net proceeds, if any, from the Company's investment in LIPI, will be distributed to the Company's July 10, 2019 shareholders of record. Accordingly, at December 31, 2019, the Company effectively has no financial interest in LIPI, other than the possible collection of amounts owed to the Company, which currently consists of the loan, accrued interest and accounting fees described in Note B in the Company's financial statements, and the LIPI operations are shown as discontinued operations as required by ASC 205-20. As described previously, the Company has recognized losses equal to its investment in LIPI, LIPI loan, accrued interest and unpaid accounting fees totaling $9,380,000. Losses incurred by LIPI may exceed the amounts recorded by the Company if LIPI'sI losses exceed the Company's investment in, loan to and unpaid interest and accounting fees. At June 30, 2020 $.7 million of LIPI's losses were not recorded by the Company due to this limitation.

As described in Note O to the Financial Statements included in this Quarterly Report, in March 2020 the Company entered into a transaction, which will be effective April 1, 2020, whereby it has obtained an interest in a materials distribution company (Totalstone, LLC) that distributes masonry stone products for residential and commercial construction in the Midwest and Northeast United States, under the trade names Instone and Northeast Masonry Distributors (NMD), which going forward will be the Company's primary business activity.

In December 2019, an outbreak of a new strain of coronavirus, COVID-19, emerged in Wuhan, China. Within weeks, the number of those infected grew significantly, and beyond China's borders. As of the date of this report, the coronavirus has spread globally. The coronavirus outbreak is still evolving, and its effects remain unknown. The Companies are unable to predict how changing global economic conditions such as the COVID-19 coronavirus will affect operations.

CONTINUING OPERATIONS

Results of Operations Comparing Three Months Ended June 30, 2020 to 2019.

General and Administrative ("G&A") Expenses: G&A (expenses) related to our ongoing operations were ($2,222,000) in 2020 compared to ($178,000) in 2019. Administration expenses increased between 2020 and 2019 due to TotalStone operations.

Interest and other income (expense), net: Interest and other income (expense), net was ($329,000) for 2020 compared to ($63,000) for 2019. The amounts represent interest recorded on the Secured Debt, Mezzanine Debt, Term Loan, Line of Credit, Seller's Note, Contingent Value Note, and on the issuance of Warrants.

TotalStone Class B units preferred return: The Class B units, valued at $20,500,000 at April 1, 2020, earn a quarterly dividend, that if not paid, is added to the Class B unit's' value, at a rate of between 7% and 20% based on TotalStone's financial performance. The preferred return recorded for the second quarter of 2020 was $692,000.

Net Income (Loss) attributable to Capstone Therapeutics stockholders: We incurred a net income in 2020 of $.1 million compared to a net (loss) of ($.7) million in 2019. Net income (loss) increased between periods after considering the effect of discontinued operations and inclusion of TotalStone operations.

Results of Operations Comparing Six Months Ended June 30, 2020 to 2019.

General and Administrative ("G&A") Expenses: G&A (expenses) related to our ongoing operations were ($2,412,000) in 2020 compared to ($366,000) in 2019. Administration expenses increased between 2020 and 2019 due to TotalStone operations.

Interest and other income (expense), net: Interest and other income (expense), net was ($399,000) for 2020 compared to ($126,000) for 2019. The amounts represent interest recorded on the Secured Debt, Mezzanine Debt, Term Loan, Line of Credit, Seller's Note, Contingent Value Note, and on the issuance of Warrants.

TotalStone Class B units preferred return: The Class B units, valued at $20,500,000 at April 1, 2020, earn a quarterly dividend, that if not paid, is added to the Class B unit's value, at a rate of between 7% and 20% based on TotalStone's financial performance. The preferred return recorded for the six months ended June 30, 2020 was $692,000.

Net Income (Loss) attributable to Capstone Therapeutics stockholders: We incurred a net (loss) in 2020 of ($.1) million compared to a net (loss) of ($1.5) million in 2019. Net (loss) decreased between periods after considering the effect of discontinued operations and inclusion of TotalStone operations.

CONTINUING OPERATIONS - Liquidity and Capital Resources

With the sale of our Bone Device Business in November 2003, we sold all of our revenue producing operations. Since that time, we have primarily relied on our cash and investments to finance all our operations, the focus of which has been research and development of our product candidates. Effective April 1, 2020, the Company has obtained an interest in a materials distribution company (Totalstone, LLC) that distributes masonry stone products for residential and commercial construction in the Midwest and Northeast United States, under the trade names Instone and Northeast Masonry Distributors (NMD), which going forward will be the Company's primary business activity and primary funding source. Management believes that the operations of TotalStone, LLC will be sufficient to enable the Company to continue as a going concern.

At June 30, 2020, we had continuing operations cash of $236,000. The Company maintains a minimum cash balance as it utilizes a line of credit at TotalStone, LLC by which most extra cash is used to pay down the line and then reborrowed when needed.

At June 30, 2020, the Company has a secured loan (including the above additional funding of $525,000) of $2,952,500 and deferred interest of $453,000, all payable October 15, 2022 (extended to March 31, 2022 – see Note E in this Quarterly Report), to BP Peptides, LLC, an entity that at June 30, 2020 owns approximately 34.1% of the Company's common stock. Interest on the secured loan, at a rate of 6% per annum, is payable on the maturity date of the secured loan.

Item 5. Legal Proceedings

Litigation From time to time, we may become subject to other legal proceedings, claims and litigation arising in the ordinary course of business. Litigation can be expensive, lengthy and disruptive to normal business operations. Moreover, the results of complex legal proceedings are difficult to predict. An unfavorable resolution of a particular lawsuit or proceeding could have a material adverse effect on our results of operations, financial position or cash flows. Except as noted below, the Company is not a party to any material legal proceedings nor is the Company aware of any pending or threatened litigation

that, in its opinion, would have a material adverse effect on its business or its financial position, results of operations or cash flows should such litigation be resolved unfavorably.

Item 6. Defaults upon Senior Securities.

None.

Item 7. Other Information.

None.

Item 8. Exhibits.

The following is a list of all contracts which the Company is a party to, and which currently can reasonably be regarded as material to a security holder of the Company as of the date of this Quarterly Report:

Exhibit No.	Description	Incorporated by Reference To:
3.1	Amended and Restated Certificate of Designation of Series A Preferred Stock, executed June 24, 2014	Exhibit 3.1 to the Company's Current Report on Form 8-K filed with the Securities and Exchange Commission ("SEC") on June 24, 2014
3.2 P	Bylaws of the Company	Exhibit 3.4 to the Company's Amendment No. 2 to Registration Statement on Form S-1 (No. 33-47569) filed with the SEC on January 25, 1993 ("January 1993 S-1")
3.3	Restated Certificate of Incorporation, as amended through June 24, 2014	Exhibit 3.1 to the Company's Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2014, filed with the SEC on August 14, 2014
3.4	Second Amended and Restated Certificate of Incorporation as amended through June 22, 2015, including the Amended and Restated Certificate of Designation of Series A Preferred Stock	Exhibit 3.1 to the Company's Registration Statement filed on Form S-1 with the SEC on June 26, 2015
3.5	LipimetiX Development, Inc., Certificate of Incorporation and By Laws	Exhibit 3.3 to the Company's Registration Statement filed on Form S-1 with the SEC on June 26, 2015
3.6	Certificate of Amendment to the Restated Certificate of Incorporation	Exhibit 3.1 to the Company's Current Report on Form 8-K filed with the SEC on August 26, 2019
10.1 P	Form of Indemnification Agreement (*)	Exhibit 10.16 to the Company's January 1993 S-1
10.2	Director Compensation Plan, effective June 10, 2005 (1)	Exhibit 10.2 to the Company's Quarterly Report Form 10-Q for the quarterly period ended June 30, 2005, filed with the SEC on August 9, 2005
10.3	Employment Agreement dated January 10, 2006 between the Company and Les M. Taeger (1)	Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on January 11, 2006 (the "January 11th 8-K")
10.4	Intellectual Property, Confidentiality and Non-Competition Agreement between the Company and Les M. Taeger dated January 10, 2006 (1)	Exhibit 10.2 to the January 11th 8-K
10.5	Amendment to Employment Agreement dated January 10, 2006 between OrthoLogic Corp. and Les Taeger (1)	Exhibit 10.3 to the Company's June 2006 10-Q
10.6	Contribution Agreement by and among LipimetiX, LLC, Capstone Therapeutics Corp., LipimetiX Development, LLC, The UAB Research Foundation, Dennis I. Goldberg, Ph.D. ("Goldberg"), Philip M. Friden, Ph.D., Eric Morrell, Ph.D., G. M. Anantharamaiah, Ph.D. and Palgunachari Mayakonda, Ph.D., Frederick Meyer,	Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q for the period ended June 30, 2012, filed with the SEC on August 10, 2012

	Ph.D., Michael Webb, and Jeffrey Elton, Ph.D., effective as of August 3, 2012.	
10.7	Limited Liability Company Agreement of LipimetiX Development, LLC, by and among LipimetiX Development, LLC, Capstone Therapeutics Corp., and the other members and managers party thereto, effective as of August 3, 2012.	Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q for the period ended June 30, 2012, filed with the SEC on August 10, 2012
10.8	First Amendment and Consent to Assignment of Exclusive License Agreement by and among The UAB Research Foundation, LipimetiX, LLC and LipimetiX Development, LLC, dated as of August 3, 2012.	Exhibit 10.3 to the Company's Quarterly Report on Form 10-Q for the period ended June 30, 2012, filed with the SEC on August 10, 2012
10.9	Management Agreement by and among LipimetiX Development, LLC, Benu BioPharma, Inc., Dennis I. Goldberg, Ph.D., Phillip M. Friden, Ph.D., and Eric M. Morrel, Ph.D., effective as of August 3, 2012.	Exhibit 10.4 to the Company's Quarterly Report on Form 10-Q for the period ended June 30, 2012, filed with the SEC on August 10, 2012
10.10	Accounting Services Agreement by and among LipimetiX Development, LLC and Capstone Therapeutics Corp., effective as of August 3, 2012	Exhibit 10.5 to the Company's Quarterly Report on Form 10-Q for the period ended June 30, 2012, filed with the SEC on August 10, 2012
10.11	Escrow Agreement by and among Capstone Therapeutics Corp., LipimetiX Development, LLC dated as of August 3, 2012	Exhibit 10.6 to the Company's Quarterly Report on Form 10-Q for the period ended June 30, 2012, filed with the SEC on August 10, 2012
10.12	Exclusive License Agreement between the UAB Research Foundation and LipimetiX LLC dated August 26, 2011	Exhibit 10.7 to the Company's Quarterly Report on Form 10-Q for the period ended June 30, 2012, filed with the SEC on August 10, 2012
10.13	Second Amendment to Exclusive License Agreement between the UAB Research Foundation and LipimetiX, LLC, last signed on January 26, 2015	Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on January 30, 2015
10.14	Capstone Therapeutics Corp. Joint Venture Bonus Plan (1)	Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q for the period ended September 30, 2012, filed with the SEC on November 8, 2012
10.15	Accounting Services Agreement Amendment #1, dated August 23, 2013	Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q for the period ended September 30, 2013, filed with the SEC on November 12, 2013
10.16	Form of Incentive Stock Option Grant Letters under the 2015 Equity Incentive Plan **	Exhibit 10.2 to the Company's Current Report on Form 8-K filed with the SEC on June 22, 2015
10.17	Form of Director Non-Qualified Stock Option Grant Letters under the 2015 Equity Incentive Plan **	Exhibit 10.3 to the Company's Current Report on Form 8-K filed with the SEC on June 22, 2015
10.18	Form of Non-Qualified Stock Option Grant Letters under the 2015 Equity Incentive Plan **	Exhibit 10.4 to the Company's Current Report on Form 8-K filed with the SEC on June 22, 2015

10.19	2015 Equity Incentive Plan	Appendix A to the Company's Definitive Proxy Statement filed on Schedule 14A with the SEC on May 8, 2015
10.20	LipimetiX Development Certificate of Conversion from a Delaware Limited Liability Company to a Delaware Corporation Effective as of June 25, 2015	Exhibit 2.1 to the Company's Registration Statement filed on Form S-1 with the SEC on June 26, 2015
10.21	LipimetiX Development Plan of Conversion Effective as of June 25, 2015	Exhibit 2.2 to the Company's Registration Statement filed on Form S-1 with the SEC on June 26, 2015
10.22	Stockholders Agreement dated June 23, 2015 by and among LipimetiX Development, Inc. and Stockholders	Exhibit 10.31 to the Company's Registration Statement filed on Form S-1 with the SEC on June 26, 2015
10.23	Securities Purchase Agreement between Company and Lenders dated December 11, 2015	Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on December 15, 2015
10.24	Convertible Promissory Note between the Company and Biotechnology Value Fund, L.P., dated December 11, 2015	Exhibit 10.2 to the Company's Current Report on Form 8-K filed with the SEC on December 15, 2015
10.25	Convertible Promissory Note between the Company and Biotechnology Value Fund II, L.P., dated December 11, 2015	Exhibit 10.3 to the Company's Current Report on Form 8-K filed with the SEC on December 15, 2015
10.26	Convertible Promissory Note between the Company and Biotechnology Value Trading Fund OS, L.P., dated December 11, 2015	Exhibit 10.4 to the Company's Current Report on Form 8-K filed with the SEC on December 15, 2015
10.27	Convertible Promissory Note between the Company and Investment 10, LLC., dated December 11, 2015	Exhibit 10.5 to the Company's Current Report on Form 8-K filed with the SEC on December 15, 2015
10.28	Convertible Promissory Note between the Company and MSI BVF SPV, LLC., dated December 11, 2015	Exhibit 10.6 to the Company's Current Report on Form 8-K filed with the SEC on December 15, 2015
10.29	LipimetiX Development, Inc, Series B Preferred Stock and Warrant Purchase Agreement effective August 25, 2016	Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on August 26, 2016
10.30	Series B Preferred Stock and Warrant Purchase Agreement – Exhibit B – Form of Warrants	Exhibit 10.2 to the Company's Current Report on Form 8-K filed with the SEC on August 26, 2016
10.31	Series B Preferred Stock and Warrant Purchase Agreement – Exhibit C – Form of Amended and Restated Certificate of Incorporation of LipimetiX Development, Inc.	Exhibit 10.3 to the Company's Current Report on Form 8-K filed with the SEC on August 26, 2016
10.32	Series B Preferred Stock and Warrant Purchase Agreement – Exhibit F – Form of Registration Rights Agreement	Exhibit 10.4 to the Company's Current Report on Form 8-K filed with the SEC on August 26, 2016
10.33	Series B Preferred Stock and Warrant Purchase Agreement – Exhibit G – Form of Amended and Restated Stockholders Agreement among LipimetiX	Exhibit 10.5 to the Company's Current Report on Form 8-K filed with the SEC on August 26, 2016

	Development, Inc. and The Stockholders Named Herein	
10.34	Securities Purchase, Loan and Security Agreement dated July 14, 2017, by and between Capstone Therapeutics Corp. and BP Peptides, LLC	Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on July 17, 2017
10.35	Promisary Note dated July 14, 2017, payable to BP Peptide, LLC	Exhibit 10.2 to the Company's Current Report on Form 8-K filed with the SEC on July 17, 2017
10.36	Registration Rights Agreement dated July 14, 2017, by and between Capstone Therapeutics Corp. and BP Peptides, LLC	Exhibit 10.3 to the Company's Current Report on Form 8-K filed with the SEC on July 17, 2017
10.37	Series B-2 Preferred Stock Purchase Agreement, dated August 11, 2017, by and between Capstone Therapeutics Corp. and LipimetiX Development, Inc.	Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q filed with the SEC on August 14, 2017
10.38	First Amendment to the Amended and Restated Stockholders Agreement of LipimetiX Development, Inc., dated August 11, 2017	Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q filed with the SEC on August 14, 2017
10.39	Joinder of August 25, 2016 Registration Rights Agreement of LipimetiX Development, Inc., dated August 11, 2017	Exhibit 10.3 to the Company's Quarterly Report on Form 10-Q filed with the SEC on August 14, 2017
10.40	Certificate of Amendment of Amended and Restated Certificate of Incorporation of LipimetiX Development, Inc.	Exhibit 10.4 to the Company's Quarterly Report on Form 10-Q filed with the SEC on August 14, 2017
10.41	First Amendment to Bylaws of LipimentiX Development, Inc., dated August 11, 2017	Exhibit 10.5 to the Company's Quarterly Report on Form 10-Q filed with the SEC on August 14, 2017
10.42	First Amendment to Securities Purchase Loan and Security Agreement dated January 30, 2018, by and between Capstone Therapeutics, Corp. and BP Peptides, LLC	Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on February 1, 2018
10.43	Warrant to Purchase Common Stock dated January 30, 2018	Exhibit 10.2 to the Company's Current Report on Form 8-K filed with the SEC on February 1, 2018
10.44	License Agreement dated May 2, 2018 by and between LipimetiX Development, Inc. and Anji Pharmaceuticals Inc.	Exhibit 10.1 to our Current Report on Form 8-K filed with the SEC on May 7, 2018
10.45	LipimetiX Development, Inc. Contingent Value Rights Agreement dated August 23, 2019 by and among Capstone Therapeutics Corp., the Shareholder Representative and Computershare Inc., and Computershare Trust Company, N.A.. as Rights Agent	Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on August 26, 2019

10.46	Second Amendment to Securities Purchase Loan and Security Agreement dated March 15, 2019, by and between Capstone Therapeutics, Corp. and BP Peptides, LLC	Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on March 19, 2019
10.47	Third Amendment to Securities Purchase Loan and Security Agreement dated March 27, 2020, by and between Capstone Therapeutics, Corp. and BP Peptides, LLC	Filed as Exhibit 10.1 to the Annual Report for the year ended December 31, 2019 filed March 27, 2020
10.48	Amended and Restated Warrants to Purchase Common Stock dated March 27, 2020	Filed as Exhibit 10.2 to the Annual Report for the year ended December 31, 2019
10.49	Totalstone, LLC, Fourth Amended and Restated Limited Liability Company Agreement. Executed as of March 27, 2020 and Effective as of April 1, 2020	Filed as Exhibit 10.3 to the Annual Report for the year ended December 31, 2019
10.50	Totalstone, LLC, Warrants No. 1-5 to purchase Class A Common Stock. Executed as of March 27, 2020 and effective as of April 1, 2020	Filed as Exhibit 10.1 to the Quarterly Report for quarter ended March 31, 2020
10.51	Amended and Restated Credit Agreement Dated November 14, 2019 by and between TotalStone, LLC, Northeast Masonry Distributors, LLC and Stream Finance, LLC (a related party)	Filed as Exhibit 10.1 to this Quarterly Report for quarter ended June 30, 2020
10.52	Consent and Amendment to Amended and Restated Credit Agreement Dated November 14, 2019 by and between TotalStone, LLC, Northeast Masonry Distributors, LLC and Stream Finance, LLC (a related party), effective March 27, 2020	Filed as Exhibit 10.2 to this Quarterly Report for quarter ended June 30, 2020
10.53	Non-negotiable Secured Subordinated Promissory Note by and between TotalStone, LLC and Northeast Masonry Distributors, LLC	Filed as Exhibit 10.3 to this Quarterly Report for quarter ended June 30, 2020
10.54	Non-negotiable Secured Subordinated Contingent Value Promissory Note by and between NEM Purchaser, LLC and Northeast Masonry Distributors, LLC	Filed as Exhibit 10.4 to this Quarterly Report for quarter ended June 30, 2020
10.55	Brookstone Partners IAC, Inc. Amended and Restated Management Agreement Dated March 1, 2020 by and between TotalStone, LLC and Brookstone Partners IAC, Inc.	Filed as Exhibit 10.5 to this Quarterly Report for quarter ended June 30, 2020
10.56	Third Amendment to Revolving Credit, Term Loan and Security Agreement Dated November 14, 2019 by and among TotalStone, LLC, Northeast Masonry Distributors, LLC, and Berkshire Bank	Filed as Exhibit 10.6 to this Quarterly Report for quarter ended June 30, 2020
10.57	First Amended & Restated Operating Agreement of Stream Finance, LLC Dated November 5, 2019 by and among Stream Finance, LLC, the Managing Member, and each of the Members executing this Agreement	Filed as Exhibit 10.7 to this Quarterly Report for quarter ended June 30, 2020

Item 9. Certifications.

CERTIFICATION OF CHIEF EXECUTIVE OFFICER

I, Michael M. Toporek, certify that: 1. I have reviewed this quarterly disclosure statement of Capstone Therapeutics Corp.; 2. Based on my knowledge, this disclosure statement does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this disclosure statement; and 3. Based on my knowledge, the financial statements, and other financial information included or incorporated by reference in this disclosure statement, fairly present in all material respects the financial condition, results of operations and cash flows of the issuer as of, and for, the periods presented in this disclosure statement.

Date: August 14, 2020
BY: /s/ Michael M. Toporek
CEO

CERTIFICATION OF CHIEF FINANCIAL OFFICER

I, Omar Rabbani, certify that: 1. I have reviewed this quarterly disclosure statement of Capstone Therapeutics Corp.; 2. Based on my knowledge, this disclosure statement does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this disclosure statement; and 3. Based on my knowledge, the financial statements, and other financial information included or incorporated by reference in this disclosure statement, fairly present in all material respects the financial condition, results of operations and cash flows of the issuer as of, and for, the periods presented in this disclosure statement.

Date: August 14, 2020
BY: /s/ Omar Rabbani
Chief Financial Officer

Exhibit 10.1

AMENDED AND RESTATED CREDIT AGREEMENT

DATED AS OF NOVEMBER 14, 2019

by and between

TOTALSTONE, LLC,
and
NORTHEAST MASONRY DISTRIBUTORS, LLC,
AS BORROWER
and

STREAM FINANCE, LLC
as Lender

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AMENDED AND RESTATED CREDIT AGREEMENT

This AMENDED AND RESTATED CREDIT AGREEMENT is dated as of November 14, 2019 and entered into by and between TOTALSTONE, LLC, a Delaware limited liability company ("TotalStone"), NORTHEAST MASONRY DISTRIBUTORS, LLC, a Delaware limited liability company ("Northeast" and together with TotalStone, individually or collectively, "Borrower") and STREAM FINANCE, LLC, a Delaware limited partnership ("Lender").

RECITALS

Whereas, Borrower and Lender are parties to that certain Credit Agreement dated October 30, 2006 (as amended, modified or otherwise supplemented prior to the date hereof, the "Existing Credit Agreement");

Whereas, Borrower and Lender have agreed to extend the maturity date of the loan outstanding under the Existing Credit Agreement to the fourth (4^{th}) anniversary of the date hereof; and

Whereas, Borrower and Lender have agreed to modify certain other terms of the Existing Credit Agreement as set forth in this Agreement.

In consideration of the mutual covenants contained herein and benefits to be derived herefrom Borrower and Lender hereby agree as follows (all capitalized terms herein shall have the meanings ascribed thereto in Annex A hereto).

SECTION 1
AMOUNTS AND TERMS OF LOAN AND PREFERRED EQUITY INVESTMENT

1.1 Loan. Subject to the terms and conditions of this Agreement and in reliance upon the representations and warranties of Borrower contained herein:

(a) Term Loan. Lender agreed to lend to Borrower in one draw on October 30, 2006 a term loan in the amount of Four Million Dollars ($4,000,000.00) (the "Existing Loan"). Immediately prior to the Amended and Restated Closing Date, the outstanding principal balance of the Loan is $2,443,000.

(b) On the Amended and Restated Closing Date, Lender will be making a Term Loan available to Borrower in an amount up to $139,250 (the "Incremental Loan", and together with the Existing Loan at the Amended and Restated Closing Date, the "Loan"). At the Amended and Restated Closing Date, Amounts borrowed under the Existing Credit Agreement or this Agreement and repaid may not be reborrowed.

(c) Unconditional Obligation to Pay. Borrower hereby unconditionally promises to pay to Lender the principal balance of the Loan and all other Obligations as and when due hereunder.

(d) Note. The Loan may be evidenced by a certain Note substantially in the form executed by Borrower (as the same may be amended, restated, supplemented,

replaced, or otherwise modified, the "Note"). Neither the original nor a copy of the Note shall be required, however, to establish or prove any Obligation. In the event that the Note is ever lost, mutilated, or destroyed, the Borrower shall execute a replacement thereof and deliver such replacement to the Lender upon demand by Lender.

1.2 Interest.

(a) Rate. Commencing on the Amended and Restated Closing Date, interest shall accrue on the outstanding balance of the Loan at a rate per annum equal to the Adjusted Interest Rate and shall be payable monthly in arrears, on the first day of each month (the "Interest Payment Date"). The initial Interest Payment Date hereunder shall be December 1, 2019. All interest accrued on the Loan under the Existing Credit Agreement from and after November 1 through the day preceding the Amended and Restated Closing Date shall be paid in cash on the Interest Payment Date of December 1, 2019.

(b) Calculation of Payments. If any payment on the Loan becomes due and payable on a day other than a Business Day, the maturity thereof will be extended to the next succeeding Business Day and, with respect to payments of principal, interest thereon shall be payable at the then applicable rate during such extension. Interest under the Loan shall be calculated on the basis of a 360 day year for the number of days elapsed in each interest period.

(c) Default Rate. So long as an Event of Default has occurred and is continuing under Section 6.1(a), (f), (g) or (h) and without notice of any kind, or so long as any other Event of Default has occurred and is continuing and at the election of Lender, the interest rate applicable to the Loan shall be increased by three percentage points (3%) per annum above the rate of interest otherwise applicable hereunder ("Default Rate"), and all outstanding Obligations shall bear interest at the Default Rate; provided, that during the first 90 days (in the aggregate) after an Event of Default has occurred and is continuing, except any Event of Default pursuant to Section 6.1(a), the interest rate applicable to the Loan shall be increased by two percentage points (2%) per annum above the rate of interest otherwise applicable hereunder. Interest at the Default Rate shall accrue from the initial date of such Event of Default until that Event of Default is waived and shall be payable upon demand, but in any event, shall be payable on the next regularly scheduled payment date set forth herein for such Obligation.

(d) Maximum Lawful Rate. Notwithstanding anything to the contrary set forth in this Section 1.2, if a court of competent jurisdiction determines in a final order that the rate of interest payable hereunder exceeds the highest rate of interest permissible under law (the "Maximum Lawful Rate"), then so long as the Maximum Lawful Rate would be so exceeded, the rate of interest payable hereunder shall be equal to the Maximum Lawful Rate; provided, however, that if at any time thereafter the rate of interest payable hereunder is less than the Maximum Lawful Rate, Borrower shall continue to pay interest hereunder at the Maximum Lawful Rate until such time as the total interest received by Lender, is equal to the total interest that would have been received had the interest rate payable hereunder been (but for the operation of this paragraph) the interest rate payable since the Amended and Restated Closing Date as otherwise provided in this Agreement. Thereafter,

interest hereunder shall be paid at the rate(s) of interest and in the manner provided in Sections 1.2(a) through (c), unless and until the rate of interest again exceeds the Maximum Lawful Rate, and at that time this paragraph shall again apply. In no event shall the total interest received by Lender pursuant to the terms hereof exceed the amount that Lender could lawfully have received had the interest due hereunder been calculated for the full term hereof at the Maximum Lawful Rate. If the Maximum Lawful Rate is calculated pursuant to this paragraph, such interest shall be calculated at a daily rate equal to the Maximum Lawful Rate divided by the number of days in the year in which such calculation is made. If, notwithstanding the provisions of this Section 1.2(d) a court of competent jurisdiction shall determine by a final, non-appealable order that Lender has received interest hereunder in excess of the Maximum Lawful Rate, Lender shall, to the extent permitted by applicable law, promptly apply such excess as specified in Section 1.8 and thereafter shall refund any excess to Borrower or as such court of competent jurisdiction may otherwise order.

1.3 Fees.

(a) Amendment Fee. Borrower shall pay to Lender a fee in the amount of two percent (2%) of the Incremental Loan plus two percent (2%) of the Preferred Equity Investment in immediately available payable on or prior to December 31, 2019, which fee shall be deemed fully earned on the date of consummation of each portion of the Preferred Equity Investment, and shall not be credited to any other payment required hereunder.

(b) Redemption Premium. Borrower shall pay the amounts described in Section 1.11(b).

(c) Make Whole Premium. If all or any portion of the principal balance of the Loan is paid prior to the second anniversary of the Amended and Restated Closing Date, whether voluntarily or involuntarily and whether before or after acceleration of the Obligations, Borrower shall pay to Lender, as liquidated damages and compensation for the costs of being prepared to make funds available hereunder, an amount equal to the Make Whole Premium.

(d) Expenses and Attorneys' Fees. Borrower agrees to promptly pay all fees, charges, costs and expenses (including reasonable attorneys' fees and expenses incurred by Lender in connection with any matters contemplated by or arising out of the Loan Documents), in connection with the examination, review, due diligence investigation, documentation, negotiation, closing and syndication of the transactions contemplated herein and in connection with the continued administration of the Loan Documents including any amendments, modifications, subordination or intercreditor agreements, consents and waivers. Borrower agrees to promptly pay reasonable documentation charges assessed by Lender for amendments, modifications, subordination or intercreditor agreements, waivers, consents and any of the documentation prepared by Lender's attorneys. Borrower agrees to promptly pay all fees, charges, costs and expenses (including reasonable fees, charges, costs and expenses of attorneys, auditors (whether internal or external), appraisers, consultants and advisors incurred by Lender in connection with any Event of Default, work-out or action to enforce any Loan Document or to collect any

payments due from Borrower. All fees, charges, costs and expenses for which Borrower is responsible under this Agreement shall be deemed part of the Obligations when incurred, payable upon demand and secured by the Collateral.

1.4 Payments. All payments by Borrower of the Obligations shall be without deduction, defense, setoff or counterclaim and shall be made in Dollars and in same day funds and delivered to Lender by wire transfer to the account of Lender specified on the signature page hereof or such other place as Lender may from time to time designate in writing. Borrower shall receive credit on the day of receipt for funds received by the applicable Lender by 12:00 noon (New York Time). In the absence of timely receipt, such funds shall be deemed to have been paid on the next Business Day. Whenever any payment to be made hereunder shall be stated to be due on a day that is not a Business Day, the payment may be made on the next succeeding Business Day and such extension of time shall be included in the computation of the amount of interest and Fees due hereunder.

1.5 Prepayments. As set forth in this Section 1.5, Borrower may prepay the Loan, in whole or in part, after the second anniversary of the Amended and Restated Closing Date, subject to the payment of the fees specified in Section 1.3(c). No voluntary prepayment shall be in an amount less than $100,000 or made upon less than twenty (20) days prior written notice to Lender. Any notice of voluntary prepayment shall be effective for sixty (60) days from the date of receipt thereof by Lender. Upon the expiration of any such sixty (60) day period, Borrower may not make any voluntary prepayment without delivery to Lender of a new notice providing for twenty (20) days prior written notice of prepayment.

1.6 Maturity. In all events, and under all circumstances, unless sooner paid, all Obligations shall be immediately due and payable in full on the Maturity Date.

1.7 Continuing Liens. Until the Termination Date, Lender shall retain the security interests in the Collateral granted under the Collateral Documents, subject only to the Liens of the Senior Lender, and the ability to exercise all rights and remedies available to it under the Loan Documents and applicable laws.

1.8 Application and Allocation of Payments. So long as no Default or Event of Default has occurred and is continuing, (i) payments made to the Lender shall be applied, first, to Fees and reimbursable expenses of Lender then due and payable pursuant to any of the Loan Documents; (ii) payments matching specific scheduled payments then due shall be applied to those scheduled payments; and (iii) payments made when a Default or Event of Default has occurred and is continuing shall be applied in accordance with Section 6.4. Borrower hereby irrevocably waives the right to direct the application of any and all payments received from or on behalf of Borrower, and Borrower hereby irrevocably agrees that Lender shall have the continuing exclusive right to apply any and all such payments against the Obligations of Borrower as Lender may deem advisable, notwithstanding any previous entry by Lender in the Loan Account or any other books and records.

1.9 Loan Account. Lender shall maintain a loan account (the "Loan Account") on its books to record: all credit extensions, all payments made by Borrower, and all other debits and credits as provided in this Agreement with respect to the Loan or any other Obligations. All entries

in the Loan Account shall be made in accordance with Lender's customary accounting practices as in effect from time to time. The balance in the Loan Account, as recorded on Lender's most recent printout or other written statement, shall, absent manifest error, be presumptive evidence of the amounts due and owing to Lender by Borrower; provided, that any failure to so record or any error in so recording shall not limit or otherwise affect Borrower's duty to pay the Obligations. Lender shall render to Borrower a monthly accounting of transactions with respect to the Loan setting forth the balance of the Loan Account for the immediately preceding month. Unless Borrower notifies Lender in writing of any objection to any such accounting (specifically describing the basis for such objection), within forty-five (45) days after the date thereof, each and every such accounting shall, absent manifest error, be deemed final, binding and conclusive on Borrower in all respects as to all matters reflected therein. Only those items expressly objected to in such notice shall be deemed to be disputed by Borrower. Notwithstanding any provision herein contained to the contrary, Lender may elect (which election may be revoked) to dispense with the issuance of the Note to Lender and may rely on the Loan Account as evidence of the amount of Obligations from time to time owing to it.

1.10 Taxes.

(a) No Deductions. Any and all payments or reimbursements made hereunder or under the Note shall be made free and clear of and without deduction for any and all Charges, taxes, levies, imposts, deductions or withholdings, and all liabilities with respect thereto of any nature whatsoever imposed by any taxing authority, excluding such taxes to the extent imposed on Lender's net income by the jurisdiction in which Lender is organized. If Borrower shall be required by law to deduct any such amounts from or in respect of any sum payable hereunder to Lender, then the sum payable hereunder shall be increased as may be necessary so that, after making all required deductions, Lender receives an amount equal to the sum it would have received had no such deductions been made.

(b) Changes in Tax Laws. In the event that, subsequent to the Amended and Restated Closing Date, (1) any changes in any existing law, regulation, treaty or directive or in the interpretation or application thereof, (2) any new law, regulation, treaty or directive enacted or any interpretation or application thereof, or (3) compliance by Lender with any request or directive (whether or not having the force of law) from any Governmental Authority:

(i) does or shall subject Lender to any tax of any kind whatsoever with respect to this Agreement, the other Loan Documents or the Loan made hereunder, or change the basis of taxation of payments to Lender of principal, fees, interest or any other amount payable hereunder (except for net income taxes or franchise taxes imposed generally by federal, state or local taxing authorities with respect to interest or commitment Fees or other Fees payable hereunder or changes in the rate of tax on the overall net income of Lender); or

(ii) does or shall impose on Lender any other condition or increased cost in connection with the transactions contemplated hereby or participations herein (except for net income taxes or franchise taxes imposed generally by federal, state

or local taxing authorities with respect to interest or commitment Fees or other Fees payable hereunder or changes in the rate of tax on the overall net income of Lender);

and the result of any of the foregoing is to increase the cost to Lender of making or continuing the Loan hereunder, as the case may be, or to reduce any amount receivable hereunder, then, in any such case, Borrower shall promptly pay to Lender, upon its demand, any additional amounts necessary to compensate Lender, on an after-tax basis, for such additional cost or reduced amount receivable, as determined by Lender with respect to this Agreement or the other Loan Documents. If Lender becomes entitled to claim any additional amounts pursuant to this Section, it shall promptly notify Borrower of the event by reason of which Lender has become so entitled. A certificate as to any additional amounts payable pursuant to the foregoing sentence submitted by Lender to Borrower shall, absent manifest error, be final, conclusive and binding for all purposes.

1.11 Preferred Equity Investment.

(a) TotalStone shall redeem on the Maturity Date the equity interests issued by TotalStone in connection with the Preferred Equity Investment (such equity interests, the "Stream Membership Interests").

(b) At the time of redemption of any of the Stream Membership Interests, Borrower shall pay as a redemption premium an amount equal to the Accumulated Priority Return (as defined in the TotalStone Limited Liability Company Agreement) on such Stream Membership Interests.

(c) Notwithstanding anything to the contrary in this Agreement or any of the other Loan Documents, Borrower shall not make any payment of principal of the Loan (a "Principal Payment") unless TotalStone makes on the same date of such Principal Payment a redemption of Stream Membership Interest in a dollar amount equal to such Principal Payment *multiplied by* the Adjustment Factor.

SECTION 2
AFFIRMATIVE COVENANTS

Borrower agrees that from and after the date hereof and until the Termination Date:

2.1 Payment and Performance of Obligations. Borrower shall pay each payment Obligation when due (or when demanded, if payable on demand) and shall promptly, punctually, and faithfully perform each other Obligation.

2.2 Perfection Certificate.

(a) Borrower hereby affirms all of the disclosures and other matters set forth in all certificates, documents and agreements delivered to Lender under the Existing Credit Agreement (including the Perfection Certificate) and the other existing Loan Documents and acknowledges and agrees that such certificates, documents and agreements have been

relied upon by Lender, shall be for the benefit of Lender and are incorporated into this Agreement by reference.

(b) The Collateral, and the books, records, and papers of Borrower pertaining thereto, shall be kept and maintained solely at those locations which are listed on Schedule 2.2(b).

2.3 Compliance With Laws and Contractual Obligations. Borrower will (a) comply with and shall cause each of its Subsidiaries to comply with (i) the requirements of all applicable laws, rules, regulations and orders of any Governmental Authority (including, without limitation, laws, rules, regulations and orders relating to taxes, employer and employee contributions, securities, employee retirement and welfare benefits, environmental protection matters and employee health and safety) as now in effect and which may be imposed in the future in all jurisdictions in which Borrower or any of its Subsidiaries is now doing business or may hereafter be doing business and (ii) the obligations, covenants and conditions contained in all Contractual Obligations of Borrower or any of its Subsidiaries, other than, with respect to the foregoing clauses (i) and (ii), those laws, rules, regulations, orders and provisions of such Contractual Obligations the noncompliance with which could not be reasonably expected to have, either individually or in the aggregate, a Material Adverse Effect, and (b) maintain or obtain and shall cause each of its Subsidiaries to maintain or obtain all licenses, qualifications and permits now held or hereafter required to be held by Borrower or any of its Subsidiaries, for which the loss, suspension, revocation or failure to obtain or renew, could reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect. This Section shall not preclude Borrower or its Subsidiaries from contesting any taxes or other payments, if they are being diligently contested in good faith in a manner which stays enforcement thereof and if appropriate expense provisions have been recorded in conformity with GAAP. Borrower represents and warrants that it (i) is in compliance and each of its Subsidiaries is in compliance with the requirements of all applicable laws, rules, regulations and orders of any Governmental Authority and the obligations, conditions and covenants contained in all Contractual Obligations other than those laws, rules, regulations, orders and provisions of such Contractual Obligations the noncompliance with which could not be reasonably expected to have, either individually or in the aggregate, a Material Adverse Effect, and (ii) maintains and each of its Subsidiaries maintains all licenses, qualifications and permits referred to above.

2.4 Maintenance of Properties; Insurance. Borrower will maintain or cause to be maintained in good repair, working order and condition (ordinary wear and tear excepted) all properties used in the business of Borrower and its Subsidiaries and will make or cause to be made all appropriate repairs, renewals and replacements thereof. Borrower will maintain or cause to be maintained, with financially sound and reputable insurers, public liability and property damage insurance with respect to its business and properties and the business and properties of its Subsidiaries against loss or damage of the kinds customarily carried or maintained by corporations of established reputation engaged in similar businesses and in amounts reasonably acceptable to Lender and will deliver evidence thereof to Lender. Borrower will maintain business interruption insurance in amounts reasonably required by Lender from time to time. Borrower shall cause Lender, pursuant to endorsements and/or assignments in form and substance reasonably satisfactory to Lender, to be named as lender's loss payee in the case of casualty insurance, additional insured in the case of all liability insurance and assignee in the case of all business

interruption insurance, in each case for the benefit of Lender. Borrower represents and warrants that it and each of its Subsidiaries currently maintains all material properties as set forth above and maintains all insurance described above. In the event Borrower fails to provide Lender with evidence of the insurance coverage required by this Agreement, Lender may purchase insurance at Borrower's expense to protect Lender's interests in the Collateral. This insurance may, but need not, protect Borrower's interests. The coverage purchased by Lender may not pay any claim made by Borrower or any claim that is made against Borrower in connection with the Collateral. Borrower may later cancel any insurance purchased by Lender, but only after providing Lender with evidence that Borrower has obtained insurance as required by this Agreement. If Lender purchases insurance for the Collateral, Borrower will be responsible for the costs of that insurance, including interest and other Charges imposed by Lender in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance may be added to the Obligations. The costs of the insurance may be more than the cost of insurance Borrower is able to obtain on its own.

2.5 Inspection; Lender Meeting. Upon reasonable notice, Borrower shall permit any authorized representatives of Lender to visit, audit, appraise and inspect the Collateral and Borrower's its Subsidiaries' financial and accounting records, and to make copies and take extracts therefrom, and to discuss its and their affairs, finances and business with its and their officers and certified public accountants, at such reasonable times during normal business hours and as often as may be reasonably requested; provided, that while any Event of Default is occurring no notice to Borrower shall be required. Any such visits, audits, collateral audits, appraisals and inspections shall be at Borrower's sole cost and expense; provided, however, that if no Default or Event of Default has occurred or is continuing, Lender shall not conduct more than (x) two (2) visits per calendar year, (y) one (1) collateral audit per calendar year and (z) one appraisal per year; provided further, however, so long as no Default or Event of Default has occurred and is continuing, the aggregate cost to borrower of any such visits (exclusive of any collateral audits or appraisals) shall not exceed Ten Thousand Dollars ($10,000.00) per calendar year. Without in any way limiting the foregoing, Borrower will participate and will cause its key management personnel and those of its Subsidiaries to participate in a meeting with Lender at least once during each year, which meeting shall be held at Borrower's offices at such time as may be reasonably requested by Lender.

2.6 Organizational Existence. Borrower will and will cause its Subsidiaries to at all times preserve and keep in full force and effect its organizational existence and all rights and franchises material to its business.

2.7 Environmental Matters. Borrower shall and shall cause each Person within its control to: (a) conduct its operations and keep and maintain its Real Estate in compliance, in all material respects, with all Environmental Laws and Environmental Permits; (b) implement any and all investigation, remediation, removal and response actions that are appropriate or necessary to maintain the value and marketability of the Real Estate or to otherwise comply, in all material respects, with Environmental Laws and Environmental Permits pertaining to the presence, generation, treatment, storage, use, disposal, transportation or Release of any Hazardous Material on, at, in, under, above, to, from or about any of its Real Estate; (c) notify Lender promptly after Borrower or any Person within its control becomes aware of any violation of Environmental Laws or Environmental Permits or any Release on, at, in, under, above, to, from or about any Real Estate; and (d) promptly forward to Lender a copy of any order, notice, request for information or any

communication or report received by Borrower or any Person within its control in connection with any such violation or Release or any other matter relating to any Environmental Laws or Environmental Permits, in each case whether or not the Environmental Protection Agency or any Governmental Authority has taken or threatened any action in connection with any such violation, Release or other matter. If Lender at any time has a reasonable basis to believe that there may be a violation, in any material respect, of any Environmental Laws or Environmental Permits by Borrower or any Person under its control or any material Environmental Liability arising thereunder, or a Release of Hazardous Materials on, at, in, under, above, to, from or about any of its Real Estate, then Borrower and its Subsidiaries shall, upon Lender's written request (i) cause the performance of such environmental audits including subsurface sampling of soil and groundwater, and preparation of such environmental reports, at Borrower's expense, as Lender may from time to time reasonably request, which shall be conducted by reputable environmental consulting firms reasonably acceptable to Lender and shall be in form and substance reasonably acceptable to Lender, and (ii) permit Lender or its representatives to have access to all Real Estate for the purpose of conducting such environmental audits and testing as Lender reasonably deems appropriate, including subsurface sampling of soil and groundwater. Borrower shall reimburse Lender for the costs of such audits and tests and the same will constitute a part of the Obligations secured hereunder.

2.8 Landlords' Agreements, Mortgagee Agreements, Bailee Letters and Real Estate Purchases. Borrower shall obtain a landlord's agreement, mortgagee agreement or bailee letter, as applicable, from each lessor of leased property, mortgagee of owned property or bailee with respect to any warehouse or other location where Collateral is stored or located within 30 days of the Senior Obligations having been paid in full, which agreement or letter shall contain a waiver or subordination of all Liens or claims that the landlord, mortgagee or bailee may assert against the Collateral at that location, and shall otherwise be reasonably satisfactory in form and substance to Lender. After the Amended and Restated Closing Date, no real property or warehouse space shall be leased by Borrower or any Subsidiary, other than leases in effect as of the Amended and Restated Closing Date, and no Inventory shall be shipped to a processor or converter under arrangements established after the Amended and Restated Closing Date without the prior written consent of Lender or, unless and until a satisfactory landlord agreement or bailee letter, as appropriate, shall first have been obtained with respect to such location. Borrower shall and shall cause its Subsidiaries to timely and fully pay and perform their obligations under all leases and other agreements with respect to each leased location or public warehouse where any Collateral is or may be located.

2.9 Meetings; Board Observer Rights.

(a) Borrower will hold meetings of its board of managers (the "Board") on an as-needed basis, but not less frequently than once per Fiscal Quarter.

(b) Borrower will permit Lender to elect to have one representative present (whether in person or by telephone) in an observer capacity at all meetings of the Board. Lender shall have all rights at such meetings as a member of the Board (other than the right to vote). Borrower shall send to such observer representative all of the notices, information and other materials that are distributed to the Board and shall provide such observer representative with a notice and agenda of each meeting of the Board all at the same time

and in the same manner as such notices, agenda, information and other materials are provided to the members of the Board. Borrower shall reimburse Lender for the reasonable expenses (including travel expenses) incurred by such Lender for its observer in attending the meetings of the Board.

2.10 Further Assurances.

(a) Borrower shall, from time to time, execute such guaranties, financing statements, documents, security agreements and reports as Lender at any time may reasonably request to evidence, perfect or otherwise implement the guaranties and security for repayment of the Obligations contemplated by the Loan Documents.

(b) Borrower shall (i) cause each Person, upon its becoming a Subsidiary of Borrower (provided, that this shall not be construed to constitute consent by Lender to any transaction not expressly permitted by the terms of this Agreement), promptly to guaranty the Obligations and to grant to Lender a security interest in the real, personal and mixed property of such Person to secure the Obligations and (ii) pledge, or cause to be pledged, to Lender, all of the Stock of such Subsidiary to secure the Obligations. The documentation for such guaranty, security and pledge shall be substantially similar to the Loan Documents executed concurrently herewith with such modifications as are reasonably requested by Lender.

2.11 Account Control Agreements. Within one (1) day of the payment in full of the Senior Obligations, the Borrower shall have executed a tri-party agreement with any bank where the Borrower maintains a deposit account regarding such bank account pursuant to which such bank acknowledges the security interest of Lender in such bank account, agrees to comply with instructions originated by Lender directing disposition of the funds in the bank account without further consent from Borrower or its Subsidiary, and agrees to subordinate and limit any security interest the bank may have in the bank account on terms satisfactory to Lender.

SECTION 3
NEGATIVE COVENANTS

Borrower agrees that from and after the date hereof until the Termination Date unless otherwise agreed to by the Lender:

3.1 Limitation on Indebtedness. Borrower shall not create, incur, assume or suffer to exist any Indebtedness, except:

(a) Indebtedness under this Agreement, other Loan Documents and the Senior Financing Documents;

(b) Indebtedness incurred or assumed by Borrower or any of its Subsidiaries for the purpose of financing all or any part of the cost of acquiring any fixed or capital assets (whether pursuant to a loan or a Capital Lease), provided that, both at the time of and immediately after giving effect to the incurrence thereof, the aggregate amount of such Indebtedness shall not exceed One Hundred Thousand Dollars ($100,000);

(c) current unsecured trade, utility or nonextraordinary accounts payable (including, without limitation, operating leases and short term Indebtedness owed to vendors) arising in the ordinary course of Borrower's or any of its Subsidiaries' businesses;

(d) Indebtedness in respect of taxes, assessments or governmental charges to the extent that payment thereof shall not at the time be required to be made in accordance with Section 2.3;

(e) Indebtedness arising from judgments or decrees in circumstances not constituting an Event of Default under Section 6.1;

(f) Indebtedness secured by Permitted Encumbrances;

(g) Indebtedness of a Subsidiary existing at the time such subsidiary is acquired by Borrower or any of its Subsidiaries in an acquisition permitted hereunder; and

(h) Indebtedness arising under the NMD Notes.

3.2 Liens and Related Matters.

(a) No Liens. Borrower shall not create, incur, assume or suffer to exist any Lien upon any of Borrower's or its Subsidiary's property, assets or revenues, whether now owned or hereafter acquired, except for Permitted Encumbrances.

(b) No Negative Pledges. Borrower shall not enter into any agreement, document or instrument (excluding this Agreement, the other Loan Documents and the Senior Financing Documents) which would (i) restrict or prevent Borrower or any of its Subsidiaries from granting Liens upon, security interests in and pledges of their respective assets (including, but not limited to, motor vehicles) which are senior in priority to all other Liens, except for the Permitted Encumbrances, or (ii) restrict the ability of any Subsidiary of Borrower (a) to pay or make dividends or distributions in cash or kind to Borrower, (b) to make loans, advances or other payments of whatever nature to Borrower or any of Borrower's other Subsidiaries, or (c to make transfers or distributions of all or any part of its assets to Borrower or any of its other Subsidiaries.

3.3 Limitation on Investments, Loans and Advances. Borrower shall not make or allow to remain outstanding any Investment (whether such Investment shall be in shares of stock, evidences of indebtedness or other securities or otherwise) in, or any loans or advances to, any Person, firm, corporation or other entity or association, other than:

(a) Permitted Investments;

(b) Existing Investments by Borrower in its Subsidiaries;

(c) extensions of trade credit in the ordinary course of business;

(d) Investments in respect of Hedging Transactions; or

(e) loans and advances to employees, officers and directors of Borrower or its Subsidiaries provided that both at the time of and immediately after giving effect to any such Investment, (i) no Default or Event of Default shall have occurred and be continuing and (ii) the aggregate amount of such Investments shall not exceed Fifty-Five Thousand Dollars ($55,000) at any one time outstanding.

3.4 Contingent Obligations. Borrower shall not and shall not cause or permit its Subsidiaries to directly or indirectly create or become or be liable with respect to any Contingent Obligation except:

(a) those resulting from endorsement of negotiable instruments for collection in the ordinary course of business; and

(b) those existing on the Amended and Restated Closing Date and described in Schedule 3.4.

3.5 Restricted Payments. Borrower shall not declare or make, or permit any Subsidiary of Borrower to declare or make, any distributions, dividend, payment or other distribution of assets, properties, cash, rights, obligations or securities on account of any of its Capital Stock, as applicable, or purchase, redeem or otherwise acquire for value any Capital Stock, or any warrants, rights or options to acquire such Capital Stock, now or hereafter outstanding (collectively, "Restricted Payments"), other than (i) payments of dividends or distributions made while Borrower maintains its status as a limited liability company taxed as a partnership, in each case in amounts equal to the Permitted Tax Distributions for such applicable periods, (ii) Restricted Payments in connection with the redemption of the Preferred Equity Interests as set forth in Section 1.11 and (iii) Restricted Payments in connection with the Palatine Redemption Agreement.

3.6 Restriction on Fundamental Changes. Borrower shall not and shall not cause or permit its Subsidiaries to directly or indirectly: (a) amend, modify or waive any term or provision of its organizational documents, including its articles of incorporation, certificate of formation, certificates of designations pertaining to preferred stock, by-laws, partnership agreement or operating agreement in any manner which negatively affects Lender; (b) enter into any transaction of merger or consolidation; (c) liquidate, wind-up or dissolve itself (or suffer any liquidation or dissolution); or (d) acquire by purchase or otherwise acquire all or any substantial part of the business or assets of any other Person.

3.7 Disposal of Assets. Borrower shall not and shall not cause or permit its Subsidiaries to directly or indirectly convey, sell, lease, sublease, transfer or otherwise dispose of, or grant any Person an option to acquire, in one transaction or a series of related transactions, any of its property, business or assets, whether now owned or hereafter acquired, except for sales and/or leases of Inventory in good faith to customers for fair value in the ordinary course of business and dispositions of obsolete Equipment not used or useful in the business.

3.8 Transactions with Affiliates. Borrower shall not and shall not cause or permit its Subsidiaries to directly or indirectly enter into or permit to exist any transaction, including, without limitation, any purchase, sale, lease or exchange of property or the rendering of any service, with any Affiliates of Borrower or any of its Subsidiaries, except transactions in the ordinary course of

Borrower's or any of its Subsidiaries' businesses and upon fair and reasonable terms which are fully disclosed to Lender and are no less favorable to Borrower or any of its Subsidiaries than they could obtain in a comparable arm's length transaction from unrelated third parties; provided, however, that foregoing restriction shall not apply to management fees, indemnities and reimbursement of expenses paid to the Sponsor.

3.9 Conduct of Business. Borrower shall not and shall not cause or permit its Subsidiaries to directly or indirectly engage in any business other than businesses of the type presently conducted by Borrower or any Subsidiary, or reasonably related thereto.

3.10 Changes Relating to Indebtedness. Except as permitted pursuant to the terms of the subordinated and/or intercreditor agreement under the Senior Financing Documents, Borrower shall not and shall not cause or permit its Subsidiaries to directly or indirectly change or amend the terms of any of its Indebtedness permitted by Section 3.1 if the effect of such amendment is to: (a) increase the interest rate on such Indebtedness; (b) accelerate the dates upon which payments of principal or interest are due on or increase the principal amount of such Indebtedness; (c) make more restrictive any event of default or add or make more restrictive any covenant with respect to such Indebtedness; (d) change the redemption or prepayment provisions of such Indebtedness; (e) change the subordination provisions thereof (or the subordination terms of any guaranty thereof); (f) change or amend any other term if such change or amendment would materially increase the obligations of the obligor or confer additional material rights on the holder of such Indebtedness in a manner adverse to Borrower or Lender; or (g) increase the portion of interest payable in cash with respect to any Indebtedness for which interest is payable by the issuance of payment-in-kind notes or is permitted to accrue.

3.11 Fiscal Year. Borrower shall not change its Fiscal Year or permit any of its Subsidiaries to change their respective Fiscal Years.

3.12 Press Release; Public Offering Materials. Borrower agrees that neither it nor its Affiliates will in the future issue any press releases or other public disclosure, including any prospectus, proxy statement or other materials filed with any Governmental Authority relating to a public offering of the Stock of Borrower, using the name of Lender or its Affiliates or referring to this Agreement, the other Loan Documents or the Related Transactions Documents without at least two (2) Business Days' prior notice to Lender and without the prior written consent of Lender, as applicable, unless (and only to the extent that) Borrower or such Affiliate is required to do so under law and then, in any event, Borrower or such Affiliate will consult with Lender, as applicable, before issuing such press release or other public disclosure. Borrower consents to the publication by Lender of a tombstone or similar advertising material relating to the financing transactions contemplated by this Agreement. Lender reserves the right to provide to industry trade organizations information necessary and customary for inclusion in league table measurements; provided, that such information shall contain no specific references to Borrower or its Affiliates.

3.13 Subsidiaries. Subject to Section 2.10, Borrower shall not and shall not cause or permit its Subsidiaries to directly or indirectly establish, create or acquire any new Subsidiary.

3.14 Bank Accounts. Borrower shall not and shall not cause or permit its Subsidiaries to establish any new bank accounts without prior written notice to Lender. Borrower shall maintain all of its deposit and investment accounts with the financial institutions that provide the indebtedness under the Senior Financing Documents or as set forth in the schedules thereto.

3.15 Hazardous Materials. Borrower shall not and shall not cause or permit its Subsidiaries to cause or permit a Release of any Hazardous Material on, at, in, under, above, to, from or about any of the Real Estate where such Release would (a) violate in any material respect, or faun the basis for any material Environmental Liabilities by Borrower or any of its Subsidiaries under, any Environmental Laws or Environmental Permits or (b) otherwise materially and adversely impact the value or marketability of any of the Real Estate or any of the Collateral.

3.16 ERISA. Borrower shall not and shall not cause or permit any ERISA Affiliate to, cause or permit to occur an ERISA Event to the extent such ERISA Event could reasonably be expected to have a Material Adverse Effect.

3.17 Sale Leasebacks. Borrower shall not and shall not cause or permit any of its Subsidiaries to engage in any sale leaseback, synthetic lease or similar transaction involving any of its assets.

3.18 Prepayments of Other Indebtedness. Borrower shall not, directly or indirectly, voluntarily purchase, redeem, defease or prepay any principal of, premium, if any, interest or other amount payable in respect of any Indebtedness, other than (i) the Obligations; (ii) intercompany Indebtedness reflecting amounts owing to Borrower and (iii) Borrower's indebtedness pursuant to the Senior Facility and the NMD Notes.

3.19 Guaranties. Borrower shall not assume, guarantee, endorse or otherwise become directly or contingently liable in connection with any obligations of any other Person.

3.20 Organization. Borrower shall not change its jurisdiction of organization; any organizational identification number assigned to Borrower; or Borrower's federal taxpayer identification number.

SECTION 4
FINANCIAL COVENANTS/REPORTING

Borrower covenants and agrees that from and after the date hereof until the Termination Date, Borrower shall perform and comply with all covenants in this Section 4.

4.1 Financial Statements and Other Reports. Borrower will maintain, and cause each of its Subsidiaries to maintain, a system of accounting established and administered in accordance with sound business practices to permit preparation of Financial Statements in conformity with GAAP (it being understood that monthly Financial Statements are not required to have footnote disclosures). Borrower will deliver each of the Financial Statements and other reports described below to Lender, all in form reasonably acceptable to Lender.

(a) Monthly Financials. As soon as available and in any event within thirty (30) days after the end of each month (including the last month of Borrower's Fiscal Year),

Borrower will deliver to Lender electronically in Microsoft Excel format the consolidated balance sheets of Borrower and its Subsidiaries, as at the end of such month, and the related consolidated statements of income, profits and losses, stockholders' equity and cash flow for such month and for the period from the later of: (i) the beginning of the then current Fiscal Year of Borrower and (ii) the Amended and Restated Closing Date.

(b) Year-End Financials. As soon as available and in any event within one hundred twenty (120) days after the end of each Fiscal Year of Borrower, Borrower will deliver to Lender (1) the consolidated and consolidating balance sheets of Borrower and its Subsidiaries, as at the end of such year, and the related consolidated statements of income, and statement of retained earnings for such Fiscal Year, (2) a report with respect to the consolidated Financial Statements from a firm of Certified Public Accountants selected by Borrower and reasonably acceptable to Lender, which report shall be prepared in accordance with Statement of Auditing Standards No. 58 (the "Statement") "Reports on Audited Financial Statements" and such report shall be "Unqualified" (as such term is defined in such Statement).

(c) Accountants' Reports. Promptly upon receipt thereof, Borrower will deliver to Lender copies of all significant reports submitted by Borrower's firm of certified public accountants in connection with each annual, interim or special audit or review of any type of the Financial Statements or related internal control systems of Borrower and its Subsidiaries made by such accountants, including any comment letter submitted by such accountants to management in connection with their services.

(d) Management Report. Together with each delivery of Financial Statements of Borrower pursuant to Sections 4.1(a) and (b), Borrower will deliver to Lender, in electronic form and hard copy, a management report (1) describing the operations and financial condition of Borrower and its Subsidiaries for the applicable period then ended and the portion of the current Fiscal Year then elapsed (or for the Fiscal Year then ended in the case of year-end financials) and (2) discussing the reasons for any significant variations. The information above and the Financial Statements shall be presented in reasonable detail and shall be certified by the chief financial officer of Borrower to the effect that such information fairly presents the results of operations and financial condition of Borrower and its Subsidiaries as at the dates and for the periods indicated.

(e) Projections. As soon as available and in any event no later than the last day of each of Borrower's Fiscal Years, Borrower will deliver to Lender Projections of Borrower and its Subsidiaries for the forthcoming one (1) Fiscal Year, year by year, and for the forthcoming Fiscal Year, month by month.

(f) Filings and Press Releases. Promptly upon their becoming available, Borrower will deliver copies of (1) all Financial Statements, reports, notices and proxy statements sent or made available by Borrower or any of its Subsidiaries to their Stockholders, (2) all regular and periodic reports and all registration statements and prospectuses, if any, filed by Borrower or any of its Subsidiaries with any securities exchange or with the Securities and Exchange Commission, any Governmental Authority or any private regulatory authority, and (3) all press releases and other statements made

available by Borrower or any of its Subsidiaries to the public concerning developments in the business of any such Person.

(g) Events of Default, Etc. Promptly upon any officer of Borrower obtaining knowledge of any of the following events or conditions, Borrower shall deliver copies of all notices given or received by Borrower or any of its Subsidiaries with respect to any such event or condition and a certificate of Borrower's chief executive officer specifying the nature and period of existence of such event or condition and what action Borrower or any of its Subsidiaries has taken, is taking and proposes to take with respect thereto: (1) any condition or event that constitutes, or which could reasonably be expected to result in the occurrence of, an Event of Default or Default; (2) any notice that any Person has given to Borrower or any of its Subsidiaries or any other action taken with respect to a claimed default or event or condition of the type referred to in Section 6.1(b); (3) any event or condition that could reasonably be expected to result in any Material Adverse Effect; or (4) any default or event of default with respect to any Indebtedness of Borrower or any of its Subsidiaries.

(h) Litigation. Promptly upon any officer of Borrower obtaining knowledge of (1) the institution of any action, charge, claim, demand, suit, proceeding, petition, governmental investigation, tax audit or arbitration now pending or, to the best knowledge of Borrower after due inquiry, threatened against or affecting Borrower or any of its Subsidiaries or any property of Borrower or any of its Subsidiaries ("Litigation") not previously disclosed by Borrower to Lender or (2) any material development in any action, suit, proceeding, governmental investigation or arbitration at any time pending against or affecting Borrower or any property of Borrower that, in each case under the preceding clauses (1) and (2), could reasonably be expected to have a Material Adverse Effect, Borrower will promptly give notice thereof to Lender and provide such other information as may be reasonably available to Borrower to enable Lender and its counsel to evaluate such matter.

(i) Notice of Corporate and other Changes. Borrower shall provide prompt written notice of (1) all jurisdictions in which Borrower becomes qualified after the Amended and Restated Closing Date to transact business, (2) any change after the Amended and Restated Closing Date in the authorized and issued Stock of Borrower or any Subsidiary of Borrower or any amendment to their articles or certificate of incorporation, by-laws, partnership agreement or other organizational documents; (3) any Subsidiary created or acquired by Borrower or any of its Subsidiaries after the Amended and Restated Closing Date, such notice, in each case, to identify the applicable jurisdictions, capital structures or Subsidiaries, as applicable, and (4) any other event that occurs after the Amended and Restated Closing Date which would cause any of the representations and warranties in Section 5 of this Agreement or in any other Loan Document to be untrue or misleading in any material respect. The foregoing notice requirement shall not be construed to constitute consent by the Lender to any transaction referred to above which is not expressly permitted by the terms of this Agreement.

(j) Conference Call. On a monthly basis, Borrower shall make its chief executive officer and chief financial officer (without regard to the title(s) actually given to

the Persons discharging the duties customarily discharged by officers with those titles) available for a telephone conference to discuss with Lender Borrower's financial condition and other matters relevant to Lender. Lender shall initiate such call and shall provide Borrower with at least two (2) Business Days prior notice of such conference call.

(k) Other Information. With reasonable promptness, Borrower will deliver such other information and data with respect to itself or any Subsidiary as from time to time may be reasonably requested by Lender.

(l) Compliance Certificate. As soon as available and in any event within (i) forty-five (45) days after the end of each Fiscal Quarter (including the last Fiscal Quarter of Borrower's Fiscal Year) and (ii) within thirty (30) days after the end of each month, Borrower will deliver to Lender a fully and properly completed Compliance Certificate (in substantially the same form as Exhibit 4.1)(the "Compliance Certificate") electronically in Microsoft Excel format, followed by a hard copy signed by Borrower's chief executive officer or chief financial officer.

(m) Taxes. Borrower shall provide Lender prompt written notice of (i) the execution or filing with the IRS or any other Governmental Authority of any agreement or other document extending, or having the effect of extending, the period for assessment or collection of any Charges by Borrower or any of its Subsidiaries and (ii) any agreement by Borrower or any of its Subsidiaries or request directed to Borrower or any of its Subsidiaries to make any adjustment under IRC Section 481(a), by reason of a change in accounting method or otherwise, that could reasonably be expected to have a Material Adverse Effect.

(n) Notices Under Other Indebtedness. Borrower shall provide Lender copies of all certificates (including borrowing base certificates), notices, and other information delivered to Borrower by, or received by Borrower from, any other lender, including the lender in respect of the Senior Facility, contemporaneously with such delivery or promptly after such receipt.

4.2 Accounting Terms Utilization of GAAP for Purposes of Calculations Under Agreement. For purposes of this Agreement, all accounting terms not otherwise defined herein shall have the meanings assigned to such terms in conformity with GAAP. Financial Statements and other information furnished to Lender pursuant to Section 4.1 or any other section (unless specifically indicated otherwise) shall be prepared in accordance with GAAP as in effect at the time of such preparation subject in the case of any interim Financial Statements to year-end adjustments; provided, that no Accounting Change shall affect financial covenants, standards or terms in this Agreement; provided, further that Borrower shall prepare footnotes to the Financial Statements required to be delivered hereunder that show the differences between the Financial Statements delivered (which reflect such Accounting Changes) and the basis for calculating financial covenant compliance (without reflecting such Accounting Changes). All such adjustments described in clause (c) of the definition of the term Accounting Changes resulting from expenditures made subsequent to the Amended and Restated Closing Date (including capitalization of costs and expenses or payment of pre-Amended and Restated Closing Date liabilities) shall be treated as expenses in the period the expenditures are made.

4.3 Financial Covenants and Ratios. Beginning with Borrower's first full Fiscal Quarter ended immediately after the date of the Amended and Restated Closing Date for any quarterly tests, and beginning with the first full calendar month after the Closing for any monthly tests, Borrower shall comply with and maintain each of the financial covenants and ratios as set forth on Exhibit 4.3. Borrower's compliance with the financial covenants and ratios shall be measured in accordance with GAAP and using the information set forth in the Financial Statements provided by Borrower in accordance with Section 4.1 (and, at Lender's option, any other information available to Lender).

4.4 Limitation on Capital Expenditures. Borrower will not contract for, purchase or make any expenditure of commitments for Unfinanced Capital Expenditures in any fiscal year in an aggregate amount in excess of One Hundred Ten Thousand Dollars ($550,000.00).

4.5 Notice to Lender of Certain Events. Borrower shall provide Lender with written notice promptly upon the occurrence of any of the following events, which written notice shall be with reasonable particularity as to the facts and circumstances in respect of which such notice is being given:

(a) Any change in Borrower's chief executive officer or chief financial officer (without regard to the title(s) actually given to the Persons discharging the duties customarily discharged by officers with those titles).

(b) Any ceasing of Borrower's making of payment, in the ordinary course, to any of its creditors (other than its ceasing of making of such payments on account of a de minimis dispute).

(c) Any failure by Borrower to pay rent at any of Borrower's locations, which failure continues for more than fifteen (15) days following the last day on which such rent was payable.

(d) Any material adverse change in the business, operations, or financial affairs of Borrower.

(e) Any intention on the part of Borrower to discharge Borrower's present independent accountants or any withdrawal or resignation by such independent accountants from their acting in such capacity.

SECTION 5
REPRESENTATIONS AND WARRANTIES

To induce Lender to enter into the Loan Documents and to make the Loan, Borrower represents, warrants and covenants to Lender that the following statements are, and after giving effect to the Related Transactions, will remain true, correct and complete until the Termination Date:

5.1 Disclosure. No representation or warranty of Borrower contained in this Agreement, the Financial Statements referred to in Section 5.5, the other Related Transactions Documents or any other document, certificate or written statement furnished to Lender by or on

behalf of any such Person for use in connection with the Loan Documents or the Related Transactions Documents contains any untrue statement of a material fact or omitted, omits or will omit to state a material fact necessary in order to make the statements contained herein or therein not misleading in light of the circumstances in which the same were made, it being recognized by Lender that the projections and forecasts provided by Borrower to Lender in good faith and based upon reasonable assumptions are not to be viewed as facts and that actual results during the period or periods covered by any such projections and forecasts may differ from the projected or forecasted results.

5.2 No Material Adverse Effect. Since December 31, 2018, to Borrower's knowledge, there have been no events or changes in facts or circumstances affecting the business of Borrower which individually or in the aggregate have had or could reasonably be expected to have a Material Adverse Effect and that have not been disclosed herein or in the attached Disclosure Schedules.

5.3 No Conflict. The consummation of the Related Transactions does not and will not violate or conflict with any laws, rules, regulations or orders of any Governmental Authority applicable to the Borrower, or violate or conflict with, result in a breach of, or constitute a default (with due notice or lapse of time or both) under any Contractual Obligation or organizational documents of Borrower or any of its Subsidiaries except if such violations, conflicts, breaches or defaults could not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect and except as to which applicable consents or waivers have been obtained.

5.4 Organization, Powers, Capitalization and Good Standing.

(a) Organization and Powers. Borrower and each of its Subsidiaries is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization and qualified to do business in all states where such qualification is required except where failure to be so qualified could not reasonably be expected to have a Material Adverse Effect. Borrower and each of its Subsidiaries has all requisite organizational power and authority to own and operate its properties, to carry on its business as now conducted, to enter into each Related Transactions Document to which it is a party and to incur the Obligations, grant liens and security interests in the Collateral and carry out the Related Transactions.

(b) Capitalization. As of the Amended and Restated Closing Date: (i) the authorized Stock of each of Borrower and each of its Subsidiaries is as set forth on Schedule 5.4(b); (ii) all issued and outstanding Stock of Borrower and each of its Subsidiaries is duly authorized and validly issued, fully paid, nonassessable, free and clear of all Liens, and such Stock was issued in compliance with all applicable state, federal and foreign laws concerning the issuance of securities; (iii) the identity of the holders of the Stock of Borrower and each of its Subsidiaries and the percentage of their fully diluted ownership of the Stock of each of Borrower and each of its Subsidiaries is set forth on Schedule 5.4(b); and (iv) no Stock of Borrower or any of its Subsidiaries, other than those described above, is issued and outstanding. Except as provided in Schedule 5.4(b), as of the Amended and Restated Closing Date, there are no preemptive or other outstanding rights, options, warrants, conversion rights or similar agreements or understandings for the

purchase or acquisition from Borrower or any of its Subsidiaries of any Stock of any such entity.

(c) Binding Obligation. This Agreement is, and the other Related Transactions Documents when executed and delivered will be, the legally valid and binding obligations of Borrower, each enforceable against Borrower in accordance with its terms.

5.5 Financial Statements and Projections. All Financial Statements concerning Borrower and its Subsidiaries which have been or will hereafter be furnished to Lender pursuant to this Agreement, including those listed below, have been or will be prepared in accordance with GAAP consistently applied (except as disclosed therein) and do or will present fairly the financial condition of the entities covered thereby as at the dates thereof and the results of their operations for the periods then ended, subject to, in the case of unaudited Financial Statements, the absence of footnotes, and normal year end adjustments. The Projections delivered on or prior to the Amended and Restated Closing Date and the updated Projections delivered pursuant to Section 4.1(e) represent and will represent as of the date thereof the good faith estimate of Borrower and its senior management concerning the most probable course of its business.

5.6 Intellectual Property. Borrower and each of its Subsidiaries owns, is licensed to use or otherwise has the right to use, all Intellectual Property used in or necessary for the conduct of its business as currently conducted that is material to the financial condition, business or operations of Borrower and its Subsidiaries and all such Intellectual Property that is registered with the United States Patent and Trademark Office or the subject of a pending application is identified on Schedule 5.6. Except as disclosed in Schedule 5.6, to Borrower's knowledge, the use of such Intellectual Property by Borrower and its Subsidiaries and the conduct of their businesses does not and has not been alleged by any Person to infringe on the rights of any Person.

5.7 Investigations, Audits, Etc. As of the Amended and Restated Closing Date, except as set forth on Schedule 5.7, neither Borrower nor any of its Subsidiaries is the subject of any review or audit by the IRS or any governmental investigation concerning the violation or possible violation of any law.

5.8 Employee Matters. Neither Borrower nor any of its Subsidiaries nor any of their respective employees is subject to any collective bargaining agreement, (b) no petition for certification or union election is pending with respect to the employees of Borrower or any of its Subsidiaries and no union or collective bargaining unit has sought such certification or recognition with respect to the employees of Borrower or any of its Subsidiaries, (c) there are no strikes, slowdowns, work stoppages or controversies pending or, to the best knowledge of Borrower after due inquiry, threatened between Borrower or any of its Subsidiaries and its respective employees, other than employee grievances arising in the ordinary course of business which could not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect and (d) hours worked by and payment made to employees of Borrower and each of its Subsidiaries comply with the Fair Labor Standards Act and each other federal, state, local or foreign law applicable to such matters.

5.9 Solvency. Each of Borrower and its Subsidiaries is Solvent, both before and after giving effect to the transactions contemplated by this Agreement and the other Loan Documents.

5.10 Litigation; Adverse Facts. Except as set forth on Schedule 5.10, there are no judgments outstanding against Borrower or any of its Subsidiaries or affecting any property of Borrower or any of its Subsidiaries, nor is there any Litigation pending, or to the best knowledge of Borrower threatened, against Borrower or any of its Subsidiaries.

5.11 Margin Regulations; Use of Proceeds. No part of the proceeds of the Loan will be used for "buying" or "carrying" "margin stock" within the respective meanings of such terms under Regulation U of the Board of Governors of the Federal Reserve System as now and from time to time hereafter in effect or for any other purpose that violates the provisions of the regulations of the Board of Governors of the Federal Reserve System. If requested by Lender, Borrower will furnish to Lender and each Lender a statement to the foregoing effect in conformity with the requirements of FR Form G 3 or FR Form U 1, as applicable, referred to in Regulation U.

5.12 Ownership of Property; Liens. As of the Amended and Restated Closing Date, the real estate ("Real Estate") listed in Schedule 5.12 constitutes all of the real property leased, subleased, or used by Borrower or any of its Subsidiaries. Borrower and each of its Subsidiaries holds valid leasehold interests in all of its leased Real Estate, all as described on Schedule 5.12, and copies of all such leases or a summary of terms thereof reasonably satisfactory to Lender have been delivered to Lender. Borrower and each of its Subsidiaries also has good and marketable title to, or valid leasehold interests in, all of its personal property and assets. Other than Permitted Encumbrances, as of the Amended and Restated Closing Date, none of the properties and assets of Borrower or any of its Subsidiaries are subject to any Liens, and there are no facts, circumstances or conditions known to Borrower that may result in any Liens (including Liens arising under Environmental Laws) against the properties or assets of Borrower or any of its Subsidiaries. Borrower and each of its Subsidiaries has received all deeds, assignments, waivers, consents, nondisturbance and attornment or similar agreements, bills of sale and other documents, and has duly effected all recordings, filings and other actions necessary, in Borrower's reasonable opinion, to establish, protect and perfect Borrower's or such Subsidiary's right, title and interest in and to all such properties and assets. As of the Amended and Restated Closing Date, no portion of Borrower's or any of its Subsidiaries' Real Estate has suffered any material damage by fire or other casualty loss that has not heretofore been repaired and restored in all material respects to its original condition or otherwise remedied. As of the Amended and Restated Closing Date, all material permits required to have been issued or appropriate to enable the Real Estate to be lawfully occupied and used for all of the purposes for which it is currently occupied and used have been lawfully issued and are in full force and effect. No Borrower nor any of its Subsidiaries owns fee title to any real property.

5.13 Environmental Matters. Except as set forth in Schedule 5.13, as of the Amended and Restated Closing Date: (a) to Borrower's knowledge, the Real Estate is free of contamination from any Hazardous Material; (b) neither Borrower nor any of its Subsidiaries has caused or suffered to occur any Release of Hazardous Materials on, at, in, under, above, to, from or about any of their Real Estate; (c) Borrower and its Subsidiaries are compliance, in all material respects, with all Environmental Laws; (d) Borrower and its Subsidiaries have obtained, and are in compliance, in all material respects, with, all Environmental Permits required by Environmental Laws for the operations of their respective businesses as presently conducted and all such Environmental Permits remain in full force and effect; (e) neither Borrower nor any of its Subsidiaries is involved in any Releases of Hazardous Materials; (f) there is no Litigation arising

under or related to any Environmental Laws, Environmental Permits or Hazardous Material; (g) no notice has been received by Borrower or any of its Subsidiaries identifying any of them as a "potentially responsible party" or requesting information under CERCLA or analogous state statutes, and to the knowledge of Borrower, there are no facts, circumstances or conditions that may result in any of Borrower or its Subsidiaries being identified as a "potentially responsible party" under CERCLA or analogous state statutes; and (h) Borrower has provided to Lender copies of all existing environmental reports, reviews and audits and all written information pertaining to actual or potential Environmental Liabilities relating to Borrower or its Subsidiaries.

5.14 ERISA.

(a) Schedule 5.14 lists all Plans and separately identifies all Pension Plans, including Title IV Plans, Multiemployer Plans, ESOPs and Welfare Plans, including all Retiree Welfare Plans. Copies of all such listed Plans, together with a copy of the latest form IRS/DOL 5500-series for each such Plan have been made available to Lender. To the Borrower's knowledge, nothing has occurred, which would cause the loss of the qualified status of any Qualified Plan. Each Plan is in material compliance with the applicable provisions of ERISA and the IRC, including the timely filing of all reports required under the IRC or ERISA. Neither Borrower nor any ERISA Affiliate has failed to make any contribution or pay any amount due as required by either Section 412 of the IRC or Section 302 of ERISA or the terms of any such Plan. Neither Borrower nor any ERISA Affiliate has engaged in a "prohibited transaction," as defined in Section 406 of ERISA and Section 4975 of the IRC, in connection with any Plan, that is reasonably likely to subject Borrower to a material tax on prohibited transactions imposed by Section 502(i) of ERISA or Section 4975 of the IRC.

(b) Except as set forth in Schedule 5.14: (i) Borrower does not maintain or sponsor any Title IV Plan; (ii) there are no pending, or to the knowledge of Borrower, threatened claims (other than claims for benefits in the normal course), sanctions, actions or lawsuits, asserted or instituted against any Plan or any Person as fiduciary or sponsor of any Plan; and (iii) neither Borrower nor any ERISA Affiliate has incurred or reasonably expects to incur any liability as a result of a complete or partial withdrawal from a Multiemployer Plan.

5.15 Brokers. No broker or finder acting on behalf of Borrower or its Affiliates brought about the obtaining, making or closing of the Loan or the Related Transactions, and neither Borrower nor its Affiliates have any obligation to any Person in respect of any finder's or brokerage fees in connection therewith.

5.16 Deposit and Disbursement Accounts. Schedule 5.16 lists all banks and other financial institutions at which Borrower maintains deposit or other accounts as of the Amended and Restated Closing Date, and such Schedule correctly identifies the name, address and telephone number of each depository, the name in which the account is held, a description of the purpose of the account, and the complete account number therefor.

5.17 Agreements and Other Documents. As of the Amended and Restated Closing Date, Borrower has provided to Lender or its counsel accurate and complete copies (or summaries) of

all of the following agreements or documents to which it is subject and each of which is listed in Schedule 5.17: any contractual obligations not terminable by Borrower within sixty (60) days following written notice issued by Borrower and involving transactions in excess of $12,500 per annum or aggregate payments to or by the Seller in excess of $50,000 over the life or such contractual obligation; licenses and permits held by Borrower, the absence of which could reasonably be expected to have a Material Adverse Effect; instruments and documents evidencing any Indebtedness or Guaranteed Indebtedness of Borrower and any Lien granted by Borrower with respect thereto; and instruments and agreements evidencing the issuance of any equity securities, warrants, rights or options to purchase equity securities of Borrower.

5.18 [Reserved].

5.19 ADA Compliance. Borrower is in material compliance with the Americans with Disabilities Act of 1990 ("ADA"). If at any time any renovations of Borrower's facilities or modifications of Borrower's employment practices shall be required to bring them into material compliance with the ADA, Borrower shall notify Lender within thirty (30) days and Borrower shall provide Lender with a copy of its plan to come into compliance.

5.20 Patriot Act. Borrower certifies that, to the best of Borrower's knowledge, neither Borrower nor any of its Subsidiaries has been designated, and is not owned or controlled, by a "suspected terrorist" as defined in Executive Order 13224. Borrower hereby acknowledges that Lender seeks to comply with all applicable laws concerning money laundering and related activities. In furtherance of those efforts, Borrower hereby represents, warrants and agrees that: (i) none of the cash or property that Borrower or any of its Subsidiaries will pay or will contribute to Lender has been or shall be derived from, or related to, any activity that is deemed criminal under United States law; and (ii) no contribution or payment by Borrower or any of its Subsidiaries to Lender, to the extent that they are within Borrower's and/or its Subsidiaries' control shall cause Lender to be in violation of the United States Bank Secrecy Act, the United States International Money Laundering Control Act of 1986 or the United States International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001. Borrower shall promptly notify Lender if any of these representations ceases to be true and accurate regarding either Borrower or any of its Subsidiaries. Borrower agrees to provide Lender any additional information regarding either Borrower or any of its Subsidiaries that Lender deems necessary or convenient to ensure compliance with all applicable laws concerning money laundering and similar activities. Borrower understands and agrees that if at any time it is discovered that any of the foregoing representations are incorrect, or if otherwise required by applicable law or regulation related to money laundering similar activities, Lender may undertake appropriate actions to ensure compliance with applicable law or regulation. Borrower further understands that Lender may release confidential information about either Borrower and its Subsidiaries and, if applicable, any underlying beneficial owners, to proper governmental authorities if Lender, in its sole discretion, determines that it is in the best interests of Lender in light of relevant rules and regulations under the laws set forth in subsection (ii) above.

SECTION 6
DEFAULT, RIGHTS AND REMEDIES

6.1 Event of Default. "Event of Default" shall mean the occurrence or existence of any one or more of the following:

(a) Payment. Failure to pay any installment or other payment of (i) principal of the Loan when due, (ii) any interest on the Loan and (x) such failure shall have continued unremedied for a period of two (2) days or (y) if the Borrower shall have failed to pay any such amount on the day when such amount became due and payable more than four times during the term of this Agreement, when due, or (iii) any other amount due under this Agreement or any of the other Loan Documents and (x) such failure shall have continued for a period of ten (10) days or (y) if the Borrower shall have failed to pay any such amount on the day when such amount became due and payable more than four times during the term of this Agreement, when due; or

(b) Default in Other Agreements. (1) The acceleration of the payment of any unpaid Indebtedness under the Senior Facility, (2) Borrower or any of its Subsidiaries fails to pay when due or within any applicable grace period any principal or interest on Indebtedness (other than the Loan and the Senior Facility) or any Contingent Obligations, or (3) breach or default of Borrower or any of its Subsidiaries, or the occurrence of any condition or event, with respect to any Indebtedness (other than the Loan and the Senior Facility) or any Contingent Obligations, if the effect of such breach, default or occurrence is to cause or to permit the holder or holders then to cause, Indebtedness and/or Contingent Obligations having an individual principal amount in excess of $50,000 or having aggregate principal amount in excess of $50,000 to become or be declared due prior to their stated maturity; or

(c) Breach of Certain Provisions. Failure of Borrower to perform or comply with any term or condition contained in Section 3, Section 4.1, Section 4.3, Section 4.4, or Section 4.5 and such default is not remedied or waived within five (5) Business Days after the earlier of (1) receipt by the Borrower of notice from Lender of such default or (2) actual knowledge of Borrower of such default; or

(d) Breach of Warranty. Any representation, warranty, certification or other statement made by Borrower in any Loan Document or in any statement or certificate at any time given by such Person in writing pursuant or in connection with any Loan Document is false in any material respect (without duplication of materiality qualifiers contained therein) on the date made; or

(e) Other Defaults Under Loan Documents. Borrower defaults in the performance of or compliance with any term contained in this Agreement or the other Loan Documents (other than occurrences described in other provisions of this Section 6.1 for which a different grace or cure period is specified, or for which no cure period is specified and which constitute immediate Events of Default) and such default is not remedied or waived within thirty (30) days; or

(f) Involuntary Bankruptcy; Appointment of Receiver, Etc. (1) A court enters a decree or order for relief with respect to Borrower in an involuntary case under the Bankruptcy Code, which decree or order is not stayed or other similar relief is not granted under any applicable federal or state law; or (2) the continuance of any of the following events for forty-five (45) days unless dismissed, bonded or discharged: (a) an involuntary case is commenced against Borrower, under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect; or (b) a decree or order of a court for the appointment of a receiver, liquidator, sequestrator, trustee, custodian or other officer having similar powers over Borrower, or over all or a substantial part of its property, is entered; or (c) a receiver, trustee or other custodian is appointed without the consent of Borrower, for all or a substantial part of the property of Borrower; or

(g) Voluntary Bankruptcy; Appointment of Receiver, Etc. (1) Borrower commences a voluntary case under the Bankruptcy Code, or consents to the entry of an order for relief in an involuntary case or to the conversion of an involuntary case to a voluntary case under any such law or consents to the appointment of or taking possession by a receiver, trustee or other custodian for all or a substantial part of its property; or (2) Borrower makes any assignment for the benefit of creditors; or (3) the Board of Directors of Borrower adopts any resolution or otherwise authorizes action to approve any of the actions referred to in this Section 6.1(g); or

(h) Business Failure. Any act by, against, or relating to Borrower, or its property or assets, which act constitutes the determination, by Borrower, to initiate a program of partial or total self liquidation; application for, consent to, or sufferance of the appointment of a receiver, trustee, or other person, pursuant to court action or otherwise, over all, or any part of Borrower's property; the granting of any trust mortgage or execution of an assignment for the benefit of the creditors of Borrower, or the occurrence of any other voluntary or involuntary liquidation for Borrower; the offering by or entering into by Borrower of any composition, extension, or any other arrangement seeking relief from or extension of the debts of any Borrower; or the initiation of any judicial or non judicial proceeding or agreement by, against, or including Borrower which seeks or intends to accomplish a reorganization or arrangement with creditors; and/or the initiation by or on behalf of Borrower of the liquidation or winding up of all or any part of any Borrower's business or operations; or

(i) Judgment and Attachments. Any money judgment, writ or warrant of attachment, or similar process (other than those described elsewhere in this Section 6.1) involving (1) an amount in any individual case in excess of $250,000 or (2) an amount in the aggregate at any time in excess of $250,000 (in either case to the extent not adequately covered by insurance in Lender's reasonable discretion as to which the insurance company has acknowledged coverage) is entered or filed against Borrower or any of its assets and remains, in the case of either (1) or (2) above, undischarged, unvacated, unbonded, unstayed for a period of thirty (30) days; or

(j) Dissolution. Any order, judgment or decree is entered against Borrower decreeing the dissolution or split up of Borrower and such order remains undischarged or unstayed for a period in excess of ten (10) days; or

(k) Invalidity of Loan Documents. Any of the Loan Documents for any reason, other than a partial or full release in accordance with the terms thereof, ceases to be in full force and effect or is declared to be null and void, or Borrower denies that it has any further liability under any Loan Documents to which it is party, or gives notice to such effect; or

(l) ERISA Event. The occurrence of (i) a "reportable event", as defined in ERISA, which is determined to constitute grounds for a distress termination by the Pension Benefit Guaranty Corporation of any Pension Plan subject to Title IV of ERISA maintained or contributed to by or on behalf of Borrower for the benefit of any of its employees or for the appointment by the appropriate United States District Court of a trustee to administer such Pension Plan and such reportable event is not corrected and such determination is not revoked within sixty (60) days after notice thereof has been given to the plan administrator of such Pension Plan (without limiting any of Lender's other rights or remedies hereunder), or (ii) the institution of proceedings by the Pension Benefit Guaranty Corporation to terminate any such Pension Plan or (iii) the appointment of a trustee by the appropriate United States District Court to administer any such Pension Plan; or

(m) Change of Control. A Change of Control occurs; or

(n) Subordinated Indebtedness. The failure of Borrower or any creditor of Borrower or any of its Subsidiaries to comply with the terms of any subordination or intercreditor agreement or any subordination provisions of any note or other document running to the benefit of Lender, or if any such document becomes null and void or any party denies further liability under any such document or provides notice to that effect; or

(o) Collateral Documents. Any Collateral Document shall at any time for any reason cease to be valid, binding and enforceable against Borrower or any of its Subsidiaries (other than in accordance with the terms thereof), as applicable, or the validity, binding effect or enforceability thereof shall be contested by Borrower, or Borrower or any of its Subsidiaries shall deny that it has any or further liability or obligation under any Collateral Document, or any such Loan Document shall be terminated (other than in accordance with the terms thereof), invalidated, revoked or set aside or in any way cease to give or provide to Lender the benefits purported to be created thereby; or

(p) Asset Sales. Except for any Asset Sales permitted under this Agreement, if Borrower or a controlling portion of its voting stock or membership interests or a substantial portion of its assets comes under the practical, beneficial or effective control of one or more persons other than Sponsor, whether by reason of merger, consolidation, sale or purchase of stock or assets or otherwise; and any such change of control or office holder could reasonably be expected to have a Material Adverse Effect on the ability of Borrower to carry on its business as conducted before such change; or

(q) [Intentionally Omitted]; or

(r) Uninsured Casualty Loss. The occurrence of any uninsured loss, theft, damage, or destruction of or to any material portion of the Collateral of a value in excess of $500,000.00; or

6.2 Acceleration and other Remedies.

(a) Upon the occurrence and during the continuance of any Event of Default described in Sections 6.1(f), 6.1(g) or 6.1(h), all of the Obligations shall automatically become immediately due and payable, without presentment, demand, protest, notice of intent to accelerate, notice of acceleration or other requirements of any kind, all of which are hereby expressly waived by Borrower.

(b) Upon the occurrence and during the continuance of any Event of Default other than described in Sections 6.1(f), 6.1(g) or 6.1(h), Lender may, at its option, declare all or any portion of the Loan and all or any portion of the other Obligations thereunder to be, and the same shall forthwith become, immediately due and payable together with accrued interest thereon.

(c) Upon the occurrence and during the continuance of any Event of Default, Lender may exercise any other remedies which may be available under the Loan Documents or applicable law, including all remedies provided under the Code.

(d) Except as otherwise provided for in this Agreement or by applicable law, Borrower waives: (i) presentment, demand and protest and notice of presentment, dishonor, notice of intent to accelerate, notice of acceleration, protest, default, nonpayment, maturity, release, compromise, settlement, extension or renewal of any or all commercial paper, accounts, contract rights, documents, instruments, chattel paper and guaranties at any time held by Lender on which Borrower may in any way be liable, and hereby ratifies and confirms whatever Lender may do in this regard, (ii) all rights to notice and a hearing prior to Lender's taking possession or control of, or to Lender's replevy, attachment or levy upon, the Collateral or any bond or security that might be required by any court prior to allowing Lender to exercise any of its remedies, and (iii) the benefit of all valuation, appraisal, marshaling and exemption laws.

6.3 Performance by Lender. If Borrower shall fail to perform any covenant, duty or agreement contained in any of the Loan Documents, Lender may perform or attempt to perform such covenant, duty or agreement on behalf of Borrower after the expiration of any cure or grace periods set forth herein. In such event, Borrower shall, at the request of Lender, promptly pay any amount reasonably expended by Lender in such performance or attempted performance to Lender, together with interest thereon at the highest rate of interest in effect upon the occurrence of an Event of Default as specified in Section 1.2(c) from the date of such expenditure until paid. Notwithstanding the foregoing, it is expressly agreed that Lender shall not have any liability or responsibility for the performance of any obligation of Borrower under this Agreement or any other Loan Document.

6.4 Application of Proceeds. Notwithstanding anything to the contrary contained in this Agreement, upon the occurrence and during the continuance of a Default or Event of Default, (a) Borrower irrevocably waives the right to direct the application of any and all payments at any time or times thereafter received by Lender from or on behalf of Borrower, and Lender shall have the continuing and exclusive right to apply and to reapply any and all payments received at any time or times after the occurrence and during the continuance of an Default or Event of Default

against the Obligations in such manner as Lender may deem advisable, consistent with the terms hereof, notwithstanding any previous application by Lender and (b) in the absence of a specific determination by Lender with respect thereto, the proceeds of any sale of, or other realization upon, all or any part of the Collateral shall be applied: first to the payment of Fees and expenses pursuant to Section 1.3(d) then due and payable, second, to accrued interest on the Loan (including any interest which but for the provisions of the Bankruptcy Code, would have accrued on such amounts), third, to reduce the outstanding principal balance of the Loan; and fourth to any other obligations of Borrower owing to Lender under the Loan Documents, Any balance remaining shall be delivered to Borrower or to whomever may be lawfully entitled to receive such balance or as a court of competent jurisdiction may direct.

6.5 Cash Collateral Accounts. Notwithstanding anything to the contrary in this Agreement, upon the occurrence of an Event of Default, resulting from a violation of any financial covenant set forth in Section 4.3 prior to the Cash Collateral Accounts Release Date, Borrower shall direct the Senior Lender to apply an amount from the Cash Collateral Accounts to the Senior Obligations necessary to increase Consolidated Net Income to the extent such Event of Default shall be cured; provided that such remittance shall be deemed to be Consolidated Net Income only for the purposes of compliance with Section 4.3. It is hereby understood that, upon the occurrence of an event of default under the Senior Facility, the Senior Lender, at its option, shall have the right, power and authority to apply all or any part of the Cash Collateral Accounts or property maintained in the Cash Collateral Account to the payment of the Senior Obligations or retain the Cash Collateral Account as continuing security for payment and performance of the Senior Obligations.

SECTION 7
CONDITIONS TO THE LOAN

7.1 Conditions to the Loan. Lender shall not be obligated to make the Loan on the Amended and Restated Closing Date, or to take, fulfill, or perform any other action hereunder, until the following conditions have been satisfied or provided for in a manner satisfactory to Lender, or waived in writing by Lender:

(a) Credit Agreement; Loan Documents. This Agreement or counterparts hereof shall have been duly executed by, and delivered to, Borrower and Lender; and Lender shall have received such documents, instruments, certificates, agreements and legal opinions as Lender shall reasonably request in connection with the transactions contemplated by this Agreement and the other Loan Documents, including each of the documents, instruments, certificates, agreements and legal opinions as requested by the Lender, all in form and substance satisfactory to Lender in all respects.

(b) Approvals. Lender shall have received (i) satisfactory evidence that Borrower has obtained all required consents and approvals of all Persons including all requisite Governmental Authorities, to the execution, delivery and performance of this Agreement and the other Loan Documents and the consummation of the Related Transactions or (ii) an officer's certificate in form and substance reasonably satisfactory to Lender affirming that no such consents or approvals are required.

(c) Payment of Fees. Borrower shall have paid the Fees required to be paid on the Amended and Restated Closing Date in the respective amounts specified in Section 1,3, and shall have reimbursed Lender, and their respective counsel, for all fees, costs and expenses of closing presented as of the Amended and Restated Closing Date in accordance with and to the extent required under Section 1.3(d).

(d) Capital Structure; Other Indebtedness; Material Contracts; Tax Effect. The capital structure and governing documents of Borrower and the terms and conditions of all Indebtedness and all other material contracts of Borrower and all documentation relating to the structure of the Borrower and the tax effects after giving effect to this Agreement shall be acceptable to Lender in its sole discretion.

(e) Consummation of Senior Facility. Lender shall have received fully executed copies of the Senior Financing Documents, each of which shall be in a form and substance reasonably satisfactory to Lender and its counsel. Lender shall have received evidence satisfactory to Lender in its sole discretion that the Senior Facility has been consummated in accordance with the terms of the Senior Financing Documents.

(f) Representations and Warranties. All representations and warranties contained herein shall be true and correct, in all material respects.

(g) No Default. No Default or Event of Default shall exist hereunder.

(h) No Adverse Change. No event shall have occurred or failed to occur, which occurrence or failure is or could reasonably be expected to have a Material Adverse Effect upon the Borrower's financial condition when compared with such financial condition at the date of the most recently delivered financial statements. In addition, no event shall have occurred or failed to occur which materially adversely affects any market, economic or political conditions, as determined by Lender in its sole discretion.

(i) Consummation of Acquisition. The NEM Acquisition shall have been consummated on terms (including structure) acceptable to Lender and Lender shall be provided satisfactory evidence of its equity interest in Borrower.

(j) Financing Statements. Lender shall have received a filed copy of a UCC-1 financing statement naming Northeast as debtor, Lender as secured party and describing the collateral pledged to the Lender pursuant to the Security Agreement.

(k) Lien Searches. The Lender shall have received lien searches against the Borrower indicating that there are no Liens against the Collateral except the Permitted Encumbrances.

(l) Insurance. The Lender shall have engaged an insurance agent reasonably acceptable to the Lender to provide the Borrower with insurance satisfactory to the Lender.

SECTION 8
MISCELLANEOUS

8.1 Indemnities. Borrower agrees to indemnify, defend, pay, and hold Lender, and its officers, directors, employees, agents, and attorneys (the "Indemnitees") harmless from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs and expenses (including all reasonable fees and expenses of counsel to such Indemnitees) of any kind or nature whatsoever that may be imposed on, incurred by, or asserted against the Indemnitee as a result of such Indemnitees being a party to this Agreement or the transactions consummated pursuant to this Agreement or otherwise relating to any of the Related Transactions including all costs, expenses, liabilities, and damages as may he suffered by any Indemnitee in connection with (i) the Collateral; (ii) the occurrence of any Default or Event of Default; or (iii) the exercise of any rights or remedies under any of the Loan Documents (each of which claims may be defended, compromised, settled, or pursued by the Indemnitee with counsel of its selection, but at the expense of Borrower) other than any claim as to which a final determination is made in a judicial proceeding (in which the Indemnitee has had an opportunity to be heard), which determination includes a specific finding that the Indemnitee seeking indemnification had acted in a grossly negligent manner, with willful misconduct or in actual bad faith. This indemnification shall survive payment of the Loan and/or any termination, release, or discharge executed by the Lender in favor of the Borrower. If and to the extent that the foregoing undertaking may be unenforceable for any reason, Borrower agrees to make the maximum contribution to the payment and satisfaction thereof which is permissible under applicable law.

8.2 Amendments and Waivers. Except for actions expressly permitted to be taken by Lender as specifically set forth herein, no amendment, modification, termination or waiver of any provision of this Agreement or any other Loan Document, or any consent to any departure by Borrower therefrom, shall in any event be effective unless the same shall be in writing and signed by Borrower and Lender.

8.3 Notices. Any notice or other communication required shall be in writing addressed to the respective party as set forth below and may be personally served, telecopied (with hard copy to follow by U.S. mail), sent by overnight courier service or U.S. mail and shall be deemed to have been given: (a) if delivered in person, when delivered; (b) if delivered by fax, on the date of transmission if properly transmitted on a Business Day before 4:00 p.m. New York Time; (c) if delivered by overnight courier, one (1) Business Day after delivery to the courier properly addressed; or (d) if delivered by U.S. mail, four (4) Business Days after deposit with postage prepaid and properly addressed.

Notices shall be addressed as follows:

If to Borrower:

c/o Brookstone Partners IAC, Inc.
232 Madison Avenue, Suite 600
New York, New York 10016
Attn: Michael Toporek

Telephone number: (212) 302-8558
Email: toporekm@brookstonepartners.com

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

Nixon Peabody LLP
70 W. Madison St., Suite 3500
Chicago, IL 60602
Attn: Robert A. Drobnak
Telephone number: (312) 977-4348
Facsimile number: (844) 558-3818
Email: radrobnak@nixonpeabody.com

If to Lender:

c/o Brookstone Partners
317 Madison Avenue, Suite 405
New York, New York 10017
Attn: Perry Jacobson
Fax: (212) 302-5888

8.4 Obligations Absolute; Failure or Indulgence Not Waiver; Remedies Cumulative. The payment and performance by Borrower of all of the Obligations shall be absolute and unconditional, irrespective of any defense or rights of set-off, recoupment or counterclaim Borrower might otherwise have against the Lender, and Borrower shall pay and perform all of the Obligations, free of any deductions and without abatement, diminution, recoupment, counterclaim or set-off. Until payment in full of all of the Obligations, Borrower shall (a) not suspend or discontinue any payments required pursuant to the Note, this Agreement or any other Loan Document; and (b) perform and observe all of the other terms and provisions of this Agreement or any other Loan Documents. No failure or delay on the part of Lender to exercise, nor any partial exercise of, any power, right or privilege hereunder or under any other Loan Documents shall impair such power, right, or privilege or be construed to be a waiver of any Default or Event of Default. All rights and remedies existing hereunder or under any other Loan Document are cumulative to and not exclusive of any rights or remedies otherwise available.

8.5 Marshaling; Payments Set Aside. Lender shall not be under any obligation to marshal any assets in payment of any or all of the Obligations. To the extent that Borrower makes payment(s) or Lender enforces its Liens or Lender exercises its right of set-off, and such payment(s) or the proceeds of such enforcement or set-off is subsequently invalidated, declared to be fraudulent or preferential, set aside, or required to be repaid by anyone, then to the extent of such recovery, the Obligations or part thereof originally intended to be satisfied, and all Liens, rights and remedies therefor, shall be revived and continued in full force and effect as if such payment had not been made or such enforcement or set off had not occurred.

8.6 Protection of Assets. The Lender, in the Lender's discretion, and from time to time, may discharge any tax or Encumbrance (other than Permitted Encumbrances) on any of the Collateral or, upon and during the continuance of a Default or Event of Default, take any other

action which the Lender may deem necessary or desirable to repair, insure, maintain, preserve, collect, or realize upon any of the Collateral. The Lender shall not have any obligation to undertake any of the foregoing and shall have no liability on account of any action so undertaken except where there is a specific finding in a judicial proceeding (in which the Lender has had an opportunity to be heard), from which finding no further appeal is available, that the Lender had acted in actual bad faith or in a grossly negligent manner. The Borrower shall pay to the Lender, on demand, all amounts paid or incurred by the Lender pursuant to this Section.

8.7 Severability. The invalidity, illegality, or unenforceability in any jurisdiction of any provision under the Loan Documents shall not affect or impair the remaining provisions in the Loan Documents.

8.8 Headings. Section and subsection headings are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purposes or be given substantive effect.

8.9 Applicable Law. THIS AGREEMENT AND EACH OF THE OTHER LOAN DOCUMENTS WHICH DOES NOT EXPRESSLY SET FORTH APPLICABLE LAW SHALL BE GOVERNED BY AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES.

8.10 Successors and Assigns. This Agreement and the other Loan Documents shall be binding on and shall inure to the benefit of Borrower, Lender and their respective successors and permitted assigns (including, in the case of Borrower, a debtor-in-possession on behalf of such Borrower), except as otherwise provided herein or therein. Borrower may not assign, transfer, hypothecate or otherwise convey its rights, benefits, obligations or duties hereunder or under any of the other Loan Documents without the prior express written consent of Lender. Any such purported assignment, transfer, hypothecation or other conveyance by Borrower without the prior express written consent of Lender shall be void. The terms and provisions of this Agreement are for the purpose of defining the relative rights and obligations of Borrower, or Lender with respect to the transactions contemplated hereby and no Person shall be a third party beneficiary of any of the terms and provisions of this Agreement or any of the other Loan Documents.

8.11 No Fiduciary Relationship; Limited Liability. No provision in the Loan Documents and no course of dealing between the parties shall be deemed to create any fiduciary duty owing to Borrower by Lender. Borrower agrees that Lender shall have no liability to Borrower (whether sounding in tort, contract or otherwise) for losses suffered by Borrower in connection with, arising out of, or in any way related to the transactions contemplated and the relationship established by the Loan Documents, or any act, omission or event occurring in connection therewith, unless and to the extent that it is determined that such losses resulted from the gross negligence or willful misconduct of the party from which recovery is sought as determined by a final non-appealable order by a court of competent jurisdiction. Lender shall not have any liability with respect to, and Borrower hereby waives, releases and agrees not to sue for, any special, indirect or consequential damages suffered by Borrower in connection with, arising out of, or in any way related to the Loan Documents or the transactions contemplated thereby.

8.12 Construction. Lender and Borrower acknowledge that each of them has had the benefit of legal counsel of its own choice and has been afforded an opportunity to review the Loan Documents with its legal counsel and that the Loan Documents shall be construed as if jointly drafted by Lender and Borrower.

8.13 Confidentiality. Lender agrees to exercise its best efforts to keep confidential any non-public information delivered pursuant to the Loan Documents and identified as such by Borrower and not to disclose such information to Persons other than to potential assignees or participants or to Persons employed by or engaged by Lender, Lender's limited partners, or Lender's assignees or participants including attorneys, auditors, professional consultants, rating agencies, insurance industry associations and portfolio management services. The confidentiality provisions contained in this Section shall not apply to disclosures (i) required to be made by Lender to any regulatory or governmental agency or pursuant to legal process, (ii) consisting of general portfolio information that does not identify Borrower or (iii) to the extent reasonably required in connection with a Securitization Transaction, provided, however, that information reasonably required in connection with a Securitization Transaction shall not be made publicly-available except to the extent (x) Lender provides Borrower with reasonable prior notice and (y) Borrower specifically provides such information for use in a Securitization Transaction at the request of Lender, which information, upon the making of a reasonable request therefor, shall be promptly provided and not unreasonably withheld. If Borrower fails to respond to a request from Lender under subsection (iii)(y) above within ten (10) days after receipt of such request, then Lender shall be entitled to use the applicable information to the extent reasonably required in connection with the Securitization Transaction that gave rise to Lender's request. The obligations of Lender under this Section shall supersede and replace the obligations of Lender under any confidentiality agreement in respect of this financing executed and delivered by Lender prior to the date hereof. Notwithstanding the foregoing, Lender may use the name of the Borrower and its logo, identifying images, and other Trademarks in connection with Lender's marketing materials and may identify Borrower as a portfolio company of Lender and/or its Affiliates.

8.14 CONSENT TO JURISDICTION. BORROWER HEREBY CONSENTS TO THE JURISDICTION OF ANY STATE OR FEDERAL COURT LOCATED WITHIN THE STATE OF NEW YORK AND IRREVOCABLY AGREES THAT, SUBJECT TO LENDER'S ELECTION, ALL ACTIONS OR PROCEEDINGS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE OTHER LOAN DOCUMENTS SHALL BE LITIGATED IN SUCH COURTS. BORROWER EXPRESSLY SUBMITS AND CONSENTS TO THE JURISDICTION OF THE AFORESAID COURTS AND WAIVES ANY DEFENSE OF FORUM NON CONVENIENS. BORROWER HEREBY WAIVES PERSONAL SERVICE OF ANY AND ALL PROCESS AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE UPON BORROWER BY CERTIFIED OR REGISTERED MAIL, RETURN RECEIPT REQUESTED, ADDRESSED TO BORROWER, AT THE ADDRESS SET FORTH IN THIS AGREEMENT AND SERVICE SO MADE SHALL BE COMPLETE TEN (10) DAYS AFTER THE SAME HAS BEEN POSTED. IN ANY LITIGATION, TRIAL, ARBITRATION OR OTHER DISPUTE RESOLUTION PROCEEDING RELATING TO THIS AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS, ALL DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS OF BORROWER OR ANY OF ITS AFFILIATES SHALL BE DEEMED TO BE EMPLOYEES OR MANAGING AGENTS OF BORROWER FOR PURPOSES OF ALL APPLICABLE LAW OR COURT RULES REGARDING THE PRODUCTION OF

WITNESSES BY NOTICE FOR TESTIMONY (WHETHER IN A DEPOSITION, AT TRIAL OR OTHERWISE). BORROWER IN ANY EVENT WILL USE ALL COMMERCIALLY REASONABLE EFFORTS TO PRODUCE IN ANY SUCH DISPUTE RESOLUTION PROCEEDING ALL PERSONS, DOCUMENTS (WHETHER IN TANGIBLE, ELECTRONIC OR OTHER FORM) OR OTHER THINGS UNDER ITS CONTROL AND RELATING TO THE DISPUTE.

8.15 WAIVER OF JURY TRIAL. BORROWER AND LENDER HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS. BORROWER AND LENDER ACKNOWLEDGE THAT THIS WAIVER IS A MATERIAL INDUCEMENT TO ENTER INTO A BUSINESS RELATIONSHIP, THAT EACH HAS RELIED ON THE WAIVER IN ENTERING INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS AND THAT EACH WILL CONTINUE TO RELY ON THE WAIVER IN THEIR RELATED FUTURE DEALINGS. BORROWER AND LENDER WARRANT AND REPRESENT THAT EACH HAS HAD THE OPPORTUNITY OF REVIEWING THIS JURY WAIVER WITH LEGAL COUNSEL, AND THAT EACH KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS.

8.16 Survival of Warranties and Certain Agreements. All agreements, representations and warranties made herein shall survive the execution and delivery of this Agreement, the making of the Loan and the execution and delivery of the Note. Notwithstanding anything in this Agreement or implied by law to the contrary, the agreements of Borrower set forth in Sections 1.3, 1.8 and 8.1 shall survive the repayment of the Obligations and the termination of this Agreement.

8.17 Entire Agreement. This Agreement, the Note and the other Loan Documents embody the entire agreement among the parties hereto and supersede all prior commitments, agreements, representations, and understandings, whether oral or written, relating to the subject matter hereof, and may not be contradicted or varied by evidence of prior, contemporaneous, or subsequent oral agreements or discussions of the parties hereto. All Exhibits, Schedules and Annexes referred to herein are incorporated in this Agreement by reference and constitute a part of this Agreement.

8.18 Counterparts; Effectiveness. This Agreement and any amendments, waivers, consents or supplements may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all of which counterparts together shall constitute but one in the same instrument. This Agreement shall become effective upon the execution of a counterpart hereof by each of the parties hereto.

8.19 Delivery of Termination Statements and Mortgage Releases. Upon payment in full in cash and performance of all of the Obligations (other than indemnification Obligations), and a release of all claims against Lender, and so long as no suits, actions proceedings, or claims are pending or threatened against any Indemnitee asserting any damages, losses or liabilities that are indemnified liabilities hereunder, Lender shall deliver to Borrower termination statements, mortgage releases and other documents necessary or appropriate to evidence the termination of the Liens securing payment of the Obligations, all at the expense of Borrower.

8.20 Participation. Borrower acknowledges that Lender may, at its option, sell participation interests in, or assign all of its interest in, the Loan. Borrower agrees with each present and future participant or owner of the Loan that if an Event of Default should occur, each present and future participant or owner shall have all of the rights and remedies of Lender with respect to any deposit due from any participant to the Borrower. The execution by a participant of a participation agreement with Lender, and the execution by the Borrower of this Agreement, regardless of the order of execution, shall evidence an agreement between Borrower and said participant in accordance with the terms of this Section.

8.21 Protection of Collateral. Lender has no duty as to the collection or protection of the Collateral beyond the safe custody of such of the Collateral as may come into the possession of the Lender or otherwise required by applicable law.

8.22 Additional Waivers.

(a) Borrower (and all guarantors, endorsers, and sureties of the Obligations) make each of the waivers included in Section (b), below, knowingly, voluntarily, and intentionally, and understands that Lender, in establishing the loans and other financial accommodations to or for the account of Borrower as provided herein, whether not or in the future, is relying on such waivers.

(b) EACH BORROWER, AND EACH SUCH GUARANTOR, ENDORSER, AND SURETY RESPECTIVELY WAIVES THE FOLLOWING:

(i) Except as otherwise specifically required hereby, notice of non payment, demand, presentment, protest and all forms of demand and notice, both with respect to the Obligations and the Collateral.

(ii) Except as otherwise specifically required hereby or applicable law, the right to notice and/or hearing prior to the Lender's exercising of the Lender's rights upon default.

(iii) Any defense, counterclaim, set off, recoupment, or other basis on which the amount of any Obligations, as stated on the books and records of the Lender, could be reduced or claimed to be paid otherwise than in accordance with the tenor of and written terms of such Obligation.

(iv) Any claim to consequential, special, or punitive damages.

8.23 Lender Control. Borrower hereby acknowledges and agrees that Lender (i) is not now, and has never been, in control of any of the Real Estate of Borrower or its Subsidiaries, and (ii) does not have the capacity through the provisions of the Loan Documents or otherwise to control Borrower's or its Subsidiaries' conduct with respect to the ownership, operation or management of any of their Real Estate or compliance with Environmental Laws or Environmental Permits.

[SIGNATURE PAGES FOLLOWS]

Witness the due execution hereof by the respective duly authorized officers of the undersigned as of the date first written above.

BORROWER:

TOTALSTONE, LLC,
a Delaware limited liability company,

By:_____
Name: Michael Toporek
Title: Manager

NORTHEAST MASONRY DISTRIBUTORS, LLC

By: TotalStone, LLC, its Managing Member

By_____
Name: Michael Toporek
Title: Manager

LENDER:

STREAM FINANCE, LLC
a Delaware limited liability company

By: Brookstone Partners IAC, Inc.
Its Managing Member

By: _____

Name: Michael Toporek
Title: Manager

ANNEX A

to

CREDIT AGREEMENT

DEFINITIONS

Capitalized terms used in the Loan Documents shall have (unless otherwise provided elsewhere in the Loan Documents) the following respective meanings and all references to Sections, Exhibits, Schedules or Annexes in the following definitions shall refer to Sections, Exhibits, Schedules or Annexes of or to the Agreement:

"Account Debtor" means any Person who may become obligated to Borrower under, with respect to, or on account of, an Account, Chattel Paper or General Intangibles (including a payment intangible).

"Accounting Changes" means: (a) changes in accounting principles required by GAAP and implemented by Borrower; (b) changes in accounting principles recommended by Borrower's certified public accountants and implemented by Borrower; and (c) changes in carrying value of Borrower's or any of its Subsidiaries' assets, liabilities or equity accounts resulting from (i) the application of purchase accounting principles (A.P.B. 16 and/or 17 and EITF 88 16 and FASB 109) to the Related Transactions or (ii) as the result of any other adjustments that, in each case, were applicable to, but not included in, the Pro Forma.

"Accounts" means all "accounts," as such term is defined in the Code, now owned or hereafter acquired by Borrower, including (a) all accounts receivable, other receivables, book debts and other forms of obligations (other than forms of obligations evidenced by Chattel Paper or Instruments), (including any such obligations that may be characterized as an account or contract right under the Code), (b) all of Borrower's rights in, to and under all purchase orders or receipts for goods or services, (c) all of Borrower's rights to any goods represented by any of the foregoing (including unpaid sellers' rights of rescission, replevin, reclamation and stoppage in transit and rights to returned, reclaimed or repossessed goods), (d) all rights to payment due to Borrower for property sold, leased, licensed, assigned or otherwise disposed of, for a policy of insurance issued or to be issued, for a secondary obligation incurred or to be incurred, for energy provided or to be provided, for the use or hire of a vessel under a charter or other contract, arising out of the use of a credit card or charge card, or for services rendered or to be rendered by Borrower or in connection with any other transaction (whether or not yet earned by performance on the part of Borrower), and (e) all collateral security of any kind, now or hereafter in existence, given by any Account Debtor or other Person with respect to any of the foregoing.

"ADA" has the meaning ascribed to it in Section 5.19.

"Adjusted EBITDA" means, for any period and any Person(s), the sum of (i) Net Income (or loss) of such Person for such period (excluding extraordinary gains and losses), plus (ii) all interest expense of such Person for such period, plus (iii) all charges against income of such Person during such period for federal, state and local income taxes accrued, plus (iv) depreciation expenses of such Person for such period, plus (v) amortization expenses of such Person for such

period, plus (vi) non-cash management fees, plus (vii) the fair market value of the aggregate cost of goods sold expense of such Person during such period, plus (viii) the aggregate amount of non-recurring expenses of the Borrower associated with the NEM Acquisition during such period, minus (ix) the bargain purchase gain incurred by the Borrower with regard to NEM Acquisition during such period as calculated by the Lender.

"Adjusted Interest Rate" means the Base Interest Rate *divided by* the Adjustment Factor; provided, that the Adjusted Interest Rate shall not be more than fifteen percent (15%) per annum.

"Adjustment Factor" means, for any applicable period, 0.75.

"Affiliate" means, with respect to any Person, (a) each Person that, directly or indirectly, owns or controls, whether beneficially, or as a trustee, guardian or other fiduciary, 5% or more of the Stock having ordinary voting power in the election of directors of such Person, (b) each Person that controls, is controlled by or is under common control with such Person, (c) each of such Person's officers, directors, joint venturers and partners and (d) in the case of Borrower, the immediate family members, spouses and lineal descendants of individuals who are Affiliates of Borrower. For the purposes of this definition, "control" of a Person shall mean the possession, directly or indirectly, of the power to direct or cause the direction of its management or policies, whether through the ownership of voting securities, by contract or otherwise; provided, however, that the term "Affiliate" shall specifically exclude Lender.

"Agreement" means this Amended and Restated Credit Agreement (including all schedules, subschedules, annexes and exhibits hereto), as the same may be amended, supplemented, restated or otherwise modified from time to time.

"Amended and Restated Closing Date" means November 14, 2019.

"Amended and Restated Security Agreement" means the Security Agreement of even date herewith entered into by and among Lender and Borrower, as the same may be amended, restated, supplemented, replaced, or otherwise modified from time to time.

"Asset Sales" means the sale, transfer or other disposition by Borrower or any of its Subsidiaries of any asset (including the Capital Stock or other ownership interests of any Subsidiary) to any Person (other than to Borrower or any of its Subsidiaries), other than sales, transfers or other dispositions of inventory in the ordinary course of business and sales of assets or other dispositions of assets that have been damaged, become obsolete, worn out or are no longer useable or useful in the conduct of the business of Borrower or any of its Subsidiaries.

"Bankruptcy Code" means the provisions of Title 11 of the United States Code, 11 U.S.C. §§ 101 et seq. or any other applicable bankruptcy, insolvency or similar laws.

"Base Interest Rate" means (i) beginning on the Amended and Restated Closing Date and continuing through the Pricing Date for the fiscal quarter of the Borrower ending March 31, 2020, the corresponding rate per annum shown opposite Level III in Table B below and (ii) thereafter beginning on any applicable Pricing Date and continuing through the following Pricing Date as determined below, the corresponding rate per annum resulting from Table A or Table B below that results in the highest rate per annum:

Table A or Table B

Level	Adjusted EBITDA of TotalStone (exclusive of Northeast)	Rate		Level	Adjusted EBITDA of TotalStone and Northeast	Rate
I	Greater than $2,500,000	12%		I	Greater than $4,000,000	12%
II	Less than or equal to $2,500,000, but greater than or equal to $2,000,000	10%		II	Less than or equal to $4,000,000, but greater than or equal to $3,500,000	10%
III	Less than $2,000,000	8%		III	Less than $3,500,000	8%

For purposes of this definition, the term "*Pricing Date*" shall mean, for any fiscal quarter of Borrower, the date on which Borrower has delivered to Lender the financial statements of the Company and its subsidiaries for such immediately preceding fiscal quarter (and, in the case of the year-end financial statements, an audit report) as required hereunder. The Base Interest Rate shall be established based on the applicable Adjusted EBITDA for the most recently completed fiscal quarter and the Base Interest Rate established on a Pricing Date shall remain in effect until the next Pricing Date. If Borrower has not delivered their financial statements by the date such financial statements (and, in the case of the year-end financial statements, an audit report) are required to be delivered hereunder, until such financial statements and audit report are delivered, the Base Interest Rate shall be the highest Base Interest Rate (i.e., Level I under Table B shall apply). If Borrower subsequently deliver such financial statements before the next Pricing Date, the Base Interest Rate established by such late delivered financial statements shall take effect from the date of delivery until the next Pricing Date. In all other circumstances, the Base Interest Rate established by such financial statements shall be in effect from the Pricing Date that occurs immediately after the end of the fiscal quarter covered by such financial statements until the next Pricing Date.

"Berkshire Bank Facility" means the facility made available to the Borrower pursuant to that certain Revolving Credit, Term Loan and Security Agreement, dated as of December 20, 2017 (as amended by the Letter Amendment dated November 29, 2018, the Second Amendment dated April 15, 2019, the Third Amendment dated as of the date hereof and as may hereinafter be amended, restated, supplemented or otherwise modified).

"Borrower" has the meaning ascribed to it in the Preamble.

"Business Day" means any day that is not a Saturday, a Sunday or a day on which banks are required or permitted to be closed in the State of New York.

"Capital Expenditures" means all expenditures for any fixed assets or improvements or for replacements, substitutions or additions thereto, that have a useful life of more than one (1) year and which are required to be capitalized under GAAP other than Capital Lease Obligations.

"Capital Lease" means, with respect to any Person, any lease of any property (whether real, personal or mixed) by such Person as lessee that, in accordance with GAAP, would be required to be classified and accounted for as a capital lease on a balance sheet of such Person.

"Capital Lease Obligation" means, with respect to any Capital Lease of any Person, the amount of the obligation of the lessee thereunder that, in accordance with GAAP, would appear on a balance sheet of such lessee in respect of such Capital Lease.

"Capital Stock" means (a) in the case of any corporation, all capital stock and any securities exchangeable for or convertible into capital stock, (b) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents of corporate stock (however designated) in or to such association or entity, (c) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited) and (d) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distribution of assets of, the issuing Person, and including, in all of the foregoing cases described in clauses (a), (b), (c) or (d), any warrants, rights or other options to purchase or otherwise acquire any of the interests described in any of the foregoing cases.

"Change of Control" means any event, transaction or occurrence resulting in (a) Sponsor (or any or all of the members thereof or their respective Affiliates), either directly or indirectly, collectively ceasing to own and control all of the voting rights associated with greater than fifty percent (50%) of all classes of the outstanding voting Stock of Borrower; (b) the effectiveness of a public offering of Stock or debt securities of Borrower; or (c) the sale, transfer or other disposition of all or substantially all of the assets of Borrower; except, in each case, a majority of the board of directors (or similar governing body) of such other entity consists of the same members of the board of directors (or similar governing body) of the Company as of the date of hereof.

"Charges" means all federal, state, county, city, municipal, local, foreign or other governmental taxes (including premiums and other amounts owed to the PBGC at the time due and payable), levies, assessments, charges, liens, claims or encumbrances upon or relating to (a) the Collateral, (b) the Obligations, (c) the employees, payroll, income or gross receipts of Borrower, (d) Borrower's ownership or use of any properties or other assets, or (e) any other aspect of Borrower's business.

"Chattel Paper" means any "chattel paper," as such term is defined in the Code, including electronic chattel paper, now owned or hereafter acquired by Borrower, wherever located.

"Code" means the Uniform Commercial Code as the same may, from time to time, be enacted and in effect in the State of New York; provided, that to the extent that the Code is used to define any term herein or in any Loan Document and such term is defined differently in different Articles or Divisions of the Code, the definition of such term contained in Article or Division 9 shall govern; provided further, that in the event that, by reason of mandatory provisions of law,

any or all of the attachment, perfection or priority of, or remedies with respect to, Lender's Lien on any Collateral is governed by the Uniform Commercial Code as enacted and in effect in a jurisdiction other than the State of New York, the term "Code" shall mean the Uniform Commercial Code as enacted and in effect in such other jurisdiction solely for purposes of the provisions thereof relating to such attachment, perfection, priority or remedies and for purposes of definitions related to such provisions.

"Collateral" means the property covered by the Security Agreement and the other Collateral Documents and any other property, real or personal, tangible or intangible, now existing or hereafter acquired, that may at any time be or become subject to a security interest or Lien in favor of Lender to secure the Obligations or any portion thereof.

"Collateral Documents" means the Security Agreement, any Guaranties (together with any collateral therefor) and all similar agreements entered into guaranteeing payment of, or granting a Lien upon property as security for payment of, the Obligations or any portion thereof.

"Compliance Certificate" has the meaning ascribed to it in Section 4.1(1).

"Contingent Obligation" means, as applied to any Person, any direct or indirect liability of that Person: (a) with respect to Guaranteed Indebtedness and with respect to any Indebtedness, lease, dividend or other obligation of another Person if the purpose or intent of the Person incurring such liability, or the effect thereof; is to provide assurance to the obligee of such liability that such liability will be paid or discharged, or that any agreements relating thereto will be complied with, or that the holders of such liability will be protected (in whole or in part) against loss with respect thereto; (b) with respect to any letter of credit issued for the account of that Person or as to which that Person is otherwise liable for reimbursement of drawings; (c) under any foreign exchange contract, currency swap agreement, interest rate swap agreement or other similar agreement or arrangement designed to alter the risks of that Person arising from fluctuations in currency values or interest rates; (d) any agreement, contract or transaction involving commodity options or future contracts; (e) to make take-or-pay or similar payments if required regardless of nonperformance by any other party or parties to an agreement; or (f) pursuant to any agreement to purchase, repurchase or otherwise acquire any obligation or any property constituting security therefor, to provide funds for the payment or discharge of such obligation or to maintain the solvency, financial condition or any balance sheet item or level of income of another. The amount of any Contingent Obligation shall be equal to the amount of the obligation so guaranteed or otherwise supported or, if not a fixed and determined amount, the maximum amount so guaranteed.

"Contractual Obligations" means, as applied to any Persian, any indenture, mortgage, deed of trust, contract, undertaking, agreement or other instrument to which that Person is a party of by which it or any of its properties is bound or to which it or any of its properties is subject, including, without limitation, the Related Transaction Documents, but excluding the Senior Financing Documents.

"Copyright License" means any and all rights nor owned or hereafter acquired by Borrower under any written agreement granting any right to use any Copyright or Copyright registration.

"Copyrights" means all of the following now owned or hereafter adopted or acquired by Borrower: (a) all copyrights and General Intangibles of like nature (whether registered or unregistered), all registrations and recordings thereof, and all applications in connection therewith, including all registrations, recordings and applications in the United States Copyright Office or in any similar office or agency of the United States, any state or territory thereof, or any other country or any political subdivision thereof; and (b) all reissues, extensions or renewals thereof.

"Default" means any event that, with the passage of time or notice or both, would, unless cured or waived, become an Event of Default.

"Default Rate" has the meaning ascribed to it in Section 1.2(c).

"Disclosure Schedules" means the Schedules prepared by Borrower and denominated as Schedules in the Index of Appendices to the Agreement.

"Distributions" has the meaning ascribed to it in Section 3.5.

"Dollars" or "$" means lawful currency of the United States of America.

"EBITDA" shall mean for any period the sum of (i) Earnings Before Interest and Taxes for such period plus (ii) depreciation expenses for such period, plus (iii) amortization expenses for such period,

"Environmental Laws" means all applicable federal, state, local and foreign laws, statutes, ordinances, codes, rules, standards and regulations, now or hereafter in effect, and any applicable judicial or administrative interpretation thereof, including any applicable judicial or administrative order, consent decree, order or judgment, imposing liability or standards of conduct for or relating to the regulation and protection of human health, safety, the environment and natural resources (including ambient air, surface water, groundwater, wetlands, land surface or subsurface strata, wildlife, aquatic species and vegetation). Environmental Laws include the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §§ 9601 et seq.) ("CERCLA"); the Hazardous Materials Transportation Authorization Act of 1994 (49 U.S.C. §§ 5101 et seq.); the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. §§ 136 et seq.); the Solid Waste Disposal Act (42 U.S.C. §§ 6901 et seq.); the Toxic Substance Control Act (15 U.S.C. §§ 2601 et seq.); the Clean Air Act (42 U.S.C. §§ 7401 et seq.); the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et seq.); the Occupational Safety and Health Act (29 U.S.C. §§ 651 et seq.); and the Safe Drinking Water Act (42 U.S.C. §§ 300(f) et seq.), and any and all regulations promulgated thereunder, and all analogous state, local and foreign counterparts or equivalents and any transfer of ownership notification or approval statutes.

"Environmental Liabilities" means, with respect to any Person, all liabilities, obligations, responsibilities, response, remedial and removal costs, investigation and feasibility study costs, capital costs, operation and maintenance costs, losses, damages, punitive damages, property damages, natural resource damages, consequential damages, treble damages, costs and expenses (including all reasonable fees, disbursements and expenses of counsel, experts and consultants), fines, penalties, sanctions and interest incurred as a result of or related to any claim, suit, action, investigation, proceeding or demand by any Person, whether based in contract, tort, implied or express warranty, strict liability, criminal or civil statute or common law, including any arising

under or related to any Environmental Laws, Environmental Permits, or in connection with any Release or threatened Release or presence of a Hazardous Material whether on, at, in, under, from or about or in the vicinity of any real or personal property.

"Environmental Permits" means all permits, licenses, authorizations, certificates, approvals or registrations required by any Governmental Authority under any Environmental Laws.

"Equipment" means all "equipment," as such term is defined in the Code, now owned or hereafter acquired by Borrower, wherever located and, in any event, including all Borrower's machinery and equipment, including processing equipment, conveyors, machine tools, data processing and computer equipment, including embedded software and peripheral equipment and all engineering, processing and manufacturing equipment, office machinery, furniture, materials handling equipment, tools, attachments, accessories, automotive equipment, trailers, trucks, forklifts, molds, dies, stamps, motor vehicles, rolling stock and other equipment of every kind and nature, trade fixtures and fixtures not forming a part of real property, together with all additions and accessions thereto, replacements therefor, all parts therefor, all substitutes for any of the foregoing, fuel therefor, and all manuals, drawings, instructions, warranties and rights with respect thereto, and all products and proceeds thereof and condemnation awards and insurance proceeds with respect thereto.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time, and any regulations promulgated thereunder.

"ERISA Affiliate" means, with respect to Borrower, any trade or business (whether or not incorporated) that, together with Borrower, are treated as a single employer within the meaning of Sections 414(b), (c), (m) or (o) of the IRC.

"ERISA Event" means, with respect to Borrower or any ERISA Affiliate, (a) any event described in Section 4043(c) of ERISA with respect to a Title IV Plan; (b) the withdrawal of Borrower or ERISA Affiliate from a Title IV Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer, as defined in Section 4001(a)(2) of ERISA; (c) the complete or partial withdrawal of Borrower or any ERISA Affiliate from any Multiemployer Plan; (d) the filing of a notice of intent to terminate a Title IV Plan or the treatment of a plan amendment as a termination under Section 4041 of ERISA; (e) the institution of proceedings to terminate a Title IV Plan or Multiemployer Plan by the PBGC; (f) the failure by Borrower or ERISA Affiliate to make when due required contributions to a Multiemployer Plan or Title IV Plan unless such failure is cured within 30 days; (g) any other event or condition that might reasonably be expected to constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Title IV Plan or Multiemployer Plan or for the imposition of liability under Section 4069 or 4212(c) of ERISA; (h) the termination of a Multiemployer Plan under Section 4041A of ERISA or the reorganization or insolvency of a Multiemployer Plan under Section 4241 or 4245 of ERISA; or (i) the loss of a Qualified Plan's qualification or tax exempt status; or (j) the termination of a Plan described in Section 4064 of ERISA.

"ESOP" means a Plan that is intended to satisfy the requirements of Section 4975(e)(7) of the IRC.

"Event of Default" has the meaning ascribed to it in Section 6.1.

"Fair Labor Standards Act" means the Fair Labor Standards Act, 29 U.S.C. §201 et seq.

"Fees" means any and all fees and premiums payable to Lender pursuant to the Agreement or any of the other Loan Documents.

"Financial Statements" means the consolidated and consolidating income statements, statements of cash flows and balance sheets of Borrower and its Subsidiaries delivered in accordance with Section 4.1.

"Fiscal Quarter" means any of the quarterly accounting periods of Borrower ending on March 31, June 30, September 30 and December 31 of each year.

"Fiscal Year" means any of the annual accounting periods of Borrower ending on December 31 of each year.

"Fixtures" means all "fixtures" as such term is defined in the Code, now owned or hereafter acquired by Borrower.

"GAAP" means generally accepted accounting principles in the United States of America, consistently applied.

"General Intangibles" means "general intangibles," as such term is defined in the Code, now owned or hereafter acquired by Borrower, including all right, title and interest that Borrower may now or hereafter have in or under any Contractual Obligation, all payment intangibles, customer lists, Licenses, Copyrights, Trademarks, Patents, and all applications therefor and reissues, extensions or renewals thereof, rights in Intellectual Property, interests in partnerships, joint ventures and other business associations, licenses, permits, copyrights, trade secrets, proprietary or confidential information, inventions (whether or not patented or patentable), technical information, procedures, designs, knowledge, know how, software, data bases, data, skill, expertise, experience, processes, models, drawings, materials and records, goodwill (including the goodwill associated with any Trademark or Trademark License), all rights and claims in or under insurance policies (including insurance for fire, damage, loss and casualty, whether covering personal property, real property, tangible rights or intangible rights, all liability, life, key man and business interruption insurance, and all unearned premiums), uncertificated securities, choses in action, deposit, checking and other bank accounts, rights to receive tax refunds and other payments, rights to receive dividends, distributions, cash, Instruments and other property in respect of or in exchange for pledged Stock and Investment Property, rights of indemnification, all books and records, correspondence, credit files, invoices and other papers, including all tapes, cards, computer runs and other papers and documents in the possession or under the control of Borrower or any computer bureau or service company from time to time acting for Borrower.

"Governmental Authority" means any nation or government, any state or other political subdivision thereof, and any agency, department or other entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government.

"Guaranteed Indebtedness" means, as to any Person, any obligation of such Person guaranteeing, providing comfort or otherwise supporting any Indebtedness, lease, dividend, or other obligation ("primary obligation") of any other Person (the "primary obligor") in any manner, including any obligation or arrangement of such Person to (a) purchase or repurchase any such primary obligation, (b) advance or supply funds (i) for the purchase or payment of any such primary obligation or (ii) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency or any balance sheet condition of the primary obligor, (c) purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation, (d) protect the beneficiary of such arrangement from loss (other than product warranties given in the ordinary course of business) or (e) indemnify the owner of such primary obligation against loss in respect thereof. The amount of any Guaranteed Indebtedness at any time shall be deemed to be an amount equal to the lesser at such time of (x) the stated or determinable amount of the primary obligation in respect of which such Guaranteed Indebtedness is incurred and (y) the maximum amount for which such Person may be liable pursuant to the terms of the instrument embodying such Guaranteed Indebtedness, or, if not stated or determinable, the maximum reasonably anticipated liability (assuming full performance) in respect thereof.

"Hazardous Material" means any substance, material or waste that is regulated by, or forms the basis of liability now or hereafter under, any Environmental Laws, including any material or substance that is (a) defined as a "solid waste," "hazardous waste," "hazardous material," "hazardous substance," "extremely hazardous waste," "restricted hazardous waste," "pollutant," "contaminant," "hazardous constituent," "special waste," "toxic substance" or other similar term or phrase under any Environmental Laws, or (b) petroleum or any fraction or by product thereof, asbestos, polychlorinated biphenyls (PCB's), or any radioactive substance.

"Indebtedness" shall mean, as to any Person at any time, any and all indebtedness, obligations or liabilities (whether matured or unmatured, liquidated or unliquidated, direct or indirect, absolute or contingent, or joint or several) of such Person for or in respect of, without duplication: (a) borrowed money; (b) amounts received under or liabilities in respect of any note purchase or acceptance credit facility, and all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments; (c) all Capital Lease Obligations; (d) reimbursement obligations (contingent or otherwise) under any letter of credit agreement, banker's acceptance agreement or similar arrangement; (e) obligations under any interest rate hedge, foreign currency hedge, or other interest rate management device, foreign currency exchange agreement, currency swap agreement, commodity price protection agreement or other interest or currency exchange rate or commodity price hedging arrangement; (f) any other advances of credit made to or on behalf of such Person or other transaction (including forward sale or purchase agreements, capitalized leases and conditional sales agreements) having the commercial effect of a borrowing of money entered into by such Person to finance its operations or capital requirements including to finance the purchase price of property or services and all obligations of such Person to pay the deferred purchase price of property or services (but not including trade payables and accrued expenses incurred in the ordinary course of business which are not represented by a promissory note or other evidence of indebtedness); (g) the entire portion of equity interests of such Person subject to repurchase or redemption rights or obligations (excluding repurchases or redemptions at the sole option of such Person); (h) all indebtedness, obligations or liabilities secured by a Lien on any asset of such Person, whether or not such

indebtedness, obligations or liabilities are otherwise an obligation of such Person; (i) all obligations of such Person for "earnouts", purchase price adjustments, profit sharing arrangements, deferred purchase money amounts and similar payment obligations or continuing obligations of any nature of such Person arising out of purchase and sale contracts; (j) off-balance sheet liabilities and/or pension plan liabilities of such Person; (k) obligations arising under bonus, deferred compensation, incentive compensation or similar arrangements, other than those arising in the ordinary course of business; and (l) any guaranty of any indebtedness, obligations or liabilities of a type described in the foregoing clauses (a) through (k).

"Indemnitees" has the meaning ascribed to it in Section 8.1.

"Instruments" means all "instruments," as such term is defined in the Code, now owned or hereafter acquired by Borrower, wherever located, and, in any event, including all certificated securities, all certificates of deposit, and all promissory notes and other evidences of indebtedness, other than instruments that constitute, or are a part of a group of writings that constitute, Chattel Paper.

"Intellectual Property" means any and all Licenses, Patents, Copyrights, Trademarks, and the goodwill associated with such Trademarks.

"Interest Payment Date" has the meaning ascribed to it in Section 1.2(a).

"Inventory" means any "inventory," as such term is defined in the Code, now owned or hereafter acquired by Borrower, wherever located, including inventory, merchandise, goods and other personal property that are held by or on behalf of Borrower for sale or lease or are furnished or are to be furnished under a contract of service, or that constitute raw materials, work in process, finished goods, returned goods, supplies or materials of any kind, nature or description used or consumed or to be used or consumed in Borrower's business or in the processing, production, packaging, promotion, delivery or shipping of the same, including all supplies and embedded software.

"Investment" means (a) any direct or indirect purchase or other acquisition by Borrower or any of its Subsidiaries of any Stock, or other ownership interest in, any other Person, and (b) any direct or indirect loan, advance or capital contribution by Borrower or any of its Subsidiaries to any other Person, including all indebtedness and accounts receivable from that other Person that are not current assets or did not arise from sales to that other Person in the ordinary course of business.

"Investment Property" means all "investment property," as such term is defined in the Code, now owned or hereafter acquired by Borrower, wherever located, including: (a) all securities, whether certificated or uncertificated, including stocks, bonds, interests in limited liability companies, partnership interests, treasuries, certificates of deposit, and mutual fund shares; (b) all securities entitlements of Borrower, including the rights of Borrower to any securities account and the financial assets held by a securities intermediary in such securities account and any free credit balance or other money owing by any securities intermediary with respect to that account; (c) all securities accounts of Borrower; (d) all commodity contracts of Borrower; and (e) all commodity accounts held by Borrower.

"IRC" means the Internal Revenue Code of 1986, as amended, and all regulations promulgated thereunder.

"IRS" means the Internal Revenue Service.

"Lender" has the meaning ascribed to it in the Preamble.

"Leverage Ratio" shall mean as of any date of determination, the ratio of (a) the sum of Indebtedness of Borrower and its Subsidiaries on such date to (b) Adjusted EBITDA for Borrower and its Subsidiaries the twelve (12) month period then ended.

"License" means any Copyright License, Patent License, Trademark License or other license of rights or interests now held or hereafter acquired by Borrower.

"Lien" means any mortgage or deed of trust, pledge, hypothecation, assignment, deposit arrangement, lien, charge, claim, security interest, easement or encumbrance, or preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever (including any lease or title retention agreement, any financing lease having substantially the same economic effect as any of the foregoing, and the filing of, or agreement to give, any financing statement perfecting a security interest under the Code or comparable law of any jurisdiction).

"Litigation" has the meaning ascribed to it in Section 4.1(h).

"Loan Account" has the meaning ascribed to it in Section 1.9

"Loan Documents" means the Agreement, the Note, the Collateral Documents, and all other agreements, instruments, documents and certificates executed and delivered to, or in favor of, Lender and including all other pledges, powers of attorney, consents, assignments, contracts, notices, and all other written matter whether heretofore, now or hereafter executed by or on behalf of Borrower, or any employee of Borrower, and delivered to Lender in connection with the Agreement or the transactions contemplated thereby. Any reference in the Agreement or any other Loan Document to a Loan Document shall include all appendices, exhibits or schedules thereto, and all amendments, restatements, supplements, replacements or other modifications thereto, and shall refer to the Agreement or such Loan Document as the same may be in effect at any and all times such reference becomes operative.

"Loan" has the meaning ascribed to it in Section 1.1(a).

"Make-Whole Premium" means, as of any date of determination, an amount equal to the difference between (a) the aggregate amount of interest calculated at a rate per annum of 15% which would have otherwise been payable on the aggregate principal amount of the Loan paid on such date from the date of such payment until the second anniversary of the Amended and Restated Closing Date, *minus* (b) the aggregate amount of interest the Lender would earn if the aggregate principal amount of the Loan paid on such date were reinvested for the period from the date of such payment until the second anniversary of the Amended and Restated Closing Date at the WSJ Prime Rate reported in the *Wall Street Journal* as of such date of determination.

"Material Adverse Effect" means a material adverse effect on (a) the business, assets, prospects, operations, or financial or other condition of Borrower and/or its the Subsidiaries, (b) Borrower's ability to pay the Loan or any of the other Obligations in accordance with the terms of the Agreement and the other Loan Documents, (c) the Collateral or Lender's Liens on the Collateral or the priority of such Liens, or (d) Lender's rights and remedies under the Agreement and the other Loan Documents.

"Material Contracts" means (a) Borrower's contracts and Licenses existing as of the Amended and Restated Closing Date, including, without limitation, the Licenses and contracts listed on Schedule 5.6, and (b) any contract or License hereafter acquired the termination of which could reasonably be expected to have a Material Adverse Effect.

"Maturity Date" means the date that is the four (4) year anniversary of the Amended and Restated Closing Date.

"Maximum Lawful Rate" has the meaning ascribed to it in Section 1.2(d).

"Multiemployer Plan" means a "multiemployer plan" as defined in Section 4001(a)(3) of ERISA, and to which Borrower or any ERISA Affiliate is making, is obligated to make or has made or been obligated to make, contributions on behalf of participants who are or were employed by any of them.

"NEM Acquisition" means the acquisition by Northeast (f/k/a NEM Purchaser, LLC) of the assets of Northeast Masonry Distributors, LLC pursuant to the NEM Asset Purchase Agreement.

"NEM Asset Purchase Agreement" means the that certain Asset Purchase Agreement by and among NEM Purchaser, LLC, Northeast Masonry Distributors, LLC, as seller, The Avelina Companies, Inc., a Massachusetts corporation, in its individual capacity, and James Palatine, an individual, dated as November 7, 2019, as may be amended, supplemented or otherwise modified from time to time thereafter pursuant to the terms thereof.

"Net Income" shall have the meaning ascribed to it by GAAP.

"NMD Notes" shall mean that certain Non-Negotiable Secured Subordinated Promissory Note executed by TotalStone in favor of Northeast Masonry Distributors, LLC, as seller under the NEM Asset Purchase Agreement, in the original principal amount of $7,866.40 dated November 13, 2019 and that certain Non-Negotiable Secured Subordinated Contingent Value Promissory Note executed by Northeast in favor of Northeast Masonry Distributors, LLC, as seller under the NEM Asset Purchase Agreement, in the original principal amount to be determined up to $1,000,000 dated November 13, 2019, in each case, as amended, restated, supplemented or otherwise modified from time to time.

"Note" has the meaning ascribed to it in Section 1.1(c).

"Obligations" means all loans, advances, debts, liabilities and obligations, for the performance of covenants, tasks or duties or for payment of monetary amounts (whether or not such performance is then required or contingent, or such amounts are liquidated or determinable),

owing by Borrower to Lender, and all covenants and duties regarding such amounts, of any kind or nature, present or future, whether or not evidenced by any note, agreement or other instrument, including, without limitation, arising under the Agreement or any of the other Loan Documents. This term includes all principal, interest (including all interest that accrues after the commencement of any case or proceeding by or against Borrower in bankruptcy, whether or not allowed in such case or proceeding), Fees, Charges, expenses, attorneys' fees and any other sum chargeable to Borrower under the Agreement or any of the other Loan Documents.

"Palatine Redemption Agreement" shall mean that certain Redemption Agreement, dated within 30 days after the Amended and Restated Closing Date, by and between James Palatine, an individual, and TotalStone.

"Patent License" means rights under any written agreement now owned or hereafter acquired by Borrower granting any right with respect to any invention on which a Patent is in existence.

"Patents" means all of the following in which Borrower now holds or hereafter acquires any interest: (a) all letters patent of the United States or any other country, all registrations and recordings thereof, and all applications for letters patent of the United States or of any other country, including registrations, recordings and applications in the United States Patent and Trademark Office or in any similar office or agency of the United States, any State or any other country, and (b) all reissues, continuations, continuations in part or extensions thereof.

"PBGC" means the Pension Benefit Guaranty Corporation.

"Pension Plan" means a Plan described in Section 3(2) of ER1SA.

"Permitted Contest" means a contest maintained in good faith by appropriate proceedings promptly instituted and diligently conducted and with respect to which such reserve or other appropriate provision, if any, as shall be required in conformity with GAAP shall have been made.

"Permitted Distribution" is defined in Section 3.5.

"Permitted Encumbrances" means with respect to any Person: (a) Liens in favor of Lender with respect to the Loan Documents and Liens in favor of Senior Lender with respect to the Senior Financing Documents; (b) Liens for taxes or other governmental charges not at the time delinquent or thereafter payable without penalty or the subject of a Permitted Contest; (c) carriers', warehousemen's, mechanics', materialmen's, repairmen's, landlord's, supplier's liens or other like Liens imposed by law arising in the ordinary course of business for amounts which are not overdue for a period of more than thirty (30) days or which are the subject of a Permitted Contest and the aggregate amount of such Liens is less than $10,000, unless the Borrower has delivered a landlord waiver agreement reasonably satisfactory to the Lender with respect to any property held at such location; (d) pledges or deposits in connection with workers' compensation, unemployment insurance and other social security legislation and deposits securing liability to insurance carriers under insurance or self-insurance arrangements in aggregate amount not to exceed $100,000; (e) deposits to secure the performance of (i) tenders or bids, (ii) trade contracts (other than for borrowed money), (iii) leases, (iv) statutory obligations, (v) surety, customs, stay, performance or appeal bonds, (vi) performance and return of money bonds, (vii) government contracts and (viii)

other obligations of a like nature for sums not overdue or the subject of a Permitted Contest; (f) easements, rights-of-way, restrictions, zoning restrictions, building codes, minor defects or irregularities in title and other similar encumbrances or Liens not interfering in any material respect with the ordinary conduct of the business of such Person; (g) attachments, judgments and other similar Liens arising in connection with court proceedings; provided that the execution or other enforcement of such Liens is effectively stayed and the claims secured thereby are the subject of a Permitted Contest; (h) Liens securing purchase money debt; (i) Liens arising from bankers' rights of set off for fees and non sufficient funds checks, to the extent arising in the ordinary course of business and not in connection with any financing; (j) Liens arising from precautionary UCC financing statements filed regarding operating leases incurred in the ordinary course of business; (k) Liens incurred under the NMD Notes; and (l) other Liens not listed above which secure Indebtedness or encumber assets in an aggregate amount not to exceed $100,000 at any time outstanding.

"Permitted Tax Distributions" means with respect to each (a) Fiscal Quarter of Borrower or other non-annual taxable period for which taxes are payable by the holders of Borrower's Capital Stock, cash distributions made to any of the holders of Borrower's Capital Stock, made at approximately the same time at which federal income tax installments with respect to income for such Fiscal Quarter or other taxable period are payable, in an amount sufficient to pay such holder's estimated federal, state and local income taxes on such holder's respective share of the taxable income of Borrower for such Fiscal Quarter or other taxable period, and (b) Fiscal Year of Borrower, cash distributions made to any of the holders of Borrower's Capital Stock, made after the end of such Fiscal Year, in an amount sufficient to pay such holder's federal, state and local income taxes on such holder's respective share of the taxable income of Borrower for such Fiscal Year, provided that (i) any cash distribution made under clause (b) with respect to a Fiscal Year for which quarterly distributions were made as provided in clause (a) shall be reduced by an amount equal to the sum of quarterly distributions (and provided that the sum of such quarterly distributions exceeds the amount of distributions under (b), future Permitted Tax Distributions shall be reduced by the amount of such excess), and (ii) any cash distributions made under clause (b) above shall be calculated as if any increase or decrease in a holder's federal, state or local income tax liability as a result of any audit adjustment with respect to Borrower's income tax items for prior years constitute an increase or decrease in a tax liability of such holder with respect to such current Fiscal Year. Permitted Tax Distributions shall be made assuming the holders of Borrower's Capital Stock are subject to the maximum individual or corporate (as applicable) income tax rates provided for under applicable federal and state income tax laws, taking into account any reduction in any such tax on account of amounts paid or owing with respect to any other such taxes.

"Perfection Certificate" means a certain Perfection Certificate issued by Borrower in connection with the Security Agreement, as may be amended or supplemented from time to time.

"Permitted Distributions" is defined in Section 3.5.

"Person" means any individual, sole proprietorship, partnership, joint venture, trust, unincorporated organization, association, corporation, limited liability company, institution, public benefit corporation, other entity or government (whether federal, state, county, city,

municipal, local, foreign, or otherwise, including any instrumentality, division, agency, body or department thereof).

"Plan" means, at any time, an "employee benefit plan," as defined in Section 3(3) of ERISA, that Borrower or any ERISA Affiliate maintains, contributes to or has an obligation to contribute to on behalf of participants who are or were employed by Borrower.

"Preferred Equity Investment" shall mean a preferred equity investment in TotalStone by Lender on or after the Amended and Restated Closing Date in an aggregate amount not to exceed $860,750.

"Pro Forma" means the unaudited consolidated balance sheets of Borrower and its Subsidiaries prepared in accordance with GAAP as of the Amended and Restated Closing Date after giving effect to the Related Transactions.

"Projections" means Borrower's forecasted consolidated and consolidating: (a) balance sheets; (b) profit and loss statements; (c) cash flow statements; and (d) capitalization statements, all prepared on a Subsidiary by Subsidiary or division-by-division basis, if applicable, and otherwise consistent with the historical Financial Statements of Borrower, together with appropriate supporting details and a statement of underlying assumptions.

"Purchases" has the meaning ascribed to it in Section 3.5.

"Qualified Plan" means a Pension Plan that is intended to be tax-qualified under Section 401(a) of the IRC.

"Real Estate" has the meaning ascribed to it in Section 5.12

"Related Transactions" means the consummation of the Preferred Equity Investment, the payment of all Fees, costs and expenses associated with all of the foregoing and the execution and delivery of all of the Related Transactions Documents.

"Related Transactions Documents" means the Loan Documents and all other agreements or instruments executed in connection with the Related Transactions.

"Release" means any release, threatened release, spill, emission, leaking, pumping, pouring, emitting, emptying, escape, injection, deposit, disposal, discharge, dispersal, dumping, leaching or migration of Hazardous Material in the indoor or outdoor environment, including the movement of Hazardous Material through or in the air, soil, surface water, ground water or property.

"Retiree Welfare Plan" means, at any time, a Welfare Plan that provides for continuing coverage or benefits for any participant or any beneficiary of a participant after such participant's termination of employment, other than continuation coverage provided pursuant to Section 4980B of the IRC or similar applicable state law and at the sole expense of the participant or the beneficiary of the participant.

"Securitization Transaction" means any financing transaction undertaken by Lender or an Affiliate of Lender that is secured, directly or indirectly, by the Note or any portion thereof or any interest therein, including any sale, whole loan sale, commercial paper warehouse transaction, asset securitization, secured loan or other transfer.

"Seller" means GLS, Inc., a New Jersey corporation.

"Senior Facility" means the Berkshire Bank Facility and any other credit facilities that are senior to the Obligations.

"Senior Financing Documents" means the documentation evidencing the Senior Facility.

"Senior Lender" means Berkshire Bank and any other lenders, or agent for syndicate of lenders, providing senior secured debt to Borrower.

"Senior Obligations" means the obligations of the Borrower pursuant to the Senior Financing Documents.

"Solvent" means, with respect to any Person on a particular date, that on such date (a) the fair value of the property of such Person is greater than the total amount of liabilities, including subordinated and contingent liabilities, of such Person; (b) the present fair saleable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts and liabilities, including subordinated and contingent liabilities as they become absolute and matured; (c) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person's ability to pay as such debts and liabilities mature; (d) such Person is not engaged in a business or transaction, and is not about to engage in a business or transaction, for which such Person's property would constitute an unreasonably small capital; and (e) if such Person is not "insolvent" as defined in the Code. The amount of contingent liabilities (such as Litigation, guaranties and pension plan liabilities) at any time shall be computed as the amount that, in light of all the facts and circumstances existing at the time, represents the amount that can be reasonably be expected to become an actual or matured liability.

"Sponsor" means Brookstone Partners Acquisition XIV, LLC.

"Stock" means all shares, options, warrants, general or limited partnership interests, membership interests or other equivalents (regardless of how designated) of or in a corporation, partnership, limited liability company or equivalent entity whether voting or nonvoting, including common stock, preferred stock or any other "equity security" (as such term is defined in Rule 3a11-1 of the General Rules and Regulations promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934).

"Stockholder" means, with respect to any Person, each holder of Stock of such Person.

"Subordinated Debt" means any Indebtedness of Borrower subordinated to the Obligations in a manner and form satisfactory to Lender in its sole discretion, as to right and time of payment and as to any other rights and remedies thereunder.

"Subsidiary" means, with respect to any Person, (a) any corporation of which an aggregate of more than 50% of the outstanding Stock having ordinary voting power to elect a majority of the board of directors of such corporation (irrespective of whether, at the time, Stock of any other class or classes of such corporation shall have or might have voting power by reason of the happening of any contingency) is at the time, directly or indirectly, owned legally or beneficially by such Person or one or more Subsidiaries of such Person, or with respect to which any such Person has the right to vote or designate the vote of 50% or more of such Stock whether by proxy, agreement, operation of law or otherwise, and (b) any partnership or limited liability company in which such Person and/or one or more Subsidiaries of such Person shall have an interest (whether in the form of voting or participation in profits or capital contribution) of more than 50% or of which any such Person is a general partner or may exercise the powers of a general partner. Unless the context otherwise requires, each reference to a Subsidiary shall be a reference to a Subsidiary of Borrower.

"Taxes" means any present or future income, excise, stamp or franchise taxes and other taxes, assessments, imposts, duties, deductions, fees, withholdings or similar charges, and all liabilities with respect thereto of any nature whatsoever imposed by any taxing authority, but excluding franchise taxes and taxes imposed on or measured by any lender's net income or receipts.

"Termination Date" means the date on which (a) the Loan has been indefeasibly repaid in full, (b) all other Obligations (other than contingent indemnification Obligations to the extent no claim giving rise thereto has been asserted in accordance with the terms of this Agreement) under the Agreement and the other Loan Documents have been completely discharged, and (c) Borrower shall not have any further right to borrow any monies under the Agreement.

"Title IV Plan" means a Pension Plan (other than a Multiemployer Plan), that is covered by Title IV of ERISA, and that Borrower or any ERISA Affiliate maintains, contributes to or has an obligation to contribute to on behalf of participants who are or were employed by any of them.

"TotalStone Limited Liability Company Agreement" means the Third Amended and Restated Limited Liability Company Agreement of TotalStone dated as of January 1, 2019, as amended by that certain First Amendment dated as of the Amended and Restated Closing Date and as may hereinafter be amended, restated, supplemented or otherwise modified.

"Trademark License" means rights under any written agreement now owned or hereafter acquired by Borrower granting any right to use any Trademark.

"Trademarks" means all of the following now owned or hereafter adopted or acquired by Borrower: (a) all trademarks, trade names, corporate names, business names, trade styles, service marks, logos, internet domain names, other source or business identifiers, prints and labels on which any of the foregoing have appeared or appear, designs and general intangibles of like nature (whether registered or unregistered), all registrations and recordings thereof, and all applications in connection therewith, including registrations, recordings and applications in the United States Patent and Trademark Office or in any similar office or agency of the United States, any state or territory thereof, or any other country or any political subdivision thereof; (b) all reissues, extensions or renewals thereof; and (c) all goodwill associated with or symbolized by any of the foregoing.

"Unfinanced Capital Expenditures" shall mean all Capital Expenditures of Borrower other than those made utilizing financing provided by the applicable seller or third party lenders. For the avoidance of doubt, Capital Expenditures made by a Borrower utilizing the Senior Facility shall be deemed Unfinanced Capital Expenditures.

"Welfare Plan" means a Plan described in Section 3(1) of ERISA.

Rules of construction with respect to accounting terms used in the Agreement or the other Loan Documents shall be as set forth or referred to in this Annex A. All other undefined terms contained in any of the Loan Documents shall, unless the context indicates otherwise, have the meanings provided for by the Code to the extent the same are used or defined therein; in the event that any term is defined differently in different Articles or Divisions of the Code, the definition contained in Article or Division 9 shall control. Unless otherwise specified, references in the Agreement or any of the Appendices to a Section, subsection or clause refer to such Section, subsection or clause as contained in the Agreement. The words "herein," "hereof' and "hereunder" and other words of similar import refer to the Agreement as a whole, including all Annexes, Exhibits and Schedules, as the same may from time to time be amended, restated, modified or supplemented, and not to any particular section, subsection or clause contained in the Agreement or any such Annex, Exhibit or Schedule.

Wherever from the context it appears appropriate, each term stated in either the singular or plural shall include the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, feminine and neuter genders. The words "including", "includes" and "include" shall be deemed to be followed by the words "without limitation"; the word "or" is not exclusive; references to Persons include their respective successors and assigns (to the extent and only to the extent permitted by the Loan Documents) or, in the case of governmental Persons, Persons succeeding to the relevant functions of such Persons; and all references to statutes and related regulations shall include any amendments of the same and any successor statutes and regulations. Whenever any provision in any Loan Document refers to the knowledge (or an analogous phrase) of Borrower, such words are intended to signify that Borrower has actual knowledge or awareness of a particular fact or circumstance or that Borrower, if it had exercised reasonable diligence, would have known or been aware of such fact or circumstance.

EXHIBIT 4.1

COMPLIANCE CERTIFICATE

TO: STREAM FINANCE, LLC, as Lender under the Agreement (the "***Lender***")

FROM: TOTALSTONE, LLC and NORTHEAST MASONRY DISTRIBUTORS, LLC (the "Borrower")

The undersigned authorized officer of Borrower hereby certify that in accordance with the terms and conditions of the Credit Agreement among, Borrower and Lender (the "***Agreement***"), (i) Borrower is in complete compliance for the period ending _____ with all required covenants, including without limitation Section 4.3, except as noted below and (ii) all representations and warranties of Borrower stated in the Agreement are true and correct in all material respects as of the date hereof; provided, however, that those representations and warranties expressly referring to another date shall be true, correct and complete in all material respects as of such date. Attached herewith are the required documents supporting the above certification, including without limitation, a completed Microsoft Excel spreadsheet used to calculate each of the financial covenants contained in Exhibit 4.3 in the form provided to Borrower by Lender. The Officers further certifies that these are prepared in accordance with Generally Accepted Accounting Principles (GAAP) and are consistently applied from one period to the next except as explained in an accompanying letter or footnotes.

Comments Regarding Exceptions: See Attached.

Sincerely,

_____
SIGNATURE

_____
TITLE

_____
DATE

EXHIBIT 4.3

FINANCIAL COVENANTS AND RATIOS

1. Leverage Ratio. The Borrower shall not permit the Leverage Ratio for any period of 4 consecutive fiscal quarters of Borrower and its Subsidiaries for which the last month ends on a date set forth below to be greater than the ratio set forth opposite such date:

Fiscal Quarter End	Leverage Ratio
March 31, 2020	5.25 to 1.00
June 30, 2020	5.25 to 1.00
September 30, 2020	5.00 to 1.00
December 31, 2020	4.75 to 1.00
March 31, 2021	4.50 to 1.00
June 30, 2021	4.25 to 1.00
September 30, 2021	3.75 to 1.00
December 31, 2021	3.75 to 1.00
March 31, 2022 and each fiscal quarter ended thereafter	3.25 to 1:00

2. Cash Flow Coverage Ratio. The Borrower shall not permit the Cash Flow Coverage Ratio (as calculated under the Senior Financing Documents) of Borrower and its Subsidiaries for any twelve-month period of the Borrower and its Subsidiaries to be less than 1.05 as of the fiscal quarter ending June 30, 2020 and each fiscal quarter ended thereafter

Schedule 2.2(b) Locations

Each place of business of Borrower:

1 Red Valley Road
Millstone Township, New Jersey 08510

5141 West 122nd Street
Alsip, Illinois 60803

24 Cross Street
Plainville, Massachusetts 02762

Chief executive office of the Borrower:

1 Red Valley Road
Millstone Township, New Jersey 08510

Each leased location of Borrower:

1 Red Valley Road
Millstone Township, New Jersey 08510

Landlord: 106 Trenton Lakewood Road LLC, 185 Oberlin Avenue North, Lakewood, New Jersey 08701

5141 West 122nd Street
Alsip, Illinois 60803

Landlord: IC Industrial Sideco LLC, 1001 Rue Du Square-Victoria, Suite C-500, Montreal, Quebec H2Z 2B5, Canada

Landlord: Twenty Four Cross Street, LLC, 24 Cross Street
Plainville, Massachusetts 02762

9318 Erie Street SW
Navarre, OH 44662

Schedule 3.4 Contingent Obligations

That certain Guaranty dated as of the Amended and Restated Closing Date made by Borrower for the benefit of NMD Seller.

Schedule 5.4(b) Capitalization

TotalStone is a 100%, wholly owned subsidiary of Brookstone Partners IAC, Inc.

Northeast is a 100%, wholly owned subsidiary of TotalStone.

Schedule 5.6 Intellectual Property

Trademarks:

Trademark	App. No.	App. Date	Reg. No.	Reg. Date
Northeast Masonry Distributors	87949640	6/5/2018	5743608	5/7/2019
Blue Mist Granite	87947840	6/4/2018	5837465	8/20/2019

Schedule 5.7 Investigations and Audits

Department of Homeland Security, U.S. Customs and Border Protection, Request for Information dated August 24, 2017.

Department of Homeland Security, U.S. Customs and Border Protection, Notice of Penalty or Liquidated Damages Incurred and Demand for Payment dated September 22, 2017. – *US Pacific Transport, Inc. (USPTI) confirmed in October 2017 that during that time period Customs was switching to a new ACH system, and that this was a technical issue with all the Customs brokers and Customs during that brief time.*

Department of Homeland Security, U.S. Customs and Border Protection, Notice of Penalty or Liquidated Damages Incurred and Demand for Payment dated August 14, 2019. – *The Department of Homeland Security has not submitted any claim relating to this notice pursuant to the Continuous Customs Bond for Northeast Masonry Distributors.*

Department of Homeland Security, U.S. Customs and Border Protection, Notice of Penalty or Liquidated Damages Incurred and Demand for Payment dated August 14, 2019. – *The Department of Homeland Security has not submitted any claim relating to this notice pursuant to the Continuous Customs Bond for Northeast Masonry Distributors.*

Department of Homeland Security, U.S. Customs and Border Protection, Notice of Penalty or Liquidated Damages Incurred and Demand for Payment dated August 14, 2019. – *The Department of Homeland Security has not submitted any claim relating to this notice pursuant to the Continuous Customs Bond for Northeast Masonry Distributors.*

Department of Homeland Security, U.S. Customs and Border Protection, Notice of Penalty or Liquidated Damages Incurred and Demand for Payment dated September 6, 2019. – *The Department of Homeland Security has not submitted any claim relating to this notice pursuant to the Continuous Customs Bond for Northeast Masonry Distributors.*

Schedule 5.10 Litigation

None.

Schedule 5.12 Real Estate

1 Red Valley Road
Millstone Township, New Jersey 08510

Landlord: 106 Trenton Lakewood Road LLC, 185 Oberlin Avenue North, Lakewood, New Jersey 08701

5141 West 122nd Street
Alsip, Illinois 60803

Landlord: IC Industrial Sideco LLC, 1001 Rue Du Square-Victoria, Suite C-500, Montreal, Quebec H2Z 2B5, Canada

Landlord: Twenty Four Cross Street, LLC, 24 Cross Street
Plainville, Massachusetts 02762

9318 Erie Street SW
Navarre, OH 44662

Schedule 5.13 Environmental Matters

Letter from Board of Health, Plainville, Massachusetts to Twenty Cross Street LLC dated September 5, 2017 re: Violations of 310 CMR 7.00: Air pollution control and Chapter 111 Public Health Section 122 Regulations relative to nuisances; Examination of Morse Ready Mix – 20/24 Cross Street and Lorusso Corp- MassLite 30-40 Cross Street, Plainville, MA

Letter from Northeast Masonry Distributors, LLC to Plainville Board of Health dated September 30, 2014 re: 310 CMR 7.00 Air Pollution Control violations at Northeast Masonry Distributors, 24 Cross Street Plainville, MA

Phase I Environmental Site Assessment Report by GeoInsight, Inc. for New England Concrete Products dated June 13, 2005.

Phase II Environmental Site Assessment Report by Environmental Compliance Services of the New England Concrete Products facility located on 24 Cross Street in Plainville, Massachusetts dated August 2005.

Release Abatement Measure Completion Report and Class A-2 Response Action Outcome Statement, Northeast Concrete Products, 24 Cross Street, Plainville, Massachusetts, prepared by GeoInsight, Inc. for Northeast Concrete Products, LLC dated July 17, 2006.

Schedule 5.14 ERISA

TOTALSTONE, LLC T/A INSTONE 401K PLAN

Schedule 5.16 Deposit and Disbursement Accounts

There are accounts maintained at Berkshire Bank.

Schedule 5.17 Agreements and Other Documents

Commercial Lease Agreement between Twenty Four Cross Street, LLC and Northeast Masonry Distributors, LLC dated December 7, 2018. – *To be amended prior to the Closing.*

Amended Commercial Lease Agreement between Twenty Four Cross Street, LLC and Northeast Masonry Distributors, LLC – *To be executed prior to the Closing.*

Berkshire Bank Facility.

That certain Guaranty dated as of the Amended and Restated Closing Date made by Borrower for the benefit of NMD Seller.

Non-Exclusive Software License Agreement between James R. Palatine and Northeast (the "Quick Quote License").

Execution Version

FIRST AMENDMENT TO THE

THIRD AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT

OF TOTALSTONE, LLC

A DELAWARE LIMITED LIABILITY COMPANY

THIS FIRST AMENDMENT (this "Amendment") to the THIRD AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT of TotalStone, LLC (the "Company") is made and entered into effective as of November 13, 2019 (the "Effective Date"), by and among the undersigned Members and includes any persons hereafter admitted to the Company as Members pursuant to this Agreement and the provisions of the Delaware Limited Liability Company Act (as amended from time to time, the "Act").

RECITALS

WHEREAS, the Company was organized as a limited liability company under the Act as of October 4, 2006;

WHEREAS, the affairs of the Company are currently governed by its Third Amended and Restated Operating Agreement dated January 1, 2019 (the "Current Operating Agreement"); and

WHEREAS, the Manager and Members of the Company have agreed to admit Stream Finance, LLC, a Delaware limited liability ("Steam Finance, LLC"), as an additional Member of the Company in consideration for its Capital Contribution of $260,750 in cash contemporaneously with the execution of this Amendment and potential additional Capital Contributions of at least $300,000 but not more than $600,000, and in consideration thereof, to issue Stream Finance, LLC, new class of Membership Interests in the Company with the rights and obligations set forth in this Amendment.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants of the parties hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby amend the Current Operating Agreement of the Company as follows:

1. The following new definitions are added to Article I of the Current Operating Agreement:

"Accumulated Priority Return" shall have the meaning assigned to such term on Schedule II.

"First Amendment Date" shall mean November 13, 2019

"NMD" shall mean Northeast Masonry Distributors, LLC (f/k/a NEM Purchaser, LLC).

"Special Preferred Member" shall mean Stream Finance, LLC, a Delaware limited liability company, and its permitted successors and assigns.

"Special Preferred Membership Interest" shall mean a Membership Interest designated as a Special Preferred Membership Interest and having such rights, preferences and obligations as specified in this Agreement. Initially, Stream Finance, LLC, shall own the entire Special Preferred Membership Interest. The only obligation of the holder of Special Preferred Membership Interest shall be to make its agreed Capital Contribution of at least $700,000 but not more than $1,000,000 (receipt of $260,750 is acknowledged as of the First Amendment Date) and its only rights shall be to receive allocations of Company Profits, Losses and other items and to receive cash distributions from the Company on and subject to the terms set forth herein. For the avoidance of doubt, and notwithstanding anything to the contrary contained in this Agreement, the holder of a Special Preferred Membership Interest shall have no voting rights, shall have no pre-emptive rights, shall have no right to receive Tax Distributions, nor shall it have any obligation to make any additional Capital Contributions to the Company in addition to its initial Capital Contribution. Special Preferred Membership Interest and its current owner shall be set forth on Schedule I hereto, as amended from time to time.

"Special Preferred Unrecovered Capital Balance" shall mean, as of any date of determination, a memorandum account maintained by the Company with respect to the Special Preferred Member, which shall have an initial balance of $260,750 as of the First Amendment Date and shall be increased by the amount of additional Capital Contributions made by the Special Preferred Member after the First Amendment Date (up to a balance of at least $700,000 but not more than $1,000,000) and shall be reduced (but not below zero) by the aggregate distributions made as of such date to the Special Preferred Members pursuant to Section 5.2(b) and Section 5.3(b). In the event of a permitted Transfer of all or any portion of the Special Preferred Membership Interest of the Special Preferred Member, the transferee shall succeed to a corresponding portion of the transferor's share of the Special Preferred Unrecovered Capital Balance effective as of the time such Transfer is made.

"Special Preferred Return Account" shall mean, as of any date of determination, a memorandum account maintained by the Company with respect to the Special Preferred Member which shall be credited with the Accumulated Priority Return as determined from time to time pursuant to Schedule II.

"Stream Credit Agreement" shall mean that certain Amended and Restated Credit Agreement, dated as of the First Amendment Date, by and among the Company and NMD, as borrower, and the Special Preferred Member, as lender, as amended, restated, supplemented or otherwise modified from time to time.

"Unrecovered Special Priority Return Balance" shall mean, as of any date of determination, a memorandum account maintained by the Company with respect to the

Special Preferred Member which shall be equal to the amount obtained by (x) calculating Accumulated Priority Return as of the date on which the determination is being made and subtracting (y) the aggregate distributions made as of such date to the Special Preferred Members pursuant to Section 5.2(a) and Section 5.3(a). In the event of a permitted Transfer of all or any portion of the Special Preferred Member's Membership Interest, the transferee shall succeed to a corresponding portion of the transferor's share of Unrecovered Special Priority Return Balance effective as of the time such Transfer is made.

2. The definitions assigned to the following terms in Article I of the Current Operating Agreement are hereby deleted in their entirety and, in their place, the following shall be substituted:

"Membership Interests" shall mean the Class AA Preferred Interests, the Class A Preferred Interests, the Class C Common Interests, the Special Preferred Membership Interests and such other interests as may be established by the Company.

"Non-Voting Membership Interest" shall mean the Class AA Preferred Interests, the Class C Common Interests, the Special Preferred Membership Interests and such other Membership Interests as may be established by the Company and designated as such.

"Voting Membership Interest" shall mean the Class A Preferred Interests and such other Membership Interests as may be established by the Company and designated as such

3. Section 3.1 of Current Operating Agreement is hereby deleted in its entirety and, in its place, the following shall be substituted:

SECTION 3.1 Membership Interests. The Company shall have four classes of Membership Interests, Special Preferred Membership Interest, Class AA Preferred Interests, Class A Preferred Interests and Class C Common Interests, each with such rights, preferences and obligations as set forth in this Agreement. Membership Interests issued pursuant hereto from time to time may, but need not, be represented by a certificate issued by the Company.

4. Section 5.2 of Current Operating Agreement is hereby deleted in its entirety and, in its place, the following shall be substituted:

SECTION 5.2 Distributions of Residual Proceeds. To the extent authorized by the Managers, Residual Proceeds, if any, realized by or available to the Company shall be distributed as follows and in the following order of priority:

(a) First, to the Special Preferred Members in proportion to and to the extent of their respective shares of the Unrecovered Special Priority Return Balance until such Unrecovered Special Priority Return Balance has been reduced to zero;

(b) Second, to the Special Preferred Members in proportion to and to the extent of their respective shares of the Special Preferred Unrecovered Capital Balance until such time as the Special Preferred Unrecovered Capital Balance has been reduced to zero;

(c) Third, *pro rata* to the Class AA Members in reduction of their respective Return Accounts and in proportion to the respective positive balances therein, until such Return Accounts have been reduced to zero;

(d) Fourth, *pro rata* to the Class AA Members in proportion to and to the extent that the Capital Contributions made by each such Member exceeds cumulative prior distributions to such Member pursuant to this Section 5.2(b) (in each case, such Member's Net Capital Contribution);

(e) Fifth, *pro rata* to the Class A Members in reduction of their respective Return Accounts and in proportion to the respective positive balances therein, until all such Return Accounts have been reduced to zero;

(f) Sixth, *pro rata* to Class A Members in proportion to and to the extent that the Capital Contributions made by each such Member exceeds cumulative prior distributions to such Member pursuant to this Section 5.2(d) (in each case, such Member's "Net Capital Contribution"); and

(g) Seventh, *pro rata* to the Members in accordance with their respective Participation Percentage A until Class C Members receive Maximum Amount A.

(h) Eighth, *pro rata* to the Members in accordance with their respective Participation Percentage B until Class C Members receive Maximum Amount B.

(i) Thereafter, the balance, if any, *pro rata* to the Members (other than the Special Preferred Members) in accordance with their respective Participation Percentage C

5. Section 5.3 of Current Operating Agreement is hereby deleted in its entirety and, in its place, the following shall be substituted:

SECTION 5.3 Distributions of Operating Cash Flow. To the extent authorized by the Managers, Operating Cash Flow, if any, realized by or available to the Company shall be distributed as follows and in the following order of priority:

(a) First, to the Special Preferred Members in proportion to and to the extent of their respective shares of the Unrecovered Special Priority Return Balance until such Unrecovered Special Priority Return Balance has been reduced to zero;

(b) Second, to the Special Preferred Members in proportion to and to the extent of their respective shares of the Special Preferred Unrecovered Capital Balance until such time as the Special Preferred Unrecovered Capital Balance has been reduced to zero;

(c) Third, *pro-rata* to the Class AA Members in reduction of their Return Accounts and in proportion to the respective balances therein, until all such Return Accounts have been reduced to zero;

(d) Fourth, *pro rata* to the Class AA Members in reduction of their Net Capital Contributions and in proportion to the respective amounts thereof, until all such Net Capital Contributions have been reduced to zero;

(e) Fifth, *pro rata* to Class A Members in reduction of their respective Return Accounts and in proportion to the respective balances therein, until all such Return Accounts have been reduced to zero;

(f) Sixth, *pro rata* to the Members in accordance with their respective Participation Percentage A until Class C Members receive Maximum Amount A;

(g) Seventh, *pro rata* to the Members in accordance with their respective Participation Percentage B until Class C Members receive Maximum Amount B;

(h) Thereafter, the balance, if any, *pro rata* to the Members (other than the Special Preferred Members) in accordance with their respective Participation Percentage C.

5. The following new Section 6.3(i) is added immediate after Section 6.3(h) of the current operating Agreement:

(i) Allocations to Special Preferred Members. If and to the extent that any Special Preferred Member receives any distributions from the Company pursuant to Section 5.2(a), Section 5.3(a), or both, in any year, such Special Preferred Member shall receive a corresponding allocation of Company income and gain for such year. Except as expressly provided in this Section 6.3(i), no Profit, Loss, income, gain, loss, deduction or credits shall be allocated to the Special Preferred Members in their capacities as such.

6. Schedule I of the Current LLC Agreement is hereby deleted in its entirety and, in its place, First Amended Schedule I is substituted.

7. First Amended Schedule II is added to the Current Operating Agreement, as amended, immediately after First Amended Schedule I.

8 By its execution of this Amendment, Stream Finance, LLC, agrees to be bound by the provisions of the Current Operating Agreement as amended by this First Amendment.

9. By their execution of this Agreement, the remaining Members agree to be bound by the provisions of the Current Operating Agreement as amended by this First Amendment, consent the admission of Stream Finance, LLC, as the Special Preferred Member, and waive any claim that they have, or might have, to object to the admission of Stream Finance, LLC, as a Member or to the issuance to Stream Finance, LLC, of the Special Preferred Membership Interest.

10. This Amendment may be executed simultaneously in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same agreement and shall become effective when one or more counterparts have been signed by all of the Members hereto and delivered to the Company. The exchange of copies of this Amendment and of signature pages by facsimile transmission or .pdf shall constitute effective

execution and delivery of this Amendment as to the parties and may be used in lieu of the original Amendment for all purposes. Signatures of the parties transmitted by facsimile or .pdf shall be deemed to be their original signatures for all purposes. Each Member will execute all documents and take such other actions as the Managers may reasonably request in order to consummate the transactions provided for herein.

11. In all other respects, the provisions of the Current Operating Agreement as amended by this First Amendment are hereby ratified, approved and confirmed.

(signature page follows)

IN WITNESS WHEREOF, the parties have executed, or caused this First Amendment to Third Amended and Restated Limited Liability Company Agreement to be executed on the date first above written.

MEMBERS:

BROOKSTONE PARTNERS
ACQUISITION XIV, LLC

By: BP XIV Pebble, LLC, Managing Member
of Brookstone Partners Acquisition XIV, LLC

By:_____
Name: Michael Toporek
Title: President

Gordon Rocks, Inc.

By:_____
Name: Gordon L. Strout, Jr.
Title: President

Warren Rocks, Inc.

By: _____
Name: Warren Weatherstone
Title: President

_____
Kevin Grotke

STREAM FINANCE, LLC
By: Brookstone Partners IAC, Inc., Manager

By: _____
Name: Michael Toporek
Title: President

IN WITNESS WHEREOF, the parties have executed, or caused this First Amendment to Third Amended and Restated Limited Liability Company Agreement to be executed on the date first above written.

MEMBERS:

BROOKSTONE PARTNERS
ACQUISITION XIV, LLC

By: BP XIV Pebble, LLC, Managing Member
of Brookstone Partners Acquisition XIV, LLC

By:_____
Name: Michael Toporek
Title: President

Gordon Rocks, Inc.

By:_____
Name: Gordon L. Strout, Jr.
Title: President

Warren Rocks, Inc.

By: _____
Name: Warren Weatherstone
Title: President

_____
Kevin Grotke

STREAM FINANCE, LLC
By: Brookstone Partners IAC, Inc., Manager

By: _____
Name: Michael Toporek
Title: President

IN WITNESS WHEREOF, the parties have executed, or caused this First Amendment to Third Amended and Restated Limited Liability Company Agreement to be executed on the date first above written.

MEMBERS:

BROOKSTONE PARTNERS
ACQUISITION XIV, LLC

By: BP XIV Pebble, LLC, Managing Member
of Brookstone Partners Acquisition XIV, LLC

By:_____
Name: Michael Toporek
Title: President

Gordon Rocks, Inc.

By:_____
Name: Gordon L. Strout, Jr.
Title: President

Warren Rocks, Inc.

By: _____
Name: Warren Weatherstone
Title: President

_____
Kevin Grotke

STREAM FINANCE, LLC
By: Brookstone Partners IAC, Inc., Manager

By: _____
Name: Michael Toporek
Title: President

FIRST AMENDED SCHEDULE I

Membership Interests

Special Preferred Membership Interests

Name/Address	Initial Capital Account	Participation Percentage
Stream Finance, LLC 232 Madison Ave. Suite 600 New York, NY 10016 Facsimile: (212) 302-5888	$475,000.00	-0-%

Class AA Preferred Interests

Name/Address	Initial Capital Account	Participation Percentage
Brookstone Partners Acquisition XIV, LLC 317 Madison Ave Suite 405 New York, NY 10017 Attn: Michael Toporek Facsimile: (212) 302-5888	$476,937	-0-%
Gordon Rocks, Inc. 21 Captains Court Manasquan, NJ 08736 Attn: Gordon L. Strout, Jr. Facsimile: (732) 363-6239	$155,132	-0-%
Warren Rocks, Inc. 32 Vermont Avenue Jackson, NJ 08527 Attn: Warren Weatherstone Facsimile: (732) 363-6239	$26,501	-0-%

Class A Preferred Interests

Name/Address	Number of Class A Preferred Interests	Initial Capital Account	Participation Percentage
Brookstone Partners Acquisition XIV, LLC 232 Madison Ave. Suite 600 New York, NY 10016 Attn: Michael Toporek Fax: (212) 302-5888	72.8632041	$4,613,750	A: 65.1864207% B: 66.9971546% C: 68.8078885%
Gordon Rocks, Inc. 21 Captains Court Manasquan, NJ 08736 Attn: Gordon L. Strout, Jr. Fax: (732) 363-6239	23.6889312	$1,500,000	A: 21.1930926% B: 21.7817896% C: 22.3704867%
Warren Rocks, Inc. 32 Vermont Avenue Jackson, NJ 08527 Attn: Warren Weatherstone Fax: (732) 363-6239	4.0468591	$256,250	A: 3.6204867% B: 3.7210557% C: 3.8216248%

Class C Common Interests

Name/Address	Number of Class C Common Interests	Initial Capital Account	Maximum Amount	Participation Percentage
Kevin Grotke	100	$100	A: $500,000 B: $1,000,000	A: 10.0% B: 7.5% C: 5.0%

SCHEDULE II

Determination of Accumulated Priority Return

The amount by which the Aggregate Return (as defined below) exceeds the Adjusted Cash Return (as defined below); provided, that the Aggregate Return may never be less than 0%. The Accumulated Priority Return will be calculated from the dates of the Capital Contributions of the Special Priority Member.

As used herein, "*Aggregate Return*" means (i) beginning on the First Amendment Date and continuing through the Pricing Date for the fiscal quarter of the Company ending March 31, 2020, the corresponding rate per annum shown opposite Level I in the table below and (ii) thereafter beginning on any applicable Pricing Date and continuing through the following Pricing Date as determined below, the corresponding rate per annum based upon the table below:

Level	Leverage Ratio on applicable Pricing Date	Rate
I	Greater than 4.0 to 1.0	15%
II	Less than or equal to 4.0 to 1.0, but greater than or equal to 3.5 to 1.0	14%
III	Less than 3.5 to 1.0	13%

For purposes of this definition, the term "*Leverage Ratio*" shall have the meaning assigned to such term in the Stream Credit Agreement and the term "*Pricing Date*" means, for any fiscal quarter of Company, the date on which the Company has delivered to the Special Priority Member the financial statements of the Company and its subsidiaries for such immediately preceding fiscal quarter (and, in the case of the year-end financial statements, an audit report) in accordance with the Stream Credit Agreement. The Aggregate Return shall be established based on the Leverage Ratio (as defined in the Stream Credit Agreement) for the most recently completed fiscal quarter and the Aggregate Return established on a Pricing Date shall remain in effect until the next Pricing Date. If the Company has not delivered their financial statements by the date such financial statements (and, in the case of the year-end financial statements, an audit report) are required to be delivered under the Stream Credit Agreement, until such financial statements and audit report are delivered, the Aggregate Return shall be the highest Aggregate Return (i.e., Level I shall apply). If the Company subsequently deliver such financial statements before the next Pricing Date, the Aggregate Return established by such late delivered financial statements shall take effect from the date of delivery until the next Pricing Date. In all other circumstances, the Aggregate Return established by such financial statements shall be in effect from the Pricing Date that occurs immediately after the end of the fiscal quarter covered by such financial statements until the next Pricing Date.

As used herein, "*Cash Return*" means (i) beginning on the First Amendment Date and continuing through the Pricing Date for the fiscal quarter of the Company ending March 31, 2020, the corresponding rate per annum shown opposite Level III in Table B below and (ii) thereafter beginning on any applicable Pricing Date and continuing through the following Pricing Date as

determined below, the corresponding rate per annum resulting from Table A or Table B below that results in the highest rate per annum:

Table A or Table B

Level	Adjusted EBITDA of Company (exclusive of NMD)	Rate		Level	Adjusted EBITDA of Company and NMD	Rate
I	Greater than $2,500,000	12%		I	Greater than $4,000,000	12%
II	Less than or equal to $2,500,000, but greater than or equal to $2,000,000	10%		II	Less than or equal to $4,000,000, but greater than or equal to $3,500,000	10%
III	Less than $2,000,000	8%		III	Less than $3,500,000	8%

For purposes of this definition, the term "*Adjusted EBITDA*" shall have the meaning assigned to such term in the Stream Credit Agreement for the applicable Persons and the term "*Pricing Date*" shall have the meaning assigned to such term in the definition of "Aggregate Return" above.

As used herein, "*Adjusted Cash Return*" means the Cash Return (as defined above) *divided by* the Adjustment Factor. For the purposes of this definition, the term "Adjustment Factor" means, 0.75.

THE PRINCIPAL AMOUNT OF THIS NOTE IS DETERMINED PURSUANT TO THE TERMS OF SECTION 1 HEREOF. THIS NOTE IS SUBJECT TO CERTAIN TRANSFER RESTRICTIONS SET FORTH IN SECTION 9 HEREOF. THIS NOTE WAS ORIGINALLY ISSUED ON NOVEMBER 13, 2019 AND HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR ANY COMPARABLE STATE SECURITIES LAW.

THIS INSTRUMENT AND THE RIGHTS AND OBLIGATIONS EVIDENCED HEREBY ARE SUBORDINATE IN THE MANNER AND TO THE EXTENT SET FORTH IN THAT CERTAIN SUBORDINATION AND INTERCREDITOR AGREEMENT (THE "*SUBORDINATION AGREEMENT*") DATED AS OF NOVEMBER 13, 2019, BY AND AMONG BERKSHIRE BANK, A MASSACHUSETTS CORPORATION (THE "*SENIOR CREDITOR*"), TO OR FOR THE ACCOUNT OF TOTALSTONE, LLC, A LIMITED LIABILITY COMPANY FORMED UNDER THE LAWS OF THE STATE OF DELAWARE ("*TOTALSTONE*"), AND NORTHEAST MASONRY DISTRIBUTORS, LLC (F/K/A NEM PURCHASER, LLC), A LIMITED LIABILITY COMPANY DULY ORGANIZED AND VALIDLY EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE ("*NORTHEAST*" AND COLLECTIVELY WITH TOTALSTONE, THE "*BORROWER*"), AVELINA MASONRY, LLC (F/K/A NORTHEAST MASONRY DISTRIBUTORS, LLC), A DELAWARE LIMITED LIABILITY COMPANY (THE "JUNIOR CREDITOR" AND COLLECTIVELY WITH THE SENIOR CREDITOR, THE "CREDITORS"), TO THE INDEBTEDNESS (INCLUDING INTEREST) OWED BY THE BORROWER PURSUANT TO THAT CERTAIN ASSET PURCHASE AGREEMENT BY AND AMONG NORTHEAST, THE JUNIOR CREDITOR, THE AVELINA COMPANIES, INC., A MASSACHUSETTS CORPORATION, IN ITS INDIVIDUAL CAPACITY, AND JAMES PALATINE, AN INDIVIDUAL, DATED AS OF NOVEMBER 13, 2019, AS AMENDED, MODIFIED OR SUPPLEMENTED AND AS MAY FROM TIME TO TIME HEREAFTER BE AMENDED, RESTATED, SUPPLEMENTED OR OTHERWISE MODIFIED (THE "*ASSET PURCHASE AGREEMENT*") AS SUCH ASSET PURCHASE AGREEMENT HAS BEEN AND HEREAFTER MAY BE AMENDED, SUPPLEMENTED OR OTHERWISE MODIFIED FROM TIME TO TIME, TO THE EXTENT PERMITTED BY THE SUBORDINATION AGREEMENT.

EACH HOLDER OF THIS INSTRUMENT, BY ITS ACCEPTANCE HEREOF, IRREVOCABLY AGREES TO BE BOUND BY THE PROVISIONS OF THE SUBORDINATION AGREEMENT.

NON-NEGOTIABLE SECURED SUBORDINATED PROMISSORY NOTE

For value received and subject to the terms and conditions contained in this Non-Negotiable Secured Subordinated Promissory Note (this "Note"), TotalStone, LLC, a Delaware limited liability company (the "Company"), hereby promises to pay to Northeast Masonry Distributors, LLC, a Delaware limited liability company, its successors and assigns (the "Holder"), the principal sum of TWO MILLION SEVEN THOUSAND EIGHT HUNDRED AND SIXTY SIX DOLLARS and FORTY CENTS ($2,007,866.40) with interest thereon as set forth herein.

This Note is issued by the Company to the Holder pursuant to that certain Asset Purchase Agreement, dated the date hereof, by and among NEM Purchaser, LLC, a Delaware limited liability company and an affiliate of the Company (the "Buyer"), as buyer, and Northeast Masonry Distributors, LLC, as seller ("Seller"), and The Avelina Companies, Inc. and James Palatine, as the owners of the Seller (as amended, restated, supplemented or otherwise modified from time to time, the "Purchase Agreement"), and this Note is the "Secured Subordinated Note" referred to therein. Certain defined terms used herein shall have the meanings ascribed to such terms in Section 8 hereof. Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Purchase Agreement.

1. Principal. Subject to the Intercreditor Agreement, the outstanding principal amount shall be paid in consecutive monthly principal installments in the amount of $48,000, the first of which shall commence on June 13, 2021, with a final payment of any unpaid balance of principal and interest payable on November 13, 2022.

2. Interest.

(a) Except as otherwise provided in Section 2(b) hereof, interest on this Note shall accrue shall at a rate per annum equal to the sum of LIBOR *plus* four and one half percent (4.50%) (as applicable, the "Contract Rate"), provided that in no event shall LIBOR be less than one percent (1%). Interest shall be computed on the basis of a 360-day year, and, subject to the Intercreditor Agreement, shall be payable in arrears on a monthly basis on the first day of each month and shall be calculated on the actual principal amount outstanding during such month.

(b) Subject to the Intercreditor Agreement, after the occurrence and during the continuation of an Event of Default (as defined in Section 6 hereof), interest on the outstanding principal amount of this Note, at the option of Holder, may accrue at a rate per annum equal to the then applicable rate *plus* three percent (3%) until such Event of Default has been cured or remedied by the Company or waived by the Holder. If any such default interest is not permitted to be paid by the Intercreditor Agreement, such default interest shall accrue (but, for the avoidance of doubt, not paid in-kind) until the Discharge of Senior Indebtedness (as defined in the Intercreditor Agreement) and shall then be paid in-kind upon the Discharge of Senior Indebtedness.

(c) In the event that any interest rate provided for herein shall exceed the maximum lawful rate, such interest rate shall be limited to such maximum lawful rate. Any payment by the Company of any interest amount in excess of that permitted by law shall be considered a mistake, with the excess being applied to the principal of this Note without premium or penalty.

3. Rights of Setoff. Subject to and in accordance with the Purchase Agreement, the Company shall be entitled to set off undisputed payments due and owing to the Buyer under the Purchase Agreement against payments due and owing to or which shall become owing to Holder pursuant to the terms of this Note. If the Company elects to exercise its right of set off, any amounts so set off shall be applied first, to accrued interest and second, to principal outstanding under this Note.

4. Intentionally Omitted.

5. Subordination and Security.

(a) All obligations owing to the Holder pursuant to this Note are and shall be subordinate to the Senior Obligations (as defined in the Intercreditor Agreement) in accordance with the terms of the Intercreditor Agreement.

(b) All obligations owing to the Holder pursuant to this Note are being guaranteed by NEM Purchaser, LLC (the "Guarantor") pursuant to the Guaranty.

(c) All obligations owing to the Holder pursuant to this Note, if any, shall be secured by a security interest in, and lien on, all assets or property of Guarantor and the Company and its subsidiaries as provided in the Security Agreement, which security interest and lien shall be subordinate to the security interest and lien securing the Senior Obligations as provided in the Intercreditor Agreement.

6. Financial Reporting. The Company shall provide financial statements to the Holder within forty-five (45) days after the end of each fiscal quarter, or at such other times that the Company provides any financial statements to the Lender under the Senior Credit Agreement (as defined in the Intercreditor Agreement) (the "Senior Lender"). Such financial statements shall be in the same form, and with the same certifications as provided to, the Senior Lender.

7. Events of Default. The occurrence of any one or more of the following events shall constitute an "Event of Default" hereunder (which Event of Default shall be deemed continuing until waived in writing by the Holder or cured to the satisfaction of the Holder):

(a) Company shall fail to make payment when due of any principal or interest on this Note when due and payable and such default shall continue unremedied for a period of three (3) Business Days; or

(b) the commencement of any proceedings (i) in bankruptcy by or against Company or any Guarantor, (ii) for the liquidation or reorganization of Company or any Guarantor or (iii) for the readjustment or arrangement of Company's or any Guarantor's debts, whether under the United States Bankruptcy Code or under any other law, whether state or

federal, now or hereafter existing for the relief of debtors, or the commencement of any analogous statutory or non-statutory proceedings involving Company or any Guarantor and, in any such case, such proceeding shall continue for sixty (60) days without having been dismissed or an order or decree approving or ordering any of the foregoing shall be entered; or

(c) the appointment of a receiver or trustee over Company or any Guarantor or over all or a substantial part of Company's assets and such appointment shall continue for sixty (60) days without having been dismissed; or

(d) Company or any Guarantor shall (i) file a petition in bankruptcy or petition to take advantage of any insolvency act, (ii) make an assignment for the benefit of its creditors, (iii) commence a proceeding for the appointment of a receiver, trustee, liquidator or conservator of Company or of the whole or any substantial part of Company's or a Guarantor's property or (iv) file a petition or answer seeking reorganization or arrangement or similar relief under the United States Bankruptcy Code;

(e) this Note, the Security Agreement or any Guaranty shall at any time for any reason, without the written consent of Holder, terminate, become void or unenforceable or cease to be in full force and effect;

(f) an event of default shall have occurred under the Senior Credit Agreement and the lenders thereunder (or an agent on their behalf) shall have accelerated the maturity of the indebtedness under the Senior Credit Agreement as a result thereof; or

(g) the occurrence of any of the following: (i) any of Borrower or any Guarantor sells substantially all of its assets to another person or entity, or (ii) substantially all of the equity interests in any of Borrower or any Guarantor are sold or transferred to another person or entity, or (iii) any of Borrower or any Guarantor merges with or into another entity, except a majority of the board of directors (or similar governing body), in each case, such other entity consists of the same members of the board of directors (or similar governing body) of the Company as of the date of this Note.

8. Remedies. Subject to the Intercreditor Agreement,

(a) Upon the occurrence of an Event of Default specified in Section 6(b), (c) (d) or (g), the outstanding principal hereunder, together with all accrued interest thereon, shall immediately become due and payable. Upon the occurrence and during the continuance of any other Event of Default, the Holder may, at its option, declare the entire outstanding principal and accrued interest thereon to be immediately due and payable, by written notice to the Company, together with accrued interest thereon, without presentment, demand, protest or other formalities of any kind (other than the written notice specified above), all of which are hereby expressly waived by the Company.

(b) The Holder may take any action against the Company and the Guarantor available to it under the Security Agreement or at law or in equity or by statute or otherwise.

(c) No remedy herein conferred upon the Holder is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition

to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise.

9. Definitions.

(a) "Business Day" means any weekday other than a weekday on which banks in New York, New York are authorized or required to be closed.

(b) "Fiscal Year" means the period beginning on January 1st of any year and ending on December 31st of any year.

(c) "Guaranty" means that certain Guaranty given by the Company and the Buyer in favor of the Holder dated as of November 13, 2019.

(d) "Intercreditor Agreement" has the meaning assigned to such term in the legend to this Note.

(e) "LIBOR" or "London Interbank Offered Rate" or shall mean, relative to any Interest Period, the offered rate for delivery in two (2) London Banking Days (as defined below) of deposits of U.S. Dollars which the British Bankers Association fixes as its one (1) month London Interbank Offered Rate and which appears in the "Money Rate" of the Wall Street Journal or any successor publication (or in the event that such rate is no longer published in the Wall Street Journal, a comparable index or reference selected by Lender) as of 11:00 a.m. London Time on the day on which the Interest Period commences, and for a period approximately equal to such Interest Period . If the first day of any Interest Period is not a day which is both a (i) Business Day, and (ii) a day on which United States dollar deposits are transacted in the London interbank market (a London Banking Day"), LIBOR shall be determined in reference to the next preceding day which is both a Business Day and a London Banking Day. If the British Bankers Association, or its successors, shall no longer publish the "LIBOR RATE" for one (1) month, then LIBOR shall mean the average of the one (1) month LIBOR Rate set, determined or announced on a periodic basis by the three (3) largest London banks. Notwithstanding the foregoing, if LIBOR as determined under any method above would be less than zero percent (0%) such rate shall be deemed to be one percent (1.00%) for purposes of this Agreement. If for any reason the Holder cannot determine such offered rate by ICE Benchmark Administration Limited (or such successor), the Holder and Company shall in good faith work together to establish a replacement rate in lieu of LIBOR and the applicable margin that is broadly accepted in the U.S. as the then-prevailing market practice for secured loans, applied in a manner reasonably determined by the Holder and the Company to be consistent with such then-prevailing market practice.

(f) "Security Agreement" means that certain Security Agreement, by and among the Buyer, the Holder and the Company dated as of November 13, 2019.

(g) "Senior Credit Agreement" means that certain Revolving Credit, Term Loan and Security Agreement, by and between the Company, as Borrower, and Berkshire Bank, as lender, dated as of December 20, 2017, as amended.

10. Restrictions on Transfer. The Holder of this Note (including the original Holder) may sell, transfer, assign, negotiate, pledge or otherwise dispose of this Note without the prior written consent of the Company (which consent may be granted or withheld in the sole discretion of the Company); provided, however, that the Holder may transfer and assign this Note, or any portion thereof, to one or more of its affiliates that are controlled by the same persons that control Northeast Masonry Distributors, LLC, as of the date hereof, upon written notice to the Company. Any transferee of this Note hereby agrees to take such Note subject to all of the Company's rights and privileges hereunder. In the event that there is more than one Holder, then the term "Holder" shall include all Holders. Notwithstanding the foregoing, no Holder of this Note (including the original Holder) may sell, transfer, assign, negotiate, pledge or otherwise dispose of all or any portion of this Note (or any of its rights or obligations hereunder) unless such sale, transfer, assignment, negotiation, pledge or other disposition complies with the requirements of the Subordination Agreement (it being understood and agreed that any sale, transfer, assignment, negotiation, pledge or other disposition made in violation of the Subordination Agreement shall be void *ab initio*).

11. Cancellation. After all principal, accrued interest and fees and expenses at any time owed on this Note, if any, has been paid in full, this Note shall be surrendered to the Company for cancellation and shall not be reissued.

12. Payments.

(a) Subject to the Intercreditor Agreement, the Company shall pay principal and interest on this Note when due by wire transfer of immediately available funds in accordance with the instructions of the Holder previously delivered to the Company in writing.

(b) If any date for payment falls due on a day which is not a Business Day, then such payment date shall be extended to the next succeeding Business Day, and interest shall continue to accrue at the required rate hereunder until any such payment is made.

(c) All payments (including prepayments) of principal, interest and other amounts required hereunder shall be made in immediately available lawful money of the United States of America and shall be made without setoff, recoupment, recission, counterclaim or deduction of any kind. Subject to the terms of the Intercreditor Agreement, each payment under this Note shall be credited first to unpaid fees and expenses, second to accrued and unpaid interest and then to the principal balance of this Note.

13. Mandatory Prepayments.

(a) Subject to the Intercreditor Agreement, if during any Fiscal Year (commencing with the Fiscal Year beginning January 1, 2020), the Company and its subsidiaries shall have received cumulative net cash proceeds during such Fiscal Year from one or more dispositions of property (other than dispositions in the ordinary course of business) of at least $250,000, not later than the third Business Day following the date of receipt of any such net cash proceeds in excess of such amount, the Company will make a prepayment of this Note in an amount equal to 100% of such net cash proceeds in excess of such amount.

(b) Subject to the Intercreditor Agreement, not later than the third Business Day following the date of the receipt by Company or any of its subsidiaries of the net cash proceeds from any sale or issuance of any indebtedness (other than any indebtedness permitted to incurred pursuant to the Senior Credit Agreement), the Company will make a prepayment of this Note in an amount equal to 100% of such net cash proceeds.

(c) Subject to the Intercreditor Agreement, not later than the third Business Day following the date of the receipt by Company or any of its subsidiaries of the net cash proceeds from any from any sale or issuance by the Company or any of its subsidiaries of its own equity interests, as the case may be (other than any sale or issuance to management, employees (or key employees) or directors pursuant to stock option or similar plans approved by the board of directors (or similar governing body) for the benefit of management, employees (or key employees) or directors generally), the Company will make a prepayment of this Note in an amount equal to 100% of such net cash proceeds.

14. Demand; Presentment. The Company hereby expressly waives demand and presentment for payment, notice of non-payment, notice of dishonor, protest, notice of protest and diligence in taking any action to collect any amount due and owing hereunder, and shall be directly and primarily liable for the payment of all sums due and owing and which become due and owing hereon, regardless of and without any notice, diligence, act or omission with respect to the collection of any amount due and owing hereunder.

15. Notices. All notices, consents, waivers, demands and other communications required or permitted by this Note shall be in writing and shall be deemed given to a party when (a) delivered to the appropriate address by hand or by nationally recognized overnight courier service (costs prepaid); (b) sent by e-mail with confirmation of transmission by the transmitting equipment; or (c) mailed to the addressee, if sent by certified mail, return receipt requested, in each case to the following addresses or e-mail addresses and marked to the attention of the person (by name or title) designated below (or to such other address, e-mail address or person as a party may designate by notice to the other parties), provided that any notice sent by email shall be deemed received on the first Business Day following such confirmed transmission:

If to the Holder:

3 Belcher Street
Plainville, MA 02762
Attn: Stephen E. Meltzer, Esq.
Telephone number: (508) 643-2920
Email: smeltzer@edgewood-development.com

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

Hinckley, Allen & Snyder LLP
28 State Street
Boston, MA 02109
Attn: Jennifer V. Doran

Telephone number: 617-378-4128
Facsimile number: 617-345-9020
Email: jdoran@hinckleyallen.com

If to the Company:

c/o Brookstone Partners
232 Madison Avenue, Suite 600
New York, New York 10016

Attn: Michael Toporek
Telephone number: (212) 302-8558
Email: toporekm@brookstonepartners.com

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

Nixon Peabody LLP
70 W. Madison St., Suite 3500
Chicago, IL 60602
Attn: Robert A. Drobnak
Telephone number: (312) 977-4348
Facsimile number: (844) 558-3818
Email: radrobnak@nixonpeabody.com

16. Governing Law; Jurisdiction. This Note, and all claims or causes of action (whether in contract, tort or statute) that may be based upon, arise out of or relate to this Note, or the negotiation, execution or performance of this Note (including any claim or cause of action based upon, arising out of or related to any representation or warranty made in or in connection with this Note or as an inducement to enter into this Note), shall be governed by, and enforced in accordance with, exclusively the internal laws of the State of Delaware, including its statutes of limitations. Any suit, action or proceeding with respect to this Note, any such claim or cause of action or any judgment entered by any court in respect of any thereof, shall be brought exclusively in any federal or state court of competent jurisdiction located in the State of Delaware, and the Company and the Holder hereby submit to the exclusive jurisdiction of such courts for the purpose of any such suit, action, proceeding, claim, cause of action or judgment. Each of the Holder and the Company hereby irrevocably waives any objections which it may now or hereafter have to the laying of the venue of any such suit, action, proceeding, claim, cause of action or judgment brought in any such court, and hereby further irrevocably waives any claim that any such suit, action, proceeding, claim, cause of action or judgment brought in any such court has been brought in any inconvenient forum.

17. Amendments and Waivers. No amendment or waiver of any provision of this Note, nor consent to any departure therefrom, shall in any event be effective unless the same shall be in writing and signed by the party against which the enforcement of such amendment or waiver is sought, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

18. No Strict Construction. The Company and the Holder have participated jointly in the negotiation and drafting of this Note. In the event an ambiguity or question of intent or interpretation arises, this Note shall be construed as if drafted jointly by the Company and the Holder, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provision of this Note.

19. Waiver of Jury Trial. THE COMPANY AND THE HOLDER AGREE THAT NEITHER OF THEM NOR ANY ASSIGNEE OR SUCCESSOR OF EITHER OF THEM SHALL (A) SEEK A JURY TRIAL IN ANY LAWSUIT, PROCEEDING, COUNTERCLAIM OR ANY OTHER ACTION BASED UPON, OR ARISING OUT OF, THIS NOTE, ANY RELATED INSTRUMENTS OR THE DEALINGS OR THE RELATIONSHIP BETWEEN OR AMONG ANY OF THEM, OR (B) SEEK TO CONSOLIDATE ANY SUCH ACTION WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED. THE PROVISIONS OF THIS SECTION 17 HAVE BEEN FULLY DISCUSSED BY THE COMPANY AND THE HOLDER, AND THESE PROVISIONS SHALL BE SUBJECT TO NO EXCEPTIONS. NEITHER THE COMPANY NOR THE HOLDER HAS AGREED WITH OR REPRESENTED TO THE OTHER THAT THE PROVISIONS OF THIS PARAGRAPH WILL NOT BE FULLY ENFORCED IN ALL INSTANCES.

20. Execution of Note. This Note may be executed in one or more counterparts, each of which shall be deemed to be an original copy of this Note and all of which, when taken together, shall be deemed to constitute one and the same agreement. Counterparts may be delivered by facsimile, electronic mail or other electronic submission.

[signature page follows]

IN WITNESS WHEREOF, the Company has executed and delivered this Note as of the date set forth on the first page of this Note.

COMPANY:

TOTALSTONE, LLC

By:_____

Name: Matthew Lipman

Title: A Manager

THE PRINCIPAL AMOUNT OF THIS NOTE IS DETERMINED PURSUANT TO THE TERMS OF SECTION 1 HEREOF. THIS NOTE IS SUBJECT TO CERTAIN TRANSFER RESTRICTIONS SET FORTH IN SECTION 9 HEREOF AND CERTAIN RIGHTS OF SETOFF SET FORTH IN SECTION 8 HEREOF. THIS NOTE WAS ORIGINALLY ISSUED ON NOVEMBER 13, 2019 AND HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR ANY COMPARABLE STATE SECURITIES LAW.

THIS INSTRUMENT AND THE RIGHTS AND OBLIGATIONS EVIDENCED HEREBY ARE SUBORDINATE IN THE MANNER AND TO THE EXTENT SET FORTH IN THAT CERTAIN SUBORDINATION AND INTERCREDITOR AGREEMENT (THE "*SUBORDINATION AGREEMENT*") DATED AS OF NOVEMBER 13, 2019, BY AND AMONG BERKSHIRE BANK, A MASSACHUSETTS CORPORATION (THE "*SENIOR CREDITOR*"), TO OR FOR THE ACCOUNT OF TOTALSTONE, LLC, A LIMITED LIABILITY COMPANY FORMED UNDER THE LAWS OF THE STATE OF DELAWARE ("*TOTALSTONE*"), AND NORTHEAST MASONRY DISTRIBUTORS, LLC (F/K/A NEM PURCHASER, LLC), A LIMITED LIABILITY COMPANY DULY ORGANIZED AND VALIDLY EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE ("*NORTHEAST*" AND COLLECTIVELY WITH TOTALSTONE, THE "*BORROWER*"), AVELINA MASONRY, LLC (F/K/A NORTHEAST MASONRY DISTRIBUTORS, LLC), A DELAWARE LIMITED LIABILITY COMPANY (THE "JUNIOR CREDITOR" AND COLLECTIVELY WITH THE SENIOR CREDITOR, THE "CREDITORS"), TO THE INDEBTEDNESS (INCLUDING INTEREST) OWED BY THE BORROWER PURSUANT TO THAT CERTAIN ASSET PURCHASE AGREEMENT BY AND AMONG NORTHEAST, THE JUNIOR CREDITOR, THE AVELINA COMPANIES, INC., A MASSACHUSETTS CORPORATION, IN ITS INDIVIDUAL CAPACITY, AND JAMES PALATINE, AN INDIVIDUAL, DATED AS OF NOVEMBER 13, 2019, AS AMENDED, MODIFIED OR SUPPLEMENTED AND AS MAY FROM TIME TO TIME HEREAFTER BE AMENDED, RESTATED, SUPPLEMENTED OR OTHERWISE MODIFIED (THE "*ASSET PURCHASE AGREEMENT*") AS SUCH ASSET PURCHASE AGREEMENT HAS BEEN AND HEREAFTER MAY BE AMENDED, SUPPLEMENTED OR OTHERWISE MODIFIED FROM TIME TO TIME, TO THE EXTENT PERMITTED BY THE SUBORDINATION AGREEMENT.

EACH HOLDER OF THIS INSTRUMENT, BY ITS ACCEPTANCE HEREOF, IRREVOCABLY AGREES TO BE BOUND BY THE PROVISIONS OF THE SUBORDINATION AGREEMENT.

NON-NEGOTIABLE SECURED SUBORDINATED CONTINGENT VALUE PROMISSORY NOTE

For value received and subject to the terms and conditions contained in this Non-Negotiable Secured Subordinated Contingent Value Promissory Note (this "Note"), NEM Purchaser, LLC, a Delaware limited liability company (the "Company"), hereby promises to pay to Northeast Masonry Distributors, LLC, a Delaware limited liability company, its successors and assigns (the "Holder"), the amount that becomes due pursuant to Section 1(d) of this Note, if any (collectively, the "Earned Amount"), with interest thereon as set forth herein.

This Note is issued by the Company to the Holder pursuant to that certain Asset Purchase Agreement, dated the date hereof, by and among the Company, as buyer, and Northeast Masonry Distributors, LLC, as seller ("Seller"), and The Avelina Companies, Inc. and James Palatine, as the owners of the Seller (as amended, restated, supplemented or otherwise modified from time to time, the "Purchase Agreement"), and this Note is the "Earn-Out Note" referred to therein. Certain defined terms used herein shall have the meanings ascribed to such terms in Section 7 hereof. Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Purchase Agreement. Holder expressly acknowledges and agrees that the Earned Amount as of the date of this Note is $75,000 and that such amount is not due and payable until June 15, 2022 unless converted pursuant to the terms of that certain Membership Interest Purchase and Subscription Agreement, to be dated within 7 days of the execution of this Note, by and between James Palatine and TotalStone, LLC.

1. Earning of Any Principal Amount.

(a) Calculations. The Company shall give notices to the Holder as follows:

(i) On or before June 15, 2021, the Company shall deliver to the Holder a calculation of the Northeast Gross Profit for the 2020 Fiscal Year, calculated in a manner consistent with the example set forth on Exhibit A hereto (the "2020 Northeast Gross Profit").

(ii) On or before June 15, 2022, the Company shall deliver to the Holder a calculation of the Northeast Gross Profit for the 2021 Fiscal Year, calculated in a manner consistent with the example set forth on Exhibit A hereto (the "2021 Northeast Gross Profit").

(b) With the delivery of the calculations set forth in Sections 1(a)(i) and 1(a)(ii), Company shall deliver to Holder the audited Financial Statements of the Business for Fiscal Year 2020 or Fiscal Year 2021, as applicable.

(c) Disputes on Adjusted Metrics. Any dispute between the Holder and the Company by reason of, in connection with, with respect to or as a result of the calculation of the 2020 Northeast Gross Profit or the 2021 Northeast Gross Profit shall be governed by the same procedures set forth in Section 2.8.5 of the Purchase Agreement with respect to the calculation of the Post-Closing Adjustment, *mutatis mutandis*; provided, however, that notwithstanding

anything to the contrary in the Purchase Agreement, if any, the fees, costs and expenses of any Independent Accountant to which any dispute is submitted under this Section 1(c) shall be split equally between the Company and the Holder. Each such party shall fund its fifty percent (50%) portion of such Independent Accountant's fees, costs and expenses as a condition to initiating the dispute-resolution process for the calculation of the 2020 Northeast Gross Profit or the 2021 Northeast Gross Profit, as applicable.

(d) Determination of the Earned Amount.

(i) The Earned Amount is comprised of a tranche of up to $462,500 with respect to the 2020 Northeast Gross Profit (the "2020 Tranche"), a tranche of up to $462,500 with respect to the 2021 Northeast Gross Profit (the "2021 Tranche") and a tranche of $75,000 (the "Palatine Tranche")

(ii) Subject to Section 1(d)(iv), the 2020 Tranche shall be equal to: (A) $462,500, if and only if the 2020 Northeast Gross Profit equals or exceeds the Target Gross Profit (the "2020 Condition"), (B) $0, if and only if (x) the 2020 Condition was not satisfied and (y) and the 2020 Northeast Gross Profit is less than or equal to 90% of the Target Gross Profit, and (C) if and only if (x) the 2020 Condition was not satisfied and (y) and the 2020 Northeast Gross Profit is greater than 90% of the Target Gross Profit but less than 100% of the Target Gross Profit (such percentage of Target Gross Profit, the "2020 Result"), the amount equal to (1) the 2020 Result's percentage of the range from 90% up to 100% *multiplied by* (2) $462,500 (e.g., (x) a 2020 Result of 95% is 50% of the range from 90% up to 100%, which results in a 2020 Tranche of $231,250 (i.e., 50% * $462,500); (y) a 2020 Result of 92.5% is 25% of the range from 90% up to 100%, which results in a 2020 Tranche of $115,625 (i.e., 25% * $462,500)).

(iii) Subject to Section 1(d)(iv), the 2021 Tranche shall be equal to: (A) $462,500, if and only if the 2021 Northeast Gross Profit equals or exceeds the Target Gross Profit (the "2021 Condition"), (B) $0, if and only if (x) the 2021 Condition was not satisfied and (y) and the 2021 Northeast Gross Profit is less than or equal to 90% of the Target Gross Profit, and (C) if and only if (x) the 2021 Condition was not satisfied and (y) and the 2021 Northeast Gross Profit is greater than 90% of the Target Gross Profit but less than 100% of the Target Gross Profit (such percentage of Target Gross Profit, the "2021 Result"), the amount equal to (1) the 2020 Result's percentage of the range from 90% up to 100% *multiplied by* (2) $462,500 (e.g., (x) a 2020 Result of 95% is 50% of the range from 90% up to 100%, which results in a 2020 Tranche of $231,250 (i.e., 50% * $462,500); (y) a 2020 Result of 92.5% is 25% of the range from 90% up to 100%, which results in a 2020 Tranche of $115,625 (i.e., 25% * $462,500)).

(iv) Each of the 2021 Tranche and the 2022 Tranche shall be $462,500 if and only if (A) the 2020 Condition or the 2021 Condition is not satisfied, and (y) the average of the 2020 Northeast Gross Profit and the 2021 Northeast Gross Profit is equal to or greater than 110% of the Target Gross Profit (the "Combined Condition").

(e) Payment of the Earned Amount. Subject to the Intercreditor Agreement, (i) the amount of the 2020 Tranche determined pursuant to Section 1(d)(ii) shall be paid to the Holder on June 15, 2022, (ii) the amount of the 2021 Tranche determined pursuant to Sections 1(d)(iii) shall be paid to the Holder on June 15, 2022, (iii) the difference between the amount of the 2021 Tranche and the 2022 Tranche determined pursuant to Section 1(d)(iv) and the amounts of the 2021 Tranche and the 2022 Tranche determined pursuant to Sections 1(d)(ii) and 1(d)(iii), respectively (such difference, them "Combined Portion"), shall be paid to the Holder on June 15, 2022 and (iv) the Palatine Tranche shall be paid to the Holder if not assigned to James Palatine and not exercised by him pursuant to the terms of that certain Membership Interest Purchase and Subscription Agreement, to be dated within 7 days of the execution of this Note, by and between James Palatine and TotalStone, LLC (each such date, the "Payment Date"). If payment of the entire portion of the Earned Amount due on a Payment Date is not made due to the Intercreditor Agreement, the Company shall pay such Earned Amount as soon as permitted under the Intercreditor Agreement.

(f) Target Gross Profit. Attached as Exhibit B is a calculation of the portion of Target Gross Profit consisting of the first ten (10) months of the trailing twelve (12) month period prior to the Closing as determined by the Seller. Within sixty (60) days after the Closing Date, the Seller will deliver to the Company a calculation of the portion of the Target Gross Profit consisting of the 11th and 12th month of the trailing twelve (12)-month period prior to the Closing as determined by the Seller in the same manner as the Seller determined the first ten (10) months of Target Gross Profit.

2. Interest.

(a) Interest on each Earned Amount shall be deemed to accrue at the rate of the greater of (i) three percent per annum or (ii) the applicable federal rate, beginning on the date of this Note through (A) in the case of the amount of the 2020 Tranche determined pursuant to Section 1(d)(ii), December 31, 2020, (B) in the case of the amount of the 2021 Tranche determined pursuant to Section 1(d)(iii), December 31, 2021, (C) in the case of the amount of the Combined Portion, December 31, 2021, and (D) in the case of the Palatine Tranche, December 31, 2021, provided that from and after each such date, interest shall accrue on the applicable Earned Amount at the rate of seven percent (7%) per annum until each such Earned Amount is paid in full.

(b) The Company shall pay all accrued and unpaid interest as soon as permitted under the Intercreditor Agreement.

(c) In the event that any interest rate provided for herein shall exceed the maximum lawful rate, such interest rate shall be limited to such maximum lawful rate. Any payment by the Company of any interest amount in excess of that permitted by law shall be considered a mistake, with the excess being applied to the principal of this Note without premium or penalty.

3. Rights of Setoff. Subject to and in accordance with the Purchase Agreement, the Company shall be entitled to set off undisputed payments due and owing to the Buyer under the Purchase Agreement against payments due and owing to or which shall become owing to Holder

pursuant to the terms of this Note. If the Company elects to exercise its right of set off, any amounts so set off shall be applied first, to accrued interest and second, to principal outstanding under this Note.

4. Intentionally Omitted.

5. Financial Reporting. The Company shall provide financial statements to the Holder within forty-five (45) days after the end of each fiscal quarter, or at such other times that the Company provides any financial statements to the Lender under the Senior Credit Agreement (as defined in the Intercreditor Agreement) (the "Senior Lender"). Such financial statements shall be in the same form, and with the same certifications as provided to, the Senior Lender.

6. Target Gross Profit Operation of the Business. So long as this Note is outstanding, each of the Company and its subsidiaries:

(a) shall maintain, or cause to be maintained, separate financial books and records of the Company separate and distinct as if the Company is a stand-alone business, whether or not the Company is actually maintained as a stand-alone business; and

(b) shall not change the Fiscal Year of the Company or any of its subsidiaries.

7. Subordination and Security.

(a) All obligations owing to the Holder pursuant to this Note are and shall be subordinate to the Senior Indebtedness (as defined in the Intercreditor Agreement) in accordance with the terms of the Intercreditor Agreement. If the Company would violate a covenant under the Senior Indebtedness by making a payment to the Holder pursuant to this Note, the Company shall pay as much of the amount then due as possible without causing a covenant violation with respect to the Senior Indebtedness, and the unpaid amount shall accrue interest until paid as soon as possible without causing a covenant violation under the Senior Indebtedness.

(b) All obligations owing to the Holder pursuant to this Note are being guaranteed by TotalStone, LLC (the "Guarantor") pursuant to the Guaranty.

(c) All obligations owing to the Holder pursuant to this Note shall be secured by a security interest in, and lien on, all assets or property of Guarantor and the Company and its subsidiaries as provided in the Security Agreement, which security interest and lien shall be subordinate to the security interest and lien securing the Senior Obligations as provided in the Intercreditor Agreement.

8. Remedies. Subject to the terms of the Intercreditor Agreement, the Holder may take any action against the Company and Guarantor available to it under the Security Agreement or at law or in equity or by statute or otherwise.

9. Definitions and GAAP. Except as otherwise specified in this Section 7, all accounting terms used in this Note shall be interpreted and all accounting calculations, computations and determinations to be made under this Note shall be made in accordance with generally accepted accounting principles in the United States as in effect from time to time,

consistently applied in accordance with the Seller's past practices as reflected in the portion of Target Gross Profit calculated by the Seller as set forth on Exhibit A hereto.

(a) "Financial Statements" means the financial statements for the Company, which financial statements shall be prepared in accordance with GAAP.

(b) "Fiscal Year" means the period beginning on January 1st of any year and ending on December 31st of any year.

(c) "Guaranty" means that certain Guaranty given by TotalStone, LLC and the Company in favor of the Holder dated as of November 13, 2019.

(d) "Intercreditor Agreement" has the meaning assigned to such term in the legend to this Note.

(e) "Northeast Gross Profit" shall mean the gross profit of the Business during the applicable Fiscal Year (which shall be calculated by Company in the same manner by which the Seller calculated Target Gross Profit prior to the Closing) on (i) all sales of any products to Company's customers (including sales of products from Parent's product line except for sales of such products to customers of the Seller within the year prior to the Closing Date that were also customers of the Parent within the year prior to the Closing Date), plus (ii) all sales of products from the Company's product lines to any of Parent's customers.

(f) "Parent" shall mean Totalstone, LLC, a Delaware limited liability company.

(g) "Security Agreement" means that certain Security Agreement, by and among the Holder, TotalStone, LLC and the Company dated as of November 13, 2019.

(h) "Target Gross Profit" means the Seller's gross profit for the twelve-month period ending as of the last day of the calendar month most recently ended prior to the Closing Date.

10. Restrictions on Transfer. No Holder of this Note (including the original Holder) shall sell, transfer, assign, negotiate, pledge or otherwise dispose of this Note without the prior written consent of the Company (which consent be granted of withheld in the sole discretion of the Company); provided, however, that the Holder may (a) transfer and assign this Note, or any portion thereof, to one or more of its affiliates which are controlled by the same persons that control Northeast Masonry Distributors, LLC on the date hereof, upon written notice to the Company and (b) transfer and assign the portion of the Note constituting the Palatine Tranche to James Palatine upon written notice to the Company. Any transferee of this Note hereby agrees to take such Note subject to all of the Company's rights and privileges hereunder. In the event that there is more than one Holder, then the term "Holder" shall include all Holders. Notwithstanding the foregoing, no Holder of this Note (including the original Holder) may sell, transfer, assign, negotiate, pledge or otherwise dispose of all or any portion of this Note (or any of its rights or obligations hereunder) unless such sale, transfer, assignment, negotiation, pledge or other disposition complies with the requirements of the Subordination Agreement (it being understood

and agreed that any sale, transfer, assignment, negotiation, pledge or other disposition made in violation of the Subordination Agreement shall be void *ab initio*).

11. Cancellation. After all principal, accrued interest and fees and expenses at any time owed on this Note, if any, has been paid in full, this Note shall be surrendered to the Company for cancellation and shall not be reissued. Additionally, this Note shall be surrendered to the Company for cancellation once it is determined pursuant to Section 1 that the Satisfaction of Earned Amount conditions cannot occur.

12. Payments.

(a) Subject to the Intercreditor Agreement, the Company shall pay principal and interest on this Note when due in cash by wire transfer of immediately available funds in accordance with the instructions of the Holder previously delivered to the Company in writing.

(b) If any date for payment falls due on a day which is not a Business Day, then such payment date shall be extended to the next succeeding Business Day, and interest shall continue to accrue at the required rate hereunder until any such payment is made.

(c) All payments (including prepayments) of principal, interest and other amounts required hereunder shall be made in immediately available lawful money of the United States of America and shall be made without setoff, recoupment, recission, counterclaim or deduction of any kind. Subject to the terms of the Intercreditor Agreement, each payment under this Note shall be credited first to unpaid fees and expenses, second to accrued and unpaid interest and then to the principal balance of this Note.

13. Demand; Presentment. The Company hereby expressly waives demand and presentment for payment, notice of non-payment, notice of dishonor, protest, notice of protest and diligence in taking any action to collect any amount due and owing hereunder, and shall be directly and primarily liable for the payment of all sums due and owing and which become due and owing hereon, regardless of and without any notice, diligence, act or omission with respect to the collection of any amount due and owing hereunder.

14. Notices. All notices, consents, waivers, demands and other communications required or permitted by this Note shall be in writing and shall be deemed given to a party when (a) delivered to the appropriate address by hand or by nationally recognized overnight courier service (costs prepaid); (b) sent by e-mail with confirmation of transmission by the transmitting equipment; or (c) mailed to the addressee, if sent by certified mail, return receipt requested, in each case to the following addresses or e-mail addresses and marked to the attention of the person (by name or title) designated below (or to such other address, e-mail address or person as a party may designate by notice to the other parties), provided that any notice sent by email shall be deemed received on the first Business Day following such confirmed transmission:

If to the Holder:

3 Belcher Street

Plainville, MA 02762
Attn: Stephen E. Meltzer, Esq.
Telephone number: (508) 643-2920
Email: smeltzer@edgewood-development.com

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

Hinckley, Allen & Snyder LLP
28 State Street
Boston, MA 02109
Attn: Jennifer V. Doran
Telephone number: 617-378-4128
Facsimile number: 617-345-9020
Email: jdoran@hinckleyallen.com

If to the Company:

c/o Brookstone Partners
232 Madison Avenue, Suite 600
New York, New York 10016

Attn: Michael Toporek
Telephone number: (212) 302-8558
Email: toporekm@brookstonepartners.com

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

Nixon Peabody LLP
70 W. Madison St., Suite 3500
Chicago, IL 60602
Attn: Robert A. Drobnak
Telephone number: (312) 977-4348
Facsimile number: (844) 558-3818
Email: radrobnak@nixonpeabody.com

15. Governing Law; Jurisdiction. This Note, and all claims or causes of action (whether in contract, tort or statute) that may be based upon, arise out of or relate to this Note, or the negotiation, execution or performance of this Note (including any claim or cause of action based upon, arising out of or related to any representation or warranty made in or in connection with this Note or as an inducement to enter into this Note), shall be governed by, and enforced in accordance with, exclusively the internal laws of the State of Delaware, including its statutes of limitations. Any suit, action or proceeding with respect to this Note, any such claim or cause of action or any judgment entered by any court in respect of any thereof, shall be brought exclusively in any federal or state court of competent jurisdiction located in the State of Delaware, and the Company and the Holder hereby submit to the exclusive jurisdiction of such

courts for the purpose of any such suit, action, proceeding, claim, cause of action or judgment. Each of the Holder and the Company hereby irrevocably waives any objections which it may now or hereafter have to the laying of the venue of any such suit, action, proceeding, claim, cause of action or judgment brought in any such court, and hereby further irrevocably waives any claim that any such suit, action, proceeding, claim, cause of action or judgment brought in any such court has been brought in any inconvenient forum.

16. Amendments and Waivers. No amendment or waiver of any provision of this Note, nor consent to any departure therefrom, shall in any event be effective unless the same shall be in writing and signed by the party against which the enforcement of such amendment or waiver is sought, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

17. No Strict Construction. The Company and the Holder have participated jointly in the negotiation and drafting of this Note. In the event an ambiguity or question of intent or interpretation arises, this Note shall be construed as if drafted jointly by the Company and the Holder, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provision of this Note.

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19. Execution of Note. This Note may be executed in one or more counterparts, each of which shall be deemed to be an original copy of this Note and all of which, when taken together, shall be deemed to constitute one and the same agreement. Counterparts may be delivered by facsimile, electronic mail or other electronic submission.

[signature page follows]

IN WITNESS WHEREOF, the Company has executed and delivered this Note as of the date set forth on the first page of this Note.

COMPANY:

NEM PURCHASER, LLC
by TotalStone, LLC, its Managing Member

By: _____
Name: Matthew Lipman
Title: A Manager

EXHIBIT A

Example

See attached.

EXHIBIT A
NORTHEAST MASONRY GROSS PROFIT
EXAMPLE FOR PURPOSES OF EARN OUT NOTE

AccountNo	Description	12/31/2018	8/31/2019
4605100.000	Merchandise Sales	$0.00	$0.00
4605100.001	Sales:Dist	($12,920,262.33)	($11,179,377.29)
4605100.002	Sales:Fab	($1,272,351.12)	($893,741.10)
4605100.003	Sales:Specials	($776,689.21)	($816,003.50)
4605300.001	Merch Sales - Relat:Dist	$0.00	$0.00
4605300.002	Merch Sales - Relat:Fab	$0.00	$0.00
4605500.001	Fabrication Revenue:Dist	$0.00	$0.00
4605500.002	Fabrication Revenue:Fab	$0.00	$0.00
4608100.001	Delivery:Dist	($72,794.03)	($51,888.81)
4608100.002	Delivery:Fab	$0.00	$0.00
4609500.000	Sales Discounts & Al	$0.00	$0.00
4609500.001	Sales Discounts & Al:Dist	$130,693.02	$32,615.94
4609500.002	Sales Discounts & Al:Fab	$0.00	$0.00
4609500.003	Sales Discounts & Al:Specials	$0.00	$0.00
4609510.001	Sales Disc Spec:Dist	$0.00	$0.00
4609510.002	Sales Disc Spec:Fab	$0.00	$0.00
4609550.001	Sales Returns:Dist	$173,607.09	$106,186.00
4609550.002	Sales Returns:Fab	$5,561.64	$1,857.28
4609550.003	Sales Returns:Specials	$6,194.62	$4,278.80
4609600.000	Sales Adjust Credits	$0.00	$0.00
4609600.001	Sales Adjust Credits:Dist	$29,646.66	$22,662.66
4609600.002	Sales Adjust Credits:Fab	$0.00	$0.00
		($14,696,393.66)	($12,773,410.02)
5604300.000	Cost of Goods Sold	$0.00	$0.00
5604300.001	Cost of Goods Sold:Dist	$9,115,174.34	$7,989,133.36
5604300.002	Cost of Goods Sold:Fab	$776,981.12	$596,467.97
5604300.003	Cost of Goods Sold:Specials	$570,317.44	$619,965.08
5604305.000	COGS Special	$0.00	$0.00
5604305.001	COGS Special:Dist	$133,850.00	($11,141.00)
5604305.002	COGS Special:Fab	$35.00	$1,844.63
5604305.003	COGS Special:Specials	$0.00	$0.00
5604310.000	COGS - Other	$0.00	$0.00
5604310.001	COGS - Other:Dist	$11,558.24	$9,022.19
5604310.002	COGS - Other:Fab	($6,211.20)	$7,062.96
5604310.003	COGS - Other:Specials	$4,224.69	$1,720.26
5604320.001	Landed Cost Freight-In Variance:Dist	$33,135.37	($43,167.60)
5604320.002	Landed Cost Freight-In Variance:Fab	$0.00	$0.00
5604350.000	Inventory Adjustment	$0.00	$0.00
5604350.001	Inventory Adjustment:Dist	$56,822.99	$75,770.05

5604350.002	Inventory Adjustment:Fab	$844.45	$22,033.83
5604350.003	Inventory Adjustment:Specials	$3,979.84	$6,475.26
5604360.000	Net Pallet Expense	$0.00	$0.00
5604360.001	Net Pallet Expense:Dist	$53,145.32	$28,157.50
5604400.001	Liability Insurance:Dist	$126,551.58	$110,698.01
5604400.002	Liability Insurance:Fab	$12,667.89	$8,918.85
5604400.003	Liability Insurance:Specials	$7,687.81	$8,117.24
5605100.000	Direct Labor	$0.00	$0.00
5605100.001	Direct Labor:Dist	$0.00	$0.00
5605100.002	Direct Labor:Fab	$137,933.87	$99,173.05
5605210.001	Direct Materials:Dist	$0.00	$0.00
5605210.002	Direct Materials:Fab	$0.00	$0.00
5605250.000	Subcontractor Expens:Main	$0.00	$0.00
5605250.001	Subcontractor Expens:Dist	$0.00	$0.00
5605250.002	Subcontractor Expens:Fab	$53,667.68	$49,545.98
5605320.001	Trucking - Delivery 3rd Party:Dist	$7,624.89	$4,181.21
5605320.002	Trucking:Fab	$0.00	$0.00
5605320.003	Trucking:Specials	$0.00	$0.00
5605325.000	Truckg-Chld Lea:Dist	$0.00	$0.00
5605325.001	Truckg-Chld Lea:Dist:Dist	$416,741.60	$310,846.35
5605325.002	Truckg-Chld Lea:Dist:Fab	$0.00	$0.00
5605420.000	Equipment	$0.00	$0.00
5605420.001	Equipment Maintenance & Repair:Dist	$110,884.85	$34,294.64
5605420.002	Equipment Maintenance & Repair:Fab	$36,685.37	$18,166.85
5605610.001	Other Costs:Dist	$3,694.26	$2,326.90
5605610.002	Other Costs:Fab	$0.00	$247.50
5605700.000	Supplies - Misc Jobs:Main	$0.00	$0.00
5605700.001	Supplies:Dist	$35,045.46	$27,192.21
5605700.002	Supplies:Fab	$13,132.64	$8,439.82
5605750.000	Tooling:Main	$0.00	$0.00
5605750.001	Tooling:Dist	$1,450.00	$1,082.19
5605750.002	Tooling:Fab	$28,571.17	$28,606.98
5605750.003	Tooling:Specials	$0.00	$0.00
5605800.000	Indirect Laboe	$0.00	$0.00
5605800.002	Indirect Labor:Fab	$59,827.07	$49,958.64
5606100.002	Absorbed Labor:Fab	($132,476.64)	($97,895.38)
5606250.002	Absorbed Subcontract:Fab	($45,992.68)	($49,415.98)
5606420.002	Absorbed Equipment:Fab	($67,379.47)	($49,466.48)
5606425.001	Material Warranty:Dist	$0.00	$0.00
5606425.002	Material Warranty:Fab	$0.00	$0.00
5801190.000	Facility Interest	$0.00	$0.00
5801190.001	Facility Interest:Dist	$561.24	$1,449.28
5801190.002	Facility Interest:Fab	$10,400.77	$5,593.69
5801200.001	Building Rent:Dist	$0.00	$0.00
5801200.002	Building Rent:Fab	$0.00	$0.00
5801300.001	Facility Deprec:Dist	$0.00	$0.00
5801300.002	Facility Deprec:Fab	$51,074.26	$34,049.51

5801440.001	Property Taxes:Dist	$696.00	$488.71
5801440.002	Property Taxes:Fab	$0.00	$0.00
5801500.001	Facility Insurance:Dist	$0.00	$0.00
5801500.002	Facility Insurance:Fab	$0.00	$0.00
5801890.000	Facility Utilities	$0.00	$0.00
5801890.001	Facility Utilities:Dist	$36,249.48	$25,843.41
5801890.002	Facility Utilities:Fab	$11,462.18	$9,461.78
5801900.000	Misc Location expens	$0.00	$0.00
5801900.001	Misc Location expens:Dist	$52,288.89	$29,217.38
5801900.002	Misc Location expens:Fab	$0.00	$0.00
5801905.000	Other Trucking	$0.00	$95.00
5801905.001	Other Trucking:Dist	$7,475.70	$0.00
	SUBTOTAL COST OF SALES	$11,730,383.47	$9,974,561.83
LESS COSTS EXCLUDED FROM GROSS PROFIT			
	Facility Interest	$0.00	$0.00
	Facility Interest:Dist	$561.24	$1,449.28
	Facility Interest:Fab	$10,400.77	$5,593.69
	Facility Deprec:Dist	$0.00	$0.00
	Facility Deprec:Fab	$51,074.26	$34,049.51
		$62,036.27	$41,092.48
	NET COST OF SALES	$11,668,347.20	$9,933,469.35
	NORTHEAST MASONRY GROSS PROFIT	$3,028,046.46	$2,839,940.67
ADDITIONAL COSTS/INCOME EXCLUDED FROM GROSS PROFIT			
6909100.000	Payroll:Main	$1,277,751.65	$865,716.06
6909100.003	Payroll:Specials	$0.00	$0.00
6909101.000	PR Incentive	$111,374.70	$0.00
6909190.000	Interest:Main	$71,923.95	$62,685.95
6909190.003	Interest:Specials	$0.00	$0.00
6909320.000	Material Samples:Main	$2,164.00	$136.29
6909320.001	Material Sample:Dist	$35,827.38	$26,360.52
6909320.002	Material Sample:Fab	$0.00	$0.00
6909320.003	Material Sample:Specials	$0.00	$0.00
6909321.000	Material Warranty	$0.00	$0.00
6909321.001	Material Warranty:Dist	$14,770.87	$6,564.35
6909321.002	Material Warranty:Fab	$0.00	$0.00
6909321.003	Material Warranty:Specials	$0.00	$0.00
6909325.000	Advertising - Media:Main	$478.75	$251.53
6909326.000	Advertising - Web & E-Marketing	$0.00	$0.00
6909327.000	Advertising - Printed Material	$15,686.05	$22,266.27
6909327.003	Advertising - Materi:Specials	$0.00	$0.00

6909328.000	Advertising - Exhibits & Events	$11,457.91	$8,596.81
6909328.003	Advertising -Convent:Specials	$0.00	$0.00
6909329.000	Amortization Landsca:Main	$18,949.35	$12,632.90
6909330.000	Merch Displ	$18,728.13	$23,391.22
6909331.000	Merchandise - Hardgoods	$6,155.00	$2,757.13
6909332.001	NTV - Distribution	$0.00	$0.00
6909335.000	Bad Debt:Main	$0.00	$0.00
6909345.000	Bank Charges:Main	$10,233.41	$8,648.99
6909355.000	Computer Expense:Main	$14,522.83	$12,814.81
6909365.000	Contributions:Main	$5,825.99	$3,550.22
6909370.000	Depreciation - Off:Main	$49,411.61	$29,923.41
6909375.000	Dues & Subscription:Main	$2,425.02	$525.00
6909380.000	Electricity:Main	$0.00	$0.00
6909385.000	Employee Expense:Main	$10,569.58	$5,755.97
6909385.001	Employee Expense:Dist	$1,534.26	$0.00
6909395.000	Insurance Expense:Main	$1,530.00	$1,226.66
6909405.000	Medical Expense:Main	$0.00	$0.00
6909460.000	Office Expense:Main	$17,486.34	$10,687.72
6909460.003	Office Expense:Specials	$0.00	$0.00
6909465.000	Office Supplies:Main	$10,891.80	$4,188.10
6909465.001	Office Supplies:Dist	$0.00	$0.00
6909465.003	Office Supplies:Specials	$0.00	$0.00
6909485.000	Other:Main	$0.00	$0.00
6909495.000	Outside Labor:Main	$8,320.00	$5,440.00
6909545.000	Postage:Main	$219.63	$197.95
6909565.000	Professional:Main	$47,984.80	$20,383.50
6909570.000	Purchase Discounts:Main	$0.00	$0.00
6909575.000	RE Taxes:Main	$12,063.06	$8,087.70
6909580.000	Rent - Office:Main	$150,000.00	$105,000.00
6909585.000	Rent - Other:Main	$0.00	$0.00
6909595.000	R&M - Office Equip:Main	$4.98	$0.00
6909598.000	R & M - Other:Main	$1,875.49	$5,925.13
6909601.000	Taxes & Fees:Main	$0.00	$0.00
6909605.000	Training:Main	$0.00	$0.00
6909615.000	Telephone:Main	$19.54	$0.00
6909616.000	Telephone - Cellular:Main	$13,751.02	$13,198.10
6909620.000	Travel:Main	$14,827.79	$27,070.96
6909620.002	Travel:Fab	$0.00	$0.00
6909625.000	T&E:Main	$16,272.33	$21,692.78
6909630.000	Vehicle Expense:Main	$39,805.19	$20,660.66
6909630.003	Vehicle Expense:Specials	$0.00	$0.00
6909670.000	Vehicle Exp - Deprec:Main	$20,025.88	$16,995.27
6909890.000	Misc Utilities:Main	$0.00	$0.00
6909999.000	Allocated G & A:Main	$219,999.83	$146,666.64
8909950.000	Misc Taxes:Main	$520.00	$300.00
9800200.000	Gain/Loss Sale of As:Main	($2,300.00)	($3,800.00)
9800300.000	Other Income:Main	($1,792.13)	($2,471.65)

EXHIBIT B

Ten Month Calculation

See attached.

EXHIBIT B
NORTHEAST MASONRY TARGET GROSS PROFIT
Target Gross Profit

A calculation of the portion of Target Gross Profit consisting of the first ten (10) months of the trailing twelve (12) month period prior to the Closing as determined by the Seller.
Nov 1, 2018 through August 31, 2019

AccountNo	Description	
4605100.000	Merchandise Sales	$0.00
4605100.001	Sales:Dist	($12,240,271.52)
4605100.002	Sales:Fab	($1,080,399.46)
4605100.003	Sales:Specials	($924,887.85)
4605300.001	Merch Sales - Relat:Dist	$0.00
4605300.002	Merch Sales - Relat:Fab	$0.00
4605500.001	Fabrication Revenue:Dist	$0.00
4605500.002	Fabrication Revenue:Fab	$0.00
4608100.001	Delivery:Dist	($58,827.05)
4608100.002	Delivery:Fab	$0.00
4609500.000	Sales Discounts & Al	$0.00
4609500.001	Sales Discounts & Al:Dist	$34,391.88
4609500.002	Sales Discounts & Al:Fab	$0.00
4609500.003	Sales Discounts & Al:Specials	$0.00
4609510.001	Sales Disc Spec:Dist	$0.00
4609510.002	Sales Disc Spec:Fab	$0.00
4609550.001	Sales Returns:Dist	$138,632.48
4609550.002	Sales Returns:Fab	$7,349.66
4609550.003	Sales Returns:Specials	$10,473.42
4609600.000	Sales Adjust Credits	$0.00
4609600.001	Sales Adjust Credits:Dist	$27,292.18
4609600.002	Sales Adjust Credits:Fab	$0.00
		($14,086,246.26)
5604300.000	Cost of Goods Sold	$0.00
5604300.001	Cost of Goods Sold:Dist	$8,708,002.13
5604300.002	Cost of Goods Sold:Fab	$711,785.16
5604300.003	Cost of Goods Sold:Specials	$695,626.91
5604305.000	COGS Special	$0.00
5604305.001	COGS Special:Dist	$35,745.00
5604305.002	COGS Special:Fab	$1,844.63
5604305.003	COGS Special:Specials	$0.00
5604310.000	COGS - Other	$1,805.18
5604310.001	COGS - Other:Dist	($1,548.79)
5604310.002	COGS - Other:Fab	$1,924.21

5604310.003	COGS - Other:Specials	$2,080.75
5604320.001	Landed Cost Freight-In Variance:Dist	($48,898.02)
5604320.002	Landed Cost Freight-In Variance:Fab	$0.00
5604350.000	Inventory Adjustment	$3,885.00
5604350.001	Inventory Adjustment:Dist	$45,701.33
5604350.002	Inventory Adjustment:Fab	$11,978.28
5604350.003	Inventory Adjustment:Specials	$5,202.98
5604360.000	Net Pallet Expense	$0.00
5604360.001	Net Pallet Expense:Dist	$34,118.00
5604400.001	Liability Insurance:Dist	$120,948.28
5604400.002	Liability Insurance:Fab	$10,730.51
5604400.003	Liability Insurance:Specials	$9,127.00
5605100.000	Direct Labor	$0.00
5605100.001	Direct Labor:Dist	$0.00
5605100.002	Direct Labor:Fab	$118,766.44
5605210.001	Direct Materials:Dist	$0.00
5605210.002	Direct Materials:Fab	$0.00
5605250.000	Subcontractor Expens:Main	$0.00
5605250.001	Subcontractor Expens:Dist	$0.00
5605250.002	Subcontractor Expens:Fab	$63,502.23
5605320.001	Trucking - Delivery 3rd Party:Dist	$5,381.21
5605320.002	Trucking:Fab	$0.00
5605320.003	Trucking:Specials	$0.00
5605325.000	Truckg-Chld Lea:Dist	$0.00
5605325.001	Truckg-Chld Lea:Dist:Dist	$351,225.15
5605325.002	Truckg-Chld Lea:Dist:Fab	$0.00
5605420.000	Equipment	$0.00
5605420.001	Equipment Maintenance & Repair:Dist	$45,024.92
5605420.002	Equipment Maintenance & Repair:Fab	$31,188.14
5605610.001	Other Costs:Dist	$2,778.46
5605610.002	Other Costs:Fab	$247.50
5605700.000	Supplies - Misc Jobs:Main	$0.00
5605700.001	Supplies:Dist	$32,026.48
5605700.002	Supplies:Fab	$8,848.52
5605750.000	Tooling:Main	$0.00
5605750.001	Tooling:Dist	$1,082.19
5605750.002	Tooling:Fab	$30,449.34
5605750.003	Tooling:Specials	$0.00
5605800.000	Indirect Laboe	$0.00
5605800.002	Indirect Labor:Fab	$58,742.63
5606100.002	Absorbed Labor:Fab	($116,016.38)
5606250.002	Absorbed Subcontract:Fab	($55,697.23)
5606420.002	Absorbed Equipment:Fab	($59,326.76)
5606425.001	Material Warranty:Dist	$0.00
5606425.002	Material Warranty:Fab	$0.00
5801190.000	Facility Interest	$0.00
5801190.001	Facility Interest:Dist	$1,441.00

5801190.002	Facility Interest:Fab	$7,727.67
5801200.001	Building Rent:Dist	$0.00
5801200.002	Building Rent:Fab	$0.00
5801300.001	Facility Deprec:Dist	$0.00
5801300.002	Facility Deprec:Fab	$42,561.87
5801440.001	Property Taxes:Dist	$604.71
5801440.002	Property Taxes:Fab	$0.00
5801500.001	Facility Insurance:Dist	$0.00
5801500.002	Facility Insurance:Fab	$0.00
5801890.000	Facility Utilities	$0.00
5801890.001	Facility Utilities:Dist	$32,859.86
5801890.002	Facility Utilities:Fab	$12,030.63
5801900.000	Misc Location expens	$0.00
5801900.001	Misc Location expens:Dist	$37,881.63
5801900.002	Misc Location expens:Fab	$0.00
5801905.000	Other Trucking	($7,233.50)
5801905.001	Other Trucking:Dist	$7,475.70
	SUBTOTAL COST OF SALES	$11,003,630.95
LESS COSTS EXCLUDED FROM GROSS PROFIT		
	Facility Interest	$0.00
	Facility Interest:Dist	$1,441.00
	Facility Interest:Fab	$7,727.67
	Facility Deprec:Dist	$0.00
	Facility Deprec:Fab	$42,561.87
		$51,730.54
	NET COST OF SALES	$10,951,900.41
	NORTHEAST MASONRY GROSS PROFIT	$3,134,345.85
ADDITIONAL COSTS/INCOME EXCLUDED FROM GROSS PROFIT		
6909100.000	Payroll:Main	$1,085,049.61
6909100.003	Payroll:Specials	$0.00
6909101.000	PR Incentive	$111,374.70
6909190.000	Interest:Main	$69,217.07
6909190.003	Interest:Specials	$0.00
6909320.000	Material Samples:Main	$136.29
6909320.001	Material Sample:Dist	$32,606.25
6909320.002	Material Sample:Fab	$0.00
6909320.003	Material Sample:Specials	$0.00
6909321.000	Material Warranty	$0.00
6909321.001	Material Warranty:Dist	$8,304.26
6909321.002	Material Warranty:Fab	$0.00

6909321.003	Material Warranty:Specials	$0.00
6909325.000	Advertising - Media:Main	$272.78
6909326.000	Advertising - Web & E-Marketing	$0.00
6909327.000	Advertising - Printed Material	$24,459.91
6909327.003	Advertising - Materi:Specials	$0.00
6909328.000	Advertising - Exhibits & Events	$11,910.82
6909328.003	Advertising -Convent:Specials	$0.00
6909329.000	Amortization Landsca:Main	$15,791.15
6909330.000	Merch Displ	$23,391.22
6909331.000	Merchandise - Hardgoods	$2,757.13
6909332.001	NTV - Distribution	$0.00
6909335.000	Bad Debt:Main	$0.00
6909345.000	Bank Charges:Main	$9,319.89
6909355.000	Computer Expense:Main	$14,110.49
6909365.000	Contributions:Main	$3,879.29
6909370.000	Depreciation - Off:Main	$38,301.17
6909375.000	Dues & Subscription:Main	$2,275.00
6909380.000	Electricity:Main	$0.00
6909385.000	Employee Expense:Main	$9,154.49
6909385.001	Employee Expense:Dist	$0.00
6909395.000	Insurance Expense:Main	$1,481.66
6909405.000	Medical Expense:Main	$0.00
6909460.000	Office Expense:Main	$14,206.55
6909460.003	Office Expense:Specials	$0.00
6909465.000	Office Supplies:Main	$6,108.38
6909465.001	Office Supplies:Dist	$0.00
6909465.003	Office Supplies:Specials	$0.00
6909485.000	Other:Main	$0.00
6909495.000	Outside Labor:Main	$6,880.00
6909545.000	Postage:Main	$234.41
6909565.000	Professional:Main	$20,383.50
6909570.000	Purchase Discounts:Main	$0.00
6909575.000	RE Taxes:Main	$10,420.76
6909580.000	Rent - Office:Main	$130,000.00
6909585.000	Rent - Other:Main	$0.00
6909595.000	R&M - Office Equip:Main	$0.00
6909598.000	R & M - Other:Main	$6,041.56
6909601.000	Taxes & Fees:Main	$0.00
6909605.000	Training:Main	$0.00
6909615.000	Telephone:Main	$0.00
6909616.000	Telephone - Cellular:Main	$15,640.64
6909620.000	Travel:Main	$27,261.82
6909620.002	Travel:Fab	$0.00
6909625.000	T&E:Main	$26,580.78
6909630.000	Vehicle Expense:Main	$35,574.44
6909630.003	Vehicle Expense:Specials	$0.00
6909670.000	Vehicle Exp - Deprec:Main	$21,244.09

6909890.000	Misc Utilities:Main	$0.00
6909999.000	Allocated G & A:Main	$183,333.30
8909950.000	Misc Taxes:Main	$820.00
9800200.000	Gain/Loss Sale of As:Main	($6,100.00)
9800300.000	Other Income:Main	($3,888.78)

BROOKSTONE PARTNERS IAC, INC.

AMENDED AND RESTATED MANAGEMENT FEE AGREEMENT

This AMENDED AND RESTATED MANAGEMENT FEE AGREEMENT, dated as of March 1, 2020, by and among Totalstone, LLC, a Delaware limited liability company (the "Company"), and Brookstone Partners IAC, Inc., a Delaware corporation ("Advisor").

WHEREAS, the Company and the Advisor entered into certain Consulting Agreement, dated as of October 30, 2006, by and between Brookstone Partners IAC, Inc. (as assignee of MJT Park Investors, Inc.) and TotalStone, LLC, as amended and in effect on the date hereof (the "Existing Management Agreement");

WHEREAS, the parties hereto wish to amend the Existing Management Agreement as set forth herein;

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth the Company and Advisor agree as follows:

Section 1.Retention of Advisor.

The Company hereby retains Advisor, and Advisor accepts such retention, upon the terms and conditions set forth in this Agreement.

Section 2. Term.

(a) This Agreement shall commence on the date hereof and shall terminate on a Change of Control or on the earlier mutual agreement of the parties. "Change of Control" means the transfer in or more transactions by Brookstone Partners Acquisition XIV, LLC (other than to a "Permitted Transferee" as defined in that certain Fourth Amended and Restated Limited Liability Company Agreement of the Company, as the same may be amended from time to time) of a majority of its equity interests in the Company.

(b) The provisions of Section 3(c), Section 4(d), the last sentence of Section 4(f), and Sections 5 through 12 shall survive the termination of this Agreement.

Section 3. Management and Financial Consulting Services.

(a) Advisor shall advise the Company concerning such management matters that relate to financial transactions, acquisitions and other senior management matters related to the business, administration and policies of the Company and its subsidiaries and affiliates, in each case as the Company shall reasonably and specifically request by way of written notice to Advisor, which notice shall specify the services required of Advisor and shall include all background material necessary for Advisor to complete such services. For the avoidance of doubt, the advice and services that the Company may request, and that Advisor shall provide for the fees provided hereunder, include investment banking and financial advisory services with respect to any sale of the Company or its assets, or the acquisition by the Company of another company or its assets. If requested to provide such services, Advisor shall devote such time to any such written request as Advisor shall deem, in its sole discretion, necessary. Such consulting services, in Advisor's sole discretion, shall be rendered in person or by telephone or other

communication. Advisor shall have no obligation to the Company as to the manner and time of rendering its services hereunder, and the Company shall not have any right to dictate or direct the details of the services rendered hereunder.

(b) Advisor shall perform all services to be provided hereunder as an independent contractor to the Company and not as an employee, agent or representative of the Company. Advisor shall have no authority to act for or to bind the Company without the prior written consent of the Company.

(c) This Agreement shall in no way prohibit Advisor or any partners or affiliates of Advisor or any director, officer, partner, agent or employee of Advisor or any partners, shareholders or affiliates from engaging in other activities, whether or not competitive with any business of the Company or any of its respective subsidiaries or affiliates.

Section 4.Compensation.

(a) As consideration for Advisor's agreement to render the services set forth in Section 3(a) of this Agreement and as compensation for any such services rendered by Advisor, the Company agrees to pay to Advisor (i) an aggregate fee equal to fifty thousand dollars ($50,000) for the months of January and February 2020, *plus* (ii) commencing March 1, 2020, a monthly fee (the "Monthly Fee") equal to thirty-three thousand three hundred-thirty dollars and thirty-three cents ($33,333.33), payable in monthly installments in advance, *plus* (iii) for each twelve (12) month period commencing on January 1 and ending on December 31 (the "Annual Period"), commencing with the Annual Period for 2020, a fee equal to five percent (5%) of Adjusted EBITDA (as defined in the current Financing Agreement, as hereinafter defined) of the Company and its subsidiaries during such Annual Period in excess of four million dollars ($4,000,000) (the "Performance Fee"), *plus* (iv) a special services fee in cash equal to two percent (2%) of total consideration of any acquisition of a majority of the equity interests of any entity, an equity recapitalization of the Company (other than the recapitalization anticipated to be consummated on or about April 1, 2020 with Capstone Therapeutics Corp.), the acquisition of all or substantially all of the assets of a business, the merger or consolidation of the Company with or into another person or any other transaction Acquisition (as defined in the current Financing Agreement) consummated by Company, the sale of a majority of the equity interests of the Company or the sale of all or substantially all of the assets of the Company. Advisor retains the right to defer any portion of any fee hereunder (and any fee deferred under the Existing Management Agreement, if any) without waiving the right to receive such payment at a future date. All such deferred fees, if any, shall be paid by the Company upon a Change of Control or the earlier termination of this Agreement in accordance with Section 2(a).

(c) Payments of the Performance Fee shall be made during an Annual Period as follows: (i) quarterly in advance based on the Performance Fee for the prior Annual Period, if any and (ii) as soon as the Performance Fee for an Annual Period is determined (the "Actual Performance Fee"), a payment equal to the amount by which the Actual Performance Fee exceeds the amount of the Performance Fee paid during such Annual Period (the "Paid Performance Fee"). If the Paid Performance Fee exceeds the Actual Performance Fee for any Annual Period (such excess, the "Overpayment"), the amount of the Overpayment shall be offset against the next quarterly installments of the Performance Fee until such Overpayment has been reduced to zero; provided, that if such Overpayment is not reduced to zero within four quarters

by such offset, then the Advisor shall repay the remaining portion of the Overpayment to the Company by such date.

(d) Upon presentation by Advisor to the Company of such documentation as may be reasonably requested by the Company, the Company shall reimburse Advisor for all out-of-pocket expenses, including, without limitation, legal fees and expenses, and other disbursements incurred by Advisor or any partners or affiliates of Advisor or any director, officer, partner, agent or employee of Advisor or any of its partners or affiliates in the performance of services hereunder, on or after the date hereof.

(e) In the event that a scheduled payment falls on a non-business day, that payment date will be taken to be the first business day (being a day on which the New York Stock Exchange is open for business) after such date.

(f) As used in this Agreement, "Financing Agreement" shall mean a credit agreement, loan agreement or any other agreement evidencing senior, secured indebtedness for borrowed money of the Company and its subsidiaries having a principal amount in excess of $1,000,000. The Company shall not pay any fees under this Agreement to the extent such payment would violate a Financing Agreement or any agreements related thereto (such related agreements, the "Debt Instruments"). The Company shall notify Advisor if the Company shall be unable to pay any fees pursuant to the Credit Agreement or the Debt Instruments on each date on which the Company would otherwise make a payment of fees under this Agreement to Advisor. Any portion of the fees payable to Advisor under this Agreement which the Company, or any its subsidiaries or affiliates, is prohibited from paying to Advisor under the Debt Instruments, and which amount is not otherwise paid by the Company, shall be deferred, shall accrue and shall be payable at the earliest time permitted under the Debt Instruments or upon the payment in full of all obligations under the Debt Instruments.

Section 5.Indemnification.

The Company (the "Indemnitor") agrees that it shall indemnify and hold harmless Advisor, the partners and affiliates of Advisor, and any director, officer, partner, agent or employee of Advisor or any of its partners, shareholders, or affiliates (collectively, the "Indemnified Persons") on demand from and against any and all liabilities, costs, expenses, and disbursements (including reasonable fees and expenses of counsel and other advisors) (collectively, "Claims") of any kind with respect to or arising from this Agreement or the performance by any Indemnified Person of any services in connection herewith. Notwithstanding the foregoing provision, the Indemnitor shall not be liable for any Claim under this Section 5 arising from the willful misconduct of any Indemnified Person, or any failure of an Indemnified Person to comply with any contractual, fiduciary or other obligation to any other Indemnified Person.

Section 6.Notices.

All notices, requests, consents and other communications hereunder shall be in writing and shall be deemed sufficient if personally delivered, sent by nationally-recognized overnight

courier, by telecopy, or by registered or certified mail, return receipt requested and postage prepaid, addressed as follows:

if to Advisor, to:

Brookstone Partners IAC, Inc.
232 Madison Avenue, Suite 600
New York, NY 10016
Attention: Michael Toporek

if to the Company, to it at:

Totalstone, LLC
c/o Brookstone Partner IAC, Inc.
232 Madison Avenue, Suite 600
New York, New York 1006
Attention: Matthew Lipman

or to such other address as the party to whom notice is to be given may have furnished to each other party in writing in accordance herewith. Any such notice or communication shall be deemed to have been received (a) in the case of personal delivery, on the date of such delivery, (b) in the case of nationally-recognized overnight courier, on the next business day after the date when sent, (c) in the case of telecopy transmission, when received, and (d) in the case of mailing, on the third business day following that on which the piece of mail containing such communication is posted.

Section 7.Benefits of Agreement.

This Agreement shall bind and inure to the benefit of Advisor, the Company, the Indemnified Persons and any successors to or assigns of Advisor and the Company; provided, however, that this Agreement may not be assigned by either party hereto without the prior written consent of the other party, which consent will not be unreasonably withheld in the case of any assignment by Advisor.

Section 8.Governing Law; Exclusive Jurisdiction; Waiver of Jury Trial.

(a) This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Delaware (without giving effect to principles of conflicts of laws).

(b) THE PARTIES HERETO WILL PROMPTLY SUBMIT ANY DISPUTE ARISING IN CONNECTION WITH ANY SUIT, ACTION, OR OTHER PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT AND THE TRANSACTIONS CONTEMPLATED HEREBY TO THE JURISDICTION OF THE STATE OR FEDERAL COURTS LOCATED IN THE STATE OF DELAWARE, AND HEREBY AGREE NOT TO ASSERT, BY WAY OF MOTION, AS A DEFENSE, OR OTHERWISE IN ANY SUCH SUIT, ACTION, OR PROCEEDING THAT THE SUIT, ACTION, OR PROCEEDING IS BROUGHT IN AN INCONVENIENT FORUM, THAT THE VENUE OF THE SUIT, ACTION, OR PROCEEDING IS IMPROPER OR THAT THIS AGREEMENT OR THE SUBJECT MATTER HEREOF MAY NOT BE ENFORCED BY SUCH COURTS.

(c) EACH OF THE PARTIES HERETO KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, THIS AGREEMENT OR ANY SCHEDULE OR EXHIBIT HERETO, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, OR STATEMENTS (WHETHER VERBAL OR WRITTEN) RELATING TO THE FOREGOING. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES HERETO TO ENTER INTO THIS AGREEMENT.

Section 9.Headings.

Section headings are used for convenience only and shall in no way affect the construction of this Agreement.

Section 10.Entire Agreement; Amendments.

This Agreement contains the entire understanding of the parties with respect to its subject matter and supersedes any and all prior agreements, and neither it nor any part of it may in any way be altered, amended, extended, waived, discharged or terminated except by a written agreement signed by each of the parties hereto.

Section 11.Counterparts.

This Agreement may be executed in counterparts, and each such counterpart shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement.

Section 12.Waivers.

Any party to this Agreement may, by written notice to the other party, waive any provision of this Agreement. The waiver by any party of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach.

[signature page follows]

IN WITNESS WHEREOF, the parties have duly executed this Amended and Restated Management Fee Agreement as of the date first above written.

TOTALSTONE, LLC

DocuSigned by:

By: _____
9DC6B46E43A84E5...

Name: Kevin Grotke
Title: Duly Authorized Signatory

BROOKSTONE PARTNERS IAC, INC.

DocuSigned by:

By: _____
FE9C5837A55C459...

Name: Michael Toporek
Title: President

THIRD AMENDMENT TO REVOLVING CREDIT, TERM LOAN AND SECURITY AGREEMENT

THIS THIRD AMENDMENT TO REVOLVING CREDIT, TERM LOAN AND SECURITY AGREEMENT (this "Agreement") is entered into November 14, 2019 by and between **TOTALSTONE, LLC**, a limited liability company formed under the laws of the State of Delaware ("TotalStone"), **NORTHEAST MASONRY DISTRIBUTORS, LLC (f/k/a NEM Purchaser, LLC)**, a limited liability company formed under the laws of the State of Delaware ("Northeast" and collectively with TotalStone, the "Borrower"), and **BERKSHIRE BANK** (the "Lender" and/or "BB"), a Massachusetts Banking Corporation.

RECITALS

Whereas, the Borrower and Lender entered into a certain Revolving Credit, Term Loan and Security Agreement dated December 20, 2017 (as amended, replaced, restated, modified and/or extended from time to time, the "Loan Agreement"); and

Whereas, Borrower and Lender have agreed to modify the terms of the Loan Agreement as set forth in this Agreement.

Now, therefore, in consideration of the Lender's continued extension of credit and the agreements contained herein, the parties agree as follows:

AGREEMENT

1) **ACKNOWLEDGMENT OF BALANCE**. Borrower acknowledges that the most recent statement of account sent to the Borrower with respect to the Obligations is correct.

2) **MODIFICATIONS**. The Loan Agreement be and hereby is modified as follows:

(a) Northeast Masonry Distributors, LLC (f/k/a NEM Purchaser, LLC), a limited liability company organized under the laws of the State of Delaware, is hereby added as a borrowing entity under the Loan Agreement and the Other Documents and is added to the definition of "Borrower" in the Loan Agreement and the Other Documents. Pursuant to Section 4.1 of the Loan Agreement and to secure the prompt payment and performance to Lender of the Obligations, Northeast hereby assigns, pledges and grants to Lender a continuing security interest in and to and Lien on all of its assets and all of its Collateral, whether now owned or existing or hereafter acquired or arising and wheresoever located.

(b) The following definitions in Section 1.2 of the Loan Agreement are hereby deleted and are replaced to read as follows:

"Inventory Sublimit" shall mean $6,000,000.

"Maximum Loan Amount" shall mean $13,250,000.

"Maximum Revolving Advance Amount" shall mean $11,500,000.

"Original Owners" shall mean (i) with regard to TotalStone, collectively, (a) Stream Finance, (b) Brookstone Partners Acquisition XIV, LLC, a limited liability company of the State of Delaware, (c) Gordon Rocks, Inc., a corporation of the State of New Jersey, (d) Warren Rocks, Inc., a corporation of the State of New Jersey, (e) Kevin Grotke and (f) James Palatine and (ii) with regard to Northeast, TotalStone.

"Seasonal Availability Block" shall mean (i) Two Hundred Fifty Thousand and 00/100 Dollars ($250,000) as of March 1, 2019 through and including November 30, 2019, (ii) Zero and 00/100 Dollars ($0) as of December 1, 2019 through and including March 31, 2020 and (iii) Two Hundred Fifty Thousand and 00/100 Dollars ($250,000) as of April 1, 2020, provided, however, if the Borrower's Compliance Certificate for the fiscal quarter ending June 30, 2020 delivered to the Lender pursuant to Section 9.8 herein and Borrower's monthly management prepared financial statements for the month ending June 30, 2020 delivered to the Lender pursuant to Section 9.9 herein evidence that the Borrower is in compliance with all terms and conditions of the Loan Agreement and the Other Documents and no Default and/or Event of Default exists, then, upon the outstanding balance of the Term Loan being reduced to $250,000, such Seasonal Availability Block shall change from time to time simultaneously with changes to the outstanding balance of the Term Loan to an amount equal to the outstanding balance of the Term Loan at such time so long as no Default and/or Event of Default or Default shall have occurred and be continuing at each such time.

"Subordinated Lender" shall mean, collectively, (i) Stream Finance, as successor in interest to BP Mezzanine Capital, LLC pursuant to that certain Assignment and Assumption of Credit Facility dated as of the Closing Date, as successor in interest to FIFTH STREET MEZZANINE PARTNERS II, L.P. pursuant to that certain Assignment and Assumption of Credit Facility dated as of March 28, 2012 and (ii) the NMD Seller.

"Subordinated Loan Agreement" shall mean, collectively, (i) that certain Amended and Restated Credit Agreement by and between Stream Finance and the Borrower dated as of November 14, 2019, as amended, restated, supplemented or otherwise modified from time to time and (ii) the NMD Subordinated Notes.

"Subordination Agreement" shall mean, collectively, (i) that certain Amended and Restated Subordination and Intercreditor Agreement executed by Stream Finance, the Lender and the Borrower dated the Third Amendment Closing Date and (ii) that certain Subordination and Intercreditor Agreement executed by NMD Seller, the Lender and the Borrower dated the Third Amendment Closing Date, as each may be amended, supplemented or modified from time to time.

(c) The following definitions are hereby added to Section 1.2 of the Loan Agreement to read as follows:

"Adjusted EBITDA" shall mean for any period the sum of (i) Net Income (or loss) of Borrower for such period (excluding extraordinary gains and losses), plus (ii) all interest expense of Borrower for such period, plus (iii) all charges against income of Borrower during such period

for federal, state and local income taxes accrued, plus (iv) depreciation expenses of the Borrower for such period, plus (v) amortization expenses of the Borrower for such period, plus (vi) non-cash management fees, plus (vii) the fair market value of the aggregate cost of goods sold expense of the Borrower during such period, plus (viii) the aggregate amount of non-recurring expenses of the Borrower associated with the Northeast Acquisition during such period, minus (ix) the bargain purchase gain incurred by the Borrower with regard to Northeast Acquisition during such period as calculated by the Lender.

"NMD Seller" shall mean Avelina Masonry LLC (f/k/a Northeast Masonry Distributors, LLC), a Delaware limited liability company.

"NMD Subordinated Notes" shall mean, collectively, that certain Non-Negotiable Secured Subordinated Promissory Note executed by TotalStone in favor of the Junior Creditor in the original principal amount of $2,007,866.40 dated as of November 13, 2019 and that certain Non-Negotiable Secured Subordinated Contingent Value Promissory Note executed by Northeast in favor of the Junior Creditor in the original principal amount to be determined up to $1,000,000 dated as November 13, 2019, in each case, as amended, restated, extended, supplemented or otherwise modified from time to time.

"Northeast Acquisition" shall mean the acquisition of the assets of NMD Seller by Northeast on the Third Amendment Closing Date.

"Permitted Overadvance Amount" shall mean $500,000.

"Permitted Overadvance Period" shall mean the period commencing on January 1, 2020 through and including March 31, 2020.

"Stream Finance" shall mean Stream Finance, LLC, a Delaware limited liability company.

"Stream Preferred Equity Investment" shall mean a preferred equity investment in TotalStone by Stream Finance on or after the Third Amendment Closing Date, however, on or before November 30, 2019 in an aggregate amount not less than $560,750 but not to exceed $1,000,000.

"Stream Preferred Equity Investment Reserve Amount" shall mean $300,000.

"Stream Preferred Equity Investment Reserve Period" shall mean the period commencing on the Third Amendment Closing Date through and including the date that the aggregate Stream Preferred Equity Investment amount is equal to or greater than $560,750.

"Third Amendment Closing Date" shall mean November 14, 2019.

(d) Subsection 2.1(a) is hereby deleted from the Loan Agreement and is replaced with a new Subsection 2.1(a) to read as follows:

(a) Amount of Revolving Advances. Subject to the terms and conditions set forth in this Agreement including Section 2.1(b), Lender will make Revolving Advances to Borrower in aggregate amounts outstanding at any time equal to the lesser of (x) the Maximum Revolving Advance Amount less the aggregate Maximum Undrawn Amount of all outstanding Letters of Credit or (y) an amount equal to the sum of:

(i) 85%, subject to the provisions of Section 2.1(b) hereof ("Receivables Advance Rate"), of Eligible Receivables, plus

(ii) the lesser of (A) the sum of (I) 60%, subject to the provisions of Section 2.1(b) hereof, of the value of the Eligible Inventory owned by TotalStone (the "TotalStone Inventory Advance Rate") plus (II) 50%, subject to the provisions of Section 2.1(b) hereof, of the value of the Eligible Inventory owned by Northeast (the "Northeast Inventory Advance Rate" and collectively with the TotalStone Inventory Advance Rate, the "Inventory Advance Rate") (the Inventory Advance Rate and the Receivables Advance Rate shall collectively be referred to herein as the "Advance Rates") and (B) the Inventory Sublimit, plus

(iii) the Permitted Overadvance Amount during the Permitted Overadvance Period, minus

(iv) the aggregate Maximum Undrawn Amount of all outstanding Letters of Credit, minus

(v) the Seasonal Availability Block, minus

(vi) such reserves as Lender deems proper and necessary in its Permitted Discretion from time to time including, but not limited to, the Stream Preferred Equity Investment Reserve Amount during the Stream Preferred Equity Investment Reserve Period.

The amount derived from the sum of (I) Sections 2.1(a)(y)(i), (ii) and (iii) minus (II) Sections 2.1 (a)(y)(iv), (v) and (vi) at any time and from time to time shall be referred to as the "Formula Amount". The Revolving Advances shall be evidenced by one or more secured promissory notes (collectively, the "Revolving Credit Note") substantially in the form attached hereto as Exhibit 2.1(a). Notwithstanding anything to the contrary contained in the foregoing or otherwise in this Agreement, the outstanding aggregate principal amount of the Revolving Advances at any one time outstanding shall not exceed an amount equal to the lesser of (i) the Maximum Revolving Advance Amount less the Maximum Undrawn Amount of all outstanding Letters of Credit or (ii) the Formula Amount.

(e) Section 6.5 is hereby deleted from the Loan Agreement and is replaced with a new Section 6.5 to read as follows:

6.5 Financial Covenants.

(a) Cash Flow Coverage Ratio. Cause to be maintained, at all times, a Cash Flow Coverage Ratio of not less than 1.15 to 1.00 as of June 30, 2020 and at all times thereafter, tested quarterly on a trailing twelve (12) month basis, upon receipt of the financial

statements required pursuant to Sections 9.7 and 9.9 herein. Notwithstanding anything to the contrary herein, (i) the calculation of the Cash Flow Coverage Ratio will include an add-back in the numerator for actual non-recurring expenses incurred by the Borrower in the 2020 fiscal year up to the maximum amount of $150,000 and (ii) the calculation of EBITDA with regard to the Cash Flow Coverage Ratio for the periods ending June 30, 2020, September 30, 2020 and December 31, 2020 shall be (A) incurred by an amount equal to the sum of (I) the fair market value of the aggregate cost of goods sold expense of the Borrower during such period plus (II) the aggregate amount of non-recurring expenses of the Borrower associated with the Northeast Acquisition during such period and (B) decreased by an amount equal to the bargain purchase gain incurred by the Borrower with regard to Northeast Acquisition during such period as calculated by the Lender.

(b) Minimum Tangible Net Worth. Cause to be maintained, at all times, a Tangible Net Worth of not less than $3,500,000 for the fiscal year ending December 31, 2019, provided, however, such amount shall increase each year thereafter commencing with the fiscal year ending December 31, 2020 by an amount equal to fifty percent (50%) the Borrower's undistributed Net Income (without deduction for loss) for the immediately ended fiscal year at such time, tested semi-annually at the end of June and December of each fiscal year on a consolidated basis.

(c) Adjusted EBITDA. Cause to be maintained an Adjusted EBITDA of not less than (i) $1,000,000 as of December 31, 2019 and (ii) $900,000 as of March 31, 2020, tested on a consolidated, trailing twelve (12) month basis.

(f) Section 7.6 is hereby deleted from to the Loan Agreement and is replaced with a new Section 7.6 to read as follows:

7.6 Capital Expenditures. Contract for, purchase or make any expenditure or commitments for Capital Expenditures in any fiscal year in an aggregate amount in excess of $500,000.

(g) Section 7.27 is hereby deleted from to the Loan Agreement and is replaced with a new Section 7.27 to read as follows:

7.27 Payments to Sponsor under Management Agreement. Pay or make any management fee payments to the Sponsor pursuant to the Management Agreement except that so long as (a) a notice of termination with regard to this Agreement shall not be outstanding, (b) no Default and/or Event of Default shall have occurred and is continuing and/or shall be caused by the making of any and each such management fee payment, (c) the aggregate amount of such management fee payments does not exceed in any fiscal year an amount equal to the sum of $200,000 plus the amounts permitted to be paid pursuant to (z) herein below and (d) the Borrower provides evidence to the Lender that it is and will be in pro forma compliance with the financial covenants set forth in Section 6.5 herein prior to and after giving effect to any and each such management fee payment (whether accrued or not) to the Sponsor pursuant to the Management Agreement, Borrower shall be permitted to make (I) scheduled management fee payments to the Sponsor pursuant to the Management Agreement and/or (II) scheduled management fee payments to the Sponsor pursuant to the Management Agreement which have

started to accrue after the Closing Date during any fiscal year that is not paid for any reason. Notwithstanding anything to the contrary herein, the Borrower shall (y) not be permitted to pay at any time during the Term hereof any management fees accrued and outstanding prior to the Closing Date and (z) be permitted to pay an additional management fee payment in any amount not greater than $8,333.33 in any month that the Borrower's Cash Flow Coverage Ratio measured on a consolidated, trailing twelve (12) month basis is not less than 1.45 to 1.00 after giving effect to each such additional management fee payment (each an "Additional Permitted Monthly Management Fee Payment") upon receipt and satisfactory review by the Lender of the Borrower's management prepared for the immediately preceding month ended pursuant to Section 9.9 herein so long no Default and/or Event of Default shall have occurred and be continuing and/or shall be caused by the making of any and each such Additional Permitted Monthly Management Fee Payment.

(h) Section 9.7 is hereby deleted from to the Loan Agreement and is replaced with a new Section 9.7 to read as follows:

9.7 Annual Financial Statements. Furnish Lender within one hundred twenty (120) days after the end of each fiscal year of Borrower, audited financial statements of Borrower including, but not limited to, statements of income and stockholders' equity and cash flow from the beginning of the current fiscal year to the end of such fiscal year and the balance sheet as at the end of such fiscal year, all prepared in accordance with GAAP on a combined and combining basis consistent with prior practices, and in reasonable detail and reported upon without qualification by Holman Frenia Allison, P.C. or another independent certified public accounting firm selected by Borrower and reasonably satisfactory to Lender (the "Accountants"). The report of the Accountants shall, to the extent that the Accountants customarily provide such statements, be accompanied by a statement of the Accountants certifying that in making the examination upon which such report was based either no information came to their attention which to their knowledge constituted an Event of Default or a Default under this Agreement or, if such information came to their attention, specifying any such Default or Event of Default, its nature, when it occurred and whether it is continuing. In addition, the reports shall be accompanied by a Compliance Certificate.

(i) Section 9.9 is hereby deleted from to the Loan Agreement and is replaced with a new Section 9.9 to read as follows:

9.9 Monthly Financial Statements. Furnish Lender within thirty (30) days after the end of each month, an internally prepared balance sheets of Borrower and internally prepared statements of income and shareholders' equity and cash flow of Borrower reflecting results of operations from the beginning of the fiscal year to the end of such month and for such month, prepared on a combined and combining basis consistent with prior practices and complete and correct in all material respects, subject to the absence of footnotes and year-end audit adjustments.

3) **CONSENT TO ACQUISITION OF ASSETS AND STREAM PREFERRED EQUITY INVESTMENT.** The Lender hereby consents (a) to the acquisition of the assets of a NMD Seller by Northeast so long as (i) no Default and/or Event of Default has occurred and is continuing, (ii) the Lender has received and reviewed to its satisfaction any and all due diligence

with regard to such acquisition and (iii) a copy of all documentation with regard to such acquisition is provided to the Lender, (b) to the consummation of the Stream Preferred Equity Investment, provided that if the aggregate amount of the Stream Preferred Equity Investment consummated by November 30, 2019 is not at least $560,750, then, notwithstanding anything to the contrary in the Loan Agreement and the Other Documents, an Event of Default shall occur immediately without any further action by Lender, and (c) the incurrence of Indebtedness under the NMD Notes.

4) **REVISED SCHEDULES**. All revised schedules to the Loan Agreement attached hereto on Exhibit A replace the applicable existing schedules and are incorporated into the Loan Agreement and the Other Documents by reference.

5) **ACKNOWLEDGMENTS BY BORROWER**. Borrower acknowledges and represents that:

(A) the Loan Agreement and the Other Documents, as amended hereby, are in full force and effect without any defense, claim, counterclaim, right or claim of set-off;

(B) to the best of its knowledge, no default by the Lender in the performance of their duties under the Loan Agreement or the Other Documents has occurred;

(C) all representations and warranties of the Borrower contained herein, in the Loan Agreement and in the Other Documents are true and correct in all material respects as of this date, except for any representation or warranty that specifically refers to an earlier date;

(D) Borrower has taken all necessary action to authorize the execution and delivery of this Agreement; and

(E) this Agreement is a modification of an existing obligation and is not a novation.

6) **PRECONDITIONS**. As preconditions to the effectiveness of any of the modifications, contained herein, the Borrower agrees to:

(A) provide the Lender with this Agreement, the Second Amended and Restated Revolving Credit Note, the Amended and Restated Term Note, the Power of Attorney, the Subordination and Intercreditor Agreement and Pay Proceeds Letter, each properly executed;

(B) provide to the Lender confirmation that the Stream Preferred Equity Investment in a minimum amount of $260,750 has been consummated;

(C) provide to the Lender confirmation that Stream has advanced to the Borrower an additional Subordinated Loan in a minimum amount of $139,250;

(D) pay to the Lender an amendment fee in the amount of $20,000.00; and

(E) pay all reasonable and documented legal fees to Mandelbaum Salsburg incurred by the Lender in entering into this Agreement.

7) **MISCELLANEOUS.** This Agreement shall be construed in accordance with and governed by the laws of the Commonwealth of Massachusetts, without reference to that state's conflicts of law principles. This Agreement, the Loan Agreement and the Other Documents constitute the sole agreement of the parties with respect to the subject matter thereof and supersede all oral negotiations and prior writings with respect to the subject matter thereof. No amendment of this Agreement, and no waiver of any one or more of the provisions hereof shall be effective unless set forth in writing and signed by the parties hereto. The illegality, unenforceability or inconsistency of any provision of this Agreement shall not in any way affect or impair the legality, enforceability or consistency of the remaining provisions of this Agreement, the Loan Agreement or the Other Documents. This Agreement, the Loan Agreement and the Other Documents are intended to be consistent. However, in the event of any inconsistencies among this Agreement, the Loan Agreement and/or any of the Other Documents, the terms of this Agreement, then the Loan Agreement, shall control. This Agreement may be executed in any number of counterparts and by the different parties on separate counterparts. Each such counterpart shall be deemed an original, but all such counterparts shall together constitute one and the same agreement.

8) **DEFINITIONS.** The terms used herein and not otherwise defined or modified herein shall have the meanings ascribed to them in the Loan Agreement. The terms used herein and not otherwise defined or modified herein or defined in the Loan Agreement shall have the meanings ascribed to them by the Uniform Commercial Code as enacted in Commonwealth of Massachusetts.

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[SIGNATURE PAGE THIRD AMENDMENT TO REVOLVING CREDIT, TERM LOAN AND SECURITY AGREEMENT]

IN WITNESS WHEREOF, the undersigned have signed and sealed this Agreement the day and year first above written.

TOTALSTONE, LLC

By: _____
Name: Michael Toporek
Title: **Manager**

NORTHEAST MASONRY DISTRIBUTORS, LLC
(f/k/a NEM Purchaser, LLC)

By: TotalStone, LLC, its Managing Member

By: _____
Name: Michael Toporek
Title: **Manager**

[SIGNATURE PAGE TO FOLLOW]

[SIGNATURE PAGE TO THIRD AMENDMENT TO REVOLVING CREDIT, TERM LOAN AND SECURITY AGREEMENT]

BERKSHIRE BANK,
as Lender

By: Diane Williams
Name: **DIANE WILLIAMS**
Title: **Vice President**

Exhibit A
(Revised Schedules)

Schedule 1.2 Permitted Encumbrances

Liens in favor of the Subordinated Lender to secure obligations under the Subordinated Loan Documentation.

Liens in favor of NMD Seller to secure obligations under the NMD Notes.

Schedule 4.5 Equipment and Inventory Locations

Equipment and Inventory and are located at the following locations:

Each place of business of Borrower:

1 Red Valley Road
Millstone Township, New Jersey 08510

5141 West 122nd Street
Alsip, Illinois 60803

26 Commerce Blvd.
Plainville, Massachusetts 02762

Chief executive office of the Borrower:

1 Red Valley Road
Millstone Township, New Jersey 08510

Each leased location of Borrower:

1 Red Valley Road
Millstone Township, New Jersey 08510

Landlord: 106 Trenton Lakewood Road LLC, 185 Oberlin Avenue North, Lakewood, New Jersey 08701

5141 West 122nd Street
Alsip, Illinois 60803

Landlord: IC Industrial Sideco LLC, 1001 Rue Du Square-Victoria, Suite C-500, Montreal, Quebec H2Z 2B5, Canada

Landlord: Twenty Four Cross Street, LLC, 26 Commerce Blvd.
Plainville, Massachusetts 02762

9318 Erie Street SW
Navarre, OH 44662

Schedule 4.15(j) Deposit and Investment Accounts

The accounts maintained at Berkshire Bank.

Schedule 5.1 Consents

None.

Schedule 5.2(a) States of Qualification and Good Standing

TotalStone -

Domestic Qualification is in:

Delaware

Foreign Qualifications are in:

Illinois

New Jersey

Virginia

Northeast –

Domestic Qualification is in:

Delaware

Foreign Qualifications are in:

Massachusetts

Schedule 5.2(b) Subsidiaries

TotalStone – Northeast.

Northeast – None.

Schedule 5.4 Federal Tax Identification Number

EIN of TotalStone: 20-5678537.

EIN of Northeast: 84-3267215

Schedule 5.6 Prior Names

TotalStone, LLC (t/a Instone).

Northeast Masonry Distributors, LLC (f/k/a NEM Purchaser, LLC)

Schedule 5.8(b) Litigation

None.

Schedule 5.8(d) Plans

TOTALSTONE, LLC T/A INSTONE 401K PLAN.

Schedule 5.9 Intellectual Property, Source Code Escrow Agreements

Trademarks:

Trademark	App. No.	App. Date	Reg. No.	Reg. Date
Northeast Masonry Distributors	87949640	6/5/2018	5743608	5/7/2019
Blue Mist Granite	87947840	6/4/2018	5837465	8/20/2019

Northeast has a perpetual license of the "Quick Quote" software from James Palatine, the manager of the NEM business, and such license expressly includes object codes and software codes for such software but Northeast is not a beneficiary of a source code escrow agreement with respect thereto.

Schedule 5.14 Labor Disputes

None.

Schedule 5.27 Commercial Tort Claims

None.

Schedule 5.28 Letter of Credit Rights

None.

Schedule 5.29 Material Contracts

Non-Exclusive Software License Agreement between James R. Palatine and Northeast (the "Quick Quote License").

Schedule 7.3 Guarantees

That certain Guaranty dated as of November [__], 2019 made by Borrower for the benefit of NMD Seller.

Exhibit 10.7

FIRST AMENDED & RESTATED

OPERATING AGREEMENT

STREAM FINANCE, LLC

November 5, 2019

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FIRST AMENDED & RESTATED
OPERATING AGREEMENT OF STREAM FINANCE, LLC

THIS FIRST AMENDED & RESTATED OPERATING AGREEMENT OF STREAM FINANCE, LLC is entered into, and shall be effective as of November 5, 2019, by and among Stream Finance, LLC, a Delaware limited liability company (the "Company"), the Managing Member and each of the Members executing this Agreement.

WHEREAS, the Company was organized as a limited liability company under the Delaware Limited Liability Company Act as of February 14, 2012;

WHEREAS, the Members entered into a Limited Liability Company Agreement dated February 14, 2012, (the "Initial Operating Agreement") to govern the operations and affairs of the Company and its relationship with the Members;

WHEREAS, the Company desires to make an incremental investment of up to $1,000,000.00 in TotalStone, LLC, a Delaware limited liability company ("TotalStone"). The Company currently holds a $2.43 million interest as a creditor pursuant to The Subordinated Note Agreement between TotalStone, LLC and Fifth Street Mezzanine Partners II, L.P. dated October 30, 2006. The Company intends to structure its total investment of up to $3.43 million as 75% debt and 25% preferred equity in TotalStone, and, in furtherance thereof, has agreed to accept additional capital contributions from certain of its current Members; and

WHEREAS, in addition to the need to revise the Initial Operating Agreement to reflect the foregoing, as a result of certain changes to the income tax laws governing examination of income tax returns filed by Companies that could shift liability for the income tax deficiencies that might result from an examination of these income tax returns for periods beginning after December 31, 2017, to the Company as opposed to, as is the current understanding and agreement of the Members, having liability for such income tax deficiencies being the responsibility of each of the Members, the undersigned have agreed that the Initial Operating Agreement should be amended to ensure, to the extent practicable, that each Member bears personal responsibility for such tax deficiencies.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants of the parties hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby amend and restate the Initial Operating Agreement in its entirety and, in its place, agree as follows:

ARTICLE I
DEFINITIONS

1.1 Definitions. Capitalized terms used herein (or in any Schedule hereto) without definition shall have the meanings assigned to them in below:

"Act" shall mean the Delaware Limited Liability Company Act, as amended.

"Act of Bankruptcy" shall mean, with respect to any Person, such Person admitting in writing its inability to pay its debts generally, making a general assignment for the benefit of

creditors, or instituting any proceeding seeking to adjudicate it a bankrupt or insolvent, or seeking liquidation, winding up, reorganization, arrangement, adjustment, protection, relief, or composition, of it or its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors, or seeking the entry of any order for relief or the appointment of a receiver, trustee, or other similar official for it or for any substantial part of its property.

"Affiliate" shall mean (i) with respect to any specified Person (including the Company), any other Person who or which, directly or indirectly through one or more intermediaries, Controls, is Controlled by or is under common Control with such specified Person. Notwithstanding the foregoing, neither the Company nor any Person Controlled by the Company shall be deemed to be an "Affiliate" of any Member or of any Affiliate (determined so as to exclude the Company and any Person Controlled by the Company) of a Member.

"Agreed Value" of any Contributed Property shall mean the fair market value of such property or other consideration at the time of contribution as determined by the Managing Member.

"Agreement" shall mean this First Amended & Restated Operating Agreement of Stream Finance, LLC, dated as of November 5, 2019, as it may be amended from time to time.

"Asset Holdings" shall have the meaning set forth in Section 3.1.

"Capital Account" shall have the meaning set forth in Section 6.1.

"Capital Contribution" shall mean the amount of cash and the fair market value of any property (other than cash) that a Member contributes to the Company pursuant to Article VI.

"Class A Interests" shall have the meaning set forth in Section 2.4.

"Class A Member" shall mean the Member of the Company that holds Class A Interests.

"Code" shall mean the U.S. Internal Revenue Code of 1986, as amended from time to time, and any corresponding provisions of any succeeding law.

"Company" shall have the meaning set forth in the preamble to this Agreement.

"Consent" shall mean those Members holding more than 50% of the Class A Interests issued and outstanding, except as provided in Section 5.1 where Consent shall be deemed to mean those holders of more than 66.7% of the Class A Interests. For purposes of clarity Consent will be based on the aggregate membership interest, and not the number of Membership Interest Units.

"Control" shall mean, as to any specified Person, the power to direct or cause the direction of (i) the management and policies of such specified Person and (ii) if such specified Person is a Member and without limiting the generality of Clause (i), the exercise or non-exercise of all management rights of such specified Person, whether through the ownership of voting securities, by contract or otherwise. The term "Controlled" shall have a correlative meaning.

"Distributable Cash" shall mean, as of any determination date, available cash that the Company has received with respect to the Asset Holdings less any amounts set aside by the Managing Member, in its sole and absolute discretion, as reserves for fixed or contingent liabilities, taxes, and/or other costs and expenses which are incident to the operation of the Company's business.

"Economic Risk of Loss" shall have the meaning set forth in Regulations § 1.752-2(a).

"Excess Percentage Interest" shall mean the excess distribution percentages assigned to each Member as of the date hereof and reflected on Amended & Restated Schedule A hereto which represent the percentage obtained by dividing the total Capital Contributions made by a Member (and his predecessors in interest) by the total Capital Contributions my by all of the Members through the Effective Date of this Agreement.[1]

"Entity" shall mean a Person other than a natural person.

"Fiscal Year" shall have the meaning set forth in Section 11.1.

"Instone" is the trade name (DBA) of TotalStone, LLC, a Delaware limited liability company, and when the term "Instone" is used herein shall mean and refer to TotalStone.

"Governmental Authority" shall mean any federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality of the United States of America or any state thereof, or any foreign country or any political subdivision thereof.

"Immediate Family" shall mean, with respect to any Person, (i) the spouse, former spouse, children (including natural, adopted and stepchildren), grandchildren and parents of such Person or (ii) a trust solely for the benefit of any of the individuals described in Clause (i), such Person or any combination of the foregoing.

"Indemnitee" shall have the meaning set forth in Section 12.2(a).

"Indemnity-Related Proceeding" shall have the meaning set forth in Section 12.2(b).

"Initial Capital Contributions" shall mean the aggregate amount of Capital Contributions initially made by the Members as of the date hereof and reflected on Amended & Restated Schedule A hereto.

"Loss" shall mean any expense (including reasonable legal fees and expenses, but only to the extent authorized to be incurred pursuant to Section 12.2(b)), judgments, fines or amounts paid in settlements (to the extent such settlement is in conformity with Section 12.2(b).

"Managing Member" shall have the meaning set forth in Section 4.3.

"Member" shall mean any Person listed on Amended & Restated Schedule A hereto, and any other Person admitted to the Company as a Member, but, except for purposes of Articles VI,

VII and VIII, does not include any Person who has ceased to be a Member (whether pursuant to this Agreement, by operation of law or otherwise).

"Member Capital Contributions" shall mean, as of any date of determination, the aggregate amount of Total Capital Contributions in respect of all Membership Interests outstanding as of such date.

"Membership Interests" shall mean the Class A Interests.

"Net Income" and "Net Loss" means, for each Fiscal Year or other period, an amount equal to the Company's taxable income or loss, as the case may be for such year or period, determined in accordance with Section 703(a) of the Code (for this purpose, all items of income, gain, loss and deduction required to be stated separately pursuant to Section 703(a)(1) of the Code shall be included in taxable income or loss), with the following adjustments: (i) any income of the Company that is exempt from federal income tax and not otherwise taken into account in computing Net Income or Let Loss pursuant to this paragraph shall be added to such taxable income or loss; (ii) any expenditures of the Company described in Code Section 705(a)(2)(B) or as treated Code Section 705(a)(2)(B) expenditures pursuant to Regulation Section 1.704-1(b)(2)(iv)(i), and not otherwise taken into account in computing Net Income or Net Loss pursuant to this paragraph shall be subtracted from such taxable income or loss; (iii) notwithstanding any other provision of this paragraph, any items which are specially allocated pursuant to Article VII hereof shall not be taken into account in computing Net Income and Let Loss.

"New Equity Interests" shall have the meaning set forth in Section 6.6.[2]

"Notices" shall have the meaning set forth in Section 13.6.

"Offer Notice" shall have the meaning set forth in Section 6.6.

"Person" shall mean any natural person, corporation, partnership (either general, limited or limited liability), limited liability company, joint venture, association, joint-stock company, trust, estate, governmental or regulatory body or other incorporated or unincorporated organization.

"Personal Representative" shall mean, as to a natural person, the executor, administrator, guardian, conservator or other legal representative thereof and, as to a Person other than a natural person, the legal representative or successor thereof.

"Presumed Tax Liability" shall have the meaning set forth in Section 8.3.

"Proceeding" shall mean any threatened, pending or completed action, suit or proceeding, whether judicial, administrative or arbitral trial, hearing or other activity, civil, criminal or investigative, or any appeal in such a Proceeding or any inquiry or investigation that could lead to such a Proceeding.

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[2] Note that Section 6.6 includes preemptive rights

"Proportionate Number" shall have the meaning set forth in Section 6.6.

"Regulations" shall mean the Income Tax Regulations promulgated under the Code, as amended from time to time and any corresponding provisions of any succeeding regulations.

"Return Notice" shall have the meaning set forth in Section 9.2(b).

"Returns" shall have the meaning set forth in Section 11.4(b).

"Taxable Year" shall mean the calendar year.

"Tax Distribution" shall have the meaning set forth in Section 8.3.

"Taxing Jurisdiction" shall mean the United States federal government and any state, local, or foreign government that collects tax.

"Tax Matters Member" shall have the meaning set forth in Section 11.4(c).

"Total Capital Contributions" shall mean, as of any date of determination, with respect to any Member, the aggregate amount of Capital Contributions made in respect of all Membership Interests held by such Member.

"Transfer" shall mean any sale, transfer, gift, assignment, pledge or grant of a security interest, by operation of law or otherwise, in or of an interest in the Company or of rights under this Agreement, excluding, however, any grant of such a security interest in favor of the Company.

ARTICLE II
ORGANIZATION

2.1 Formation; Ratification. The Company was organized as a limited liability company pursuant to the Act by the filing of a Certificate of Formation with the Secretary of State of Delaware on February 14, 2012, the terms of which the undersigned Members hereby ratify, approve and confirm.

2.2 Name. The name of the Company is and shall continue to be "Stream Finance, LLC" or such other name as the Managing Member may from time to time designate.

2.3 Purposes. The Company was organized to: (i) participate in a mezzanine debt facility provided to TotalStone, as more fully described in Article III; (ii) distribute any proceeds it may receive as a result of such services to the Members in accordance with this Agreement; (iii) engage in various administrative or ministerial activities related to its day-to-day activities; (iv) engage in any other lawful activity in which a limited liability company may engage under the laws of the State of Delaware; and (v) exercise all the rights and powers that the Company may have in connection therewith. As an extension of its initial business activity, Company has determined that it should acquire an interest as a Special Preferred Member of TotalStone as more fully described in Article III and, for that purpose, is accepting up to $1,000,000.00 in additional Capital Contributions totally such amount from certain of its Member.

2.4 Powers. The Company shall be empowered to do any and all acts and things necessary, appropriate, proper, advisable, convenient or incidental for or to the furtherance or accomplishment of the purposes described in Section 2.3. The Company shall be authorized to issue one class of membership interests, designated "Class A Interests".

2.5 Principal Office. The principal office of the Company shall be at 232 Madison Ave, Suite 600, New York, NY 10016, or at such other place as the Managing Member shall from time to time determine.

2.6 Term. The Company shall perpetually continue in existence unless and until its existence is terminated as provided in Section 10.1.

2.7 Membership Interest Certificates. The Managing Member is hereby authorized to distribute Membership Interest Certificates in the Company. Any Membership Interest Certificate shall state the name of the Member, and the total number of units that such Member owns and be signed by the Secretary of the Company or the Managing Member of the Company. Any Membership Interest Certificate shall bear the following legend:

THE MEMBERSHIP INTERESTS REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO RESTRICTIONS ON TRANSFER AND/OR SALE AS SET FORTH IN THE COMPANY'S AGREEMENT, A COPY OF WHICH CAN BE OBTAINED AT THE PRINCIPAL OFFICES OF THE COMPANY. FURTHERMORE, THE MEMBERSHIP INTERESTS REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND MAY NOT BE SOLD OR OFFERED FOR SALE ABSENT A REGISTRATION STATEMENT UNDER THAT ACT OR AN OPINION OF COUNSEL IN FORM SATISFACTORY TO THE COMPANY WHICH STATES THAT SUCH REGISTRATION IS NOT REQUIRED.

ARTICLE III
TOTALSTONE

3.1 TotalStone Investments. The Company presently has the following investments (collectively, its "Assets Holdings"): (a) a $2.43 million interest as a creditor of TotalStone pursuant to The Subordinated Note Agreement between TotalStone, LLC and Fifth Street Mezzanine Partners II, L.P. dated October 30, 2006, and (b) an interest in TotalStone reflecting its contemplated investment of up to $1,000,000.00 in TotalStone. The Company intends to structure its total investment of up to $3.43 million as 75% debt and 25% preferred equity in TotalStone. All of the proceeds received by Company from its Assets Holdings, less any expenses incurred by the Company or the Managing Member in relation to the foregoing services provided by the Company to TotalStone, shall be distributed to the Members within a reasonable period of time after receipt and in accordance with Section 5.1(d) hereof.

ARTICLE IV
THE MEMBERS

4.1 Members and Membership Interests.

(a) The name and address of each Member, the Initial Capital Contributions attributable to the Membership Interests held by such Member, any additional Capital Contributions made by such Member since the formation of the Company, and the Total Capital Contributions attributable to the Membership Interests held by such Member as of the Effective Date are set forth next to each Member's name on Amended & Restated Schedule A hereto, as amended from time to time in accordance with this Agreement.

(b) No Member shall be required to lend any funds to the Company or to make any additional Capital Contribution to the Company, except as otherwise required by applicable law or as provided specifically by this Agreement. Any Member, including the Managing Member, may make loans to the Company, and any loan by a Member to the Company shall not be considered to be a Capital Contribution.

(c) Each Member shall either execute a counterpart of this Agreement or shall submit to the Managing Member a duly executed "MEMBER SIGNATURE PAGE TO OPERATING AGREEMENT. When a Person is admitted as a new Member in accordance with the provisions of this Agreement, such Person shall execute a joinder agreement in form satisfactory to the Managing Member pursuant to which such Person agrees to be bound by the provisions of this Agreement as a Member and the name of such Person shall be added to Amended & Restated Schedule A along with the information to be provided for each Member in accordance with Section 4.1(a).

4.2 Certificates of Membership Interest. Certificates of Membership Interest in the Company may be issued by the Managing Member in its sole discretion. Any certificate of Membership Interest shall state the name of the Member, the class of the Membership Interest and the total number of Membership Interests that Member owns, and be signed by the Managing Member, the Managing Member's authorized officer, or the Company's authorized officer. Any Certificate of Membership Interest shall also bear the following legend:

> THE MEMBERSHIP INTERESTS REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO RESTRICTIONS ON TRANSFER AND/OR SALE AS SET FORTH IN THE COMPANY'S OPERATING AGREEMENT, A COPY OF WHICH CAN BE OBTAINED AT THE PRINCIPAL OFFICES OF THE COMPANY. FURTHERMORE, THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND MAY NOT BE SOLD OR OFFERED FOR SALE ABSENT A REGISTRATION STATEMENT UNDER THAT ACT OR AN OPINION OF COUNSEL IN FORM SATISFACTORY TO THE COMPANY WHICH STATES THAT SUCH REGISTRATION IS NOT REQUIRED

4.3 Managing Member**.** Brookstone Partners IAC, Inc.,[3] has been previously appointed and is hereby again designated by the Members as the "Managing Member" of the Company and shall have such rights, duties and obligations as specified in this Agreement. The day-to-day affairs of the Company shall be exclusively managed by the Managing Member as further described in Article V. The Managing Member may appoint other affiliated and unaffiliated entities to assist in the performance of its duties and obligations.

4.4 Limited Liability.

(a) No member, manager, employee, officer, director or agent of the Company shall be obligated personally for any debt, obligation or liability of the Company, or for any debt, obligation or liability of any other member, manager, employee, officer, director or agent of the Company, by reason of being a member, or acting as a manager, employee, officer, director or agent, of the Company.

(b) Unless otherwise expressly specified in this Agreement, any determination, decision, consent, vote or judgment of, or exercise of discretion by, or action taken or omitted to be taken by the Managing Member, in its capacity as the Managing Member or in its capacity as a Member, under this Agreement shall be made, given, exercised, taken or omitted as the Managing Member determines in its sole and absolute discretion. In connection with the foregoing, the Managing Member shall be entitled to consider such interests and factors as it deems appropriate, including its own interests and the interests of its Affiliates; provided that the Managing Member acts in good faith.

4.5 No Fiduciary Duty. In the event of a conflict between the interests of the Managing Member, in its capacity as Managing Member or in its capacity as a Member, and the interests of the other Members: (i) the Managing Member shall not be obligated to recommend or take any action that prefers the interests of the Company or the other Members over its own interests, and (ii) each Member hereby waives both (A) the fiduciary duty, including the duty of care and the duty of loyalty, if any, of the Managing Member otherwise owed to the Company and/or its Members and (B) any claim or cause of action against the Managing Member for any breach of fiduciary duty owed to the Company or the Members by the Managing Member; provided, however, that the Managing Member shall act in good faith.

4.6 Representations and Warranties of Members. Each Member hereby represents and warrants to the Company and to the other Members as of date hereof that (a), if it is an entity, it is duly organized and validly existing in good standing under the laws of its state of incorporation, formation or organization, as the case may be, and has the requisite legal and corporate power to own its property and to carry on its business as proposed to be conducted by it, (b), if it is an entity, it has all requisite corporate or organizational power and authority to enter into and perform this Agreement and the transactions contemplated hereby and thereby, (c) this Agreement constitutes its valid and binding obligation enforceable against it/him/her in accordance with its terms, except as such enforceability may be limited by applicable

[3] Brookstone Partners IAC, Inc. was established in 2018, and is the successor to various investment management entities dating back to 2003, including MJT Park Investors (the prior Managing Member), all operating under the umbrella of "Brookstone Partners".

bankruptcy, insolvency, reorganization, moratorium, liquidation or similar laws relating to, or affecting generally the enforcement of, creditors' rights and remedies or by other equitable principles of general application, (d) if it is an entity, the execution and delivery of this Agreement, the consummation of the transactions contemplated herein, the carrying on of the business contemplated by the Company, and compliance with the terms and provisions of this Agreement will not conflict with or result in a breach of the terms and conditions of, or constitute any default under any corporate or organizational document relating to it, or of any provision of any contract, covenant or instrument under which it is bound and (e) it is an "accredited investor" as such term is defined in Regulation D promulgated under the Securities Act of 1933, as amended.

ARTICLE V
GOVERNANCE; THE MANAGING MEMBER

5.1 Authority of Members; Managing Member.

(a) The Members reserve to themselves the authority (by Consent) to (i) amend this Agreement; (ii) dissolve or liquidate the Company; and (iii) authorize any Act of Bankruptcy by the Company.

(b) The Company may merge or consolidate only with the approval of the Managing Member and receipt of Consent.

(c) The business and affairs of the Company will be managed by the Managing Member, and the Managing Member shall have full and complete authority, power and discretion to manage and control the business, affairs and properties of the Company, including, without limitation, all decisions relating to the investment policies and strategies of the Asset Holdings and those rights described in Section 6.6 hereof. Without limiting the foregoing, the Managing Member shall have the power to cause the Company to pay broker's and finder's fees in connection with any capital raise on behalf of the Company, including the initial capital raise.

(d) In the event that proceeds are received by the Company with respect to its Asset Holdings, the Managing Member shall, within a reasonable period of time, distribute such distribution or proceeds to the Members in accordance with this Agreement, provided, however, that the Managing Member shall have the rights to (a) offset from any such distributions any amounts due to the Company from any Member and (b) reserve from the amounts otherwise distributable, such amounts which in the reasonable discretion of the Managing Member will be required to cover any reasonably foreseeable expenses of the Company.

(e) Nothing herein shall be construed to obligate the Managing Member to dedicate its full time and attention to the business and affairs of the Company. Without limiting the foregoing, the Managing Member may serve in similar or other capacities with respect to other entities.

(f) The Members shall, from to time, have the right to inspect the books and records of the Company upon reasonable notice and during normal business hours.

5.2 Officers of Company. The officers of the Company may consist of the following positions: Chairman, Chief Executive Officer, President, one or more Executive Vice Presidents, Chief Financial Officer, one or more Vice Presidents, Secretary, one or more Assistant Secretaries and such other officers as may be elected and appointed by the Managing Member. Any two or more offices may be held by the same person. The officers will act in the name of the Company and will supervise its operation under the direction of the Managing Member.

ARTICLE VI
CAPITAL ACCOUNTS; CAPITAL CONTRIBUTIONS

6.1 Capital Accounts. A separate capital account (the "Capital Account") shall be established and maintained on the books and records of the Company for each Member in accordance with the provisions of this Article VI.

6.2 Adjustments to Capital Accounts. Each Capital Account of each Member shall be credited with (i) the amount of cash and the fair market value of all property contributed to the Company by such Member pursuant to this Agreement and (ii) the distributive share of Net Income (and other items of Company gain or income) allocated to such Member pursuant to Article VII. Each Capital Account of each Member shall be charged with (x) the amount of cash, and the fair market value of all other property, distributed or deemed to have been distributed to such Member pursuant to this Agreement and (y) the distributive share of Net Loss (and other items of Company loss or deduction) allocated to such Member pursuant to Article VII.

6.3 Transferee Succeeds to Capital Account of Transferor. A transferee of a Membership Interest shall succeed to a pro rata portion of the Capital Account of the transferor relating to the Membership Interest so transferred.

6.4 Obligation to Restore Negative Capital Account. No Member shall have any obligation to restore any negative balance in its Capital Account (including in connection with the dissolution and liquidation of the Company).

6.5 Interest; Return of Capital. No interest shall be paid on credit balances in any Member's Capital Account. Except to the extent expressly provided in this Agreement, (i) no Member shall be entitled to have any portion of his Capital Contributions or Capital Account returned or paid to him and (ii) no Member shall have priority over any other Member either as to the return of Capital Contributions or as to profits, losses or distributions.

6.6 Other Additional Capital Contributions.

(a) Subject to Sections 6.6(b) and (c) below, the Managing Member shall have the right to cause the Company to issue (a) additional membership interests or other equity interests in the Company (including other classes or series thereof having different rights), (b) obligations, evidences of indebtedness or other securities or interests convertible or exchangeable into membership interests or other equity interests in the Company and (c) warrants, options or other rights to purchase or otherwise acquire membership interests or other equity interests in the Company (collectively, "New Equity Interests"). A Person to which the Company issues membership interests or other equity

interests in the Company shall be admitted as a Member of the Company only if such Person has executed and delivered the documents described in Section 4.1(b).

(b) Each Member shall have the right to purchase its Proportionate Number of any New Equity Interests that the Company may, from time to time, propose to issue and sell after the date hereof. For purposes of this Section 6.6, the term "Proportionate Number" means, the product of (i) the number of New Equity Interests proposed to be issued and (ii) a percentage determined by dividing (x) the Total Capital Contributions attributable to the Membership Interests held by such Member, by (y) the Total Capital Contributions attributable to Members exercising their rights hereunder.

(c) In the event the Company proposes to undertake an issuance of New Equity Interests, it shall give each Member entitled to purchase such New Equity Interests written notice of its intention to do so at least 10 days prior to such issuance, describing such New Equity Interests and the price and terms upon which the Company proposes to issue the same (the "Offer Notice"). Such Member may purchase such number of New Equity Interests up to such Member's Proportionate Number of such New Equity Interests (the "Full Amount") for the price and upon the terms specified in the Offer Notice by giving written notice to the Company no later than 5 days after the date of receiving the Offer Notice (the "Notice Date") identifying the number of New Securities (up to the Full Amount) to be purchased. In the event the Members entitled to purchase such New Equity Interests fail to exercise such right in full within five days of the Notice Date, the Company shall have 180 days thereafter to sell the New Equity Interests as to which the Members' rights were not exercised, at a price and upon terms no more favorable to the purchasers thereof than those specified in the Offer Notice. In the event the Company has not sold such New Equity Interests within said 180-day period, the Company shall not thereafter issue or sell any New Equity Interests without first offering such New Equity Interests to the Members entitled to purchase such New Equity Interests in the manner provided above.

ARTICLE VII
INCOME TAX

7.1 Net Income. Except as otherwise required by Section 704 of the Code and the Regulations thereunder, for income tax purposes, Net Income for a Fiscal Year shall be allocated as follows:

(a) first, to each Member, in an amount equal to and pro rata with all Net Losses allocated to such Member pursuant to Section 7.2 hereof for all Fiscal Years less amounts previously allocated to such Member pursuant to this Section 7.1(a) for all prior Fiscal Years;

(b) second, to each Member, among the Members until such time as each Member's positive Capital Account is proportionate to such Member's Excess Percentage Interest;

(c) thereafter, to each Member pro rata to such Member's Excess Percentage Interest.

7.2 Net Loss. Except as otherwise required by Section 704 of the Code and the Regulations thereunder, for income tax purposes, Net Loss for a Fiscal Year shall be allocated as follows:

(a) first, to each Member in an amount equal to and pro rata with all Net Income allocated to such Member pursuant to Section 7.1(c) hereof for all prior Fiscal Years, less amounts previously allocated to such Member pursuant to this Section 7.2(a) for all prior Fiscal Years;

(b) thereafter, to each Member pro rata with the Capital Contributions made by such Member in proportionate to the total Capital Contributions made by all Members.

7.3 Other Allocation Rules.

(a) For income tax purposes, (i) each item of income, gain, loss and deduction shall be allocated among the Members in the same manner as its correlative item of "book" income, gain, loss or deduction is allocated pursuant to Section 7.1 and (ii) each tax credit shall be allocated to the Members in the same manner as the receipt or expenditure giving rise to such credit is allocated pursuant to Section 7.1.

(b) In accordance with Code Section 704(c) and the Regulations promulgated thereunder, 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 Members so as to take account of any variation between the adjusted basis of such property to the Company for federal income tax purposes and its Agreed Value at the time of contribution.

(c) Allocations of Net Income, Net Loss and other items of income, gain, loss, deduction, and expense realized by the Company before the Effective Date of this Agreement shall be made under the provisions of the Initial Operating Agreement.

ARTICLE VIII
DISTRIBUTIONS

8.1 Distributions Generally. Subject to the provisions of this Article VIII, the Managing Member shall determine whether, and to what extent, distributions shall be made by the Company to the Members, provided that no distribution shall be made if such distribution would violate the Act or other applicable law.

8.2 Distributions of Distributable Cash. When and to the extent the Managing Member determines, in its sole discretion, that it is appropriate to make distributions of Distributable Cash, including, without limitation, in the case of dissolution and liquidation of the Company, such distributions shall be made, subject to Section 8.3, as follows:

(a) first, pro rata to each Member (in proportion to the Total Capital Contributions made in respect of the Membership Interests held by such Member), in an amount equal to the Total Capital Contributions made in respect of the Membership

Interests held by such Member, until such amount has been paid in full taking into account distributions made in prior fiscal years pursuant to this Section 8.2(b);

(b) second, to the extent that any Member has a positive Capital Account, among such Members in proportion to their positive Capital Accounts until such time as each Member's Capital Account has been reduced to zero;

(c) thereafter, to each Member any additional amounts in proportion to such Member's Excess Percentage Interest.

8.3 Distributions with Respect to Members' Income Tax.

(a) Within 90 days of the end of each Fiscal Year, the Company shall use its reasonable efforts to distribute to each Member, with respect to such Fiscal Year, Distributable Cash in an amount equal to such Member's Presumed Tax Liability for such Fiscal Year (a "Tax Distribution").

(b) The Company may distribute Tax Distributions in quarterly installments on an estimated basis prior to the end of a Fiscal Year.

(c) The obligation to make Tax Distributions with respect to any Fiscal Year pursuant to this Section 8.3 shall be reduced by any distributions made pursuant to Section 8.2 during such Fiscal Year or prior to the expiration of the 90-day period following the end of such Fiscal Year; provided, however, that distributions made in such 90-day period to satisfy a Tax Distribution obligation with respect to a prior Fiscal Year shall not be credited against the required Tax Distributions for the Fiscal Year in which such distributions were made.

(d) Any Tax Distribution will be deemed to be a distribution of amounts otherwise distributable to the Members pursuant to Section 8.2 and will reduce the amounts that would subsequently otherwise be distributable to the Members pursuant to Section 8.2 in the order they would otherwise have been distributable.

(e) For purposes of this Section 8.3, "Presumed Tax Liability" for each Member for a Fiscal Year shall mean an amount equal to the product of (a) the amount of taxable income (including any tax items required to be separately stated under Section 703 of the Code) allocated to such Member for that Fiscal Year pursuant to Article VII, less the cumulative amounts of net losses in excess of taxable income allocated to such Member for all prior fiscal Years, to the extent such net losses have not reduced distributions under this provision, in prior fiscal Years and (b) the combined maximum federal and state income tax rates, adjusted for the federal deduction for state income taxes, applicable during the Fiscal Year for computing regular ordinary income tax liabilities (without reference to minimum taxes, alternative minimum taxes, or income tax surcharges) of a natural Person.

8.4 Distributions as Advances. To the extent a Member receives a distribution from the Company that causes the aggregate amount of distributions received by the Member over the term of the Company to exceed the sum of (i) the aggregate amount of Net Income that has been

allocated to the Member over the term of the Company, less (ii) the aggregate amount of Net Loss that has been allocated to the Member over the term of the Company, the distribution shall be considered an advance of future Net Income of the Company allocated to such Member.

8.5 Non-Cash Distributions. The Company may, at the Managing Member's sole discretion, distribute non-cash consideration. Any distribution of non-cash consideration received by the Managing Member shall be valued at its "fair market value" as reasonably determined by the Managing Member. Any distribution of non-cash consideration received hereunder which is given in the form of securities that in the opinion of legal counsel to the Company may violate the securities laws of any jurisdiction shall not be made until such time when the Managing Member, upon advice of counsel receives reasonable comfort that such distributions will no longer be prohibited, provided that for purposes of allocation under Article VII hereunder, such consideration shall be deemed received at the time of their receipt by the Company, not the time of ultimate distribution to the Members. In the event of any distributions of securities, the "fair market value" for such securities shall be determined as follows: (i) if such securities are listed on a securities exchange, the fair market value of such Securities shall be the higher of the average of the price of such securities on the principal securities exchange on which such securities are listed over the 30 day period immediately preceding the distribution and the price of the securities on the date prior to the distribution; or (ii) if such securities are publicly traded but not listed on a securities exchange, or if there were no sales of the securities on the dates referred to in clause (i) above, the fair market value of such securities shall be the average of the closing "bid" prices of such securities on the principal securities market on which they are traded over the 30 day period immediately preceding the distribution; and (iii) in all other cases, the fair market value of such securities shall be as reasonably determined by the Managing Member.

8.6 Withholding; Taxes of Taxing Jurisdictions. Notwithstanding any provision of this Agreement to the contrary, the Company and its Managing Member are authorized (i) to withhold from distributions to any Member or with respect to allocations to any Member, and to pay over to a federal, state or local government or other taxing jurisdiction, any income taxes required to be so withheld pursuant to the Code, or any corresponding provisions of any other federal, state or local law (such amounts, "Withholding Taxes"), and (ii) pay any income tax, and any related penalty and interest imposed on the Company under Code Sections 6221 through 6241, as in effect for taxable years of the Company beginning after December 31, 2017, and under any corresponding provisions of any other federal, state or local income tax law (such amounts, "Partnership Audit Liabilities"). The amount of any such (x) Withholding Taxes and (y) Partnership Audit Liabilities shall be allocated among the Members as reasonably determined by the Managing Member. Each Member shall indemnify and hold the Company and the other Members harmless against all claims, liabilities and expenses relating to the Company's obligation to pay any taxes, interest, penalties or additional amounts allocable to such Member. Without limiting the generality of the foregoing, to the extent a Member has failed to reimburse the Company pursuant to this Section 8.6 within fifteen (15) days following the issuance by the Company or any Member of written notice to a Member of the portion of any Withholding Taxes or Partnership Audit Liabilities that are allocable to such Member, the Company or any other Member acting on behalf of the Company shall have the right to file an action against such Member in order to obtain full and immediate payment of such amount together with interest thereon, as well as the reasonable costs of collection. In addition to any other remedies available

to the Company, the Company shall apply all distributions or payments that would otherwise be made to such Member toward payments due from such Member under this Section 8.6, which payments or distributions shall be applied until such amount (including interest thereon and any costs of collection) is repaid in full. Any such payments shall be treated as if the Company made distributions (or payments, as the case may be) to the Member and such Member repaid such amounts to the Company. The foregoing provisions of this Section 8.6 shall survive any termination of this Agreement, the withdrawal of any Member or the transfer of any Member's interest in the Company.

ARTICLE IX
ADMISSION OF NEW MEMBERS; ASSIGNMENT OF MEMBERSHIP INTERESTS

9.1 New Members. Except as provided in Section 2.1 hereof, no Person may be admitted as a Member except with the consent of the Managing Member (which shall be withheld or given in its sole discretion).

9.2 Disposition of Membership Interests. Each Member agrees that, it will not Transfer all or any part of its Membership Interest unless it is authorized to do so, in writing, by the Managing Member.

9.3 Effect of Prohibited Dispositions. No actual or purported Transfer of any Membership Interest of a Member (or any portion thereof), whether voluntary or involuntary, in violation of any provision of this Agreement shall be valid or effective.

9.4 Powers of Estate of Deceased or Incompetent Member. If a Member who is a natural person dies or a court of competent jurisdiction adjudges him to be incompetent to manage his person or his property, the Member's Personal Representative, subject to all of the other terms of this Agreement (including Section 9.2), may exercise all of such Member's rights for the purpose of settling his estate or administering his property.

9.5 No Dissolution. The assignment of any Membership Interest shall not cause the dissolution of the Company.

ARTICLE X
DISSOLUTION, WINDING UP AND TERMINATION

10.1 Dissolution.

(a) The Company commenced as of the date of filing of the Certificate of Formation with the Secretary of State of the State of Delaware and shall continue until the first to occur of any of the following events:

(i) the determination by the Managing Member and the Members (by Consent) to terminate the Company;

(ii) a reasonable period of time, but in any case no more than one year, following the liquidation of all of the Company Assets.

(b) The death, bankruptcy, sequestration, insolvency, dissolution or liquidation of a Member shall not operate to terminate the Company and the estate or trustee in bankruptcy or receiver or liquidator of a deceased, bankrupt, insolvent or dissolved Member shall not have the right to withdraw the balances in such Member's Company accounts.

10.2 Effect of Dissolution.

(a) Subject to subsection (b), the Company shall continue after dissolution only for the purpose of winding up its business. The Company shall be terminated when the winding up of its business is completed.

(b) At any time after the dissolution of the Company and before the winding up of its business is completed, all of the Members may waive the right to have the Company's business wound-up and the Company terminated.

(c) During the period of the winding up of the affairs of the Company, all rights and obligations of the Members pursuant to this Agreement and the Act shall continue.

10.3 Winding Up Procedures.

(a) If a dissolution of the Company pursuant to Section 10.1 occurs, the Managing Member shall proceed as promptly as practicable to wind-up the affairs of the Company in an orderly and businesslike manner and distribute the assets thereof.

(b) As part of the winding up of the affairs of the Company, the following steps will be taken in the following order:

(i) the assets of the Company shall be sold (and each Capital Account of each Member adjusted in accordance with Section 6.2 to take into account the allocation of the Net Income or Net Loss with respect to the assets sold), except to the extent that some or all of the assets of the Company are retained by the Company for distribution to the Members as hereinafter provided;

(ii) distributions of the assets of the Company after a dissolution of the Company shall be conducted as follows:

(1) all of the Company's debts, liabilities and obligations, other than debts, liabilities and obligations to any Member, shall be paid in full or otherwise provided for, or a reserve therefore (or for any contingent or unforeseen liabilities or obligations, as determined by the Managing Member) shall be set aside.

(2) next, any debts, liabilities and obligations of the Company to the Members shall be paid in full or otherwise provided for, or a reserve therefore shall be set aside.

(3) next, the assets shall be distributed to the Members in accordance with Section 8.2.

10.4 Purchase of Assets Upon Winding Up. If any Company assets are sold in connection with the winding up of the Company, any Member shall have the right to bid on and, if such bid is accepted, purchase such assets at any sale.

10.5 Termination. On completion of the distribution of all Company assets, whether actually received or reasonably expected to be received, as provided in this Agreement, the Company is terminated.

ARTICLE XI
RECORDS AND ACCOUNTING; FISCAL AFFAIRS

11.1 Fiscal Year. The fiscal year (the "Fiscal Year") of the Company shall be the calendar year.

11.2 Bank Accounts. All funds of the Company shall be deposited in such bank or savings and loan account or accounts as shall be designated from time to time by the Managing Member. Withdrawals from any such bank account shall be made upon such signature or signatures as the Managing Member may designate, and shall be made only for the purposes of the Company.

11.3 Books and Records. The Company shall maintain full and accurate books of the Company at the Company's principal place of business. All costs and expenses of keeping such books of account shall be treated as a Company expense. Each Member and its duly authorized representative shall, at all reasonable times have, subject to having given reasonable notice, access to and the right to inspect and copy the books and records of the Company, all at the expense of such Member.

11.4 Reports.

(a) Each of the Members shall be furnished with an individual statement of account upon such Member's request, detailing any capital contributed and any distributions received.

(b) The Managing Member shall prepare or cause to be prepared all U.S. federal, state and local tax returns of the Company (the "Returns") for each year for which such Returns are required to be filed. The Managing Member shall determine the accounting methods and conventions to be used in the preparation of the Returns and shall determine whether to claim any available credit or adopt any other method or procedure related to the preparation of the Returns. The Managing Member shall, in its sole discretion, determine whether to make any available election under the Code or any applicable state or local tax law on behalf of the Company. In the event of a transfer of all or a part of the interest of any Member in the Company by sale or exchange or the dissolution of a Member, the Managing Member, in its sole discretion, may cause the Company to file an election pursuant to Section 754 of the Code, the treasury regulations promulgated thereunder or other applicable law to adjust the basis of Company property as provided in Section 743 of the Code.

(c) The Company will be a partnership for U.S. federal, state and local income tax purposes

11.5 Tax Audits .

(a) Tax Years Ending Before January 1, 2018. For all taxable years beginning before January 1, 2018, any Member selected by the Managing Member shall be the "tax matters partner" (the "TMP"), of the Company pursuant to Code Section 6231(a)(7) as in effect before the effective date of its amendment by Section 1101 of P.L. 114-74 the ("Bipartisan Budget Act of 2015") and shall have all of the powers provided by the Code that are associated with such status. In the event of an income tax audit of any tax return of the Company, the filing of any amended return or claim for refund in connection with any item of income, gain, loss, deduction or credit reflected on any tax return of the Company, or any administrative or judicial proceedings arising out of or in connection with any such audit, amended return, claim for refund or denial of such claim, (i) the TMP shall be authorized to act for, and his decision shall be final and binding upon, the Company and all the Members, (ii) all expenses incurred by the TMP in connection therewith (including, without limitation, attorneys', accountants' and other experts' fees and disbursements) shall be expenses of the Company and (iii) no other Member shall have the right to (A) participate in the audit of any Company tax return, (B) file any amended return or claim for refund in connection with any item of income, gain, loss, deduction or credit reflected on any tax return of the Company, (C) participate in any administrative or judicial proceedings arising out of or in connection with any such audit, amended return, claim for refund or denial of such claim, or (D) appeal, challenge or otherwise protest any adverse findings in any such audit or with respect to any such amended return or claim for refund or in any such administrative or judicial proceedings. Notwithstanding the foregoing, or anything to the contrary in this Agreement, the then acting TMP may be removed and a qualified successor may be appointed at any time and from time to time, with or without cause, based upon a written consent signed by Members holding a majority of the Excess Percentage Interests. In the event of a TMP's removal, the former TMP shall cooperate in transitioning his responsibilities to the successor TMP.

(b) Tax Years Beginning On or After January 1, 2018. (a) For all taxable years beginning on or after January 1, 2018, Managing Member shall be designated as the "partnership representative" (the "Partnership Representative"), as defined in Code Section 6223 (as in effect following the effective date of its amendment by Section 1101 of the "Bipartisan Budget Act of 2015") and the Company, its Managing Member and all remaining Members shall perform any necessary actions (including executing any required certificates or other documents) to effect such designation. If the Partnership Representative determines that it might be possible for the Company to file an election pursuant to Code Section 6221(b) to exempt the Company from the provisions of Code Section 6221, *et seq.*, or other applicable state or local law (an "Election Out"), each of the Members will provide the Partnership Representative with such information and take such other action as may be reasonably requested to effect an Election Out. The Partnership Representative may, without the consent of any Member or Manager, make any decision or take any action as may be available to or made by it under the Code, including, without limitation, filing one or more amended tax returns for the Company, and/or making the election described in Code Section 6226, and any comparable elections permitted under applicable state and local law (the "Push-Out Election") and

each of the Members agrees to timely provide the Partnership Representative with such information and timely take such other action as may be reasonably requested to satisfy the requirements associated with an amended return or a Push-Out Election. The Managing Member are authorized to have the Company make any payments it may be required to make under the Bipartisan Budget Act of 2015 or under any comparable provision of applicable state or local law (each, a "Partnership Tax Deficiency"), and the Managing Member shall allocate any such payment among the current and, to the extent applicable, former Members of the Company for the reviewed year to which the payment relates in a manner that reflects the current or former Members' relative interests in the Company for such reviewed year and any other factors taken into account in determining the amount of the payment. Provisions dealing with responsibility for payment of the portion of any Partnership Tax Deficiency allocated to a current Member or former Member are contained in Section 8.6.

ARTICLE XII
INDEMNIFICATION

12.1 Exculpation. The Managing Member and the officers of the Company shall not be liable to any other officer, the Company or to any Member for any loss suffered by the Company, except to the extent such loss is caused by such Managing Member's or officer's gross negligence, willful misconduct, intentional violation of law or material breach of this Agreement. The Managing Member and the officers of the Company shall not be liable for errors in judgment or for any acts or omissions, except to the extent that any such act or omission constitutes gross negligence, willful misconduct, intentional violation of law or material breach of this Agreement. The Managing Member and the officers of the Company may, at Company expense, consult with counsel and accountants in respect of Company affairs, and provided the Managing Member or officer acts in good faith reliance upon the advice or opinion of such counsel or accountants, the Managing Member or officer shall not be liable for any loss suffered by the Company in reliance thereon.

12.2 Indemnification by Company.

(a) To the fullest extent permitted by law, but subject to any limitations expressly provided in this Agreement, (i) the Managing Member, and its successors and assigns, and any of their respective officers, directors, employees, agents, designees, stockholders, partners or members, (ii) any officer, director, employee, agent of the Company and its successors and assigns, or (iii) any officer, director, employee, agent, designee, stockholder, partner or member of MJT Park Investors, Inc. and its successors or assigns (each of the Persons in Clauses (i), (ii) and (iii) above, an "Indemnitee"), shall be indemnified and held harmless by the Company from and against any and all Losses arising from any and all Proceedings in which such Indemnitee may be involved, or is threatened to be involved, as a party or otherwise, by reason of the fact that he is or was an Indemnitee; provided that (i) (A) the Indemnity's course of conduct was pursued in good faith and believed by him to be in the best interests of the Company and (B) such course of conduct did not constitute gross negligence or willful misconduct on the part of such Indemnity and otherwise was in accordance with the terms of this Agreement and such Indemnity's employment agreement (if any) and (ii) the Proceeding was not commenced by such Indemnitee, any Affiliate of such Indemnitee, or any member of such Indemnitee's Immediate Family against the Company, any other Indemnitee, any Affiliate of any other Indemnitee, or any

member of any other Indemnitee's Immediate Family. Any indemnification pursuant to this Section 12.2 shall be made only out of the assets of the Company, it being agreed that the Members shall not be personally liable for such indemnification and shall have no obligation to contribute or loan any monies or property to the Company to enable it to effectuate such indemnification.

(b) The provisions of Section 12.2 shall be administered in accordance with the following procedures:

(i) Promptly after receipt by an Indemnitee of notice of its involvement or threatened involvement in any Proceeding for which indemnification is provided under Section 12.2(a) (without giving effect to Clause (i) of the proviso contained therein) (hereafter, an "Indemnity-Related Proceeding"), the relevant Indemnitee shall, if a claim in respect thereof is to be made against the Company under this Section, notify the Company in writing of such involvement or threatened involvement. No failure so to notify the Company shall relieve the Company from the obligation to indemnify the Indemnitee except to the extent that the Company shall have been actually prejudiced by such failure. To the extent determined by the Managing Member, the Company shall be entitled to assume and control the defense and settlement of such actual or threatened Indemnity-Related Proceeding (other than any Indemnity-Related Proceeding by the Company relating to or arising out of any alleged breach of this Agreement) with counsel reasonably satisfactory to the Indemnitee making such claim for indemnification; provided, however, that an Indemnitee may, with the consent of the Managing Member (not to unreasonably be withheld), retain control (as to such Indemnitee) of the defense and settlement of such Indemnity-Related Proceeding if (but only if) (x) representation of both the Indemnitee and the Company would, in the reasonable judgment of the Indemnitee making such claim for indemnification, be inappropriate due to actual or potential differing interests between such Indemnitee and the Company or (y) such Indemnity-Related Proceeding involves the potential imposition of criminal liability on such Indemnitee; provided, further, that the Company shall in any event be entitled to be consulted with respect to any actual or threatened Indemnity-Related Proceeding described in this sentence (other than any Indemnity-Related Proceeding by the Company based upon or arising out of any alleged breach of this Agreement). The Company shall diligently defend against, or settle, any Indemnity-Related Proceeding, the defense of which it elects to assume. If the Company shall fail within a reasonable period of time so to assume (or shall be prevented from so assuming) the defense of such actual or threatened Indemnity-Related Proceeding, the Indemnitee may defend such Indemnity-Related Proceeding with counsel of its choice. The expenses (including reasonable legal fees and expenses) incurred by an Indemnitee pursuant to the preceding sentence shall, from time to time, be advanced by the Company prior to the final disposition of the relevant actual or threatened Indemnity-Related Proceeding upon receipt by the Company of an undertaking by or on behalf of the Indemnitee to repay such amount if and when it shall ultimately be determined (by a court of competent jurisdiction or in any other appropriate forum) that the Indemnitee is not entitled to be indemnified pursuant to Section 12.2(a); provided, however, that no such advances need be made in the case of any Indemnity-Related Proceeding by the Company based upon or arising out of any alleged breach of this Agreement or if the Managing Member, acting in good faith, shall

determine that such Indemnitee is not entitled to be indemnified pursuant to Section 12.2(a).

(ii) The Indemnitee shall supply the Company and its counsel with such information reasonably requested by any of them as is necessary or advisable for the Company to control or participate in any Indemnity-Related Proceeding to the extent permitted by this Section 12.2.

(iii) Any term of this Section 12.2 to the contrary notwithstanding, the Company shall not have any liability or obligation to any particular Indemnitee under this Section 12.2 with respect to any Losses which may be imposed on or incurred by such Indemnitee in connection with the settlement of any actual or threatened Indemnity-Related Proceeding entered into by such Indemnitee, or as the result of such Indemnitee ceasing to diligently defend against any Indemnity-Related Proceeding the defense of which has not been assumed by the Company pursuant to this Section 12.2, in each case without the prior written consent of the Company. The Company shall not unreasonably withhold or delay its consent to the settlement of any actual or threatened Indemnity-Related Proceeding the defense of which has not been assumed by the Company pursuant to this Section 12.2. The Company shall not, as to any particular Indemnitee, settle any actual or threatened Indemnity-Related Proceeding the defense of which it has assumed without the consent of such Indemnitee unless such settlement, as to such Indemnitee, is solely for the payment of money and the Company assumes full responsibility for such payment in writing. Nothing in this Section 12.2(b)(iii) shall increase the liability of the Company with respect to any particular Indemnity-Related Proceeding beyond that set forth in Section 12.2(a).

(iv) Upon the payment of any Loss pursuant to this Section 12.2, the Company, without any further action on the part of the relevant Indemnitee, shall be subrogated to any claims against third parties that such Indemnitee in its individual capacity may have relating thereto. The Indemnitee shall give such further assurances or agreement to the Company, and otherwise shall cooperate with (and at the expense of) the Company, to permit the Company to pursue such claims.

(c) The indemnification provided by this Section 12.2 shall be in addition to any other rights to which an Indemnitee may be entitled under any agreement, as a matter of law or otherwise, both as to actions in the Indemnitee's capacity as an Indemnitee and as to actions in any other capacity, and shall continue as to an Indemnitee who has ceased to serve in such capacity and shall inure to the benefit of the heirs, successors, assigns and administrators of the Indemnitee. Nothing in this Section 12.2 shall limit the power or authority of the Managing Member otherwise to indemnify, or agree to indemnify, any Indemnitee or any other Person.

(d) An Indemnitee shall not be denied indemnification in whole or in part under this Section 12.2 because the Indemnitee had an interest in the transaction with respect to which the indemnification applies if the transaction was otherwise permitted by the terms of this Agreement.

(e) The provisions of this Section 12.2 shall be deemed to create a binding obligation on the part of the Company to each Indemnitee on the effective date of this Agreement and

Persons thereafter becoming Indemnitees, and such Persons in acting in their capacities as Indemnitees shall be entitled to rely on such provisions of this Section 12.2, without giving notice thereof to the Company.

(f) No amendment, modification or repeal of this Section 12.2 shall, without the consent of any particular Indemnitee (which consent shall be deemed to have been given if such Indemnitee votes for such amendment, modification or repeal as a Member) in any manner terminate, reduce or impair the right of such Indemnitee to be indemnified by the Company, nor the obligations of the Company to indemnify any such Indemnitee, under and in accordance with the provisions of this Section 12.2 as in effect immediately prior to such amendment, modification or repeal with respect to claims arising from or relating to matters occurring, in whole or in part, prior to such amendment, modification or repeal, regardless of when such claims may arise or be asserted.

12.3 Cross-Indemnification by Members. In addition to the indemnification provisions herein, each Member shall indemnify the other Member for any Loss resulting from a Member's breach of any of its representations and warranties in Section 4.4 or, unless otherwise provided herein, from a Member's breach of its covenants and agreements under this Agreement. In the case of any indemnification under this Section 12.3, the indemnified party shall have all the rights and obligations of the Indemnitee under Section 12.2 and the indemnifying party shall have all the rights and obligations of the Company under Section 12.2 (other than a right to, or obligation for, advancement of expenses as provided in Section 12.2(b)(i), which shall not be applicable to this Section 12.3).

ARTICLE XIII
MISCELLANEOUS

13.1 Confidentiality.

(a) Acknowledgements. Each Member acknowledges that it has been informed that it is the policy of the Company and the other Member to maintain as secret and confidential all information relating to the plans and operations of the Company, except information that becomes generally available to the public other than as a result of disclosure by such Member, or any person or entity affiliated with him, hereafter referred to as "Confidential Information"), and each Member further acknowledges that such Confidential Information is of great value to the Company and to the other Member. Each Member recognizes that it has and will acquire Confidential Information as aforesaid by virtue of its relationship with the Company and the other Member.

(b) Restrictions. Each Member confirms that since it is reasonably necessary to protect the goodwill of the Company and of the other Member, it agrees that it will not directly or indirectly (except where authorized by the Managing Member for the benefit of the Company and by the other Member), for or on behalf of itself or any Person at any time during its status as Member and after it is no longer a Member, divulge to any Person other than the Company or the other Member (hereinafter referred to collectively as a "third party"), or use or cause to authorize any third parties to use, any such Confidential Information, or any other information regarded as confidential and valuable by the Corporation or the other Member that it knows or should know

is regarded as confidential and valuable by the Company or the other Member (whether or not any of the foregoing information is actually novel or unique or is actually known to others).

(c) Termination. Each Member shall, upon the end of its (or an Affiliate's) status as a Member, for any reason, forthwith deliver up to the Company and to the other Member any and all drawings, notebooks, keys and other documents and material, or copies thereof, in its possession or under its control that relate to any Confidential Information, including any of same that contain the names, addresses, contact person and other business information about any customer or patient of the Company or the other Member, or that are otherwise the property of the Company or the other Member.

(d) Enforcement. Each Member agrees that any breach or threatened breach by it of any provision of this Section 13.1 cause irreparable harm to the Company and to the other Member and shall entitle the Company and the other Member, in addition to any other legal remedies available to them, to apply to any court of competent jurisdiction to enjoin such breach or threatened breach, without the need to show irreparable injury or to post any bond, which are hereby waived by each of the Members in any such case. The Members hereto understand and intend that each restriction agreed to by each of them hereinabove shall be construed as separable and divisible from every other restriction, and the unenforceability, in whole or in part, of any such restriction, shall not affect the enforceability of the remaining restrictions and that one or more or all of such restrictions may be enforced in whole or in part as the circumstances warrant. Each Member further acknowledges that the Company and the other Member is relying upon such covenants as an inducement to enter into this Agreement and to permit it to have continued access to Confidential Information.

13.2 Waiver of Rights of Partition and Dissolution. To the fullest extent permitted by applicable law, each Member hereby waives all rights he may have at any time (x) to maintain any action for division or sale of the Company property as now or hereafter permitted under any applicable statutes or other laws and (y) to seek a court decree of dissolution or to seek the appointment of a court receiver for the Company as now or hereafter permitted under any applicable statutes or other laws. Subject to mandatory provisions of law and to circumstances involving a breach of this Agreement, each Member covenants that it will not (except with the consent of the Managing Member) file a bill for a Company accounting.

13.3 Power of Attorney. Each Member hereby constitutes and appoints each officer and director, and each of their respective authorized attorneys-in-fact, with full power of substitution, as its true and lawful agent and attorney-in-fact, with full power and authority in his name, place and stead, to:

(a) execute, swear to, acknowledge, deliver, file and record in the appropriate public offices all certificates, documents and other instruments (including this Agreement and all amendments or restatements hereof) that such officer or director deems necessary or appropriate (A) to form, qualify or continue the existence or qualification of the Company as a limited liability company, (B) to reflect, in accordance with its terms, any amendment, change, modification or restatement of this Agreement, (C) to reflect the dissolution and liquidation of the Company pursuant to the terms of this Agreement, (D) relating to the admission of any new Member pursuant to this Agreement, (E) relating to a merger or consolidation of the Company,

and (F) required to be filed with any regulatory agency, commission or other organization with respect to the business of the Company.

(b) execute, swear to, acknowledge, deliver, file and record all consents, approvals, waivers, certificates, documents and other instruments necessary or appropriate, in the discretion of such officer or director, to make, evidence, give, confirm or ratify any vote, consent, approval, agreement or other action that is made or given by the Members hereunder or is consistent with the terms of this Agreement or is necessary or appropriate, in the discretion of such officer or director, to effectuate the terms or intent of this Agreement.

13.4 Transactions with Affiliates. The Company may employ or transact business with any Person, notwithstanding the fact that a Member, or a member of the Immediate Family of any such Person, or one of his associates, may have an interest in or connection with such Person.

13.5 Modifications. This Agreement (including Amended & Restated Schedule A hereto) may be modified or amended, and any provision hereof (or any breach hereof) may be waived, from time to time by Consent; provided, however, that no modification, amendment or waiver of this Agreement (including Amended & Restated Schedule A hereto) (i) shall increase the amount of Capital Contributions that any Member shall be obligated to make without such Member's approval, or (ii) shall change the allocation of Net Income or Net Loss or the distribution provisions of Section 8.2 with respect to a Member without such Member's consent.

13.6 Notice. Unless otherwise expressly specified or permitted by the terms hereof, all notices, requests, consents, demands, and other communications (collectively, "Notices") required or permitted to be given or delivered under or by reason of the provisions of this Agreement to the Company or to any Member shall be in writing and shall be delivered by first-class mail (or any substantially similar form of mail), postage prepaid, by hand or by nationally recognized air courier service to (i) in the case of any Notice to the Company, its President or its Managing Member, and (ii) in the case of any Notice to any Member, to its current address as it appears in the records of the Company.

13.7 Severability. If any provision of this Agreement is determined by a court to require the Company to perform or to fail to perform an act which is in violation or applicable law, this Agreement shall be limited or modified in its application to the minimum extent necessary to avoid a violation of law, and, as so limited or modified, this Agreement shall be enforceable in accordance with its terms.

13.8 Interpretation; Rule of Construction. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural as the identity of the Person or Persons referred to may require. Paragraph titles or captions contained in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provisions hereof.

13.9 Consent to Jurisdiction. Each Member (and former Member) submits for itself and its property in any legal action or proceeding relating to this Agreement, or for recognition and enforcement of any judgment in respect thereof, to the nonexclusive general jurisdiction of the state courts of, and federal courts for, the State of Delaware.

13.10 Governing Law; Waiver of Jury Trial. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF DELAWARE AS APPLIED TO AGREEMENTS ENTERED AND PERFORMED WHOLLY WITHIN SUCH STATE. THE PARTIES HERETO KNOWINGLY, INTENTIONALLY AND VOLUNTARILY WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS OR REMEDIES ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT.

13.11 Entire Agreement; Amendment. This Agreement and any side letters to this Agreement constitute the entire agreement among the Members with respect to the subject matter hereof and supersede any prior agreement or understanding among or between them with respect to such subject matter. The representations and warranties of the Members in this Agreement shall survive the execution and delivery of this Agreement. This Agreement may not be amended and no provision hereof may be waived without the written consent of the Managing Member and Consent; provided, however that amendments made (x) in connection with the Transfers of Membership Interests (in accordance with Article IX), (y) to change the name of the Company, to clarify any inaccuracy or ambiguity herein or to reconcile any inconsistent provision herein and (z) that have no material adverse effect on any Member or benefit all Members, may be made by the Managing Member unilaterally without the consent of any other Member. Notwithstanding anything to the contrary contained in this Section 13.11 (other than clauses (x), (y) and (z) which shall be controlling and except where approval of the Members is specifically provided for elsewhere in this Agreement), without the approval or written consent of each of the Members affected thereby, no amendment shall (A) materially and disproportionately adversely affect a Member in a different manner than all the other Members, (B) alter in a materially and disproportionately adverse manner the obligations or liability of any Member, except as required by law, (C) dilute the Membership Interest of any Member. No amendment shall alter in a materially adverse manner the provisions of this Section 13.11 or any other provision hereof that requires approval or consent of any specified percentage of Membership Interests without the approval or written consent of Members holding such specified percentage of Membership Interests. The Managing Member shall give written notice to all Members promptly after any amendment has become effective, other than amendments solely for the purpose of the admission of substitute Members to the Company.. The Managing Member shall not consent to an amendment to the Operating Agreement after the date hereof that would cause such agreement or document to contain terms that are more favorable than the terms of this Agreement.

13.12 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Members and each other Person hereafter becoming a Member. This Agreement shall also inure to the benefit of, and may separately be enforced by the Company acting on its own behalf or on behalf of the Members.

13.13 Further Assurances. Each of the parties hereto agrees to execute, acknowledge, deliver, file, record and publish such further certificates, instruments, agreements and other documents, and to take all such further action, as from time to time may be required by law or deemed by the officers or the Managing Member to be necessary or useful in furtherance of the Company's purposes and the objectives and intentions underlying this Agreement.

13.14 No Reliance by Third Parties. Subject to Section 12.1, the provisions of this Agreement are not for the benefit of any creditor or other Person other than the Members and the Company, and no creditor or other Person (other than the Members and the Company) shall obtain any rights under this Agreement or by reason of this Agreement.

13.15 No Implied Waivers. No consent or waiver, express or implied, by the Company or any Member to or of any breach or default by any other Member in the performance of his obligations hereunder shall be deemed or construed to be a consent to or waiver of any other breach or default in the performance by such other Member of the same or any other obligation of such Member hereunder.

13.16 Additional Remedies. The rights and remedies of any Member or the Company hereunder shall not be mutually exclusive. The respective rights and obligations hereunder shall be enforceable by specific performance, injunction or other equitable remedy.

13.17 Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same agreement and shall become effective when one or more counterparts have been signed by all of the Members hereto and delivered to the Company. The exchange of copies of this Agreement and of signature pages by facsimile transmission or .pdf shall constitute effective execution and delivery of this Amendment as to the parties and may be used in lieu of the original Agreement for all purposes. Signatures of the parties transmitted by facsimile or .pdf shall be deemed to be their original signatures for all purposes. may be executed in any number of counterparts, each of which shall be an original and all of which shall together constitute one and the same instrument.

Stream Finance, LLC

By: **Brookstone Partners IAC, Inc.**
Its Managing Member

By: _____
Name: Michael Toporek
Title: President

[Additional Signature Pages Follows]

STREAM FINANCE, LLC

MEMBER SIGNATURE PAGE
FIRST AMENDED AND RESTATED OPERATING AGREEMENT

By its signature below, the undersigned hereby (i) ratifies, approves, confirms and agrees to be bound by the First Amended and Restated Operating Agreement of Stream Finance, LLC, a Delaware limited liability company (the "Company"), dated effective as of November __, 2019, as the same may be amended, restated or supplemented from time to time in accordance with the provisions thereof (the "Amended & Restated Operating Agreement"), (ii) acknowledges that its initial Capital Contribution to the Company is the amount set forth below, (iii) waives any claim that it has, or may have, to exercise to any preemptive rights to make any portion of the additional Capital Contributions contemplated by the Amended & Restated Operating Agreement; and if and to the extent applicable (iv) has agreed to make an additional Capital Contribution to the Company in the amount set forth below.

Amount of Original Capital Commitment: $_____

Amount of Additional Capital Commitment $_____

For Individual Investors:

Signature

Please type or print name of Investor

For Investors other than Individuals:

_____
(please print or print name of Investor)

By: _____
Signature
Title:

Please type or print name and title of signatory