

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, DC 20549

FORM 8-K

CURRENT REPORT PURSUANT  
TO SECTION 13 OR 15(D) OF THE  
SECURITIES EXCHANGE ACT OF 1934

Date of report (Date of earliest event reported): **October 1, 2014**

**XCEL BRANDS, INC.**  
(Exact Name of Registrant as Specified in Its Charter)

**Delaware**  
(State or Other Jurisdiction of Incorporation)

**000-31553**

(Commission File Number)

**76-0307819**

(IRS Employer Identification No.)

475 10th Avenue, 4th Floor, New York, NY  
(Address of Principal Executive Offices)

10018  
(Zip Code)

(347) 727-2474  
(Registrant's Telephone Number, Including Area Code)

n/a

(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

**Item 1.01 Entry into a Material Definitive Agreement****Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.**

On October 1, 2014 and effective as of September 16, 2014, XCel Brands, Inc. (the “Company”) entered into Second Amended and Restated Employment Agreements with each of Robert J. D’Loren, Chairman and Chief Executive Officer of the Company, James F. Haran, Chief Financial Officer of the Company, Giuseppe Falco, Chief Operating Officer of the Company and President of Isaac Mizrahi Brand, and Seth Burroughs, Executive Vice President – Business Development of the Company. Pursuant to the amendments, the agreements were amended and restated to (i) increase the annual base salary for Messrs. D’Loren, Haran, Falco and Burroughs to \$826,500, \$340,500, \$415,600 and \$316,800, per year, respectively, and (ii) provide that, upon a change of control (as defined in the respective agreements) all unvested equity awards shall immediately vest and all stock options not then exercisable shall become exercisable for the lesser of 180 days following the change of control and the remaining term of the applicable option. In addition, pursuant to his agreement, Mr. D’Loren’s undocumented expense reimbursement and membership allowance were eliminated. In addition, pursuant to his agreement, Mr. Falco’s severance for termination without cause or resignation for good reason shall be twelve months base salary. The term of Mr. D’Loren’s employment agreement is three years. The term of each of Messrs. Haran, Falco and Burroughs’ employment agreements is two years. Each of the employment agreements automatically renews at the end of its term for one-year periods, unless either the executive or the Company gives written notice of his/its intention not to renew no later than 90 days from the end of the then-current term.

On October 1, 2014, the Company’s stockholders approved the Amended and Restated 2011 Equity Incentive Plan which amended the 2011 Equity Incentive Plan to (i) increase the number of shares of common stock reserved and available for distribution under the Plan from 5,000,000 to 8,000,000, (ii) increase the maximum number of shares with respect to incentive stock options which may be granted under the Plan from 2,000,000 to 5,000,000, (iii) increase the maximum number of shares of common stock with respect to which options or restricted stock may be granted to any participant from 2,000,000 to 5,000,000 and (iv) provide for the award of cash bonuses to participants.

**Item 9.01 Financial Statements and Exhibits**

<u>Exhibit</u>	<u>Description</u>
No. 10.1	Second Amended and Restated Employment Agreement between the Company and Robert D’Loren
No. 10.2	Second Amended and Restated Employment Agreement between the Company and James Haran
No. 10.3	Second Amended and Restated Employment Agreement between the Company and Giuseppe Falco
No. 10.4	Second Amended and Restated Employment Agreement between the Company and Seth Burroughs
No. 10.5	Amended and Restated 2011 Equity Incentive Plan

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**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this Current Report on Form 8-K to be signed on its behalf by the undersigned thereunto duly authorized.

XCEL BRANDS, INC.  
(Registrant)

By: /s/ James F. Haran  
Name: James F. Haran  
Title: Chief Financial Officer

Date: October 3, 2014

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**SECOND AMENDED AND RESTATED EMPLOYMENT AGREEMENT**

THIS SECOND AMENDED AND RESTATED EMPLOYMENT AGREEMENT (this “*Agreement*”) is made as of October 1, 2014 by and between XCel Brands, Inc., a Delaware corporation (the “*Company*”) and Robert W. D’Loren (the “*Executive*”) each a “*Party*” and collectively the “*Parties*.” This Agreement amends and restates that certain employment agreement dated as of September 22, 2011, as amended and restated on February 21, 2012 and as further amended on December 17, 2012 and October 18, 2013, by and between the Company and the Executive. Unless otherwise indicated, capitalized terms used herein are defined in Section 2.1 of this Agreement.

WHEREAS, the Company has determined that it is in the best interests of the Company and its shareholders to enter into an employment agreement with the Executive and the Executive is willing to serve as an employee of the Company.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein, it is agreed by and between the Executive and the Company as follows:

**ARTICLE I  
EMPLOYMENT TERMS**

1.1 Employment. The Company will employ the Executive, and the Executive accepts employment with the Company, upon the terms and conditions set forth in this Agreement for the period beginning on the Effective Date and ending as provided in Section 1.4(a) hereof (the “*Employment Period*”).

1.2 Position and Duties.

(a) Generally. The Executive shall serve as the Chief Executive Officer of the Company and, in such capacity shall be responsible for the general management of the business, affairs and operations of the Company, shall perform such duties as are customarily performed by a Chief Executive Officer of a company of a similar size and shall have such power and authority as shall reasonably be required to enable him to perform his duties hereunder; provided, however, that in exercising such power and authority and performing such duties, he shall at all times be subject to the authority, control and direction of the Board of Directors of the Company (the “*Board*”). The Company agrees that it will use its reasonable best efforts to cause the Executive to be nominated to and continue to be named Chairman of the Board of Directors during the Term, it being acknowledged and agreed that the Nominating Committee (or any successor committee of the Board, or, in the absence of any such committee, the Board) shall retain the ability to apply reasonable and uniform standards consistent with past practices and corporate governance principles to consider the Executive for nomination to the Board and appointment as Chairman of the Board during the Term. Without limitation on any of the foregoing, the Executive shall have senior management authority and responsibility with respect to the management and operations of the Company and its business, including implementation of the business strategy of the Company consistent with strategy and policies approved by the Board.

(b) Duties and Responsibilities. The Executive shall report to the Board and shall devote a substantial portion of his time to the business and affairs of the Company and its Subsidiaries. The Executive shall perform his duties and responsibilities in a diligent, trustworthy, businesslike and efficient manner and shall use his best efforts during the Employment Period to protect, encourage and promote the best interests of the Company and its stockholders. The Executive shall not engage in any other business activities that could reasonably be expected to conflict with the Executive’s duties, responsibilities and obligations hereunder. During the Employment Period, the Executive shall promptly bring to the Company or its Subsidiaries, as applicable, all investment or business opportunities relating to the Business of which the Executive becomes aware.

(c) Principal Office. The principal place of performance by the Executive of his duties hereunder shall be the Company’s principal executive offices in the New York Metropolitan area, although the Executive may be required to travel outside of the area where the Company’s principal executive offices are located in connection with the business of the Company.

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### 1.3 Compensation.

(a) **Base Salary.** The Executive's base salary during the Employment Period shall be \$826,500.00 per year (the "*Base Salary*"). The Base Salary will be payable to the Executive by the Company in regular installments in accordance with the Company's general payroll practices. The Executive shall receive such increases (but not decreases) in his Base Salary as the Board, or the compensation committee of the Board, may approve in its sole discretion from time to time. Following the three year anniversary of the Effective Date, the Base Salary shall be reviewed at least annually.

(b) **Cash Bonuses.** Executive shall be eligible for annual cash bonuses ("*Cash Bonus*") of up to the Maximum Cash Bonus (as defined below) for each completed calendar year (subject to Section 1.4 hereof) of the Company during the Term in accordance with this Section 1.3(b). The Cash Bonus shall be the percentage of five percent (5%) of all income generated by the trademarks and other intellectual property owned by the Company ("*IP Income*") in excess of \$8,000,000 earned and received by the Company in a calendar year as set forth in the chart below. IP Income shall not include amounts paid to the Company or its affiliates as the "*Annual Payment*" as such term is defined in the Agreement effective December 1, 2009, by and between QVC, Inc. and, IM Ready Made LLC, as amended. The Cash Bonus shall be determined as earned based on the level of the Company's Adjusted EBITDA (as defined below) achieved for such year against the target level of Adjusted EBITDA ("*Target Adjusted EBITDA*") established for such year by the Compensation Committee of the Board (the "*Compensation Committee*"), in its sole discretion, but with prior consultation with the Executive, as follows:

Annual Level of Target Adjusted EBITDA Achieved for each fiscal year ending December 31, 2011 and thereafter	Percentage of 5% of the licensing income earned by the Company in excess of \$8 million
0%-49%	0%
50%-69%	60%
70%-89%	80%
90%-100%	100%

There shall be no interpolation between each target level. The Cash Bonus shall be awarded to the Executive on the date that is the earlier of (i) the 90<sup>th</sup> day following the end of the fiscal year to which the Cash Bonus relates and (ii) the first business day following the date the Company's annual report on Form 10-K for the fiscal year to which the Cash Bonus relates is filed with the Securities and Exchange Commission. Notwithstanding the foregoing, all payments of Cash Bonuses shall be made on a date that allows such payments to comply with the requirements of Section 409A of the Code. Executive shall be eligible to receive a pro rata portion of the Cash Bonus if Executive's employment is less than a full year or ceases prior to the end of the calendar year for which a Cash Bonus has not yet been paid.

"*Adjusted EBITDA*" shall mean for any period, for the Company and its subsidiaries on a consolidated basis (without duplication), an amount equal to (a) consolidated net income (as determined in accordance with generally accepted accounting principles of the United States of America as in effect from time to time) ("*Consolidated Net Income*") for such period, minus, (b) to the extent included in calculating Consolidated Net Income, the sum of, without duplication, (i) income tax credits for such period, and (ii) gain from extraordinary or non-recurring items for such period (including, without limitation, non-cash items related to purchase accounting), plus (c) the following to the extent deducted in calculating such Consolidated Net Income, (i) interest expense and other finance costs (whether cash or non-cash) for such period (ii) the provision for federal, state, local and foreign income taxes for such period, (iii) the amount of depreciation and amortization expense for such period, (iv) the transaction fees, costs and expenses incurred in connection with the acquisition of Isaac Mizrahi and any other subsequent brand acquisition in such period, (v) all other extraordinary or non-recurring non-cash charges (including, without limitation, non-cash items related to purchase accounting and non-cash items related to earn-outs) and (vi) non-cash stock or equity compensation in such period.

The "*Maximum Cash Bonus*" shall mean \$1,500,000.

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(c) **Withholding.** All payments made under this Agreement (including Base Salary, Cash Bonuses, and other amounts) shall be subject to withholding for income taxes, payroll taxes and other legally required deductions.

(d) **Automobile Allowance.** The Company will furnish the Executive with an automobile appropriate for his level of position and shall pay to the Executive (in addition to monthly lease or other payments) all of the related expenses for gasoline, insurance, maintenance, repairs or any other costs associated with the Executive's automobile.

(e) **Expenses.** The Company will reimburse the Executive for all reasonable expenses incurred by him in the course of performing his duties under this Agreement that are consistent with the Company's policies in effect at that time with respect to travel, entertainment and other business expenses, subject to the Company's requirements with respect to reporting and documentation of such expenses. All expense reimbursement payments for documented expenses shall be made in accordance with the Company expense reimbursement policy; provided, however, that payments pursuant to this Section 1.3(e) shall be made within thirty (30) days after the date that the Executive notifies the Company of such expense; provided, further, that the Executive shall notify the Company of such expenses no later than six (6) months after the end of the calendar year in which such expenses were incurred.

(f) **Vacation; Holiday Pay and Sick Leave.** The Executive shall be entitled to five (5) weeks' paid vacation in each calendar year, which if not taken during any year may be carried forward to any subsequent year. Executive shall receive holiday pay and paid sick leave as provided to other executive employees of the Company. Upon cessation of Executive's employment for any reason, Executive shall receive pay for all accrued and unused vacation, calculated at his base salary rate in effect at the time of the cessation of his employment, provided that the amount of vacation that Executive shall be entitled to accrue during the Term shall be in accordance with Company policy.

(g) **Additional Benefits.** During the Employment Period, the Executive shall be entitled to participate (for himself and, as applicable, his dependents) in the group medical, life, 401(k) and other insurance programs, employee benefit plans and perquisites which may be adopted by the Board, or the compensation committee of the Board, from time to time, for participation by the Company's senior management or executives, as well as dental, life and disability insurance coverage, with payment of, or reimbursement for, such insurance premiums by the Company, subject to, in all cases, the terms and conditions established by the Board with respect to such plans (collectively, the "*Benefits*"); provided, however, that the Board, in its reasonable discretion, may revise the terms of any Benefits so long as such revision does not have a disproportionately negative impact on the Executive vis-à-vis other Company employees, to the extent applicable.

(h) **Life and Disability Insurance.** The Company shall, in accordance with the Company's policies, reimburse or pay on behalf of the Executive for up to \$15,000 and \$10,000 per year for Life and Disability Insurance premiums, respectively, with such reimbursements made in the calendar year in which the expense is incurred.

(i) **Indemnification.** The Executive shall be entitled to indemnification by the Company in the same circumstances and to the same extent as the other executive officers and directors of the Company, which indemnification shall in no event be less favorable to the Executive than the fullest scope of indemnification permitted by applicable Delaware law (or any such greater scope of indemnification provided by agreement or by the terms of the Company's Certificate of Incorporation or By-Laws to any executive officer or director of the Company). The Executive shall also be named as an additional insured under the directors' and officers' liability insurance policy maintained by the Company and shall be entitled to the same level of coverage provided thereby to the other executive officers and directors of the Company.

(j) **Stock Options.** In the event that the Company elects from time to time during the Employment Period to award to its senior management or executives, generally, options to purchase shares of the Company's stock pursuant to any stock option plan or similar program, the Executive shall be entitled to participate in any such stock option plan or similar program on a basis consistent with the participation of other senior management or executives of the Company.

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#### 1.4 Term and Termination.

(a) **Duration.** The Employment Period shall commence on the Effective Date and shall terminate three (3) years from the Effective Date (the “Term”), unless earlier terminated by the Company or the Executive as set forth in this Section 1.4. The Term shall renew automatically for one-year periods, unless either party gives the other party written notice of its intention not to renew the Agreement no later than 90 days prior to the expiration of the then current Term. The Employment Period shall be terminated prior to the then-applicable expiration of the Term upon the first to occur of (i) termination of the Executive’s employment by the Company for Cause, (ii) termination of the Executive’s employment by the Company without Cause, (iii) the Executive’s resignation with Good Reason, (iv) the Executive’s resignation other than for Good Reason or (v) the Executive’s death or Disability. The Executive shall not terminate the Employment Period, with or without Good Reason, unless he gives the Company written notice that he intends to terminate the Employment Period at least 90 days prior to the Executive’s proposed Termination Date. As a condition to Executive receiving any payments or benefits under Section 1.4(b) or Section 1.4(c), the Executive shall execute and deliver to the Company the General Release in the form attached hereto as Exhibit A.

(b) **Severance Upon Termination Without Cause, Upon Resignation by the Executive For Good Reason or Failure to Renew Term.** If the Employment Period is terminated by the Company without Cause or if the Executive resigns for Good Reason, or if the Company fails to renew the Term (in which case termination of the Executive’s employment shall be effective at the expiration of the then-current Term), then the Executive will be entitled to receive (1) any unpaid Base Salary through and including the Termination Date and any other amounts, including any unpaid Cash Bonuses or other entitlements then due and owing to the Executive as of the Termination Date; (2) an amount equal to the Executive’s Base Salary (at the rate in effect on the date the Executive’s employment is terminated) for the greater of the remainder of the Term or a two-year period following the Executive’s termination of employment as described in this Section 1.4(b) plus two times the average annual Cash Bonuses paid in the immediate preceding 12 months, payable in a lump sum on the date that is six months following the Executive’s “*separation from service*” (within the meaning of Section 409A of the Code) occurring in connection with such termination and (3) continue to participate in the Company’s group medical plan on the same basis as he previously participated or receive payment of, or reimbursement for, COBRA premiums (or, if COBRA coverage is not available, reimbursement of premiums paid for other medical insurance in an amount not to exceed the COBRA premium) for an eighteen month period following the Executive’s termination of employment; *provided* that if the Executive is provided with health insurance coverage by a successor employer, any such coverage by the Company shall cease (each of (1), (2) and (3) referred to as the “*Severance Payment*”). The Executive also shall be entitled to receive payment for all reimbursable expenses or other entitlements then due and owing to the Executive as of the Termination Date including payments in full for any amounts due and owing under Section 1.3(d). If the Executive breaches his obligations under Section 1.6, 1.7, 1.8 or 1.9 of this Agreement, the Company’s obligation to make any Severance Payments and provide any Benefits shall cease as of the date of such breach; *provided*, that if the Executive cures such breach within 10 days of receiving written notice from the Company of such breach (which notice the Company shall provide promptly to the Executive after learning of such breach), the Company shall promptly pay all Severance Payments not made during such period of dispute and resume making Severance Payments and providing Benefits promptly following such cure.

(c) **Severance upon a Change of Control.** Anything contained herein to the contrary notwithstanding, in the event the Executive’s employment hereunder is terminated within twelve (12) months following a Change of Control by the Company without Cause or by the Executive with Good Reason, the Executive shall be entitled to receive the Severance Payment as described in sub-section (b)(2) above multiplied by two (2) minus \$100; *provided*, however, that if such lump sum Severance Payment, either alone or together with other payments or benefits, either cash or non-cash, that the Executive has the right to receive from the Company, including, but not limited to, accelerated vesting or payment of any deferred compensation, options, stock appreciation rights or any benefits payable to the Executive under any plan for the benefit of employees, would constitute an “*excess parachute payment*” (as defined in Section 280G of the Code), then such lump sum severance payment or other benefit shall be reduced to the largest amount that will not result in receipt by the Executive of an “*excess parachute payment.*” The determination of the amount of the payment described in this subsection shall be made by the Company’s independent auditors at the sole expense of the Company. For purposes of clarification the value of any options described above will be determined by the Company’s independent auditors using a Black-Scholes valuation methodology. Upon a Change of Control, notwithstanding the vesting and exercisability schedule in any stock option or other grant agreement between the Company and the Executive, all unvested stock options, shares of restricted stock and other equity awards granted by the Company to the Executive pursuant to any such agreement shall immediately vest, and all such stock options shall become exercisable and shall remain exercisable for the lesser of 180 days after the date of the Change of Control or the remaining term of the applicable option.

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(d) **Death and Disability.** In the event of the death or Disability of the Executive, the Company shall pay the Executive his Base Salary through the Termination Date, at the rate then in effect, and all expenses or accrued Benefits arising prior to such termination which are payable to the Executive pursuant to this Agreement through the Termination Date. Any other rights and benefits the Executive may have under employee benefit plans and programs of the Company generally in the event of the Executive's Disability shall be determined in accordance with the terms of such plans and programs. In the event of Executive's death, any rights and benefits that the Executive's estate or any other person may have under employee benefit plans and programs of the Company generally in the event of the Executive's death shall be determined in accordance with the terms of such plans and programs.

(e) **Salary and Other Payments Through Termination.** If the Executive's employment with the Company is terminated during the Term (i) by the Company for Cause or (ii) by the Executive other than for Good Reason, the Executive will be entitled to receive his Base Salary at the rate then in effect through the Termination Date, but will not be entitled to receive any Severance Payments or Benefits after the Termination Date. The Executive shall be entitled to receive payment for all reimbursable expenses or other entitlements then due and owing to the Executive as of the Termination Date.

(f) **Other Rights.** Except as set forth in this Section 1.4 and Section 1.3, all of the Executive's rights to receive Base Salary at the rate then in effect, Benefits and the Cash Bonuses hereunder (if any) which accrue or become payable after the termination of the Employment Period shall cease upon such termination.

(g) **Continuing Benefits.** Notwithstanding Section 1.4(f), termination pursuant to this Section 1.4 shall not modify or affect in any way whatsoever any vested right of the Executive to benefits payable under any retirement or pension plan or under any other employee benefit plan of the Company, and all such benefits shall continue, in accordance with, and subject to, the terms and conditions of such plans, to be payable in full to, or on account of, the Executive after such termination.

(h) **No Duty of Mitigation.** The Executive shall not be required to mitigate the amount of any payment provided for in this Article I by seeking other employment or otherwise.

1.5 Intentionally Omitted.

1.6 Confidential Information.

(a) The Executive shall not disclose or, directly or indirectly, use at any time, during the Employment Period or thereafter, any Confidential Information (as defined below) of which the Executive is or becomes aware, whether or not such information is developed by him, alone or with others, except to the extent that (i) such disclosure or use is required by the Executive's performance of the duties assigned to the Executive by the Board, (ii) the Executive is required by subpoena or similar process to disclose or discuss any Confidential Information, provided, that in such case, the Executive shall promptly inform the Company in writing of such event, shall cooperate with the Company in attempting to obtain a protective order or to otherwise limit or restrict such disclosure to the greatest extent possible, and shall disclose only that portion of the Confidential Information as is strictly required, or (iii) such Confidential Information is or becomes generally known to and available for use by the public, other than as a result of any action or inaction directly or indirectly by the Executive. At the Company's expense, the Executive shall take all appropriate steps to safeguard Confidential Information and to protect it against disclosure, misuse, espionage, loss and theft. The Executive acknowledges that the Confidential Information obtained by him during the course of his employment with the Company is the sole and exclusive property of the Company and its Subsidiaries, as applicable.

(b) The Executive understands that the Company and its Subsidiaries will receive from third parties confidential or proprietary information ("*Third Party Information*") subject to a duty on the part of the Company and its Subsidiaries to maintain the confidentiality of such information and to use it only for certain limited purposes. During the Employment Period and in the period specified in such confidentiality agreements, and without in any way limiting the provisions of Section 1.6(a) above, the Executive will hold Third Party Information in confidence, consistent with the obligations applicable to Confidential Information of the Company generally, and will not disclose to anyone (other than personnel and agents of the Company or its Subsidiaries who need to know such information in connection with their work for the Company or its Subsidiaries) or use, except in connection with his work for the Company or its Subsidiaries, Third Party Information unless expressly authorized by the Board in writing.

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(c) As used in this Agreement, the term “*Confidential Information*” means information that is not generally known to the public and that is related in any way to the actual or anticipated business of the Company, its Subsidiaries, its Affiliates or any of their respective predecessors in interest, including but not limited to (i) business development, growth and other strategic business plans, (ii) properties available for acquisition, financing development or sale, (iii) accounting and business methods, (iv) services or products and the marketing of such services and products, (v) fees, costs and pricing structures, (vi) designs, (vii) analysis, (viii) drawings, photographs and reports, (ix) computer software, including operating systems, applications and program listings, (x) flow charts, manuals and documentation, (xi) data bases, (xii) inventions, devices, new developments, methods and processes, whether patentable or unpatentable and whether or not reduced to practice, (xiii) copyrightable works, (xiv) all technology and trade secrets, (xv) confidential terms of material agreements and customer relationships, and (xvi) all similar and related information in whatever form or medium. Confidential Information also expressly excludes Executive’s general know-how and business contacts to the extent that the use of such information does not violate or breach the terms of Section 1.9.

1.7 Inventions and Patents. Executive acknowledges that all discoveries, concepts, ideas, inventions, innovations, improvements, developments, products, methods, processes, techniques, programs, designs, analyses, drawings, reports, patents, copyrightable works and mask works (whether or not including any Confidential Information) and all issuances, registrations or applications related thereto, all other proprietary information or intellectual property and all similar or related information (whether or not patentable) conceived, developed, contributed to, made, or reduced to practice by Executive (either alone or with others) while employed by Company or any of its Subsidiaries or Affiliates or any of their respective predecessors in interest (including prior to the date of this Agreement) or using the materials, facilities or resources of the Company or any of its Subsidiaries or Affiliates or any of their respective predecessors in interest (collectively, “*Company Works*”) is the sole and exclusive property of the Company and its Subsidiaries. Executive hereby assigns all right, title and interest in and to all Company Works to the Company and its Subsidiaries and waives any moral rights he may have therein, without further obligation or consideration. Any copyrightable work prepared in whole or in part by the Executive will be deemed “*a work made for hire*” under Section 201(b) of the 1976 Copyright Act, and the Company and its Subsidiaries shall own all of the rights comprised in the copyright therein. The Executive shall promptly and fully disclose in writing all Company Works to the Company and shall cooperate with the Company and its Subsidiaries to protect, maintain and enforce the Company’s and its Subsidiaries’ interests in and rights to such Company Works (including, without limitation, providing reasonable assistance in securing patent protection and copyright registrations and executing all affidavits, assignments, powers-of-attorney and other documents as reasonably requested by the Company, whether such requests occur prior to or after termination of the Executive’s employment with the Company).

1.8 Delivery of Materials Upon Termination of Employment. As requested by the Company from time to time and in any event upon the termination of the Executive’s employment with the Company, the Executive shall promptly deliver to the Company, or at the Company’s election destroy, all copies and embodiments, in whatever form or medium, of all Confidential Information, Company Works and other property and assets of the Company and its Subsidiaries in the Executive’s possession or within his control (including, but not limited to, office keys, access cards, written records, notes, photographs, manuals, notebooks, documentation, program listings, flow charts, magnetic media, disks, diskettes, tapes computers and handheld devices (including all software, files and documents thereon) and any other materials containing any Confidential Information or Company Works) irrespective of the location or form of such material and, if requested by the Company, shall provide the Company with written confirmation that all such materials have been delivered to the Company or destroyed, as applicable.

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1.9 Non-Compete and Non-Solicitation Covenants.

(a) The Executive acknowledges and agrees that the Executive's services to the Company and its Subsidiaries are unique in nature and that the Company and its Subsidiaries would be irreparably damaged if the Executive were to provide similar services to any Person competing with the Company and its Subsidiaries or engaged in the Business. The Executive further acknowledges that, in the course of his employment with the Company, he will become familiar with the Company's and its Subsidiaries' trade secrets and with other Confidential Information. During the Noncompete Period, he shall not, directly or indirectly, whether for himself or for any other Person, permit his name to be used by or participate in any business or enterprise (including, without limitation, any division, group or franchise of a larger organization) that engages or proposes to engage in the Business in the Restricted Territories, other than the Company and its Subsidiaries or except as otherwise directed or authorized by the Board. For purposes of this Agreement, the term "participate in" shall include, without limitation, having any direct or indirect interest in any Person, whether as a sole proprietor, owner, stockholder, partner, member, joint venturer, creditor or otherwise, or rendering any direct or indirect service or assistance to any Person (whether as a director, officer, supervisor, employee, agent, consultant or otherwise). Nothing herein will prohibit the Executive from mere passive ownership of not more than five percent (5%) of the outstanding stock of any class of a publicly held corporation whose stock is traded on a national securities exchange or in the over-the-counter market. As used herein, the phrase "mere passive ownership" shall include voting or otherwise granting any consents or approvals required to be obtained from such Person as an owner of stock or other ownership interests in any entity pursuant to the charter or other organizational documents of such entity, but shall not include, without limitation, any involvement in the day-to-day operations of such entity.

(b) During the Nonsolicitation Period, the Executive will not directly, or indirectly through another Person, solicit, induce or attempt to induce any customer, supplier, licensee, or other business relation of the Company or any of its Subsidiaries, or solicit, induce or attempt to induce any person who is, or was during the then-most recent 12-month period, a corporate officer, general manager or other employee of the Company or any of its Subsidiaries to terminate such employee's employment with the Company or any of its Subsidiaries, or hire any such person unless such person's employment was terminated by the Company or any of its Subsidiaries, or in any way interfere with the relationship between any such customer, supplier, licensee, employee or business relation and the Company or any of its Subsidiaries. The Executive acknowledges and agrees that the Company and its Subsidiaries would be irreparably damaged if the Executive were to breach any of the provisions contained in this Section 1.9(b).

(c) Executive acknowledges that this Agreement, and specifically, this Section 1.9, does not preclude Executive from earning a livelihood, nor does it unreasonably impose limitations on Executive's ability to earn a living. In addition, Executive agrees and acknowledges that the potential harm to the Company of its non-enforcement outweighs any harm to Executive of its enforcement by injunction or otherwise.

1.10 Enforcement. If, at the time of enforcement of Section 1.6, 1.7, 1.8, 1.9 or 1.10, a court holds that the restrictions stated herein are unreasonable under circumstances then existing, the Parties agree that, to the extent permitted by applicable law, the maximum period, scope or geographical area reasonable under such circumstances will be substituted for the Noncompete Period, scope or area. Because the Executive's services are unique and because the Executive has access to Confidential Information and Company Works, the Parties agree that money damages would be an inadequate remedy for any breach of Section 1.6, 1.7, 1.8, 1.9 or 1.10. Therefore, in the event of a breach or threatened breach of Section 1.6, 1.7, 1.8, 1.9 or 1.10, the Company or any of its Subsidiaries or any of their respective successors or assigns may, in addition to other rights and remedies existing in their favor, apply to any court of competent jurisdiction for specific performance and/or injunctive or other relief in order to enforce, or prevent any violations of, the provisions hereof (without posting a bond or other security). The Parties hereby acknowledge and agree that (a) performance of the services of the Executive hereunder may occur in jurisdictions other than the jurisdiction whose law the Parties have agreed shall govern the construction, validity and interpretation of this Agreement, (b) the law of the State of New York shall govern construction, validity and interpretation of this Agreement to the fullest extent possible, and (c) Section 1.6, 1.7, 1.8, 1.9 or 1.10 shall restrict the Executive only to the extent permitted by applicable law.

1.11 Survival. Sections 1.6, 1.7, 1.8, 1.9 and 1.10 will survive and continue in full force in accordance with their terms notwithstanding any termination of the Employment Period.

**ARTICLE II  
DEFINED TERMS**

2.1 Definitions. For purposes of this Agreement, the following terms will have the following meanings:

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“*Business*” means the business of acquiring and licensing consumer brands worldwide.

“*Cause*” means with respect to the Executive, the occurrence of one or more of the following: (i) conviction of a felony involving moral turpitude, misappropriation of Company property, embezzlement of Company funds, violation of the securities laws or dishonesty, (ii) persistent and repeated refusal to comply with no less than three written directives of the Board with respect to an item that the Board deems material to the business prospects and/or operations of the Company, (iii) reporting to work under the influence of alcohol or illegal drugs, or the use of illegal drugs (whether or not at the workplace), or (iv) any willful breach of Section 1.6, 1.7, 1.8 or 1.9 of this Agreement. Notwithstanding the foregoing, termination by the Company for Cause (other than pursuant to clause (i) above) shall not be effective until and unless (i) Executive fails to cure such alleged act or circumstance within 30 days of receipt of notice thereof, to the satisfaction of the Board in the exercise of its reasonable judgment (or, if within such 30-day period the Executive commences and proceeds to take all reasonable actions to effect such cure, within such reasonable additional time period (no longer than 60 days) as may be necessary), and (ii) notice of intention to terminate for Cause has been given by the Company within sixty (60) days after the Board learns of the act, failure or event constituting Cause, and (iii) the Board has voted (at a meeting of the Board duly called and held as to which termination of Executive is an agenda item) by a vote of at least two-thirds of the members of the Board (other than Executive if Executive is a Board member) to terminate Executive for Cause after Executive has been given notice of the particular acts or circumstances which are the basis for the termination for Cause and has been afforded an opportunity to appear with counsel and present his positions at such meeting and to present his case thereat, and (iv) the Board has given notice of termination to Executive within five days after such meeting voting in favor of termination.

“*Change of Control*” means the occurrence of any of the following (i) a merger or consolidation to which the Company is a party (other than one in which the stockholders of the Company prior to the event own a majority of the voting power of the surviving or resulting corporation) (ii) a sale, lease, transfer, exclusive license or other disposition of all or substantially all of the assets of the Company, or (iii) a sale or transfer by the Company’s stockholders of voting control, in a single transaction or a series of transactions.

“*Code*” means the Internal Revenue Code of 1986 and the Treasury regulations thereunder, each as amended from time to time.

“*Disability*” shall have the meaning set forth in a policy or policies of long-term disability insurance, if any, the Company obtains for the benefit of itself and/or its employees. If there is no definition of “*disability*” applicable under any such policy or policies, if any, then the Executive shall be considered disabled due to mental or physical impairment or disability, despite reasonable accommodations by the Company and its Subsidiaries, to perform his customary or other comparable duties with the Company or its Subsidiaries immediately prior to such disability for a period of at least 120 consecutive days or for at least 180 non-consecutive days in any 12-month period.

“*Effective Date*” means September 16, 2014.

“*Fiscal Year*” means the fiscal year of the Company and its Subsidiaries.

“*Good Reason*” means the occurrence, without the Executive’s written consent, of one or more of the following events: (i) the Company reduces the amount of Executive’s Base Salary or Cash Bonuses, (ii) the Company requires that the Executive relocate his principal place of employment to a site that is more than 50 miles from the Company’s offices in the New York area or if the Company changes the location of its headquarters without the consent of Executive to a location that is more than 50 miles from such location, (iii) the Company materially reduces the Executive’s responsibilities or removes the Executive from the position of Chief Executive Officer other than pursuant to a termination of his employment for Cause, or upon the Executive’s death or Disability or (iv) the Company otherwise materially breaches the terms of this Agreement; provided that no such event shall constitute Good Reason hereunder unless (a) the Executive shall have given written notice to the Company of the Executive’s intent to resign for Good Reason within 30 days after the Executive becomes aware of the occurrence of any such event, which notice shall describe in reasonable detail the event or events constitute the basis for the Executive’s intention to resign for Good Reason and (b) such event or occurrence, if a breach susceptible to cure, shall not have been cured or otherwise shall not have been resolved to the Executive’s reasonable satisfaction, in each case within 30 days of the Company’s receipt of such notice. In such case the Executive’s resignation shall become effective on the 61<sup>st</sup> day after the Company’s receipt of the aforementioned notice.

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“*Merger Agreement*” means the Merger Agreement entered into by and among NetFabric Holdings, Inc., the Company and a subsidiary of NetFabric Holdings, Inc. formed for the purpose of acquiring the Company.

“*Noncompete Period*” means the Employment Period and one year thereafter; provided that, in the event, but only in the event, the Executive’s employment hereunder is terminated by the Company without Cause or by the Executive with Good Reason, Noncompete Period shall mean the Employment Period and 6 months thereafter.

“*Nonsolicitation Period*” means the Employment Period and one year thereafter.

“*Person*” means an individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization, or the United States of America any other nation, any state or other political subdivision thereof, or any entity exercising executive, legislative, judicial, regulatory or administrative functions of government.

“*Restricted Territories*” means (i) the United States and its territories and possessions and (ii) any foreign country in which the Company engages in business as of the Termination Date.

“*Subsidiary*” means, with respect to any Person, any corporation, limited liability company, partnership, association, or business entity of which (i) if a corporation, a majority of the total voting power of shares of stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers, or trustees thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof, or (ii) if a limited liability company, partnership, association, or other business entity (other than a corporation), a majority of partnership or other similar ownership interest thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more Subsidiaries of that Person or a combination thereof. For purposes hereof, a Person or Persons shall be deemed to have a majority ownership interest in a limited liability company, partnership, association, or other business entity (other than a corporation) if such Person or Persons shall be allocated a majority of limited liability company, partnership, association, or other business entity gains or losses or shall be or control any managing director or general partner or manager or managing member of such limited liability company, partnership, association, or other business entity. For purposes hereof, references to a Subsidiary of any Person shall be given effect only at such times that such Person has one or more Subsidiaries, and, unless otherwise indicated, the term Subsidiary refers to a Subsidiary of the Company.

“*Termination Date*” means the effective date of the Executive’s termination of employment with the Company.

## 2.2 Other Definitional Provisions.

(a) Section references contained in this Agreement are references to sections in this Agreement, unless otherwise specified. Each defined term used in this Agreement has a comparable meaning when used in its plural or singular form. Each gender-specific term used in this Agreement has a comparable meaning whether used in a masculine, feminine or gender-neutral form.

(b) Whenever the term “*including*” (whether or not that term is followed by the phrase “*but not limited to*” or “*without limitation*” or words of similar effect) is used in this Agreement in connection with a listing of items within a particular classification, that listing will be interpreted to be illustrative only and will not be interpreted as a limitation on, or an exclusive listing of, the items within that classification.

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**ARTICLE III**  
**MISCELLANEOUS TERMS**

3.1 Defense of Claims. The Executive agrees that, during the Employment Period, and for a period of six months after termination of the Executive's employment, upon request by the Company, the Executive shall reasonably cooperate with the Company in connection with any matters the Executive worked on during his employment with the Company and any related transitional matters. In addition, during the Employment Period and thereafter, the Executive agrees to reasonably cooperate with the Company in the defense of any claims or actions that may be made by or against the Company that affect the Executive's prior areas of responsibility or involve matters about which the Executive has knowledge, except if the Executive's reasonable interests are adverse to the Company in such claim or action and provided that after the Employment Period such level of cooperation shall be reasonable and shall take due account of the Executive's work and personal commitments. The Company agrees to promptly reimburse the Executive for all of the Executive's reasonable travel and other direct expenses incurred, or to be reasonably incurred, to comply with the Executive's obligations under this Section 3.1.

3.2 Nondisparagement. The Executive agrees to refrain from (i) making, directly or indirectly, any derogatory comments concerning the Company or its Subsidiaries or any current or former officers, directors, employees or shareholders thereof or (ii) taking any other action with respect to the Company or its Subsidiaries which is reasonably expected to result, or does result in, damage to the business or reputation of the Company, its Subsidiaries or any of its current or former officers, directors, employees or shareholders. The Company agrees to refrain from (i) making, directly or indirectly, any derogatory comments concerning the Executive or (ii) taking any other action with respect to the Executive which is reasonably expected to result, or does result in, damage to the reputation of the Executive. Notwithstanding anything to the contrary contained herein, nothing in this Agreement shall prohibit or restrict either party from, truthfully and in good faith: (i) making any disclosure of information required by law; (ii) providing information to, or testifying or otherwise assisting in any investigation or proceeding brought by, any federal regulatory or law enforcement agency or legislative body, any self-regulatory organization, or the Company's or the Executive's designated legal, compliance or human resources officers; or (iii) filing, testifying, participating in or otherwise assisting in a proceeding relating to an alleged violation of any federal, state or municipal law relating to fraud, or any rule or regulation of the Securities and Exchange Commission or any self-regulatory organization.

3.3 Source of Payments. All payments provided under this Agreement, other than payments made pursuant to a plan which provides otherwise and except as otherwise provided herein, shall be paid in cash from the general funds of the Company, and no special or separate fund shall be established, and no other segregation of assets shall be made, to assure payment. The Executive shall have no right, title or interest whatsoever in or to any investments which the Company or its Subsidiaries may make to aid the Company in meeting its obligations hereunder. To the extent that any person acquires a right to receive payments from the Company hereunder, such right shall be no greater than the right of an unsecured creditor of the Company.

3.4 Notices. Any notice provided for in this Agreement must be in writing and must be either personally delivered, mailed by first class mail (postage prepaid and return receipt requested), sent by reputable overnight courier service (charges prepaid) or sent by facsimile (with receipt confirmed) to the recipient at the address or facsimile number indicated below:

To the Company:

XCel Brands, Inc.  
475 Tenth Avenue, 4th Floor  
New York, New York 10018

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

Blank Rome LLP  
The Chrysler Building  
405 Lexington Avenue  
New York, NY 10174-0208  
Attn: Robert Mittman, Esquire  
Facsimile: (212) 885-5557

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To the Executive:

Robert W. D'Loren  
c/o XCel Brands, Inc.  
475 Tenth Avenue, 4th Floor  
New York, New York 10018

With copies to:

James F. O'Brien, Esq.  
500 North Broadway, Suite 105  
Jericho, NY 11753  
Telephone: (516) 822-9000  
Telecopy: (516) 822-1050  
Attention: James F. O'Brien, Esq.

or such other address or to the attention of such other Person as the recipient Party will have specified by prior written notice to the sending Party. Any notice under this Agreement will be deemed to have been given when so delivered or sent.

3.5 Severability. Subject to the express provisions of Section 1.10 relating to certain specified changes, whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability will not affect any other provision or any other jurisdiction, but this Agreement will be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision had never been contained herein.

3.6 Complete Agreement. This Agreement embodies the complete agreement and understanding among the Parties with regard to the subject matter hereof and supersedes and preempts any prior understandings, agreements or representations by or among the Parties, written or oral, which may have related to the subject matter hereof in any way. To the extent that this Agreement provides greater benefits to the Executive or fewer obligations of the Executive than available or set forth under the Company's employee handbook or other corporate policies, then this Agreement shall prevail.

3.7 Counterparts. This Agreement may be executed in separate counterparts, each of which is deemed to be an original and all of which taken together constitute one and the same agreement.

3.8 Assignment. Without the Executive's consent, the Company may not assign its rights and obligations under this Agreement except (i) to a "Successor" (as defined below) or (ii) to an entity that is formed and controlled by the Company or any of its Subsidiaries. This Agreement is personal to the Executive, and the Executive shall not have the right to assign the Executive's interest in this Agreement, any rights under this Agreement or any duties imposed under this Agreement, nor shall the Executive have the right to pledge, hypothecate, transfer, assign or otherwise encumber the Executive's right to receive any form of compensation hereunder without the prior written consent of the Board. As used in Sections 3.8 and 3.9, "Successor" shall include any Person that at any time, whether by purchase, merger or otherwise, directly or indirectly acquires all or substantially all of the assets of, or ownership interests in, the Company and its Subsidiaries.

3.9 Successors and Assigns. This Agreement is intended to bind and inure to the benefit of and be enforceable by the Company, the Executive, and their respective heirs, successors and permitted assigns.

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3.10 Choice of Law. This Agreement and the performance of the parties hereunder shall be governed by the internal laws (and not the law of conflicts) of the State of New York. Any claim or controversy arising out of or in connection with this Agreement, or the breach thereof, shall be adjudicated exclusively by the Supreme Court, New York County, State of New York, or by a federal court sitting in Manhattan in New York City, State of New York. The parties hereto agree to the personal jurisdiction of such courts and agree to accept process by regular mail in connection with any such dispute.

3.11 Waiver of Jury Trial. AS A SPECIFICALLY BARGAINED FOR INDUCEMENT FOR EACH OF THE PARTIES HERETO TO ENTER INTO THIS AGREEMENT (AFTER HAVING THE OPPORTUNITY TO CONSULT WITH COUNSEL), EACH PARTY HERETO EXPRESSLY WAIVES THE RIGHT TO TRIAL BY JURY IN ANY LAWSUIT OR PROCEEDING RELATING TO OR ARISING IN ANY WAY FROM THIS AGREEMENT OR THE MATTERS CONTEMPLATED HEREBY.

3.12 Legal Fees and Court Costs. In the event that any action, suit or other proceeding in law or in equity is brought to enforce the provisions of this Agreement, and such action results in the award of a judgment for money damages or in the granting of any injunction in favor of the Company, all expenses (including reasonable attorneys' fees) of the Company in such action, suit or other proceeding shall be paid by the Executive. In the event that any action, suit or other proceeding in law or in equity is brought to enforce the provisions of this Agreement, and such action results in the award of a judgment for money damages or in the granting of any injunction in favor of the Executive, all expenses (including reasonable attorneys' fees and travel expenses) of the Executive in such action, suit or other proceeding shall be paid by the Company.

3.13 Remedies. Each Party will be entitled to enforce its rights under this Agreement specifically, to recover damages and costs caused by any breach of any provision of this Agreement and to exercise all other rights existing in its favor. Subject to Section 3.12, nothing herein shall prohibit any arbitrator or judicial authority from awarding attorneys' fees or costs to a prevailing Party in any arbitration or other proceeding to the extent that such arbitrator or authority may lawfully do so.

3.14 Amendment and Waiver. The provisions of this Agreement may be amended or waived only with the prior written consent of the Company and the Executive, and no course of conduct or failure or delay in enforcing the provisions of this Agreement will affect the validity, binding effect or enforceability of this Agreement.

3.15 Third Party Beneficiaries. This Agreement will not confer any rights or remedies upon any Person other than the Parties and their respective successors and permitted assigns and other than, in the event of the Executive's death, his estate, to which all of Executive's rights and remedies set forth herein shall accrue.

3.16 The Executive's Representations. The Executive hereby represents and warrants to the Company that (a) the execution, delivery and performance of this Agreement by the Executive do not and shall not conflict with, breach, violate or cause a default under any contract, agreement, instrument, order, judgment or decree to which the Executive is a party or by which he is bound, (b) the Executive is not a party to or bound by any employment agreement, noncompete agreement or confidentiality agreement with any other Person (or other agreement with any other person containing a restriction on the Executive's right to do business or obligating him to do business with any other Person on a priority or preferential basis), (c) upon the execution and delivery of this Agreement by the Company, this Agreement shall be the valid and binding obligation of the Executive, enforceable in accordance with its terms and (d) upon the execution and delivery of this Agreement by the Company, Executive shall not be in violation of clause (i) set forth in the definition of Cause and shall not be disabled.

3.17 Amendment to Comply with Section 409A of the Code. To the extent that this Agreement or any part thereof is deemed to be a nonqualified deferred compensation plan subject to Section 409A of the Code and the Treasury Regulations (including proposed regulations) and guidance promulgated thereunder, (a) the provisions of this Agreement shall be interpreted in a manner to the maximum extent possible to comply in good faith with Code Section 409A and (b) the parties hereto agree to amend this Agreement for purposes of complying with Code Section 409A promptly upon issuance of any Treasury regulations or guidance thereunder, *provided*, that any such amendment shall not materially change the present value of the benefits payable to the Executive hereunder or otherwise materially adversely affect the Executive, the Company, or any affiliate of the Company, without the consent of such party. With regard to any provision herein that provides for reimbursement of costs and expenses or in-kind benefits, except as permitted by Code Section 409A, (i) the right to reimbursement or in-kind benefits shall not be subject to liquidation or exchange for another benefit, (ii) the amount of expenses eligible for reimbursement, or in-kind benefits, provided during any taxable year shall not affect the expenses eligible for reimbursement, or in-kind benefits to be provided, in any other taxable year, and (iii) such payments shall be made on or before the last day of the Executive's taxable year following the taxable year in which the expense was incurred.

[END OF PAGE]  
[SIGNATURE PAGE FOLLOWS]

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

**XCel Brands, Inc.**

By: \_\_\_\_\_ /s/ James F. Haran

Name: James F. Haran

Title: CFO

\_\_\_\_\_/s/ Robert W. D'Loren

**Robert W. D'Loren**

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## FORM OF RELEASE

I, Robert W. D'Loren, on behalf of myself and my heirs, successors and assigns, in consideration of and subject to the performance by XCel Brands, Inc. a Delaware Corporation (together with its Subsidiaries, the "*Company*"), of its material obligations under the Second Amended and Restated Employment Agreement (the "*Employment Agreement*") dated as of the Effective Date (as defined in the Employment Agreement) and Sections 3, 4, 7, 8, 10 and 12 below, do hereby release and forever discharge as of the date hereof the Company and its Subsidiaries, all present and former directors, officers, agents, representatives, employees, successors and assigns of the Company and its Subsidiaries, and all direct or indirect owners of each of foregoing (collectively, the "*Released Parties*") to the extent provided below.

1. I understand that certain of the payments or benefits paid or granted to me under Section 1.4(b) and Section 1.4(c) of the Employment Agreement represent, in part, consideration for signing this Mutual General Release and are not salary, wages or benefits to which I was already entitled. I understand and agree that I will not receive the payments and benefits specified in Section 1.4(b) or Section 1.4(c) of the Employment Agreement (other than for any other unpaid compensation, benefits and expenses to which I am entitled thereunder for employment prior to termination) unless I execute this Mutual General Release and do not revoke this Mutual General Release within the time period permitted hereafter or breach this Mutual General Release.

2. Except as provided in paragraph 6 below, and except for compensation and benefits and equity ownership in the Company I am entitled to under the terms of the Employment Agreement, I knowingly and voluntarily release and forever discharge the Released Parties from any and all claims, controversies, actions, causes of action, cross-claims, counter-claims, demands, debts, compensatory damages, liquidated damages, punitive or exemplary damages, other damages, claims for costs and attorneys' fees, or liabilities of any nature whatsoever in law and in equity, both past and present (through the date of this Mutual General Release) and whether known or unknown, suspected, or claimed against the Released Parties which I, my spouse, or any of my heirs, executors, administrators or assigns, may have, which arise out of or are connected with my employment with, or my separation from, the Company (including, but not limited to, any allegation, claim or violation, arising under: Title VII of the Civil Rights Act of 1964, as amended; the Civil Rights Act of 1991; the Age Discrimination in Employment Act of 1967, as amended (including the Older Workers Benefit Protection Act) (except as provided in paragraph 6 below); the Equal Pay Act of 1963, as amended; the Americans with Disabilities Act of 1990; the Family and Medical Leave Act of 1993; the Civil Rights Act of 1866, as amended; the Worker Adjustment Retraining and Notification Act; the Employee Retirement Income Security Act of 1974; any applicable Executive Order Programs; the Fair Labor Standards Act; or their state or local counterparts; or under any other federal, state or local civil or human rights law, or under any other local, state, or federal law, regulation or ordinance; or under any public policy, contract or tort, or under common law; or arising under any policies, practices or procedures of the Company; or any claim for wrongful discharge, breach of contract, infliction of emotional distress, defamation; or any claim for costs, fees, or other expenses, including attorneys' fees incurred in these matters) (all of the foregoing collectively referred to herein as the "*Claims*").

3. This Release is mutual, and the Company hereby expressly releases Robert W. D'Loren, his successors, assigns, heirs, executors and administrators ("*D'Loren Parties*") from all claims and to the same extent as described in the preceding Section 2 .

4. The Parties represent and acknowledge that they have not assigned or transferred or purported to assign or transfer, to any person or entity, any right, claim, demand, cause of action, or other matter mentioned or implied by this Mutual General Release.

5. I represent, warrant and covenant to each of the Released Parties that at no time prior to or contemporaneous with my execution of this Mutual General Release have I (i) knowingly engaged in any wrongful conduct against, on behalf of or as the representative or agent of the Company; (ii) breached any provision of the Employment Agreement; or (iii) violated any state, federal, local or other law, including any securities laws or regulations, including the regulations of FINRA, or any exchange, inter-dealer quotation system or the Over-the-Counter Bulletin Board or other trading venue on which the Company's securities are traded. Each Party represents, warrants and covenants to each of the other Parties that at no time prior to or contemporaneous with his or its execution of this Mutual General Release has any Party filed or caused or knowingly permitted the filing or maintenance, in any state, federal or foreign court, or before any local, state, federal or foreign administrative agency or other tribunal, any charge, claim or action of any kind, nature and character whatsoever ("*Claim*"), known or unknown, suspected or unsuspected, that is pending on the date hereof against the other Parties which is based in whole or in part on any matter referred to in Sections 2 and 3 above; and, subject to each Party's performance under this Mutual General Release, to the maximum extent permitted by law each Party shall be prohibited from filing or maintaining, or causing or knowingly permitting the filing or maintaining, of any such Claim in any such forum.

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6. I agree that this Mutual General Release does not waive or release any rights or claims that I may have under the Age Discrimination in Employment Act of 1967 which arise after the date I execute this Mutual General Release. I acknowledge and agree that my separation from employment with the Company in compliance with the terms of the Employment Agreement shall not serve as the basis for any claim or action (including, without limitation, any claim under the Age Discrimination in Employment Act of 1967).

7. In signing this Mutual General Release, the Parties acknowledge and intend that it shall be effective as a bar to each and every one of the Claims hereinabove mentioned or implied. The Parties expressly consent that this Mutual General Release shall be given full force and effect according to each and all of its express terms and provisions, including those relating to unknown and unsuspected Claims (notwithstanding any state statute that expressly limits the effectiveness of a general release of unknown, unsuspected and unanticipated Claims), if any, as well as those relating to any other Claims hereinabove mentioned or implied. The Parties acknowledge and agree that this waiver is an essential and material term of this Mutual General Release and that without such waiver the Parties would not have agreed to the terms of the Employment Agreement. The Parties further agree that in the event a claim is brought in violation of this Mutual General Release, this Mutual General Release shall serve as a complete defense to such Claims. I further agree that I am not aware of any pending charge or complaint of the type described in paragraph 2 as of the execution of this General Release.

8. The Parties agree that neither this Mutual General Release, nor the furnishing of the consideration for this Mutual General Release, shall be deemed or construed at any time to be an admission by any Released Party or the Executive of any improper or unlawful conduct.

9. I agree that I will forfeit all cash amounts payable by the Company pursuant to the Employment Agreement that would not have otherwise been paid but for my signing this Mutual General Release if I challenge the validity of this Mutual General Release.

10. The Parties agree that this Mutual General Release is confidential and agree not to disclose any information regarding the terms of this Mutual General Release to any third party, except any tax, legal or other counsel consulted regarding the meaning or effect hereof or as required by law and except that the Company may disclose this Mutual General Release to its affiliates and their representatives. The Executive may also disclose information contained herein to his immediate family. The Parties will instruct each of the foregoing not to disclose the same to anyone.

11. Any non-disclosure provision in this Mutual General Release does not prohibit or restrict me (or my attorney) or the Company or its attorney from responding to any inquiry about this Mutual General Release or its underlying facts and circumstances by any governmental entity.

12. The Parties specifically acknowledge their continuing obligations to one another under the Employment Agreement, including without limitation under Section 1.6, Section 1.7, Section 1.8, Section 1.9 and Section 3.1 of the Employment Agreement.

13. Whenever possible, each provision of this Mutual General Release shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Mutual General Release is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision or any other jurisdiction, but this Mutual General Release shall be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision had never been contained herein.

14. Capitalized terms used but not defined herein shall have the meaning given such terms in the Employment Agreement.

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BY SIGNING THIS MUTUAL GENERAL RELEASE, I REPRESENT AND AGREE THAT:

- a. I HAVE READ IT CAREFULLY;
- b. I UNDERSTAND ALL OF ITS TERMS AND KNOW THAT I AM GIVING UP IMPORTANT RIGHTS, INCLUDING BUT NOT LIMITED TO, RIGHTS UNDER THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967, AS AMENDED; TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, AS AMENDED; THE EQUAL PAY ACT OF 1963; THE AMERICANS WITH DISABILITIES ACT OF 1990; AND THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, AS AMENDED;
- c. I VOLUNTARILY CONSENT TO EVERYTHING IN IT;
- d. I HAVE BEEN ADVISED TO CONSULT WITH AN ATTORNEY BEFORE EXECUTING IT AND I HAVE DONE SO OR, AFTER CAREFUL READING AND CONSIDERATION, I HAVE CHOSEN NOT TO DO SO OF MY OWN VOLITION;
- e. I HAVE HAD AT LEAST 21 DAYS FROM THE DATE OF MY RECEIPT OF THIS RELEASE, SUBSTANTIALLY IN ITS FINAL FORM ON \_\_\_\_\_, \_\_\_\_\_, TO CONSIDER IT, AND THE CHANGES MADE SINCE THE \_\_\_\_\_, \_\_\_\_\_ VERSION OF THIS RELEASE ARE NOT MATERIAL AND WILL NOT RESTART THE REQUIRED 21-DAY PERIOD;
- f. THE CHANGES TO THE AGREEMENT SINCE \_\_\_\_\_, \_\_\_\_\_ EITHER ARE NOT MATERIAL OR WERE MADE AT MY REQUEST.
- g. I UNDERSTAND THAT I HAVE SEVEN (7) DAYS AFTER THE EXECUTION OF THIS RELEASE TO REVOKE IT AND THAT THIS RELEASE SHALL NOT BECOME EFFECTIVE OR ENFORCEABLE UNTIL THE REVOCATION PERIOD HAS EXPIRED;
- h. I HAVE SIGNED THIS MUTUAL GENERAL RELEASE KNOWINGLY AND VOLUNTARILY AND WITH THE ADVICE OF ANY COUNSEL RETAINED TO ADVISE ME WITH RESPECT TO IT; AND
- i. I AGREE THAT THE PROVISIONS OF THIS MUTUAL GENERAL RELEASE MAY NOT BE AMENDED, WAIVED, CHANGED OR MODIFIED EXCEPT BY AN INSTRUMENT IN WRITING SIGNED BY AN AUTHORIZED REPRESENTATIVE OF THE COMPANY AND BY ME.

DATE: \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Robert D'Loren

Acknowledged and agreed as of the date first written above:

**XCel Brands, Inc.**

By: \_\_\_\_\_  
Name: James Haran  
Title: CFO

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**SECOND AMENDED AND RESTATED EMPLOYMENT AGREEMENT**

THIS SECOND AMENDED AND RESTATED EMPLOYMENT AGREEMENT (this “*Agreement*”) is made as of October 1, 2014 by and between XCel Brands, Inc., a Delaware corporation (the “*Company*”) and James F. Haran (the “*Executive*”), each a “*Party*” and collectively the “*Parties*.” This Agreement amends and restates that certain employment agreement dated as of September 22, 2011, as amended and restated on February 21, 2012 and as further amended on December 17, 2012 and October 18, 2013, by and between the Company and the Executive. Unless otherwise indicated, capitalized terms used herein are defined in Section 2.1 of this Agreement.

WHEREAS, the Company has determined that it is in the best interests of the Company and its shareholders to enter into an employment agreement with the Executive and the Executive is willing to serve as an employee of the Company.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein, it is agreed by and between the Executive and the Company as follows:

**ARTICLE I  
EMPLOYMENT TERMS**

1.1 Employment. The Company will employ the Executive, and the Executive accepts employment with the Company, upon the terms and conditions set forth in this Agreement for the period beginning on the Effective Date and ending as provided in Section 1.4(a) hereof (the “*Employment Period*”).

1.2 Position and Duties.

(a) Generally. The Executive shall serve as the Chief Financial Officer of the Company and, in such capacity shall be responsible for the general management of the financial affairs of the Company, shall perform such duties as are customarily performed by an officer with similar title and responsibilities of a company of a similar size and shall have such power and authority as shall reasonably be required to enable him to perform his duties hereunder; provided, however, that in exercising such power and authority and performing such duties, he shall at all times be subject to the authority, control and direction of the Board of Directors and the Chief Executive Officer of the Company.

(b) Duties and Responsibilities. The Executive shall report to the Chief Executive Officer of the Company and shall devote his full business time and attention to the business and affairs of the Company and its Subsidiaries. The Executive shall perform his duties and responsibilities in a diligent, trustworthy, businesslike and efficient manner and shall use his best efforts during the Employment Period to protect, encourage and promote the best interests of the Company and its stockholders. The Executive shall not engage in any other business activities that could reasonably be expected to conflict with the Executive’s duties, responsibilities and obligations hereunder. During the Employment Period, the Executive shall promptly bring to the Company or its Subsidiaries, as applicable, all investment or business opportunities relating to the Business of which the Executive becomes aware.

(c) Principal Office. The principal place of performance by the Executive of his duties hereunder shall be the Company’s principal executive offices in the New York Metropolitan area, although the Executive may be required from time to time to travel outside of the area where the Company’s principal executive offices are located in connection with the business of the Company.

1.3 Compensation.

(a) Base Salary. The Executive’s base salary during the Employment Period shall be \$340,500.00 per annum (the “*Base Salary*”). The Base Salary will be payable to the Executive by the Company in regular installments in accordance with the Company’s general payroll practices. The Executive shall receive such increases (but not decreases) in his Base Salary as the Board of Directors, or the compensation committee of the Board of Directors, may approve in its sole discretion from time to time. Following the two year anniversary of the Effective Date, the Base Salary shall be reviewed at least annually.

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(b) Cash Bonus. Executive shall be eligible for a cash bonus of up to \$60,000 per annum for fiscal years commencing on or after January 1, 2014 (the “Cash Bonus”) based upon the following: 50% of the Cash Bonus for a fiscal year shall be paid to the Executive if the Company achieves at least 70% of its budgeted Adjusted EBITDA (as defined below) for such fiscal year and 100% of the Cash Bonus for a fiscal year shall be paid to the Executive if the Company achieves at least 90% of its budgeted Adjusted EBITDA for such fiscal year. The Cash Bonus shall be awarded to the Executive on the date that is the earlier of (i) the 90th day following the end of the fiscal year to which the Cash Bonus relates and (ii) the first business day following the date the Company’s annual report on Form 10-K for the fiscal year to which the Cash Bonus relates is filed with the Securities and Exchange Commission. Notwithstanding the foregoing, all payments of Cash Bonuses shall be made on a date that allows such payments to comply with the requirements of Section 409A of the Code. Executive shall be eligible to receive a pro rata portion of the Cash Bonus if Executive’s employment is less than a full year or ceases prior to the end of the calendar year for which a Cash Bonus has not yet been paid. The Executive is eligible to receive additional cash bonuses at the discretion of the Company’s compensation committee.

“Adjusted EBITDA” shall mean for any period, for the Company and its subsidiaries on a consolidated basis (without duplication), an amount equal to (a) consolidated net income (as determined in accordance with generally accepted accounting principles of the United States of America as in effect from time to time) (“Consolidated Net Income”) for such period, minus, (b) to the extent included in calculating Consolidated Net Income, the sum of, without duplication, (i) income tax credits for such period, and (ii) gain from extraordinary or non-recurring items for such period (including, without limitation, non-cash items related to purchase accounting), plus (c) the following to the extent deducted in calculating such Consolidated Net Income, (i) interest expense and other finance costs (whether cash or non-cash) for such period (ii) the provision for federal, state, local and foreign income taxes for such period, (iii) the amount of depreciation and amortization expense for such period, (iv) the transaction fees, costs and expenses incurred in connection with the acquisition of Isaac Mizrahi and any other subsequent brand acquisition in such period, (v) all other extraordinary or non-recurring non-cash charges (including, without limitation, non-cash items related to purchase accounting and non-cash items related to earn-outs) and (vi) non-cash stock or equity compensation in such period.

(c) Withholding. All payments made under this Agreement (including Base Salary, Cash Bonus payments, and other amounts) shall be subject to withholding for income taxes, payroll taxes and other legally required deductions.

(d) Expenses. The Company will reimburse the Executive for all reasonable expenses incurred by him in the course of performing his duties under this Agreement that are consistent with the Company’s policies in effect at that time with respect to travel, entertainment and other business expenses, subject to the Company’s requirements with respect to reporting and documentation of such expenses. All expense reimbursement payments for documented expenses shall be made in accordance with the Company expense reimbursement policy; provided, however, that payments pursuant to this Section 1.3(d) shall be made within thirty (30) days after the date that the Executive notifies the Company of such expense; provided further that the Executive shall notify the Company of such expenses no later than six (6) months after the end of the calendar year in which such expenses were incurred. Notwithstanding the foregoing, the Company shall pay to the Executive an automobile allowance of \$1,500 per month.

(e) Vacation; Holiday Pay and Sick Leave. The Executive shall be entitled to four (4) weeks’ paid vacation in each calendar year, which if not taken during any year may be carried forward to any subsequent year. Executive shall receive holiday pay and paid sick leave as provided to other executive employees of the Company.

(f) Additional Benefits. During the Employment Period, the Executive shall be entitled to participate (for himself and, as applicable, his dependents) in the group medical, life, 401(k) and other insurance programs, employee benefit plans and perquisites which may be adopted by the Board, or the compensation committee of the Board, from time to time, for participation by the Company’s senior management or executives, as well as dental, life and disability insurance coverage, with payment of, or reimbursement for, such insurance premiums by the Company, subject to, in all cases, the terms and conditions established by the Board with respect to such plans (collectively, the “Benefits”); provided, however, that the Board, in its reasonable discretion, may revise the terms of any Benefits so long as such revision does not have a disproportionately negative impact on the Executive vis-à-vis other Company employees, to the extent applicable.

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(g) Indemnification. The Executive shall be entitled to indemnification by the Company in the same circumstances and to the same extent as the other executive officers and directors of the Company, which indemnification shall in no event be less favorable to the Executive than the fullest scope of indemnification permitted by applicable Delaware law (or any such greater scope of indemnification provided by agreement or by the terms of the Company's Certificate of Incorporation or By-Laws to any executive officer or director of the Company).

(h) Stock Options. In the event that the Company elects from time to time during the Employment Period to award to its senior management or executives, generally, options to purchase shares of the Company's stock or shares of restricted stock pursuant to any stock option plan or similar program, the Executive shall be entitled to participate in any such stock option plan or similar program on a basis consistent with the participation of other senior management or executives of the Company.

#### 1.4 Term and Termination.

(a) Duration. The Employment Period shall commence on the Effective Date and shall terminate two (2) years from the Effective Date (the "Term"), unless earlier terminated by the Company or the Executive as set forth in this Section 1.4. The Term shall renew automatically for one-year periods, unless either party gives the other party written notice of its intention not to renew the Agreement no later than 30 days prior to the expiration of the then current Term. The Employment Period shall be terminated prior to the then-applicable expiration of the Term upon the first to occur of (i) termination of the Executive's employment by the Company for Cause, (ii) termination of the Executive's employment by the Company without Cause, (iii) the Executive's resignation with Good Reason, (iv) the Executive's resignation other than for Good Reason or (v) the Executive's death or Disability. The Executive shall not terminate the Employment Period, with or without Good Reason, unless he gives the Company written notice that he intends to terminate the Employment Period at least 90 days prior to the Executive's proposed Termination Date. As a condition to Executive receiving any payments or benefits under Section 1.4(b) or Section 1.4(c), the Executive shall execute and deliver to the Company the General Release in the form attached hereto as Exhibit A.

(b) Severance Upon Termination Without Cause, Upon Resignation by the Executive For Good Reason or Failure to Renew Term. If the Employment Period is terminated by the Company without Cause or if the Executive resigns for Good Reason, or if the Company fails to renew the Term (in which case termination of the Executive's employment shall be effective at the expiration of the then-current Term), then the Executive will be entitled to receive (1) any unpaid Base Salary through and including the Termination Date and any other amounts, including any amounts due for Cash Bonus, or other entitlements then due and owing to the Executive as of the Termination Date; (2) an amount equal to the Executive's Base Salary (at the rate in effect on the date the Executive's employment is terminated) for a 12-month period following the Executive's termination of employment as described in this Section 1.4(b), payable in a lump sum on the date that is six months following the Executive's "separation from service" (within the meaning of Section 409A of the Code) occurring in connection with such termination and (3) continue to participate in the Company's group medical plan on the same basis as he previously participated or receive payment of, or reimbursement for, COBRA premiums (or, if COBRA coverage is not available, reimbursement of premiums paid for other medical insurance in an amount not to exceed the COBRA premium) for a one-year period following the Executive's termination of employment; provided that if the Executive is provided with health insurance coverage by a successor employer, any such coverage by the Company shall cease (each of (1), (2) and (3) referred to as the "Severance Payment"). The Executive also shall be entitled to receive payment for all reimbursable expenses or other entitlements then due and owing to the Executive as of the Termination Date. If the Executive breaches his obligations under Section 1.6, 1.7, 1.8 or 1.9 of this Agreement, the Company's obligation to make any Severance Payments and provide any Benefits shall cease as of the date of such breach; provided, that if the Executive cures such breach within 10 days of receiving written notice from the Company of such breach (which notice the Company shall provide promptly to the Executive after learning of such breach), the Company shall promptly pay all Severance Payments not made during such period of dispute and resume making Severance Payments and providing Benefits promptly following such cure.

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(c) Severance upon a Change of Control. Anything contained herein to the contrary notwithstanding, in the event the Executive's employment hereunder is terminated within twelve (12) months following a Change of Control by the Company without Cause or by the Executive with Good Reason, the Executive shall be entitled to receive the Severance Payment as described in sub-section (b)(2) above; provided, however, that if such lump sum Severance Payment, either alone or together with other payments or benefits, either cash or non-cash, that the Executive has the right to receive from the Company, including, but not limited to, accelerated vesting or payment of any deferred compensation, options, stock appreciation rights or any benefits payable to the Executive under any plan for the benefit of employees, would constitute an "excess parachute payment" (as defined in Section 280G of the Code), then such lump sum severance payment or other benefit shall be reduced to the largest amount that will not result in receipt by the Executive of an "excess parachute payment." The determination of the amount of the payment described in this subsection shall be made by the Company's independent auditors at the sole expense of the Company. For purposes of clarification the value of any options described above will be determined by the Company's independent auditors using a Black-Scholes valuation methodology. Upon a Change of Control, notwithstanding the vesting and exercisability schedule in any stock option or other grant agreement between the Company and the Executive, all unvested stock options, shares of restricted stock and other equity awards granted by the Company to the Executive pursuant to any such agreement shall immediately vest, and all such stock options shall become exercisable and shall remain exercisable for the lesser of 180 days after the date of the Change of Control or the remaining term of the applicable option.

(d) Death and Disability. In the event of the death or Disability of the Executive, the Company shall pay the Executive his Base Salary through the Termination Date, at the rate then in effect, and all expenses or accrued Benefits arising prior to such termination which are payable to the Executive pursuant to this Agreement through the Termination Date. Any other rights and benefits the Executive may have under employee benefit plans and programs of the Company generally in the event of the Executive's Disability shall be determined in accordance with the terms of such plans and programs. In the event of Executive's death, any rights and benefits that the Executive's estate or any other person may have under employee benefit plans and programs of the Company generally in the event of the Executive's death shall be determined in accordance with the terms of such plans and programs.

(e) Salary and Other Payments Through Termination. If the Executive's employment with the Company is terminated during the Term (i) by the Company for Cause or (ii) by the Executive other than for Good Reason, the Executive will be entitled to receive his Base Salary through the Termination Date, but will not be entitled to receive any Severance Payments or Benefits after the Termination Date. The Executive shall be entitled to receive payment for all reimbursable expenses or other entitlements then due and owing to the Executive as of the Termination Date.

(f) Other Rights. Except as set forth in this Section 1.4 and Section 1.3, all of the Executive's rights to receive Base Salary, Benefits and the Cash Bonuses hereunder (if any) which accrue or become payable after the termination of the Employment Period shall cease upon such termination.

(g) Continuing Benefits. Notwithstanding Section 1.4(f), termination pursuant to this Section 1.4 shall not modify or affect in any way whatsoever any vested right of the Executive to benefits payable under any retirement or pension plan or under any other employee benefit plan of the Company, and all such benefits shall continue, in accordance with, and subject to, the terms and conditions of such plans, to be payable in full to, or on account of, the Executive after such termination.

(h) No Duty of Mitigation. The Executive shall not be required to mitigate the amount of any payment provided for in this Article I by seeking other employment or otherwise.

#### 1.5 Confidential Information.

(a) The Executive shall not disclose or, directly or indirectly, use at any time, during the Employment Period or thereafter, any Confidential Information (as defined below) of which the Executive is or becomes aware, whether or not such information is developed by him, alone or with others, except to the extent that (i) such disclosure or use is required by the Executive's performance of the duties assigned to the Executive by the Board, (ii) the Executive is required by subpoena or similar process to disclose or discuss any Confidential Information, provided, that in such case, the Executive shall promptly inform the Company in writing of such event, shall cooperate with the Company in attempting to obtain a protective order or to otherwise limit or restrict such disclosure to the greatest extent possible, and shall disclose only that portion of the Confidential Information as is strictly required, or (iii) such Confidential Information is or becomes generally known to and available for use by the public, other than as a result of any action or inaction directly or indirectly by the Executive. At the Company's expense, the Executive shall take all appropriate steps to safeguard Confidential Information and to protect it against disclosure, misuse, espionage, loss and theft. The Executive acknowledges that the Confidential Information obtained by him during the course of his employment with the Company is the sole and exclusive property of the Company and its Subsidiaries, as applicable.

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(b) The Executive understands that the Company and its Subsidiaries will receive from third parties confidential or proprietary information (“*Third Party Information*”) subject to a duty on the part of the Company and its Subsidiaries to maintain the confidentiality of such information and to use it only for certain limited purposes. During the Employment Period and in the period specified in such confidentiality agreements, and without in any way limiting the provisions of Section 1.5(a) above, the Executive will hold Third Party Information in confidence, consistent with the obligations applicable to Confidential Information of the Company generally, and will not disclose to anyone (other than personnel and agents of the Company or its Subsidiaries who need to know such information in connection with their work for the Company or its Subsidiaries) or use, except in connection with his work for the Company or its Subsidiaries, Third Party Information unless expressly authorized by the Board in writing.

(c) As used in this Agreement, the term “*Confidential Information*” means information that is not generally known to the public and that is related in any way to the actual or anticipated business of the Company, its Subsidiaries, its Affiliates or any of their respective predecessors in interest, including but not limited to (i) business development, growth and other strategic business plans, (ii) properties available for acquisition, financing development or sale, (iii) accounting and business methods, (iv) services or products and the marketing of such services and products, (v) fees, costs and pricing structures, (vi) designs, (vii) analysis, (viii) drawings, photographs and reports, (ix) computer software, including operating systems, applications and program listings, (x) flow charts, manuals and documentation, (xi) data bases, (xii) inventions, devices, new developments, methods and processes, whether patentable or unpatentable and whether or not reduced to practice, (xiii) copyrightable works, (xiv) all technology and trade secrets, (xv) confidential terms of material agreements and customer relationships, and (xvi) all similar and related information in whatever form or medium. Confidential Information also expressly excludes Executive’s general know-how and business contacts to the extent that the use of such information does not violate or breach the terms of Section 1.9.

1.6 Inventions and Patents. Executive acknowledges that all discoveries, concepts, ideas, inventions, innovations, improvements, developments, products, methods, processes, techniques, programs, designs, analyses, drawings, reports, patents, copyrightable works and mask works (whether or not including any Confidential Information) and all issuances, registrations or applications related thereto, all other proprietary information or intellectual property and all similar or related information (whether or not patentable) conceived, developed, contributed to, made, or reduced to practice by Executive (either alone or with others) while employed by Company or any of its Subsidiaries or Affiliates or any of their respective predecessors in interest (including prior to the date of this Agreement) or using the materials, facilities or resources of the Company or any of its Subsidiaries or Affiliates or any of their respective predecessors in interest (collectively, “*Company Works*”) is the sole and exclusive property of the Company and its Subsidiaries. Executive hereby assigns all right, title and interest in and to all Company Works to the Company and its Subsidiaries and waives any moral rights he may have therein, without further obligation or consideration. Any copyrightable work prepared in whole or in part by the Executive will be deemed “*a work made for hire*” under Section 201(b) of the 1976 Copyright Act, and the Company and its Subsidiaries shall own all of the rights comprised in the copyright therein. The Executive shall promptly and fully disclose in writing all Company Works to the Company and shall cooperate with the Company and its Subsidiaries to protect, maintain and enforce the Company’s and its Subsidiaries’ interests in and rights to such Company Works (including, without limitation, providing reasonable assistance in securing patent protection and copyright registrations and executing all affidavits, assignments, powers-of-attorney and other documents as reasonably requested by the Company, whether such requests occur prior to or after termination of the Executive’s employment with the Company).

1.7 Delivery of Materials Upon Termination of Employment. As requested by the Company from time to time and in any event upon the termination of the Executive’s employment with the Company, the Executive shall promptly deliver to the Company, or at the Company’s election, destroy, all copies and embodiments, in whatever form or medium, of all Confidential Information, Company Works and other property and assets of the Company and its Subsidiaries in the Executive’s possession or within his control (including, but not limited to, office keys, access cards, written records, notes, photographs, manuals, notebooks, documentation, program listings, flow charts, magnetic media, disks, diskettes, tapes computers and handheld devices (including all software, files and documents thereon) and any other materials containing any Confidential Information or Company Works) irrespective of the location or form of such material and, if requested by the Company, shall provide the Company with written confirmation that all such materials have been delivered to the Company or destroyed, as applicable.

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## 1.8 Non-Compete and Non-Solicitation Covenants.

(a) The Executive acknowledges and agrees that the Executive's services to the Company and its Subsidiaries are unique in nature and that the Company and its Subsidiaries would be irreparably damaged if the Executive were to provide similar services to any Person competing with the Company and its Subsidiaries or engaged in the Business. The Executive further acknowledges that, in the course of his employment with the Company, he will become familiar with the Company's and its Subsidiaries' trade secrets and with other Confidential Information. During the Noncompete Period, he shall not, directly or indirectly, whether for himself or for any other Person, permit his name to be used by or participate in any business or enterprise (including, without limitation, any division, group or franchise of a larger organization) that engages or proposes to engage in the Business in the Restricted Territories, other than the Company and its Subsidiaries or except as otherwise directed or authorized by the Board. For purposes of this Agreement, the term "participate in" shall include, without limitation, having any direct or indirect interest in any Person, whether as a sole proprietor, owner, stockholder, partner, member, joint venturer, creditor or otherwise, or rendering any direct or indirect service or assistance to any Person (whether as a director, officer, supervisor, employee, agent, consultant or otherwise). Nothing herein will prohibit the Executive from mere passive ownership of not more than five percent (5%) of the outstanding stock of any class of a publicly held corporation whose stock is traded on a national securities exchange or in the over-the-counter market. As used herein, the phrase "mere passive ownership" shall include voting or otherwise granting any consents or approvals required to be obtained from such Person as an owner of stock or other ownership interests in any entity pursuant to the charter or other organizational documents of such entity, but shall not include, without limitation, any involvement in the day-to-day operations of such entity.

(b) During the Nonsolicitation Period, the Executive will not directly, or indirectly through another Person, solicit, induce or attempt to induce any customer, supplier, licensee, or other business relation of the Company or any of its Subsidiaries, or solicit, induce or attempt to induce any person who is, or was during the then-most recent 12-month period, a corporate officer, general manager or other employee of the Company or any of its Subsidiaries to terminate such employee's employment with the Company or any of its Subsidiaries, or hire any such person unless such person's employment was terminated by the Company or any of its Subsidiaries, or in any way interfere with the relationship between any such customer, supplier, licensee, employee or business relation and the Company or any of its Subsidiaries. The Executive acknowledges and agrees that the Company and its Subsidiaries would be irreparably damaged if the Executive were to breach any of the provisions contained in this Section 1.8(b).

(c) Executive acknowledges that this Agreement, and specifically, this Section 1.8, does not preclude Executive from earning a livelihood, nor does it unreasonably impose limitations on Executive's ability to earn a living. In addition, Executive agrees and acknowledges that the potential harm to the Company of its non-enforcement outweighs any harm to Executive of its enforcement by injunction or otherwise.

1.9 Enforcement. If, at the time of enforcement of Section 1.5, 1.6, 1.7, 1.8, 1.9 or 1.10, a court holds that the restrictions stated herein are unreasonable under circumstances then existing, the Parties agree that, to the extent permitted by applicable law, the maximum period, scope or geographical area reasonable under such circumstances will be substituted for the Noncompete Period, scope or area. Because the Executive's services are unique and because the Executive has access to Confidential Information and Company Works, the Parties agree that money damages would be an inadequate remedy for any breach of Section 1.5, 1.6, 1.7, 1.8, 1.9 or 1.10. Therefore, in the event of a breach or threatened breach of Section 1.5, 1.6, 1.7, 1.8, 1.9 or 1.10, the Company or any of its Subsidiaries or any of their respective successors or assigns may, in addition to other rights and remedies existing in their favor, apply to any court of competent jurisdiction for specific performance and/or injunctive or other relief in order to enforce, or prevent any violations of, the provisions hereof (without posting a bond or other security). The Parties hereby acknowledge and agree that (a) performance of the services of the Executive hereunder may occur in jurisdictions other than the jurisdiction whose law the Parties have agreed shall govern the construction, validity and interpretation of this Agreement, (b) the law of the State of New York shall govern construction, validity and interpretation of this Agreement to the fullest extent possible, and (c) Section 1.5, 1.6, 1.7, 1.8, 1.9 or 1.10 shall restrict the Executive only to the extent permitted by applicable law.

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1.10 Survival. Sections 1.5, 1.6, 1.7, 1.8, 1.9 and 1.10 will survive and continue in full force in accordance with their terms notwithstanding any termination of the Employment Period.

## ARTICLE II DEFINED TERMS

2.1 Definitions. For purposes of this Agreement, the following terms will have the following meanings:

“*Business*” means the business of acquiring and licensing consumer brands worldwide.

“*Cause*” means with respect to the Executive, the occurrence of one or more of the following: (i) conviction of a felony involving moral turpitude, misappropriation of Company property, embezzlement of Company funds, violation of the securities laws or dishonesty, (ii) persistent and repeated refusal to comply with no less than three written directives of the Board with respect to an item that the Board deems material to the business prospects and/or operations of the Company, (iii) reporting to work under the influence of alcohol or illegal drugs, or the use of illegal drugs (whether or not at the workplace), or (iv) any willful breach of Sections 1.6, 1.7, 1.8 or 1.9 of this Agreement. Notwithstanding the foregoing, termination by the Company for Cause (other than pursuant to clause (i) above) shall not be effective until and unless (i) Executive fails to cure such alleged act or circumstance within 30 days of receipt of notice thereof, to the satisfaction of the Board in the exercise of its reasonable judgment (or, if within such 30-day period the Executive commences and proceeds to take all reasonable actions to effect such cure, within such reasonable additional time period (no longer than 60 days) as may be necessary), and (ii) notice of intention to terminate for Cause has been given by the Company within sixty (60) days after the Board learns of the act, failure or event constituting Cause, and (iii) the Board has voted (at a meeting of the Board duly called and held as to which termination of Executive is an agenda item) by a vote of at least two-thirds of the members of the Board to terminate Executive for Cause after Executive has been given notice of the particular acts or circumstances which are the basis for the termination for Cause and has been afforded an opportunity to appear with counsel and present his positions at such meeting and to present his case thereat, and (iv) the Board has given notice of termination to Executive within five days after such meeting voting in favor of termination.

“*Change of Control*” means the occurrence of any of the following (i) a merger or consolidation to which the Company is a party (other than one in which the stockholders of the Company prior to the event own a majority of the voting power of the surviving or resulting corporation) (ii) a sale, lease, transfer, exclusive license or other disposition of all or substantially all of the assets of the Company, or (iii) a sale or transfer by the Company’s stockholders of voting control, in a single transaction or a series of transactions.

“*Code*” means the Internal Revenue Code of 1986 and the Treasury regulations thereunder, each as amended from time to time.

“*Disability*” shall have the meaning set forth in a policy or policies of long-term disability insurance, if any, the Company obtains for the benefit of itself and/or its employees. If there is no definition of “*disability*” applicable under any such policy or policies, if any, then the Executive shall be considered disabled due to mental or physical impairment or disability, despite reasonable accommodations by the Company and its Subsidiaries, to perform his customary or other comparable duties with the Company or its Subsidiaries immediately prior to such disability for a period of at least 120 consecutive days or for at least 180 non-consecutive days in any 12-month period.

“*Effective Date*” means September 16, 2014.

“*Fiscal Year*” means the fiscal year of the Company and its Subsidiaries.

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“*Good Reason*” means the occurrence, without the Executive’s written consent, of one or more of the following events: (i) the Company reduces the amount of Executive’s Base Salary or Cash Bonuses, (ii) the Company requires that the Executive relocate his principal place of employment to a site that is more than 50 miles from the Company’s offices in the New York area or if the Company changes the location of its headquarters without the consent of Executive to a location that is more than 50 miles from such location, (iii) the Company materially reduces the Executive’s responsibilities or removes the Executive from the position of Senior Vice President other than pursuant to a termination of his employment for Cause, or upon the Executive’s death or Disability, (iv) the failure or unreasonable delay of the Company to provide to the Executive any of the payments or benefits contemplated hereby or (v) the Company otherwise materially breaches the terms of this Agreement; provided that no such event shall constitute Good Reason hereunder unless (a) the Executive shall have given written notice to the Company of the Executive’s intent to resign for Good Reason within 30 days after the Executive becomes aware of the occurrence of any such event, which notice shall describe in reasonable detail the event or events constitute the basis for the Executive’s intention to resign for Good Reason and (b) such event or occurrence, if a breach susceptible to cure, shall not have been cured or otherwise shall not have been resolved to the Executive’s reasonable satisfaction, in each case within 30 days of the Company’s receipt of such notice. In such case the Executive’s resignation shall become effective on the 31<sup>st</sup> day after the Company’s receipt of the aforementioned notice.

“*Merger Agreement*” means the Merger Agreement entered into by and among NetFabric Holdings, Inc., the Company and a subsidiary of NetFabric Holdings, Inc. formed for the purpose of acquiring the Company.

“*Noncompete Period*” means the Employment Period and 12 months thereafter.

“*Nonsolicitation Period*” means the Employment Period and 12 months thereafter.

“*Person*” means an individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization, or the United States of America any other nation, any state or other political subdivision thereof, or any entity exercising executive, legislative, judicial, regulatory or administrative functions of government.

“*Restricted Territories*” means (i) the United States and its territories and possessions and (ii) any foreign country in which the Company engages in business as of the Termination Date.

“*Subsidiary*” means, with respect to any Person, any corporation, limited liability company, partnership, association, or business entity of which (i) if a corporation, a majority of the total voting power of shares of stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers, or trustees thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof, or (ii) if a limited liability company, partnership, association, or other business entity (other than a corporation), a majority of partnership or other similar ownership interest thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more Subsidiaries of that Person or a combination thereof. For purposes hereof, a Person or Persons shall be deemed to have a majority ownership interest in a limited liability company, partnership, association, or other business entity (other than a corporation) if such Person or Persons shall be allocated a majority of limited liability company, partnership, association, or other business entity gains or losses or shall be or control any managing director or general partner or manager or managing member of such limited liability company, partnership, association, or other business entity. For purposes hereof, references to a Subsidiary of any Person shall be given effect only at such times that such Person has one or more Subsidiaries, and, unless otherwise indicated, the term Subsidiary refers to a Subsidiary of the Company.

“*Termination Date*” means the effective date of the Executive’s termination of employment with the Company.

## 2.2 Other Definitional Provisions.

(a) Section references contained in this Agreement are references to sections in this Agreement, unless otherwise specified. Each defined term used in this Agreement has a comparable meaning when used in its plural or singular form. Each gender-specific term used in this Agreement has a comparable meaning whether used in a masculine, feminine or gender-neutral form.

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(b) Whenever the term “including” (whether or not that term is followed by the phrase “but not limited to” or “without limitation” or words of similar effect) is used in this Agreement in connection with a listing of items within a particular classification, that listing will be interpreted to be illustrative only and will not be interpreted as a limitation on, or an exclusive listing of, the items within that classification.

### **ARTICLE III MISCELLANEOUS TERMS**

3.1 **Defense of Claims.** The Executive agrees that, during the Employment Period, and for a period of six months after termination of the Executive’s employment, upon request by the Company, the Executive shall reasonably cooperate with the Company in connection with any matters the Executive worked on during his employment with the Company and any related transitional matters. In addition, during the Employment Period and thereafter, the Executive agrees to reasonably cooperate with the Company in the defense of any claims or actions that may be made by or against the Company that affect the Executive’s prior areas of responsibility or involve matters about which the Executive has knowledge, except if the Executive’s reasonable interests are adverse to the Company in such claim or action and provided that after the Employment Period such level of cooperation shall be reasonable and shall take due account of the Executive’s work and personal commitments. The Company agrees to promptly reimburse the Executive for all of the Executive’s reasonable travel and other direct expenses incurred, or to be reasonably incurred, to comply with the Executive’s obligations under this Section 3.1.

3.2 **Nondisparagement.** The Executive agrees to refrain from (i) making, directly or indirectly, any derogatory comments concerning the Company or its Subsidiaries or any current or former officers, directors, employees or shareholders thereof or (ii) taking any other action with respect to the Company or its Subsidiaries which is reasonably expected to result, or does result in, damage to the business or reputation of the Company, its Subsidiaries or any of its current or former officers, directors, employees or shareholders. The Company agrees to refrain from (i) making, directly or indirectly, any derogatory comments concerning the Executive or (ii) taking any other action with respect to the Executive which is reasonably expected to result, or does result in, damage to the reputation of the Executive. Notwithstanding anything to the contrary contained herein, nothing in this Agreement shall prohibit or restrict either party from, truthfully and in good faith: (i) making any disclosure of information required by law; (ii) providing information to, or testifying or otherwise assisting in any investigation or proceeding brought by, any federal regulatory or law enforcement agency or legislative body, any self-regulatory organization, or the Company’s or the Executive’s designated legal, compliance or human resources officers; or (iii) filing, testifying, participating in or otherwise assisting in a proceeding relating to an alleged violation of any federal, state or municipal law relating to fraud, or any rule or regulation of the Securities and Exchange Commission or any self-regulatory organization.

3.3 **Source of Payments.** All payments provided under this Agreement, other than payments made pursuant to a plan which provides otherwise and except as otherwise provided herein, shall be paid in cash from the general funds of the Company, and no special or separate fund shall be established, and no other segregation of assets shall be made, to assure payment. The Executive shall have no right, title or interest whatsoever in or to any investments which the Company or its Subsidiaries may make to aid the Company in meeting its obligations hereunder. To the extent that any person acquires a right to receive payments from the Company hereunder, such right shall be no greater than the right of an unsecured creditor of the Company.

3.4 **Notices.** Any notice provided for in this Agreement must be in writing and must be either personally delivered, mailed by first class mail (postage prepaid and return receipt requested), sent by reputable overnight courier service (charges prepaid) or sent by facsimile (with receipt confirmed) to the recipient at the address or facsimile number indicated below:

To the Company:

XCel Brands, Inc.  
475 Tenth Avenue, 4th Floor  
New York, New York 10018

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

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Blank Rome LLP  
The Chrysler Building  
405 Lexington Avenue  
New York, NY 10174-0208  
Attn: Robert Mittman, Esquire  
Facsimile: (212) 885-5557

To the Executive:

James F. Haran  
c/o XCel Brands, Inc.  
475 Tenth Avenue, 4th Floor  
New York, New York 10018

or such other address or to the attention of such other Person as the recipient Party will have specified by prior written notice to the sending Party. Any notice under this Agreement will be deemed to have been given when so delivered or sent.

3.5 Severability. Subject to the express provisions of Section 1.10 relating to certain specified changes, whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability will not affect any other provision or any other jurisdiction, but this Agreement will be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision had never been contained herein.

3.6 Complete Agreement. This Agreement embodies the complete agreement and understanding among the Parties with regard to the subject matter hereof and supersedes and preempts any prior understandings, agreements or representations by or among the Parties, written or oral, which may have related to the subject matter hereof in any way. To the extent that this Agreement provides greater benefits to the Executive or fewer obligations of the Executive than available or set forth under the Company's employee handbook or other corporate policies, then this Agreement shall prevail.

3.7 Counterparts. This Agreement may be executed in separate counterparts, each of which is deemed to be an original and all of which taken together constitute one and the same agreement.

3.8 Assignment. Without the Executive's consent, the Company may not assign its rights and obligations under this Agreement except (i) to a "Successor" (as defined below) or (ii) to an entity that is formed and controlled by the Company or any of its Subsidiaries. This Agreement is personal to the Executive, and the Executive shall not have the right to assign the Executive's interest in this Agreement, any rights under this Agreement or any duties imposed under this Agreement, nor shall the Executive have the right to pledge, hypothecate, transfer, assign or otherwise encumber the Executive's right to receive any form of compensation hereunder without the prior written consent of the Board. As used in Sections 3.8 and 3.9, "Successor" shall include any Person that at any time, whether by purchase, merger or otherwise, directly or indirectly acquires all or substantially all of the assets of, or ownership interests in, the Company and its Subsidiaries.

3.9 Successors and Assigns. This Agreement is intended to bind and inure to the benefit of and be enforceable by the Company, the Executive, and their respective heirs, successors and permitted assigns.

3.10 Choice of Law. This Agreement and the performance of the parties hereunder shall be governed by the internal laws (and not the law of conflicts) of the State of New York. Any claim or controversy arising out of or in connection with this Agreement, or the breach thereof, shall be adjudicated exclusively by the Supreme Court, New York County, State of New York, or by a federal court sitting in Manhattan in New York City, State of New York. The parties hereto agree to the personal jurisdiction of such courts and agree to accept process by regular mail in connection with any such dispute.

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3.11 Waiver of Jury Trial. AS A SPECIFICALLY BARGAINED FOR INDUCEMENT FOR EACH OF THE PARTIES HERETO TO ENTER INTO THIS AGREEMENT (AFTER HAVING THE OPPORTUNITY TO CONSULT WITH COUNSEL), EACH PARTY HERETO EXPRESSLY WAIVES THE RIGHT TO TRIAL BY JURY IN ANY LAWSUIT OR PROCEEDING RELATING TO OR ARISING IN ANY WAY FROM THIS AGREEMENT OR THE MATTERS CONTEMPLATED HEREBY.

3.12 Legal Fees and Court Costs. In the event that any action, suit or other proceeding in law or in equity is brought to enforce the provisions of this Agreement, and such action results in the award of a judgment for money damages or in the granting of any injunction in favor of the Company, all expenses (including reasonable attorneys' fees) of the Company in such action, suit or other proceeding shall be paid by the Executive. In the event that any action, suit or other proceeding in law or in equity is brought to enforce the provisions of this Agreement, and such action results in the award of a judgment for money damages or in the granting of any injunction in favor of the Executive, all expenses (including reasonable attorneys' fees and travel expenses) of the Executive in such action, suit or other proceeding shall be paid by the Company.

3.13 Remedies. Each Party will be entitled to enforce its rights under this Agreement specifically, to recover damages and costs caused by any breach of any provision of this Agreement and to exercise all other rights existing in its favor. Subject to Section 3.12, nothing herein shall prohibit any arbitrator or judicial authority from awarding attorneys' fees or costs to a prevailing Party in any arbitration or other proceeding to the extent that such arbitrator or authority may lawfully do so.

3.14 Amendment and Waiver. The provisions of this Agreement may be amended or waived only with the prior written consent of the Company and the Executive, and no course of conduct or failure or delay in enforcing the provisions of this Agreement will affect the validity, binding effect or enforceability of this Agreement.

3.15 Third Party Beneficiaries. This Agreement will not confer any rights or remedies upon any Person other than the Parties and their respective successors and permitted assigns and other than, in the event of the Executive's death, his estate, to which all of Executive's rights and remedies set forth herein shall accrue.

3.16 The Executive's Representations. The Executive hereby represents and warrants to the Company that (a) the execution, delivery and performance of this Agreement by the Executive do not and shall not conflict with, breach, violate or cause a default under any contract, agreement, instrument, order, judgment or decree to which the Executive is a party or by which he is bound, (b) the Executive is not a party to or bound by any employment agreement, noncompete agreement or confidentiality agreement with any other Person (or other agreement with any other person containing a restriction on the Executive's right to do business or obligating him to do business with any other Person on a priority or preferential basis), (c) upon the execution and delivery of this Agreement by the Company, this Agreement shall be the valid and binding obligation of the Executive, enforceable in accordance with its terms and (d) upon the execution and delivery of this Agreement by the Company, Executive shall not be in violation of clause (i) set forth in the definition of Cause and shall not be disabled.

**[SIGNATURE PAGE FOLLOWS]**

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

**XCel Brands, Inc.**

By:           /s/ Robert W D'Loren            
Name: Robert W. D'Loren  
Title: Chairman and CEO

          /s/ James F. Haran            
**James F. Haran**

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## FORM OF RELEASE

I, James F. Haran, on behalf of myself and my heirs, successors and assigns, in consideration of the performance by XCel Brands, Inc., a Delaware corporation (together with its Subsidiaries, the “*Company*”), of its material obligations under the Second Amended and Restated Employment Agreement, dated as of October 1, 2014 (the “*Agreement*”), do hereby release and forever discharge as of the date hereof the Company, its Affiliates, each such Person’s respective successors and assigns and each of the foregoing Persons’ respective present and former directors, officers, partners, stockholders, members, managers, agents, representatives, employees (and each such Person’s respective successors and assigns) (collectively, the “*Released Parties*”) to the extent provided below.

1. I understand that any payments or benefits paid or granted to me under Section 1.4(b) of the Agreement represent, in part, consideration for signing this General Release and are not salary, wages or benefits to which I was already entitled. I understand and agree that I will not receive the payments and benefits specified in Section 1.4(b) of the Agreement unless I execute this General Release and do not revoke this General Release within the time period permitted hereafter or breach this General Release.

2. I knowingly and voluntarily release and forever discharge the Company and the other Released Parties from any and all claims, controversies, actions, causes of action, cross-claims, counter-claims, demands, debts, compensatory damages, liquidated damages, punitive or exemplary damages, other damages, claims for costs and attorneys’ fees, or liabilities of any nature whatsoever in law and in equity, both past and present (through the date of this General Release), whether under the laws of the United States or another jurisdiction and whether known or unknown, suspected or claimed against the Company or any of the Released Parties which I, my spouse, or any of my heirs, executors, administrators or assigns, have or may have, which arise out of or are connected with my employment with, or my separation from, the Company (including, but not limited to, any allegation, claim or violation, arising under: Title VII of the Civil Rights Act of 1964, as amended; the Civil Rights Act of 1991; the Age Discrimination in Employment Act of 1967, as amended (including the Older Workers Benefit Protection Act); the Equal Pay Act of 1963, as amended; the Americans with Disabilities Act of 1990; the Family and Medical Leave Act of 1993; the Civil Rights Act of 1866, as amended; the Worker Adjustment Retraining and Notification Act; the Employee Retirement Income Security Act of 1974; any applicable Executive Order Programs; the Fair Labor Standards Act; Occupational Safety and Health Act of 1970, as amended, under the Worker Adjustment and Retraining Notification Act of 1988, as amended, under the Family and Medical Leave Act of 1993, as amended, under the Fair Credit Reporting Act of 1970, as amended, and under the Sarbanes-Oxley Act of 2002, under the Civil Rights Act of 1870, 42 U.S.C. § 1981, as amended, under the Civil Rights Act of 1871, as amended, under the Americans With Disabilities Act of 1990, as amended, under the Americans with Disabilities Act Amendments of 2008, under the Rehabilitation Act of 1973, as amended, under the Immigration Reform and Control Act of 1986, as amended, under the Vietnam Era Veterans Readjustment Assistance Act of 1974, as amended, under the Uniformed Service Employment and Reemployment Rights Act of 1994, as amended, under the Consolidated Omnibus Budget Reconciliation Act of 1985 (“*COBRA*”), and any and all claims under the New York State Human Rights Law, under the New York City Human Rights Law, and under the New York Labor Laws, and any and all claims under any other federal, state, or local labor law, civil rights law, fair employment practices law, human rights law, family and medical leave law, occupational safety and health law, whistleblower protection law, and equal pay law; or any and all claims of slander, libel, defamation, invasion of privacy, intentional or negligent infliction of emotional distress, intentional or negligent misrepresentation, fraud, prima facie torts or other tort; or any and all claims based on the design or administration of any of the Company’s employee benefit plan or program, or arising under any Company policy, practice, or procedure, or employee benefit plan; any and all claims for wages, commissions bonuses, vacation pay or other paid time off, employee benefits equity-based compensation, or other compensation or payments of any kind or nature, or for continued employment with the Company in any position; or under any other local, state, or federal law, regulation or ordinance; or under any public policy, contract or tort, or under common law; or any claim for wrongful discharge, breach of contract, or infliction of emotional distress; or any claim for costs, fees, or other expenses, including attorneys’ fees incurred in these matters) (all of the foregoing collectively referred to herein as the “*Claims*”); provided, however, that nothing contained in this General Release shall apply to, or release the Company from, (i) any obligation of the Company contained in the Agreement to be performed after the date hereof or (ii) any vested or accrued benefits pursuant to any employee benefit plan, program or policy of the Company.

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3. I represent that I have made no assignment or transfer of any right, claim, demand, cause of action, or other matter covered by paragraph 2 above.

4. I agree that this General Release does not waive or release any rights or claims that I may have under the Age Discrimination in Employment Act of 1967 which arise after the date I execute this General Release. I acknowledge and agree that my separation from employment with the Company in compliance with the terms of the Agreement shall not serve as the basis for any claim or action (including, without limitation, any claim under the Age Discrimination in Employment Act of 1967).

5. In signing this General Release, I acknowledge and intend that it shall be effective as a bar to each and every one of the Claims hereinabove mentioned or implied. I expressly consent that this General Release shall be given full force and effect according to each and all of its express terms and provisions, including those relating to unknown and unsuspected Claims (notwithstanding any state statute that expressly limits the effectiveness of a general release of unknown, unsuspected and unanticipated Claims), if any, as well as those relating to any other Claims hereinabove mentioned or implied. I acknowledge and agree that this waiver is an essential and material term of this General Release and that without such waiver the Company would not have agreed to the terms of the Agreement. I covenant that I shall not directly or indirectly, commence, maintain or prosecute or sue any of the Released Persons either affirmatively or by way of cross-complaint, indemnity claim, defense or counterclaim or in any other manner or at all on any Claim covered by this General Release. I further agree that in the event I should bring a Claim seeking damages against the Company, or in the event I should seek to recover against the Company in any Claim brought by a governmental agency on my behalf, this General Release shall serve as a complete defense to such Claims. I further agree that I am not aware of any pending charge or complaint of the type described in paragraph 2 as of the execution of this General Release.

6. I agree that neither this General Release, nor the furnishing of the consideration for this General Release, shall be deemed or construed at any time to be an admission by the Company, any Released Party or myself of any improper or unlawful conduct.

7. I agree that this General Release is confidential and agree not to disclose any information regarding the terms of this General Release, except to my immediate family and any tax, legal or other counsel I have consulted regarding the meaning or effect hereof or as required by law, and I will instruct each of the foregoing not to disclose the same to anyone.

8. Any non-disclosure provision in this General Release does not prohibit or restrict me (or my attorney) from responding to any inquiry about this General Release or its underlying facts and circumstances by the Securities and Exchange Commission, the Financial Industry Regulatory Authority or any other self-regulatory organization or governmental entity.

9. Without limitation of any provision of the Agreement, I hereby expressly re-affirm my obligations under Sections 1.5, 1.6, 1.7, 1.8, 1.9, 1.10 and 3.1.

10. Whenever possible, each provision of this General Release shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this General Release is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision or any other jurisdiction, but this General Release shall be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision had never been contained herein.

“*Affiliate*” means, with respect to any Person, any Person that controls, is controlled by or is under common control with such Person or an Affiliate of such Person.

“*Person*” means an individual, a partnership, a limited liability company, a corporation, an association, a joint stock company, a trust, a joint venture, an unincorporated organization, investment fund, any other business entity and a governmental entity or any department, agency or political subdivision thereof.

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“*Subsidiary*” means, with respect to any Person, any corporation, limited liability company, partnership, association, or business entity of which (i) if a corporation, a majority of the total voting power of shares of stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers, or trustees thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof, or (ii) if a limited liability company, partnership, association, or other business entity (other than a corporation), a majority of partnership or other similar ownership interest thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more Subsidiaries of that Person or a combination thereof. For purposes hereof, a Person or Persons shall be deemed to have a majority ownership interest in a limited liability company, partnership, association, or other business entity (other than a corporation) if such Person or Persons shall be allocated a majority of limited liability company, partnership, association, or other business entity gains or losses or shall be or control any managing director or general partner of such limited liability company, partnership, association, or other business entity.

BY SIGNING THIS GENERAL RELEASE, I REPRESENT AND AGREE THAT:

- (a) I HAVE READ IT CAREFULLY;
  - (b) I UNDERSTAND ALL OF ITS TERMS AND KNOW THAT I AM GIVING UP IMPORTANT RIGHTS, INCLUDING BUT NOT LIMITED TO, RIGHTS UNDER THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967, AS AMENDED, TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, AS AMENDED; THE EQUAL PAY ACT OF 1963, THE AMERICANS WITH DISABILITIES ACT OF 1990; AND THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, AS AMENDED;
  - (c) I VOLUNTARILY CONSENT TO EVERYTHING IN IT;
  - (d) I HAVE BEEN ADVISED TO CONSULT WITH AN ATTORNEY (VIA THE AGREEMENT AND THIS RELEASE) BEFORE EXECUTING IT AND I HAVE DONE SO OR, AFTER CAREFUL READING AND CONSIDERATION, I HAVE CHOSEN NOT TO DO SO OF MY OWN VOLITION;
  - (e) I HAVE HAD AT LEAST 21 DAYS FROM THE DATE OF MY RECEIPT OF THIS RELEASE SUBSTANTIALLY IN ITS FINAL FORM ON \_\_\_\_\_, \_\_\_\_\_ TO CONSIDER IT AND THE CHANGES MADE SINCE THE \_\_\_\_\_, \_\_\_\_\_ VERSION OF THIS RELEASE ARE NOT MATERIAL AND WILL NOT RESTART THE REQUIRED 21-DAY PERIOD;
  - (f) THE CHANGES TO THE AGREEMENT SINCE \_\_\_\_\_, \_\_\_\_\_ EITHER ARE NOT MATERIAL OR WERE MADE AT MY REQUEST.
  - (g) I UNDERSTAND THAT I HAVE SEVEN DAYS AFTER THE EXECUTION OF THIS RELEASE TO REVOKE IT AND THAT THIS RELEASE SHALL NOT BECOME EFFECTIVE OR ENFORCEABLE UNTIL THE EIGHTH DAY FOLLOWING EXECUTION OF THE AGREEMENT;
  - (h) I ACKNOWLEDGE THAT MY ACCEPTANCE OF ANY OF THE MONIES PAID BY THE COMPANY AS DESCRIBED IN SECTIONS \_\_\_ OF THE EMPLOYMENT AGREEMENT, AT ANY TIME MORE THAN SEVEN DAYS AFTER THE EXECUTION OF THIS AGREEMENT WILL CONSTITUTE AN ADMISSION BY ME THAT I DID NOT REVOKE THIS AGREEMENT DURING THE REVOCATION PERIOD OF SEVEN DAYS; AND WILL FURTHER CONSTITUTE AN ADMISSION BY ME THAT THIS AGREEMENT HAS BECOME EFFECTIVE AND ENFORCEABLE.
  - (i) I HAVE SIGNED THIS GENERAL RELEASE KNOWINGLY AND VOLUNTARILY AND WITH THE ADVICE OF ANY COUNSEL RETAINED TO ADVISE ME WITH RESPECT TO IT; AND
  - (j) I AGREE THAT THE PROVISIONS OF THIS GENERAL RELEASE MAY NOT BE AMENDED, WAIVED, CHANGED OR MODIFIED EXCEPT BY AN INSTRUMENT IN WRITING SIGNED BY AN AUTHORIZED REPRESENTATIVE OF THE COMPANY AND BY ME.
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DATE: \_\_\_\_\_, \_\_\_\_\_

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James F. Haran

Acknowledged and agreed as of the date first written above:

**XCel Brands, Inc.**

By:

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Name: Robert W. D'Loren  
Title: Chairman and CEO

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**SECOND AMENDED AND RESTATED EMPLOYMENT AGREEMENT**

THIS SECOND AMENDED AND RESTATED EMPLOYMENT AGREEMENT (this “*Agreement*”) is made as of October 1, 2014, by and between XCel Brands, Inc. a Delaware corporation (the “*Company*”), and Giuseppe Falco (the “*Executive*”), each a “*Party*” and collectively the “*Parties*.” This Agreement amends and restates that certain employment agreement dated as of August 1, 2011, as amended and restated on February 21, 2012 and as further amended on October 18, 2013, by and between the Company and the Executive. Unless otherwise indicated, capitalized terms used herein are defined in Section 2.1 of this Agreement.

WHEREAS, the Company has determined that it is in the best interests of the Company and its shareholders to enter into an employment agreement with the Executive and the Executive is willing to serve as an employee of the Company.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein, it is agreed by and between the Executive and the Company as follows:

**ARTICLE I  
EMPLOYMENT TERMS**

1.1 Employment. The Company will employ the Executive, and the Executive accepts employment with the Company, upon the terms and conditions set forth in this Agreement for the period beginning on the Effective Date and ending as provided in Section 1.4(a) hereof (the “*Employment Period*”). Notwithstanding anything to the contrary contained in this Agreement, if the Effective Date does not occur on or prior to October 1, 2011, then this Agreement shall be deemed terminated; provided, however, that the provisions contained in Section 1.5 shall remain in full force and effect.

1.2 Position and Duties.

(a) Generally. The Executive shall serve as the Chief Operating Officer of the Company and President of the Isaac Mizrahi Brand and in such capacity shall be responsible for the general management of the Company’s brands, shall perform such duties as are customarily performed by an officer with similar title and responsibilities of a company of a similar size and shall have such power and authority as shall reasonably be required to enable him to perform his duties hereunder; provided, however, that in exercising such power and authority and performing such duties, he shall at all times be subject to the authority, control and direction of the Chief Executive Officer of the Company.

(b) Duties and Responsibilities. The Executive shall report directly to Robert D’Loren, the Chief Executive Officer of the Company, or his successor, and shall devote his full business time and attention to the business and affairs of the Company and its Subsidiaries. The Executive shall have such duties, responsibility and authority as are customary and consistent with his position. The Executive shall perform his duties and responsibilities in a diligent, trustworthy, businesslike and efficient manner and shall use his best efforts during the Employment Period to protect, encourage and promote the best interests of the Company and its stockholders. The Executive shall not engage in any other business activities that could reasonably be expected to conflict with the Executive’s duties, responsibilities and obligations hereunder. Notwithstanding the foregoing, nothing herein shall prohibit Executive from (i) serving on corporate, civic or charitable boards or committees, (ii) delivering lectures or fulfilling speaking engagements and (iii) managing personal investments, so long as such activities do not materially interfere with the performance of Executive’s responsibilities hereunder. During the Employment Period, the Executive shall promptly bring to the Company or its Subsidiaries, as applicable, all investment or business opportunities relating to the Business of which the Executive becomes aware.

(c) Principal Office. The principal place of performance by the Executive of his duties hereunder shall be the Company’s principal executive offices in the New York Metropolitan area, although the Executive may be required to travel outside of the area where the Company’s principal executive offices are located in connection with the performance of Executive’s duties for the Company.

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### 1.3 Compensation.

(a) **Base Salary.** The Executive's base salary during the Employment Period shall be \$415,600 per annum (the "*Base Salary*"). The Base Salary will be payable to the Executive by the Company in regular installments in accordance with the Company's general payroll practices. The Executive shall receive such increases (but not decreases) in his Base Salary as the Board of Directors, or the compensation committee of the Board of Directors, may approve in its sole discretion from time to time; provided that the Executive's Base Salary will be reviewed for potential upward adjustment not less often than annually.

(b) **Cash Bonus.** For the Company's fiscal years ending December 31, 2014 and thereafter, Executive shall be eligible for an aggregate cash bonus ("*Cash Bonus*") of up to \$75,000 per annum based upon targets established by the Company's compensation committee each year for (a) Adjusted EBITDA, (b) Direct Response Television Revenue, and (c) Wholesale Royalty Revenue (each, a "*Cash Bonus Target*"). Up to one third (1/3) of the Cash Bonus may be payable to Executive with respect to each Cash Bonus Target (or up to \$25,000 per Cash Bonus Target) as follows: 50% of the portion of the Cash Bonus attributable to each Cash Bonus Target for a fiscal year shall be paid to the Executive if the Company achieves at least 70% of such Cash Bonus Target for such fiscal year and 100% of the portion of the Cash Bonus attributable to each Cash Bonus Target for a fiscal year shall be paid to the Executive if the Company achieves at least 90% of such Cash Bonus Target for such fiscal year. The Cash Bonus shall be awarded to the Executive on the date that is the earlier of (a) the 90th day following the end of the fiscal year to which the Cash Bonus relates and (ii) the first business day following the date the Company's annual report on Form 10-K for the fiscal year to which the Cash Bonus relates is filed with the Securities and Exchange Commission. Notwithstanding the foregoing, all payments of Cash Bonuses shall be made on a date that allows such payments to comply with the requirements of Section 409A of the Code. The Executive is eligible to receive additional cash bonuses at the discretion of the Company's compensation committee.

"*Adjusted EBITDA*" shall mean for any period, for the Company and its subsidiaries on a consolidated basis (without duplication), an amount equal to (a) consolidated net income (as determined in accordance with generally accepted accounting principles of the United States of America as in effect from time to time) ("*Consolidated Net Income*") for such period, minus, (b) to the extent included in calculating Consolidated Net Income, the sum of, without duplication, (i) income tax credits for such period, and (ii) gain from extraordinary or non-recurring items for such period (including, without limitation, non-cash items related to purchase accounting), plus (c) the following to the extent deducted in calculating such Consolidated Net Income, (i) interest expense and other finance costs (whether cash or non-cash) for such period (ii) the provision for federal, state, local and foreign income taxes for such period, (iii) the amount of depreciation and amortization expense for such period, (iv) the transaction fees, costs and expenses incurred in connection with the acquisition of Isaac Mizrahi and any other subsequent brand acquisition in such period, (v) all other extraordinary or non-recurring non-cash charges (including, without limitation, non-cash items related to purchase accounting and non-cash items related to earn-outs) and (vi) non-cash stock or equity compensation in such period.

"*Direct Response Television Revenue*" shall mean for any period, for the Company and its subsidiaries on a consolidated basis (without duplication), an amount equal to the royalty revenue the Company received during such period for sales of the Isaac Mizrahi Live and Liz Claiborne New York brands from direct-response television companies (i.e. QVC, The Shopping Channel, etc).

"*Wholesale Royalty Revenue*" shall mean for any period, for the Company and its subsidiaries on a consolidated basis (without duplication), an amount equal to Company's gross royalty revenue earned by the Company from sales of products under the Isaac Mizrahi brand (and sub-brands but excluding the IsaacMizrahiLIVE brand) by licensees of the Company.

(c) **Withholding.** All payments made under this Agreement (including Base Salary, Cash Bonuses, and other amounts) shall be subject to withholding for income taxes, payroll taxes and other legally required deductions.

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(d) Expenses. The Company will reimburse the Executive for all reasonable expenses incurred by him in the course of performing his duties under this Agreement that are consistent with the Company's policies in effect at that time with respect to travel, entertainment and other business expenses, subject to the Company's requirements with respect to reporting and documentation of such expenses. All expense reimbursement payments pursuant to this Section 1.3(d) shall be made within thirty (30) days after the date that the Executive notifies the Company of such expense; provided, however, that the Executive shall notify the Company of such expenses no later than six (6) months after the end of the calendar year in which such expenses were incurred.

(e) Vacation; Holiday Pay and Sick Leave. The Executive shall be entitled to four (4) weeks' paid vacation in each calendar year, which if not taken during any year may be carried forward to any subsequent year. Executive shall receive holiday pay and paid sick leave as provided to other executive employees of the Company.

(f) Additional Benefits. During the Employment Period, the Executive shall be entitled to participate (for himself and, as applicable, his dependents) in the group medical, life, 401(k) and other insurance programs, employee benefit plans and perquisites which may be adopted by the Board, or the compensation committee of the Board, from time to time, for participation by the Company's senior management or executives, as well as dental, life and disability insurance coverage, with payment of, or reimbursement for, such insurance premiums by the Company, subject to, in all cases, the terms and conditions established by the Board with respect to such plans (collectively, the "Benefits"); provided, however, that the Board, in its reasonable discretion, may revise the terms of any Benefits so long as such revision does not have a disproportionately negative impact on the Executive vis-à-vis other Company employees, to the extent applicable.

(g) Indemnification. The Executive shall be entitled to indemnification by the Company in the same circumstances and to the same extent as the other executive officers and directors of the Company, which indemnification shall in no event be less favorable to the Executive than the fullest scope of indemnification permitted by applicable Delaware law (or any such greater scope of indemnification provided by agreement or by the terms of the Company's Certificate of Incorporation or By-Laws to any executive officer or director of the Company).

(h) Stock Options. In the event that the Company elects from time to time during the Employment Period to award to its senior management or executives, generally, options to purchase shares of the Company's stock pursuant to any stock option plan or similar program, the Executive shall be entitled to participate in any such stock option plan or similar program on a basis consistent with the participation of other senior management or executives of the Company.

#### 1.4 Term and Termination.

(a) Duration. The Employment Period shall commence on the Effective Date and shall terminate two (2) years from the Effective Date (the "Initial Term"), unless earlier terminated by the Company or the Executive as set forth in this Section 1.4. The Term shall renew automatically for an additional one-year period, unless either party gives the other party written notice of its intention not to renew the Agreement no later than 30 days prior to the expiration of the then current Term (the "Term"). At the end of the three-year Term, the parties shall negotiate in good faith any extension and the terms and conditions thereof. The Employment Period shall be terminated prior to the then-applicable expiration of the Term upon the first to occur of (i) termination of the Executive's employment by the Company for Cause, (ii) termination of the Executive's employment by the Company without Cause, (iii) the Executive's resignation with Good Reason, (iv) the Executive's resignation other than for Good Reason or (v) the Executive's death or Disability. The Executive shall not terminate the Employment Period, with or without Good Reason, unless he gives the Company written notice that he intends to terminate the Employment Period at least 90 days prior to the Executive's proposed Termination Date. As a condition to Executive receiving any payments or benefits under Section 1.4(b), the Executive shall execute and deliver to the Company the General Release in the form attached hereto as Exhibit A.

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(b) Severance Upon Termination Without Cause, Upon Resignation by the Executive For Good Reason or Failure to Renew Term. If the Employment Period is terminated by the Company without Cause or if the Executive resigns for Good Reason, or if the Company fails to renew the Term (in which case termination of the Executive's employment shall be effective at the expiration of the then-current Term), then the Executive will be entitled to receive (1) any unpaid Base Salary through and including the Termination Date and any other amounts, including any amounts due for Cash Bonus, or other entitlements then due and owing to the Executive as of the Termination Date; (2) an amount equal to the Executive's Base Salary (at the rate in effect on the date the Executive's employment is terminated) for a 12 month period following the Executive's termination of employment as described in this Section 1.4(b), payable in a lump sum on the date that is six months following the Executive's "separation from service" (within the meaning of Section 409A of the Code) occurring in connection with such termination (provided, however, that an amount that qualifies for involuntary separation pay exception (within the meaning of Code Section 409A and Final Treasury Regulations Section 1.409A-1(b)(9)(iii)(A)) and is otherwise permissible under Section 409A and the Final Treasury Regulations, shall not be subject to such six-month delay and shall be paid to Executive in a lump sum within thirty (30) days of the Executive's "separation from service") and (3) continue to participate in the Company's group medical plan on the same basis as he previously participated or receive payment of, or reimbursement for, COBRA premiums (or, if COBRA coverage is not available, reimbursement of premiums paid for other medical insurance in an amount not to exceed the COBRA premium) for a six-month period following the Executive's termination of employment; *provided* that if the Executive is provided with health insurance coverage by a successor employer, any such coverage by the Company shall cease (each of (1), (2) and (3) referred to as the "Severance Payment"). The Executive also shall be entitled to receive payment for all reimbursable expenses or other entitlements then due and owing to the Executive as of the Termination Date. If the Executive breaches his obligations under Section 1.6, 1.7, 1.8 or 1.9 of this Agreement, the Company's obligation to make any Severance Payments and provide any Benefits shall cease as of the date of such breach; *provided*, that if the Executive cures such breach within 10 days of receiving written notice from the Company of such breach (which notice the Company shall provide promptly to the Executive after learning of such breach), the Company shall promptly pay all Severance Payments not made during such period of dispute and resume making Severance Payments and providing Benefits promptly following such cure.

(c) Severance upon a Change of Control. Anything contained herein to the contrary notwithstanding, in the event the Executive's employment hereunder is terminated within twelve (12) months following a Change of Control by the Company without Cause or by the Executive with Good Reason, the Executive shall be entitled to receive the Severance Payment as described in sub-section (b)(2) above; *provided*, however, that if such lump sum Severance Payment, either alone or together with other payments or benefits, either cash or non-cash, that the Executive has the right to receive from the Company, including, but not limited to, accelerated vesting or payment of any deferred compensation, options, stock appreciation rights or any benefits payable to the Executive under any plan for the benefit of employees, would constitute an "excess parachute payment" (as defined in Section 280G of the Code), then such lump sum severance payment or other benefit shall be reduced to the largest amount that will not result in receipt by the Executive of an "excess parachute payment." The determination of the amount of the payment described in this subsection shall be made by the Company's independent auditors at the sole expense of the Company. For purposes of clarification the value of any options described above will be determined by the Company's independent auditors using a Black-Scholes valuation methodology. Upon a Change of Control, notwithstanding the vesting and exercisability schedule in any stock option or other grant agreement between the Company and the Executive, all unvested stock options, shares of restricted stock and other equity awards granted by the Company to the Executive pursuant to any such agreement shall immediately vest, and all such stock options shall become exercisable and shall remain exercisable for the lesser of 180 days after the date of the Change of Control or the remaining term of the applicable option.

(d) Death and Disability. In the event of the death or Disability of the Executive, the Company shall pay the Executive his Base Salary through the Termination Date, at the rate then in effect, and all expenses or accrued Benefits arising prior to such termination which are payable to the Executive pursuant to this Agreement through the Termination Date. Executive or his estate shall also receive the pro-rata portion of the Cash Bonus for the year in which his employment hereunder terminates, calculated based on the number of months Executive worked during that year (including the month in which the termination occurs). Any other rights and benefits the Executive may have under employee benefit plans and programs of the Company generally in the event of the Executive's Disability shall be determined in accordance with the terms of such plans and programs. In the event of Executive's death, any rights and benefits that the Executive's estate or any other person may have under employee benefit plans and programs of the Company generally in the event of the Executive's death shall be determined in accordance with the terms of such plans and programs.

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(e) **Salary and Other Payments Through Termination.** If the Executive's employment with the Company is terminated during the Term (i) by the Company for Cause or (ii) by the Executive other than for Good Reason, the Executive will be entitled to receive his Base Salary through the Termination Date, but will not be entitled to receive any Severance Payments or Benefits after the Termination Date. The Executive shall be entitled to receive payment for all reimbursable expenses or other entitlements then due and owing to the Executive as of the Termination Date.

(f) **Other Rights.** Except as set forth in this Section 1.4 and Section 1.3, all of the Executive's rights to receive Base Salary, Benefits and Cash Bonuses hereunder (if any) which accrue or become payable after the termination of the Employment Period shall cease upon such termination.

(g) **Continuing Benefits.** Notwithstanding Section 1.4(e), termination pursuant to this Section 1.4 shall not modify or affect in any way whatsoever any vested right of the Executive to benefits payable under any retirement or pension plan or under any other employee benefit plan of the Company, and all such benefits shall continue, in accordance with, and subject to, the terms and conditions of such plans, to be payable in full to, or on account of, the Executive after such termination.

(h) **No Duty of Mitigation.** The Executive shall not be required to mitigate the amount of any payment provided for in this Article I by seeking other employment or otherwise.

#### 1.5 Confidential Information.

(a) The Executive shall not disclose or, directly or indirectly, use at any time, during the Employment Period or thereafter, any Confidential Information (as defined below) of which the Executive is or becomes aware, whether or not such information is developed by him, alone or with others, except to the extent that (i) such disclosure or use is required by the Executive's performance of the duties assigned to the Executive by the Board of Directors, (ii) the Executive is required by subpoena or similar process to disclose or discuss any Confidential Information, provided, that in such case, the Executive shall promptly inform the Company in writing of such event, shall cooperate with the Company in attempting to obtain a protective order or to otherwise limit or restrict such disclosure to the greatest extent possible, and shall disclose only that portion of the Confidential Information as is strictly required, or (iii) such Confidential Information is or becomes generally known to and available for use by the public, other than as a result of any action or inaction directly or indirectly by the Executive. At the Company's expense, the Executive shall take all appropriate steps to safeguard Confidential Information and to protect it against disclosure, misuse, espionage, loss and theft. The Executive acknowledges that the Confidential Information obtained by him during the course of his employment with the Company is the sole and exclusive property of the Company and its Subsidiaries, as applicable.

(b) The Executive understands that the Company and its Subsidiaries will receive from third parties confidential or proprietary information ("*Third Party Information*") subject to a duty on the part of the Company and its Subsidiaries to maintain the confidentiality of such information and to use it only for certain limited purposes. During the Employment Period and in the period specified in such confidentiality agreements, and without in any way limiting the provisions of Section 1.5(a) above, the Executive will hold Third Party Information in confidence, consistent with the obligations applicable to Confidential Information of the Company generally, and will not disclose to anyone (other than personnel and agents of the Company or its Subsidiaries who need to know such information in connection with their work for the Company or its Subsidiaries) or use, except in connection with his work for the Company or its Subsidiaries, Third Party Information unless expressly authorized by the Board in writing.

(c) As used in this Agreement, the term "*Confidential Information*" means information that is not generally known to the public and that is related in any way to the actual or anticipated business of the Company, its Subsidiaries, its Affiliates or any of their respective predecessors in interest, including but not limited to (i) business development, growth and other strategic business plans, (ii) properties available for acquisition, financing development or sale, (iii) accounting and business methods, (iv) services or products and the marketing of such services and products, (v) fees, costs and pricing structures, (vi) designs, (vii) analysis, (viii) drawings, photographs and reports, (ix) computer software, including operating systems, applications and program listings, (x) flow charts, manuals and documentation, (xi) data bases, (xii) inventions, devices, new developments, methods and processes, whether patentable or unpatentable and whether or not reduced to practice, (xiii) copyrightable works, (xiv) all technology and trade secrets, (xv) confidential terms of material agreements and customer relationships, and (xvi) all similar and related information in whatever form or medium. Confidential Information also expressly excludes Executive's general know-how and business contacts contained in Executive's rolodex, be it electronic or otherwise, as of the Effective Date to the extent that the use of such information does not violate or breach the terms of Section 1.9.

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1.6 Inventions and Patents. Executive acknowledges that all discoveries, concepts, ideas, inventions, innovations, improvements, developments, products, methods, processes, techniques, programs, designs, analyses, drawings, reports, patents, copyrightable works and mask works (whether or not including any Confidential Information) and all issuances, registrations or applications related thereto, all other proprietary information or intellectual property and all similar or related information (whether or not patentable) conceived, developed, contributed to, made, or reduced to practice by Executive (either alone or with others) while employed by Company or any of its Subsidiaries or Affiliates or any of their respective predecessors in interest (including prior to the date of this Agreement) and within the scope of the Executive's employment and duties and responsibilities or using the materials, facilities or resources of the Company or any of its Subsidiaries or Affiliates or any of their respective predecessors in interest within the scope of the Executive's employment and duties and responsibilities (collectively, "Company Works") is the sole and exclusive property of the Company and its Subsidiaries. Executive hereby assigns all right, title and interest in and to all Company Works to the Company and its Subsidiaries and waives any moral rights he may have therein, without further obligation or consideration. Any copyrightable work prepared in whole or in part by the Executive will be deemed "a work made for hire" under Section 201(b) of the 1976 Copyright Act, and the Company and its Subsidiaries shall own all of the rights comprised in the copyright therein. The Executive shall promptly and fully disclose in writing all Company Works to the Company and shall cooperate with the Company and its Subsidiaries to protect, maintain and enforce the Company's and its Subsidiaries' interests in and rights to such Company Works (including, without limitation, providing reasonable assistance in securing patent protection and copyright registrations and executing all affidavits, assignments, powers-of-attorney and other documents as reasonably requested by the Company, whether such requests occur prior to or after termination of the Executive's employment with the Company).

1.7 Delivery of Materials Upon Termination of Employment. As requested by the Company from time to time and in any event upon the termination of the Executive's employment with the Company, the Executive shall promptly deliver to the Company, or at the Company's election, destroy, all copies and embodiments, in whatever form or medium, of all Confidential Information, Company Works and other property and assets of the Company and its Subsidiaries in the Executive's possession or within his control (including, but not limited to, office keys, access cards, written records, notes, photographs, manuals, notebooks, documentation, program listings, flow charts, magnetic media, disks, diskettes, tapes computers and handheld devices (including all software, files and documents thereon) and any other materials containing any Confidential Information or Company Works) irrespective of the location or form of such material and, if requested by the Company, shall provide the Company with written confirmation that all such materials have been delivered to the Company or destroyed, as applicable.

1.8 Non-Compete and Non-Solicitation Covenants.

(a) The Executive acknowledges and agrees that the Executive's services to the Company and its Subsidiaries are unique in nature and that the Company and its Subsidiaries would be irreparably damaged if the Executive were to provide similar services to any Person competing with the Company and its Subsidiaries or engaged in the Business. The Executive further acknowledges that, in the course of his employment with the Company, he will become familiar with the Company's and its Subsidiaries' trade secrets and with other Confidential Information. During the Noncompete Period, he shall not, directly or indirectly, whether for himself or for any other Person, permit his name to be used by or participate in any business or enterprise (including, without limitation, any division, group or franchise of a larger organization) that engages or proposes to engage in the Business in the Restricted Territories, other than the Company and its Subsidiaries or except as otherwise directed or authorized by the Board. For purposes of this Agreement, the term "participate in" shall include, without limitation, having any direct or indirect interest in any Person, whether as a sole proprietor, owner, stockholder, partner, member, joint venturer, creditor or otherwise, or rendering any direct or indirect service or assistance to any Person (whether as a director, officer, supervisor, employee, agent, consultant or otherwise). Nothing herein will prohibit the Executive from mere passive ownership of not more than five percent (5%) of the outstanding stock of any class of a publicly held corporation whose stock is traded on a national securities exchange or in the over-the-counter market. As used herein, the phrase "mere passive ownership" shall include voting or otherwise granting any consents or approvals required to be obtained from such Person as an owner of stock or other ownership interests in any entity pursuant to the charter or other organizational documents of such entity, but shall not include, without limitation, any involvement in the day-to-day operations of such entity.

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(b) During the Nonsolicitation Period, the Executive will not directly, or indirectly through another Person, solicit, induce or attempt to induce any customer, supplier, licensee, or other business relation of the Company or any of its Subsidiaries, or solicit, induce or attempt to induce any person who is, or was during the then-most recent 12-month period, a corporate officer, general manager or other employee of the Company or any of its Subsidiaries to terminate such employee's employment with the Company or any of its Subsidiaries, or hire any such person unless such person's employment was terminated by the Company or any of its Subsidiaries, or in any way interfere with the relationship between any such customer, supplier, licensee, employee or business relation and the Company or any of its Subsidiaries. The restrictions of this Section 1.8(b) shall not apply to any customer, supplier, licensee, or other business relation of the Company or any of its Subsidiaries with whom Executive had a prior business relationship before he started performing services for the Company. The Executive acknowledges and agrees that the Company and its Subsidiaries would be irreparably damaged if the Executive were to breach any of the provisions contained in this Section 1.8(b).

(c) Executive acknowledges that this Agreement, and specifically, this Section 1.8, does not preclude Executive from earning a livelihood, nor does it unreasonably impose limitations on Executive's ability to earn a living. In addition, Executive agrees and acknowledges that the potential harm to the Company of its non-enforcement outweighs any harm to Executive of its enforcement by injunction or otherwise.

1.9 Enforcement. If, at the time of enforcement of Section 1.5, 1.6, 1.7, 1.8, 1.9 or 1.10, a court holds that the restrictions stated herein are unreasonable under circumstances then existing, the Parties agree that, to the extent permitted by applicable law, the maximum period, scope or geographical area reasonable under such circumstances will be substituted for the Noncompete Period, scope or area. Because the Executive's services are unique and because the Executive has access to Confidential Information and Company Works, the Parties agree that money damages may be an inadequate remedy for any breach of Section 1.5, 1.6, 1.7, 1.8, 1.9 or 1.10. Therefore, in the event of a breach or threatened breach of Section 1.5, 1.6, 1.7, 1.8, 1.9 or 1.10, the Company or any of its Subsidiaries or any of their respective successors or assigns may, in addition to other rights and remedies existing in their favor, apply to any court of competent jurisdiction for specific performance and/or injunctive or other relief in order to enforce, or prevent any violations of, the provisions hereof (without posting a bond or other security). The Parties hereby acknowledge and agree that (a) performance of the services of the Executive hereunder may occur in jurisdictions other than the jurisdiction whose law the Parties have agreed shall govern the construction, validity and interpretation of this Agreement, (b) the law of the State of New York shall govern construction, validity and interpretation of this Agreement to the fullest extent possible, and (c) Section 1.5, 1.6, 1.7, 1.8, 1.9 or 1.10 shall restrict the Executive only to the extent permitted by applicable law.

1.10 Survival. Sections 1.5, 1.6, 1.7, 1.8, 1.9 and 1.10 will survive and continue in full force in accordance with their terms notwithstanding any termination of the Employment Period.

## **ARTICLE II DEFINED TERMS**

2.1 Definitions. For purposes of this Agreement, the following terms will have the following meanings:

“*Business*” means the business of acquiring and licensing consumer brands worldwide.

“*Cause*” means with respect to the Executive, the occurrence of one or more of the following: (i) conviction of a felony involving moral turpitude, misappropriation of Company property, embezzlement of Company funds, violation of the securities laws or dishonesty, (ii) the willful and continued failure by the Executive to attempt in good faith to substantially perform his obligations under this Agreement (other than any such failure resulting from the Executive's incapacity due to a Disability); (iii) reporting to work under the influence of alcohol or illegal drugs, or the use of illegal drugs (whether or not at the workplace), or (iv) any willful breach of Sections 1.6, 1.7, 1.8 or 1.9 of this Agreement. Notwithstanding the foregoing, termination by the Company for Cause (other than pursuant to clause (i) above) shall not be effective until and unless Executive fails to cure such alleged act or circumstance within 30 days of receipt of notice thereof, to the satisfaction of the Chief Executive Officer in the exercise of his reasonable judgment (or, if within such 30-day period the Executive commences and proceeds to take all reasonable actions to effect such cure, within such reasonable additional time period (no longer than 60 days) as may be necessary).

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“Code” means the Internal Revenue Code of 1986 and the Treasury regulations thereunder, each as amended from time to time.

“Disability” shall have the meaning set forth in a policy or policies of long-term disability insurance, if any, the Company obtains for the benefit of itself and/or its employees. If there is no definition of “disability” applicable under any such policy or policies, if any, then the Executive shall be considered disabled due to mental or physical impairment or disability, despite reasonable accommodations by the Company and its Subsidiaries, to perform his customary or other comparable duties with the Company or its Subsidiaries immediately prior to such disability for a period of at least 120 consecutive days or for at least 180 non-consecutive days in any 12-month period.

“Effective Date” means September 16, 2014.

“Fiscal Year” means the fiscal year of the Company and its Subsidiaries.

“Good Reason” means the occurrence, without the Executive’s written consent, of one or more of the following events: (i) the Company reduces the amount of Executive’s Base Salary or Cash Bonus, (ii) the Company requires that the Executive relocate his principal place of employment to a site that is more than 50 miles from the Company’s offices in the New York area or if the Company changes the location of its headquarters without the consent of Executive to a location that is more than 50 miles from such location, (iii) the Company materially reduces the Executive’s authority, duties or responsibilities or removes the Executive from the position of Chief Merchant of the Company other than pursuant to a termination of his employment for Cause, or upon the Executive’s death or Disability, (iv) the failure or unreasonable delay of the Company to provide to the Executive any of the payments or benefits contemplated hereby or (v) the Company otherwise materially breaches the terms of this Agreement; provided that no such event shall constitute Good Reason hereunder unless (a) the Executive shall have given written notice to the Company of the Executive’s intent to resign for Good Reason within 30 days after the Executive becomes aware of the occurrence of any such event, which notice shall describe in reasonable detail the event or events constitute the basis for the Executive’s intention to resign for Good Reason and (b) such event or occurrence, if a breach susceptible to cure, shall not have been cured or otherwise shall not have been resolved to the Executive’s reasonable satisfaction, in each case within 30 days of the Company’s receipt of such notice. In such case the Executive’s resignation shall become effective on the 31<sup>st</sup> day after the Company’s receipt of the aforementioned notice.

“Merger Agreement” means the Merger Agreement entered into by and among NetFabric Holdings, Inc., the Company and a subsidiary of NetFabric Holdings, Inc. formed for the purpose of acquiring the Company.

“Noncompete Period” means the Employment Period and 6 months thereafter.

“Nonsolicitation Period” means the Employment Period and 6 months thereafter.

“Person” means an individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization, or the United States of America any other nation, any state or other political subdivision thereof, or any entity exercising executive, legislative, judicial, regulatory or administrative functions of government.

“Restricted Territories” means (i) the United States and its territories and possessions and (ii) any foreign country in which the Company engages in Business as of the Termination Date.

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“*Subsidiary*” means, with respect to any Person, any corporation, limited liability company, partnership, association, or business entity of which (i) if a corporation, a majority of the total voting power of shares of stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers, or trustees thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof, or (ii) if a limited liability company, partnership, association, or other business entity (other than a corporation), a majority of partnership or other similar ownership interest thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more Subsidiaries of that Person or a combination thereof. For purposes hereof, a Person or Persons shall be deemed to have a majority ownership interest in a limited liability company, partnership, association, or other business entity (other than a corporation) if such Person or Persons shall be allocated a majority of limited liability company, partnership, association, or other business entity gains or losses or shall be or control any managing director or general partner or manager or managing member of such limited liability company, partnership, association, or other business entity. For purposes hereof, references to a Subsidiary of any Person shall be given effect only at such times that such Person has one or more Subsidiaries, and, unless otherwise indicated, the term Subsidiary refers to a Subsidiary of the Company.

“*Termination Date*” means the effective date of the Executive’s termination of employment with the Company.

## 2.2 Other Definitional Provisions.

(a) Section references contained in this Agreement are references to sections in this Agreement, unless otherwise specified. Each defined term used in this Agreement has a comparable meaning when used in its plural or singular form. Each gender-specific term used in this Agreement has a comparable meaning whether used in a masculine, feminine or gender-neutral form.

(b) Whenever the term “*including*” (whether or not that term is followed by the phrase “*but not limited to*” or “*without limitation*” or words of similar effect) is used in this Agreement in connection with a listing of items within a particular classification, that listing will be interpreted to be illustrative only and will not be interpreted as a limitation on, or an exclusive listing of, the items within that classification.

## ARTICLE III MISCELLANEOUS TERMS

3.1 **Defense of Claims.** The Executive agrees that, during the Employment Period, and for a period of six months after termination of the Executive’s employment, upon request by the Company, the Executive shall reasonably cooperate with the Company in connection with any matters the Executive worked on during his employment with the Company and any related transitional matters. In addition, during the Employment Period and thereafter, the Executive agrees to reasonably cooperate with the Company in the defense of any claims or actions that may be made by or against the Company that affect the Executive’s prior areas of responsibility or involve matters about which the Executive has knowledge, except if the Executive’s reasonable interests are adverse to the Company in such claim or action and provided that after the Employment Period such level of cooperation shall be reasonable and shall take due account of the Executive’s work and personal commitments. The Company’s request for “*reasonable cooperation*” shall take into consideration Executive’s personal and business commitments and the amount of notice provided to Executive by the Company. The Company agrees to promptly reimburse the Executive for all of the Executive’s reasonable travel and other direct expenses incurred, or to be reasonably incurred, to comply with the Executive’s obligations under this Section 3.1.

3.2 **Nondisparagement.** The Executive agrees to refrain from (i) making, directly or indirectly, any derogatory comments concerning the Company or its Subsidiaries or any current or former officers, directors, employees or shareholders thereof or (ii) taking any other action with respect to the Company or its Subsidiaries which is reasonably expected to result, or does result in, damage to the business or reputation of the Company, its Subsidiaries or any of its current or former officers, directors, employees or shareholders. The Company agrees to refrain from (i) making, directly or indirectly, any derogatory comments concerning the Executive or (ii) taking any other action with respect to the Executive which is reasonably expected to result, or does result in, damage to the reputation of the Executive. Notwithstanding anything to the contrary contained herein, nothing in this Agreement shall prohibit or restrict either party from, truthfully and in good faith: (i) making any disclosure of information required by law; (ii) providing information to, or testifying or otherwise assisting in any investigation or proceeding brought by, any federal regulatory or law enforcement agency or legislative body, any self-regulatory organization, or the Company’s or the Executive’s designated legal, compliance or human resources officers; or (iii) filing, testifying, participating in or otherwise assisting in a proceeding relating to an alleged violation of any federal, state or municipal law relating to fraud, or any rule or regulation of the Securities and Exchange Commission or any self-regulatory organization.

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3.3 Source of Payments. All payments provided under this Agreement, other than payments made pursuant to a plan which provides otherwise and except as otherwise provided herein, shall be paid in cash from the general funds of the Company, and no special or separate fund shall be established, and no other segregation of assets shall be made, to assure payment. The Executive shall have no right, title or interest whatsoever in or to any investments which the Company or its Subsidiaries may make to aid the Company in meeting its obligations hereunder. To the extent that any person acquires a right to receive payments from the Company hereunder, such right shall be no greater than the right of an unsecured creditor of the Company.

3.4 Notices. Any notice provided for in this Agreement must be in writing and must be either personally delivered, mailed by first class mail (postage prepaid and return receipt requested), sent by reputable overnight courier service (charges prepaid) or sent by facsimile (with receipt confirmed) to the recipient at the address or facsimile number indicated below:

To the Company:

XCel Brands, Inc.  
475 Tenth Avenue, 4th Floor  
New York, New York 10018

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

Blank Rome LLP  
The Chrysler Building  
405 Lexington Avenue  
New York, NY 10174-0208  
Attn: Robert Mittman, Esquire  
Facsimile: (212) 885-5557

To the Executive:

Joe Falco  
35 Cambridge Drive  
Smithtown, NY 11787  
Home: 631.382.2467

With copies to:

Outten & Golden LLP  
3 Park Avenue, 29th Floor  
New York, NY 10016  
(212) 245-1000  
Attn: Wendi S. Lazar, Esq.

or such other address or to the attention of such other Person as the recipient Party will have specified by prior written notice to the sending Party. Any notice under this Agreement will be deemed to have been given when so delivered or sent.

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3.5 Severability. Subject to the express provisions of Section 1.10 relating to certain specified changes, whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability will not affect any other provision or any other jurisdiction, but this Agreement will be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision had never been contained herein.

3.6 Complete Agreement. This Agreement embodies the complete agreement and understanding among the Parties with regard to the subject matter hereof and supersedes and preempts any prior understandings, agreements or representations by or among the Parties, written or oral, which may have related to the subject matter hereof in any way. To the extent that this Agreement provides greater benefits to the Executive or fewer obligations of the Executive than available or set forth under the Company's employee handbook or other corporate policies, then this Agreement shall prevail.

3.7 Counterparts. This Agreement may be executed in separate counterparts, each of which is deemed to be an original and all of which taken together constitute one and the same agreement.

3.8 Assignment. Without the Executive's consent, the Company may not assign its rights and obligations under this Agreement except (i) to a "Successor" (as defined below) or (ii) to an entity that is formed and controlled by the Company or any of its Subsidiaries. This Agreement is personal to the Executive, and the Executive shall not have the right to assign the Executive's interest in this Agreement, any rights under this Agreement or any duties imposed under this Agreement, nor shall the Executive have the right to pledge, hypothecate, transfer, assign or otherwise encumber the Executive's right to receive any form of compensation hereunder without the prior written consent of the Board. As used in Section 3.8 and 3.9, "Successor" shall include any Person that at any time, whether by purchase, merger or otherwise, directly or indirectly acquires all or substantially all of the assets of, or ownership interests in, the Company and its Subsidiaries.

3.9 Successors and Assigns. This Agreement is intended to bind and inure to the benefit of and be enforceable by the Company, the Executive, and their respective heirs, successors and permitted assigns.

3.10 Choice of Law. This Agreement and the performance of the parties hereunder shall be governed by the internal laws (and not the law of conflicts) of the State of New York. Any claim or controversy arising out of or in connection with this Agreement, or the breach thereof, shall be adjudicated exclusively by the Supreme Court, New York County, State of New York, or by a federal court sitting in Manhattan in New York City, State of New York. The parties hereto agree to the personal jurisdiction of such courts and agree to accept process by regular mail in connection with any such dispute.

3.11 Waiver of Jury Trial. AS A SPECIFICALLY BARGAINED FOR INDUCEMENT FOR EACH OF THE PARTIES HERETO TO ENTER INTO THIS AGREEMENT (AFTER HAVING THE OPPORTUNITY TO CONSULT WITH COUNSEL), EACH PARTY HERETO EXPRESSLY WAIVES THE RIGHT TO TRIAL BY JURY IN ANY LAWSUIT OR PROCEEDING RELATING TO OR ARISING IN ANY WAY FROM THIS AGREEMENT OR THE MATTERS CONTEMPLATED HEREBY.

3.12 Legal Fees and Court Costs. In the event that any action, suit or other proceeding in law or in equity is brought to enforce the provisions of this Agreement, and such action results in the award of a judgment for money damages or in the granting of any injunction in favor of the Company, all expenses (including reasonable attorneys' fees) of the Company in such action, suit or other proceeding shall be paid by the Executive. In the event that any action, suit or other proceeding in law or in equity is brought to enforce the provisions of this Agreement, and such action results in the award of a judgment for money damages or in the granting of any injunction in favor of the Executive, all expenses (including reasonable attorneys' fees and travel expenses) of the Executive in such action, suit or other proceeding shall be paid by the Company.

3.13 Remedies. Each Party will be entitled to enforce its rights under this Agreement specifically, to recover damages and costs caused by any breach of any provision of this Agreement and to exercise all other rights existing in its favor. Subject to Section 3.12, nothing herein shall prohibit any arbitrator or judicial authority from awarding attorneys' fees or costs to a prevailing Party in any arbitration or other proceeding to the extent that such arbitrator or authority may lawfully do so.

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3.14 Amendment and Waiver. The provisions of this Agreement may be amended or waived only with the prior written consent of the Company and the Executive, and no course of conduct or failure or delay in enforcing the provisions of this Agreement will affect the validity, binding effect or enforceability of this Agreement.

3.15 Third Party Beneficiaries. This Agreement will not confer any rights or remedies upon any Person other than the Parties and their respective successors and permitted assigns and other than, in the event of the Executive's death, his estate, to which all of Executive's rights and remedies set forth herein shall accrue.

3.16 The Executive's Representations. The Executive hereby represents and warrants to the Company that (a) the execution, delivery and performance of this Agreement by the Executive do not and shall not conflict with, breach, violate or cause a default under any contract, agreement, instrument, order, judgment or decree to which the Executive is a party or by which he is bound, (b) the Executive is not a party to or bound by any employment agreement, noncompete agreement or confidentiality agreement with any other Person (or other agreement with any other person containing a restriction on the Executive's right to do business or obligating him to do business with any other Person on a priority or preferential basis), (c) upon the execution and delivery of this Agreement by the Company, this Agreement shall be the valid and binding obligation of the Executive, enforceable in accordance with its terms and (d) upon the execution and delivery of this Agreement by the Company, Executive shall not be in violation of clause (i) set forth in the definition of Cause and shall not be disabled.

3.17 Section 409A of the Code.

(a) Compliance. Notwithstanding anything herein to the contrary, this Agreement is intended to be interpreted and applied so that the payments and benefits set forth herein either shall either be exempt from the requirements of Section 409A of the Internal Revenue Code of 1986, as amended (the "Code"), or shall comply with the requirements of Code Section 409A, and, accordingly, to the maximum extent permitted, this Agreement shall be interpreted to be exempt from or in compliance with Code Section 409A. To the extent that the Company determines that any provision of this Agreement would cause Executive to incur any additional tax or interest under Code Section 409A, the Company shall be entitled to reform such provision to attempt to comply with or be exempt from Code Section 409A through good faith modifications. To the extent that any provision hereof is modified in order to comply with Code Section 409A, such modification shall be made in good faith and shall, to the maximum extent reasonably possible, maintain the original intent and economic benefit to Executive and the Company without violating the provisions of Code Section 409A.

(b) Separate Payments. Notwithstanding anything in this Agreement to the contrary, the right to receive installment payments hereunder shall be treated as a right to receive a series of separate payments in accordance with Code Section 409A and Final Treasury Regulation Section 1.409A-2(b)(2)(iii).

(c) Short-Term Deferral. Except as otherwise specifically provided, amounts payable under this Agreement, other than those expressly payable on a deferred or installment basis, will be paid as promptly as practicable following the date on which they are earned and vested and, in any event, on or prior to March 15 of the year following the first calendar year in which such amounts are no longer subject to a substantial risk of forfeiture, as such term is defined in Section 409A of the Code.

(d) Separation from Service. Notwithstanding anything in this Agreement or elsewhere to the contrary, a termination of employment shall not be deemed to have occurred for purposes of any provision of this Agreement providing for the payment of any amounts or benefits that constitute "*non-qualified deferred compensation*" within the meaning of Code Section 409A upon or following a termination of Executive's employment unless such termination is also a "*separation from service*" within the meaning of Code Section 409A and, for purposes of any such provision of this Agreement, references to a "*termination*," "*termination of employment*" or like terms shall mean "*separation from service*" and the date of such separation from service shall be the Termination Date for purposes of any such payment or benefits.

(e) No Designation. In no event may Executive, directly or indirectly, designate the calendar year of any payment to be made under this Agreement or otherwise which constitutes a "*deferral of compensation*" within the meaning of Code Section 409A.

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(f) Expense Reimbursement. With regard to any provision herein that provides for reimbursement of costs and expenses or in-kind benefits, except as permitted by Code Section 409A, (i) the right to reimbursement or in-kind benefits shall not be subject to liquidation or exchange for another benefit, (ii) the amount of expenses eligible for reimbursement, or in-kind benefits, provided during any taxable year shall not affect the expenses eligible for reimbursement, or in-kind benefits to be provided, in any other taxable year, and (iii) such payments shall be made on or before the last day of Executive's taxable year following the taxable year in which the expense was incurred.

**[END OF PAGE]**  
**[SIGNATURE PAGE FOLLOWS]**

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

**XCel Brands, Inc.**

By: /s/ Robert W. D'Loren  
Name: Robert W. D'Loren  
Title: Chairman and CEO

/s/ Giuseppe Falco  
**Giuseppe Falco**

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## FORM OF RELEASE

I, Giuseppe Falco, on behalf of myself and my heirs, successors and assigns, in consideration of the performance by XCel Brands, Inc., a Delaware corporation (together with its Subsidiaries, the “Company”), of its material obligations under the Second Amended and Restated Employment Agreement, dated as of October 1, 2014 (the “Agreement”), do hereby release and forever discharge as of the date hereof the Company, its Affiliates, each such Person’s respective successors and assigns and each of the foregoing Persons’ respective present and former directors, officers, partners, stockholders, members, managers, agents, representatives, employees (and each such Person’s respective successors and assigns) (collectively, the “Released Parties”) to the extent provided below.

1. I understand that any payments or benefits paid or granted to me under Section 1.4(b) of the Agreement represent, in part, consideration for signing this General Release and are not salary, wages or benefits to which I was already entitled. I understand and agree that I will not receive the payments and benefits specified in Section 1.4(b) of the Agreement unless I execute this General Release and do not revoke this General Release within the time period permitted hereafter or breach this General Release.

2. I knowingly and voluntarily release and forever discharge the Company and the other Released Parties from any and all claims, controversies, actions, causes of action, cross-claims, counter-claims, demands, debts, compensatory damages, liquidated damages, punitive or exemplary damages, other damages, claims for costs and attorneys’ fees, or liabilities of any nature whatsoever in law and in equity, both past and present (through the date of this General Release), whether under the laws of the United States or another jurisdiction and whether known or unknown, suspected or claimed against the Company or any of the Released Parties which I, my spouse, or any of my heirs, executors, administrators or assigns, have or may have, which arise out of or are connected with my employment with, or my separation from, the Company (including, but not limited to, any allegation, claim or violation, arising under: Title VII of the Civil Rights Act of 1964, as amended; the Civil Rights Act of 1991; the Age Discrimination in Employment Act of 1967, as amended (including the Older Workers Benefit Protection Act); the Equal Pay Act of 1963, as amended; the Americans with Disabilities Act of 1990; the Family and Medical Leave Act of 1993; the Civil Rights Act of 1866, as amended; the Worker Adjustment Retraining and Notification Act; the Employee Retirement Income Security Act of 1974; any applicable Executive Order Programs; the Fair Labor Standards Act; Occupational Safety and Health Act of 1970, as amended, under the Worker Adjustment and Retraining Notification Act of 1988, as amended, under the Family and Medical Leave Act of 1993, as amended, under the Fair Credit Reporting Act of 1970, as amended, and under the Sarbanes-Oxley Act of 2002, under the Civil Rights Act of 1870, 42 U.S.C. § 1981, as amended, under the Civil Rights Act of 1871, as amended, under the Americans With Disabilities Act of 1990, as amended, under the Americans with Disabilities Act Amendments of 2008, under the Rehabilitation Act of 1973, as amended, under the Immigration Reform and Control Act of 1986, as amended, under the Vietnam Era Veterans Readjustment Assistance Act of 1974, as amended, under the Uniformed Service Employment and Reemployment Rights Act of 1994, as amended, under the Consolidated Omnibus Budget Reconciliation Act of 1985 (“COBRA”), and any and all claims under the New York State Human Rights Law, under the New York City Human Rights Law, and under the New York Labor Laws, and any and all claims under any other federal, state, or local labor law, civil rights law, fair employment practices law, human rights law, family and medical leave law, occupational safety and health law, whistleblower protection law, and equal pay law; or any and all claims of slander, libel, defamation, invasion of privacy, intentional or negligent infliction of emotional distress, intentional or negligent misrepresentation, fraud, prima facie torts or other tort; or any and all claims based on the design or administration of any of the Company’s employee benefit plan or program, or arising under any Company policy, practice, or procedure, or employee benefit plan; any and all claims for wages, commissions bonuses, vacation pay or other paid time off, employee benefits equity-based compensation, or other compensation or payments of any kind or nature, or for continued employment with the Company in any position; or under any other local, state, or federal law, regulation or ordinance; or under any public policy, contract or tort, or under common law; or any claim for wrongful discharge, breach of contract, or infliction of emotional distress; or any claim for costs, fees, or other expenses, including attorneys’ fees incurred in these matters) (all of the foregoing collectively referred to herein as the “Claims”); provided, however, that nothing contained in this General Release shall apply to, or release the Company from, (i) any obligation of the Company contained in the Agreement to be performed after the date hereof or (ii) any vested or accrued benefits pursuant to any employee benefit plan, program or policy of the Company.

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3. I represent that I have made no assignment or transfer of any right, claim, demand, cause of action, or other matter covered by paragraph 2 above.
4. I agree that this General Release does not waive or release any rights or claims that I may have under the Age Discrimination in Employment Act of 1967 which arise after the date I execute this General Release. I acknowledge and agree that my separation from employment with the Company in compliance with the terms of the Agreement shall not serve as the basis for any claim or action (including, without limitation, any claim under the Age Discrimination in Employment Act of 1967).
5. In signing this General Release, I acknowledge and intend that it shall be effective as a bar to each and every one of the Claims hereinabove mentioned or implied. I expressly consent that this General Release shall be given full force and effect according to each and all of its express terms and provisions, including those relating to unknown and unsuspected Claims (notwithstanding any state statute that expressly limits the effectiveness of a general release of unknown, unsuspected and unanticipated Claims), if any, as well as those relating to any other Claims hereinabove mentioned or implied. I acknowledge and agree that this waiver is an essential and material term of this General Release and that without such waiver the Company would not have agreed to the terms of the Agreement. I covenant that I shall not directly or indirectly, commence, maintain or prosecute or sue any of the Released Persons either affirmatively or by way of cross-complaint, indemnity claim, defense or counterclaim or in any other manner or at all on any Claim covered by this General Release. I further agree that in the event I should bring a Claim seeking damages against the Company, or in the event I should seek to recover against the Company in any Claim brought by a governmental agency on my behalf, this General Release shall serve as a complete defense to such Claims. I further agree that I am not aware of any pending charge or complaint of the type described in paragraph 2 as of the execution of this General Release.
6. I agree that neither this General Release, nor the furnishing of the consideration for this General Release, shall be deemed or construed at any time to be an admission by the Company, any Released Party or myself of any improper or unlawful conduct.
7. I agree that this General Release is confidential and agree not to disclose any information regarding the terms of this General Release, except to my immediate family and any tax, legal or other counsel I have consulted regarding the meaning or effect hereof or as required by law, and I will instruct each of the foregoing not to disclose the same to anyone.
8. Any non-disclosure provision in this General Release does not prohibit or restrict me (or my attorney) from responding to any inquiry about this General Release or its underlying facts and circumstances by the Securities and Exchange Commission, the Financial Industry Regulatory Authority or any other self-regulatory organization or governmental entity.
9. Without limitation of any provision of the Agreement, I hereby expressly re-affirm my obligations under Sections 1.5, 1.6, 1.7, 1.8, 1.9, 1.10 and 3.1.
10. Whenever possible, each provision of this General Release shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this General Release is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision or any other jurisdiction, but this General Release shall be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision had never been contained herein.

“*Affiliate*” means, with respect to any Person, any Person that controls, is controlled by or is under common control with such Person or an Affiliate of such Person.

“*Person*” means an individual, a partnership, a limited liability company, a corporation, an association, a joint stock company, a trust, a joint venture, an unincorporated organization, investment fund, any other business entity and a governmental entity or any department, agency or political subdivision thereof.

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“*Subsidiary*” means, with respect to any Person, any corporation, limited liability company, partnership, association, or business entity of which (i) if a corporation, a majority of the total voting power of shares of stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers, or trustees thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof, or (ii) if a limited liability company, partnership, association, or other business entity (other than a corporation), a majority of partnership or other similar ownership interest thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more Subsidiaries of that Person or a combination thereof. For purposes hereof, a Person or Persons shall be deemed to have a majority ownership interest in a limited liability company, partnership, association, or other business entity (other than a corporation) if such Person or Persons shall be allocated a majority of limited liability company, partnership, association, or other business entity gains or losses or shall be or control any managing director or general partner of such limited liability company, partnership, association, or other business entity.

BY SIGNING THIS GENERAL RELEASE, I REPRESENT AND AGREE THAT:

- (a) I HAVE READ IT CAREFULLY;
- (b) I UNDERSTAND ALL OF ITS TERMS AND KNOW THAT I AM GIVING UP IMPORTANT RIGHTS, INCLUDING BUT NOT LIMITED TO, RIGHTS UNDER THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967, AS AMENDED, TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, AS AMENDED; THE EQUAL PAY ACT OF 1963, THE AMERICANS WITH DISABILITIES ACT OF 1990; AND THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, AS AMENDED;
- (c) I VOLUNTARILY CONSENT TO EVERYTHING IN IT;
- (d) I HAVE BEEN ADVISED TO CONSULT WITH AN ATTORNEY (VIA THE AGREEMENT AND THIS RELEASE) BEFORE EXECUTING IT AND I HAVE DONE SO OR, AFTER CAREFUL READING AND CONSIDERATION, I HAVE CHOSEN NOT TO DO SO OF MY OWN VOLITION;
- (e) I HAVE HAD AT LEAST 21 DAYS FROM THE DATE OF MY RECEIPT OF THIS RELEASE SUBSTANTIALLY IN ITS FINAL FORM ON \_\_\_\_\_, \_\_\_\_\_ TO CONSIDER IT AND THE CHANGES MADE SINCE THE \_\_\_\_\_, \_\_\_\_\_ VERSION OF THIS RELEASE ARE NOT MATERIAL AND WILL NOT RESTART THE REQUIRED 21-DAY PERIOD;
- (f) THE CHANGES TO THE AGREEMENT SINCE \_\_\_\_\_, \_\_\_\_\_ EITHER ARE NOT MATERIAL OR WERE MADE AT MY REQUEST.
- (g) I UNDERSTAND THAT I HAVE SEVEN DAYS AFTER THE EXECUTION OF THIS RELEASE TO REVOKE IT AND THAT THIS RELEASE SHALL NOT BECOME EFFECTIVE OR ENFORCEABLE UNTIL THE EIGHTH DAY FOLLOWING EXECUTION OF THE AGREEMENT;
- (h) I ACKNOWLEDGE THAT MY acceptance of any of the monies paid by the COMPANY as described in sections \_\_\_ of the employment Agreement, at any time more than seven days after the execution of this Agreement will constitute an admission by ME that I did not revoke this Agreement during the revocation period of seven days; and will further constitute an admission by ME that this Agreement has become effective and enforceable.
- (i) I HAVE SIGNED THIS GENERAL RELEASE KNOWINGLY AND VOLUNTARILY AND WITH THE ADVICE OF ANY COUNSEL RETAINED TO ADVISE ME WITH RESPECT TO IT; AND
- (j) I AGREE THAT THE PROVISIONS OF THIS GENERAL RELEASE MAY NOT BE AMENDED, WAIVED, CHANGED OR MODIFIED EXCEPT BY AN INSTRUMENT IN WRITING SIGNED BY AN AUTHORIZED REPRESENTATIVE OF THE COMPANY AND BY ME.

DATE: \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Giuseppe Falco

Acknowledged and agreed as of the date first written above:

**XCel Brands, Inc.**

By: \_\_\_\_\_

Name: Robert W. D'Loren

Title: Chairman & CEO

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**SECOND AMENDED AND RESTATED EMPLOYMENT AGREEMENT**

THIS SECOND AMENDED AND RESTATED EMPLOYMENT AGREEMENT (this “*Agreement*”) is made as of October 1, 2014 by and between XCel Brands, Inc. a Delaware corporation (the “*Company*”) and Seth Burroughs (the “*Executive*”), each a “*Party*” and collectively the “*Parties*.” This Agreement amends and restates that certain employment agreement dated as of September 22, 2011, as amended and restated on February 21, 2012 and as further amended on December 17, 2012 and October 18, 2013, by and between the Company and the Executive. Unless otherwise indicated, capitalized terms used herein are defined in Section 2.1 of this Agreement.

WHEREAS, the Company has determined that it is in the best interests of the Company and its shareholders to enter into an employment agreement with the Executive and the Executive is willing to serve as an employee of the Company.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein, it is agreed by and between the Executive and the Company as follows:

**ARTICLE I  
EMPLOYMENT TERMS**

1.1 **Employment.** The Company will employ the Executive, and the Executive accepts employment with the Company, upon the terms and conditions set forth in this Agreement for the period beginning on the Effective Date and ending as provided in Section 1.4(a) hereof (the “*Employment Period*”).

1.2 **Position and Duties.**

(a) **Generally.** The Executive shall serve as the Executive Vice President – Business Development and Treasury of the Company and, in such capacity shall be responsible for the general management of the treasury affairs of the Company, shall perform such duties as are customarily performed by an officer with similar title and responsibilities of a company of a similar size and shall have such power and authority as shall reasonably be required to enable him to perform his duties hereunder; provided, however, that in exercising such power and authority and performing such duties, he shall at all times be subject to the authority, control and direction of the Chief Executive Officer of the Company.

(b) **Duties and Responsibilities.** The Executive shall report to the Chief Executive Officer of the Company and shall devote his full business time and attention to the business and affairs of the Company and its Subsidiaries. The Executive shall perform his duties and responsibilities in a diligent, trustworthy, businesslike and efficient manner and shall use his best efforts during the Employment Period to protect, encourage and promote the best interests of the Company and its stockholders. The Executive shall not engage in any other business activities that could reasonably be expected to conflict with the Executive’s duties, responsibilities and obligations hereunder. During the Employment Period, the Executive shall promptly bring to the Company or its Subsidiaries, as applicable, all investment or business opportunities relating to the Business of which the Executive becomes aware.

(c) The Executive shall not engage in any other business activities that could reasonably be expected to conflict with the Executive’s duties, responsibilities and obligations hereunder.

(d) **Principal Office.** The principal place of performance by the Executive of his duties hereunder shall be the Company’s principal executive offices in the New York Metropolitan area, although the Executive may be required to travel outside of the area where the Company’s principal executive offices are located in connection with the business of the Company.

1.3 **Compensation.**

(a) **Base Salary.** The Executive’s base salary during the Employment Period shall be \$316,800 per annum (the “*Base Salary*”). The Base Salary will be payable to the Executive by the Company in regular installments in accordance with the Company’s general payroll practices. The Executive shall receive such increases (but not decreases) in his Base Salary as the Board of Directors, or the compensation committee of the Board of Directors, may approve in its sole discretion from time to time. Following the two year anniversary of the Effective Date, the Base Salary shall be reviewed at least annually.

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(b) Cash Bonus. Executive shall be eligible for a cash bonus of up to \$60,000 for fiscal years commencing on or after January 1, 2014 (the “Cash Bonus”) based upon the following: 50% of the Cash Bonus for a fiscal year shall be paid to the Executive if the Company achieves at least 70% of its budgeted Adjusted EBITDA (as defined below) for such fiscal year and 100% of the Cash Bonus for a fiscal year shall be paid to the Executive if the Company achieves at least 90% of its budgeted Adjusted EBITDA for such fiscal year. The Cash Bonus shall be awarded to the Executive on the date that is the earlier of (i) the 90th day following the end of the fiscal year to which the Cash Bonus relates and (ii) the first business day following the date the Company’s annual report on Form 10-K for the fiscal year to which the Cash Bonus relates is filed with the Securities and Exchange Commission. Notwithstanding the foregoing, all payments of Cash Bonuses shall be made on a date that allows such payments to comply with the requirements of Section 409A of the Code. Executive shall be eligible to receive a pro rata portion of the Cash Bonus if Executive’s employment is less than a full year or ceases prior to the end of the calendar year for which a Cash Bonus has not yet been paid. The Executive is eligible to receive additional cash bonuses at the discretion of the Company’s compensation committee.

“Adjusted EBITDA” shall mean for any period, for the Company and its subsidiaries on a consolidated basis (without duplication), an amount equal to (a) consolidated net income (as determined in accordance with generally accepted accounting principles of the United States of America as in effect from time to time) (“Consolidated Net Income”) for such period, minus, (b) to the extent included in calculating Consolidated Net Income, the sum of, without duplication, (i) income tax credits for such period, and (ii) gain from extraordinary or non-recurring items for such period (including, without limitation, non-cash items related to purchase accounting), plus (c) the following to the extent deducted in calculating such Consolidated Net Income, (i) interest expense and other finance costs (whether cash or non-cash) for such period (ii) the provision for federal, state, local and foreign income taxes for such period, (iii) the amount of depreciation and amortization expense for such period, (iv) the transaction fees, costs and expenses incurred in connection with the acquisition of Isaac Mizrahi and any other subsequent brand acquisition in such period, (v) all other extraordinary or non-recurring non-cash charges (including, without limitation, non-cash items related to purchase accounting and non-cash items related to earn-outs) and (vi) non-cash stock or equity compensation in such period.

(c) Withholding. All payments made under this Agreement (including Base Salary, Cash Bonus, bonus payments, and other amounts) shall be subject to withholding for income taxes, payroll taxes and other legally required deductions.

(d) Expenses. The Company will reimburse the Executive for all reasonable expenses incurred by him in the course of performing his duties under this Agreement that are consistent with the Company’s policies in effect at that time with respect to travel, entertainment and other business expenses, subject to the Company’s requirements with respect to reporting and documentation of such expenses. All expense reimbursement payments subject to this Section 1.3(d) shall be made within thirty (30) days after the date that the Executive notifies the Company of such expense; provided, however, that the Executive shall notify the Company of such expenses no later than six (6) months after the end of the calendar year in which such expenses were incurred.

(e) Vacation; Holiday Pay and Sick Leave. The Executive shall be entitled to four (4) weeks’ paid vacation in each calendar year, which if not taken during any year may be carried forward to any subsequent year. Executive shall receive holiday pay and paid sick leave as provided to other executive employees of the Company.

(f) Additional Benefits. During the Employment Period, the Executive shall be entitled to participate (for himself and, as applicable, his dependents) in the group medical, life, 401(k) and other insurance programs, employee benefit plans and perquisites which may be adopted by the Board, or the compensation committee of the Board, from time to time, for participation by the Company’s senior management or executives, as well as dental, life and disability insurance coverage, with payment of, or reimbursement for, such insurance premiums by the Company, subject to, in all cases, the terms and conditions established by the Board with respect to such plans (collectively, the “Benefits”); provided, however, that the Board, in its reasonable discretion, may revise the terms of any Benefits so long as such revision does not have a disproportionately negative impact on the Executive vis-à-vis other Company employees, to the extent applicable.

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(g) Indemnification. The Executive shall be entitled to indemnification by the Company in the same circumstances and to the same extent as the other executive officers and directors of the Company, which indemnification shall in no event be less favorable to the Executive than the fullest scope of indemnification permitted by applicable Delaware law (or any such greater scope of indemnification provided by agreement or by the terms of the Company's Certificate of Incorporation or By-Laws to any executive officer or director of the Company).

(h) Stock Options. In the event that the Company elects from time to time during the Employment Period to award to its senior management or executives, generally, options to purchase shares of the Company's stock pursuant to any stock option plan or similar program, the Executive shall be entitled to participate in any such stock option plan or similar program on a basis consistent with the participation of other senior management or executives of the Company.

#### 1.4 Term and Termination.

(a) Duration. The Employment Period shall commence on the Effective Date and shall terminate two (2) years from the Effective Date (the "Term"), unless earlier terminated by the Company or the Executive as set forth in this Section 1.4. The Term shall renew automatically for one-year periods, unless either party gives the other party written notice of its intention not to renew the Agreement no later than 30 days prior to the expiration of the then current Term. The Employment Period shall be terminated prior to the then-applicable expiration of the Term upon the first to occur of (i) termination of the Executive's employment by the Company for Cause, (ii) termination of the Executive's employment by the Company without Cause, (iii) the Executive's resignation with Good Reason, (iv) the Executive's resignation other than for Good Reason or (v) the Executive's death or Disability. The Executive shall not terminate the Employment Period, with or without Good Reason, unless he gives the Company written notice that he intends to terminate the Employment Period at least 90 days prior to the Executive's proposed Termination Date. As a condition to Executive receiving any payments or benefits under Section 1.4(b), the Executive shall execute and deliver to the Company the General Release in the form attached hereto as Exhibit A.

(b) Severance Upon Termination Without Cause, Upon Resignation by the Executive For Good Reason or Failure to Renew Term. If the Employment Period is terminated by the Company without Cause or if the Executive resigns for Good Reason, or if the Company fails to renew the Term (in which case termination of the Executive's employment shall be effective at the expiration of the then-current Term), then the Executive will be entitled to receive (1) any unpaid Base Salary through and including the Termination Date and any other amounts, including any unpaid Cash Bonus amounts, or other entitlements then due and owing to the Executive as of the Termination Date; (2) an amount equal to the Executive's Base Salary (at the rate in effect on the date the Executive's employment is terminated) for a 12 month period following the Executive's termination of employment as described in this Section 1.4(b), payable in (A) substantially equal installments over the lesser of (i) a six-month period immediately following such termination, or (ii) such shorter period that is the longest period permissible in order for the payments not to be considered "*nonqualified deferred compensation*" under Section 409A of the Code or any regulations, rulings or other regulatory guidance issued thereunder, or (B) if such payment terms would not satisfy the requirements of Section 409A of the Code and the regulations, rulings and other regulatory guidance issued thereunder, a lump sum on the date that is six months following the Executive's "*separation from service*" (within the meaning of Section 409A of the Code) occurring in connection with such termination and (3) continue to participate in the Company's group medical plan on the same basis as he previously participated or receive payment of, or reimbursement for, COBRA premiums (or, if COBRA coverage is not available, reimbursement of premiums paid for other medical insurance in an amount not to exceed the COBRA premium) for a one-year period following the Executive's termination of employment; *provided* that if the Executive is provided with health insurance coverage by a successor employer, any such coverage by the Company shall cease (each of (1), (2) and (3) referred to as the "*Severance Payment*"). The Executive also shall be entitled to receive payment for all reimbursable expenses or other entitlements then due and owing to the Executive as of the Termination Date. If the Executive breaches his obligations under Section 1.6, 1.7, 1.8 or 1.9 of this Agreement, the Company's obligation to make any Severance Payments and provide any Benefits shall cease as of the date of such breach; *provided*, that if the Executive cures such breach within 10 days of receiving written notice from the Company of such breach (which notice the Company shall provide promptly to the Executive after learning of such breach), the Company shall promptly pay all Severance Payments not made during such period of dispute and resume making Severance Payments and providing Benefits promptly following such cure.

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(c) Severance upon a Change of Control. Anything contained herein to the contrary notwithstanding, in the event the Executive's employment hereunder is terminated within twelve (12) months following a Change of Control by the Company without Cause or by the Executive with Good Reason, the Executive shall be entitled to receive the Severance Payment as described in sub-section (b)(2) above; provided, however, that if such lump sum Severance Payment, either alone or together with other payments or benefits, either cash or non-cash, that the Executive has the right to receive from the Company, including, but not limited to, accelerated vesting or payment of any deferred compensation, options, stock appreciation rights or any benefits payable to the Executive under any plan for the benefit of employees, would constitute an "excess parachute payment" (as defined in Section 280G of the Code), then such lump sum severance payment or other benefit shall be reduced to the largest amount that will not result in receipt by the Executive of an "excess parachute payment." The determination of the amount of the payment described in this subsection shall be made by the Company's independent auditors at the sole expense of the Company. For purposes of clarification the value of any options described above will be determined by the Company's independent auditors using a Black-Scholes valuation methodology. Upon a Change of Control, notwithstanding the vesting and exercisability schedule in any stock option or other grant agreement between the Company and the Executive, all unvested stock options, shares of restricted stock and other equity awards granted by the Company to the Executive pursuant to any such agreement shall immediately vest, and all such stock options shall become exercisable and shall remain exercisable for the lesser of 180 days after the date of the Change of Control or the remaining term of the applicable option.

(d) Death and Disability. In the event of the death or Disability of the Executive, the Company shall pay the Executive his Base Salary through the Termination Date, at the rate then in effect, and all expenses or accrued Benefits arising prior to such termination which are payable to the Executive pursuant to this Agreement through the Termination Date. Any other rights and benefits the Executive may have under employee benefit plans and programs of the Company generally in the event of the Executive's Disability shall be determined in accordance with the terms of such plans and programs. In the event of Executive's death, any rights and benefits that the Executive's estate or any other person may have under employee benefit plans and programs of the Company generally in the event of the Executive's death shall be determined in accordance with the terms of such plans and programs.

(e) Salary and Other Payments Through Termination. If the Executive's employment with the Company is terminated during the Term (i) by the Company for Cause or (ii) by the Executive other than for Good Reason, the Executive will be entitled to receive his Base Salary through the Termination Date, but will not be entitled to receive any Severance Payments or Benefits after the Termination Date. The Executive shall be entitled to receive payment for all reimbursable expenses or other entitlements then due and owing to the Executive as of the Termination Date.

(f) Other Rights. Except as set forth in this Section 1.4 and Section 1.3, all of the Executive's rights to receive Base Salary, Benefits and Cash Bonuses hereunder (if any) which accrue or become payable after the termination of the Employment Period shall cease upon such termination.

(g) Continuing Benefits. Notwithstanding Section 1.4(f), termination pursuant to this Section 1.4 shall not modify or affect in any way whatsoever any vested right of the Executive to benefits payable under any retirement or pension plan or under any other employee benefit plan of the Company, and all such benefits shall continue, in accordance with, and subject to, the terms and conditions of such plans, to be payable in full to, or on account of, the Executive after such termination.

(h) No Duty of Mitigation. The Executive shall not be required to mitigate the amount of any payment provided for in this Article I by seeking other employment or otherwise.

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1.5 Confidential Information.

(a) The Executive shall not disclose or, directly or indirectly, use at any time, during the Employment Period or thereafter, any Confidential Information (as defined below) of which the Executive is or becomes aware, whether or not such information is developed by him, alone or with others, except to the extent that (i) such disclosure or use is required by the Executive's performance of the duties assigned to the Executive by the Board of Directors, (ii) the Executive is required by subpoena or similar process to disclose or discuss any Confidential Information, provided, that in such case, the Executive shall promptly inform the Company in writing of such event, shall cooperate with the Company in attempting to obtain a protective order or to otherwise limit or restrict such disclosure to the greatest extent possible, and shall disclose only that portion of the Confidential Information as is strictly required, or (iii) such Confidential Information is or becomes generally known to and available for use by the public, other than as a result of any action or inaction directly or indirectly by the Executive. At the Company's expense, the Executive shall take all appropriate steps to safeguard Confidential Information and to protect it against disclosure, misuse, espionage, loss and theft. The Executive acknowledges that the Confidential Information obtained by him during the course of his employment with the Company is the sole and exclusive property of the Company and its Subsidiaries, as applicable.

(b) The Executive understands that the Company and its Subsidiaries will receive from third parties confidential or proprietary information ("*Third Party Information*") subject to a duty on the part of the Company and its Subsidiaries to maintain the confidentiality of such information and to use it only for certain limited purposes. During the Employment Period and in the period specified in such confidentiality agreements, and without in any way limiting the provisions of Section 1.5(a) above, the Executive will hold Third Party Information in confidence, consistent with the obligations applicable to Confidential Information of the Company generally, and will not disclose to anyone (other than personnel and agents of the Company or its Subsidiaries who need to know such information in connection with their work for the Company or its Subsidiaries) or use, except in connection with his work for the Company or its Subsidiaries, Third Party Information unless expressly authorized by the Board in writing.

(c) As used in this Agreement, the term "*Confidential Information*" means information that is not generally known to the public and that is related in any way to the actual or anticipated business of the Company, its Subsidiaries, its Affiliates or any of their respective predecessors in interest, including but not limited to (i) business development, growth and other strategic business plans, (ii) properties available for acquisition, financing development or sale, (iii) accounting and business methods, (iv) services or products and the marketing of such services and products, (v) fees, costs and pricing structures, (vi) designs, (vii) analysis, (viii) drawings, photographs and reports, (ix) computer software, including operating systems, applications and program listings, (x) flow charts, manuals and documentation, (xi) data bases, (xii) inventions, devices, new developments, methods and processes, whether patentable or unpatentable and whether or not reduced to practice, (xiii) copyrightable works, (xiv) all technology and trade secrets, (xv) confidential terms of material agreements and customer relationships, and (xvi) all similar and related information in whatever form or medium. Confidential Information also expressly excludes Executive's general know-how and business contacts to the extent that the use of such information does not violate or breach the terms of Section 1.9.

1.6 Inventions and Patents. Executive acknowledges that all discoveries, concepts, ideas, inventions, innovations, improvements, developments, products, methods, processes, techniques, programs, designs, analyses, drawings, reports, patents, copyrightable works and mask works (whether or not including any Confidential Information) and all issuances, registrations or applications related thereto, all other proprietary information or intellectual property and all similar or related information (whether or not patentable) conceived, developed, contributed to, made, or reduced to practice by Executive (either alone or with others) while employed by Company or any of its Subsidiaries or Affiliates or any of their respective predecessors in interest (including prior to the date of this Agreement) or using the materials, facilities or resources of the Company or any of its Subsidiaries or Affiliates or any of their respective predecessors in interest (collectively, "*Company Works*") is the sole and exclusive property of the Company and its Subsidiaries. Executive hereby assigns all right, title and interest in and to all Company Works to the Company and its Subsidiaries and waives any moral rights he may have therein, without further obligation or consideration. Any copyrightable work prepared in whole or in part by the Executive will be deemed "*a work made for hire*" under Section 201(b) of the 1976 Copyright Act, and the Company and its Subsidiaries shall own all of the rights comprised in the copyright therein. The Executive shall promptly and fully disclose in writing all Company Works to the Company and shall cooperate with the Company and its Subsidiaries to protect, maintain and enforce the Company's and its Subsidiaries' interests in and rights to such Company Works (including, without limitation, providing reasonable assistance in securing patent protection and copyright registrations and executing all affidavits, assignments, powers-of-attorney and other documents as reasonably requested by the Company, whether such requests occur prior to or after termination of the Executive's employment with the Company).

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1.7 Delivery of Materials Upon Termination of Employment. As requested by the Company from time to time and in any event upon the termination of the Executive's employment with the Company, the Executive shall promptly deliver to the Company, or at the Company's election, destroy, all copies and embodiments, in whatever form or medium, of all Confidential Information, Company Works and other property and assets of the Company and its Subsidiaries in the Executive's possession or within his control (including, but not limited to, office keys, access cards, written records, notes, photographs, manuals, notebooks, documentation, program listings, flow charts, magnetic media, disks, diskettes, tapes computers and handheld devices (including all software, files and documents thereon) and any other materials containing any Confidential Information or Company Works) irrespective of the location or form of such material and, if requested by the Company, shall provide the Company with written confirmation that all such materials have been delivered to the Company or destroyed, as applicable.

1.8 Non-Compete and Non-Solicitation Covenants.

(a) The Executive acknowledges and agrees that the Executive's services to the Company and its Subsidiaries are unique in nature and that the Company and its Subsidiaries would be irreparably damaged if the Executive were to provide similar services to any Person competing with the Company and its Subsidiaries or engaged in the Business. The Executive further acknowledges that, in the course of his employment with the Company, he will become familiar with the Company's and its Subsidiaries' trade secrets and with other Confidential Information. During the Noncompete Period, he shall not, directly or indirectly, whether for himself or for any other Person, permit his name to be used by or participate in any business or enterprise (including, without limitation, any division, group or franchise of a larger organization) that engages or proposes to engage in the Business in the Restricted Territories, other than the Company and its Subsidiaries or except as otherwise directed or authorized by the Board. For purposes of this Agreement, the term "participate in" shall include, without limitation, having any direct or indirect interest in any Person, whether as a sole proprietor, owner, stockholder, partner, member, joint venturer, creditor or otherwise, or rendering any direct or indirect service or assistance to any Person (whether as a director, officer, supervisor, employee, agent, consultant or otherwise). Nothing herein will prohibit the Executive from mere passive ownership of not more than five percent (5%) of the outstanding stock of any class of a publicly held corporation whose stock is traded on a national securities exchange or in the over-the-counter market. As used herein, the phrase "mere passive ownership" shall include voting or otherwise granting any consents or approvals required to be obtained from such Person as an owner of stock or other ownership interests in any entity pursuant to the charter or other organizational documents of such entity, but shall not include, without limitation, any involvement in the day-to-day operations of such entity.

(b) During the Nonsolicitation Period, the Executive will not directly, or indirectly through another Person, solicit, induce or attempt to induce any customer, supplier, licensee, or other business relation of the Company or any of its Subsidiaries, or solicit, induce or attempt to induce any person who is, or was during the then-most recent 12-month period, a corporate officer, general manager or other employee of the Company or any of its Subsidiaries to terminate such employee's employment with the Company or any of its Subsidiaries, or hire any such person unless such person's employment was terminated by the Company or any of its Subsidiaries, or in any way interfere with the relationship between any such customer, supplier, licensee, employee or business relation and the Company or any of its Subsidiaries. The Executive acknowledges and agrees that the Company and its Subsidiaries would be irreparably damaged if the Executive were to breach any of the provisions contained in this Section 1.8(b).

(c) Executive acknowledges that this Agreement, and specifically, this Section 1.8, does not preclude Executive from earning a livelihood, nor does it unreasonably impose limitations on Executive's ability to earn a living. In addition, Executive agrees and acknowledges that the potential harm to the Company of its non-enforcement outweighs any harm to Executive of its enforcement by injunction or otherwise.

1.9 Enforcement. If, at the time of enforcement of Section 1.5, 1.6, 1.7, 1.8, 1.9 or 1.10, a court holds that the restrictions stated herein are unreasonable under circumstances then existing, the Parties agree that, to the extent permitted by applicable law, the maximum period, scope or geographical area reasonable under such circumstances will be substituted for the Noncompete Period, scope or area. Because the Executive's services are unique and because the Executive has access to Confidential Information and Company Works, the Parties agree that money damages would be an inadequate remedy for any breach of Section 1.5, 1.6, 1.7, 1.8, 1.9 or 1.10. Therefore, in the event of a breach or threatened breach of Section 1.5, 1.6, 1.7, 1.8, 1.9 or 1.10, the Company or any of its Subsidiaries or any of their respective successors or assigns may, in addition to other rights and remedies existing in their favor, apply to any court of competent jurisdiction for specific performance and/or injunctive or other relief in order to enforce, or prevent any violations of, the provisions hereof (without posting a bond or other security). The Parties hereby acknowledge and agree that (a) performance of the services of the Executive hereunder may occur in jurisdictions other than the jurisdiction whose law the Parties have agreed shall govern the construction, validity and interpretation of this Agreement, (b) the law of the State of New York shall govern construction, validity and interpretation of this Agreement to the fullest extent possible, and (c) Section 1.5, 1.6, 1.7, 1.8, 1.9 or 1.10 shall restrict the Executive only to the extent permitted by applicable law.

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1.10 Survival. Sections 1.5, 1.6, 1.7, 1.8, 1.9 and 1.10 will survive and continue in full force in accordance with their terms notwithstanding any termination of the Employment Period.

## ARTICLE II DEFINED TERMS

2.1 Definitions. For purposes of this Agreement, the following terms will have the following meanings:

“*Business*” means the business of acquiring and licensing consumer brands worldwide.

“*Cause*” means with respect to the Executive, the occurrence of one or more of the following: (i) conviction of a felony involving moral turpitude, misappropriation of Company property, embezzlement of Company funds, violation of the securities laws or dishonesty, (ii) the willful and continued failure by the Executive to attempt in good faith to substantially perform his obligations under this Agreement (other than any such failure resulting from the Executive’s incapacity due to a Disability); (iii) reporting to work under the influence of alcohol or illegal drugs, or the use of illegal drugs (whether or not at the workplace), or (iv) any willful breach of Sections 1.6, 1.7, 1.8 or 1.9 of this Agreement. Notwithstanding the foregoing, termination by the Company for Cause (other than pursuant to clause (i) above) shall not be effective until and unless Executive fails to cure such alleged act or circumstance within 30 days of receipt of notice thereof, to the satisfaction of the Chief Executive Officer in the exercise of his reasonable judgment (or, if within such 30-day period the Executive commences and proceeds to take all reasonable actions to effect such cure, within such reasonable additional time period (no longer than 60 days) as may be necessary).

“*Code*” means the Internal Revenue Code of 1986 and the Treasury regulations thereunder, each as amended from time to time.

“*Disability*” shall have the meaning set forth in a policy or policies of long-term disability insurance, if any, the Company obtains for the benefit of itself and/or its employees. If there is no definition of “*disability*” applicable under any such policy or policies, if any, then the Executive shall be considered disabled due to mental or physical impairment or disability, despite reasonable accommodations by the Company and its Subsidiaries, to perform his customary or other comparable duties with the Company or its Subsidiaries immediately prior to such disability for a period of at least 120 consecutive days or for at least 180 non-consecutive days in any 12-month period.

“*Effective Date*” means September 16, 2014.

“*Fiscal Year*” means the fiscal year of the Company and its Subsidiaries.

“*Good Reason*” means the occurrence, without the Executive’s written consent, of one or more of the following events: (i) the Company reduces the amount of Executive’s Base Salary or Cash Bonuses, (ii) the Company requires that the Executive relocate his principal place of employment to a site that is more than 50 miles from the Company’s offices in the New York area or if the Company changes the location of its headquarters without the consent of Executive to a location that is more than 50 miles from such location, (iii) the Company materially reduces the Executive’s responsibilities or removes the Executive from the position of Executive Vice President – Business Development and Treasury other than pursuant to a termination of his employment for Cause, or upon the Executive’s death or Disability, (iv) the failure or unreasonable delay of the Company to provide to the Executive any of the payments or benefits contemplated hereby or (v) the Company otherwise materially breaches the terms of this Agreement; provided that no such event shall constitute Good Reason hereunder unless (a) the Executive shall have given written notice to the Company of the Executive’s intent to resign for Good Reason within 30 days after the Executive becomes aware of the occurrence of any such event, which notice shall describe in reasonable detail the event or events constitute the basis for the Executive’s intention to resign for Good Reason and (b) such event or occurrence, if a breach susceptible to cure, shall not have been cured or otherwise shall not have been resolved to the Executive’s reasonable satisfaction, in each case within 30 days of the Company’s receipt of such notice. In such case the Executive’s resignation shall become effective on the 31<sup>st</sup> day after the Company’s receipt of the aforementioned notice.

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“*Merger Agreement*” means the Merger Agreement entered into by and among NetFabric Holdings, Inc., the Company and a subsidiary of NetFabric Holdings, Inc. formed for the purpose of acquiring the Company.

“*Noncompete Period*” means the Employment Period and 12 months thereafter.

“*Nonsolicitation Period*” means the Employment Period and 12 months thereafter.

“*Person*” means an individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization, or the United States of America any other nation, any state or other political subdivision thereof, or any entity exercising executive, legislative, judicial, regulatory or administrative functions of government.

“*Restricted Territories*” means (i) the United States and its territories and possessions and (ii) any foreign country in which the Company engages in business as of the Termination Date.

“*Subsidiary*” means, with respect to any Person, any corporation, limited liability company, partnership, association, or business entity of which (i) if a corporation, a majority of the total voting power of shares of stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers, or trustees thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof, or (ii) if a limited liability company, partnership, association, or other business entity (other than a corporation), a majority of partnership or other similar ownership interest thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more Subsidiaries of that Person or a combination thereof. For purposes hereof, a Person or Persons shall be deemed to have a majority ownership interest in a limited liability company, partnership, association, or other business entity (other than a corporation) if such Person or Persons shall be allocated a majority of limited liability company, partnership, association, or other business entity gains or losses or shall be or control any managing director or general partner or manager or managing member of such limited liability company, partnership, association, or other business entity. For purposes hereof, references to a Subsidiary of any Person shall be given effect only at such times that such Person has one or more Subsidiaries, and, unless otherwise indicated, the term Subsidiary refers to a Subsidiary of the Company.

“*Termination Date*” means the effective date of the Executive’s termination of employment with the Company.

## 2.2 Other Definitional Provisions.

(a) Section references contained in this Agreement are references to sections in this Agreement, unless otherwise specified. Each defined term used in this Agreement has a comparable meaning when used in its plural or singular form. Each gender-specific term used in this Agreement has a comparable meaning whether used in a masculine, feminine or gender-neutral form.

(b) Whenever the term “*including*” (whether or not that term is followed by the phrase “*but not limited to*” or “*without limitation*” or words of similar effect) is used in this Agreement in connection with a listing of items within a particular classification, that listing will be interpreted to be illustrative only and will not be interpreted as a limitation on, or an exclusive listing of, the items within that classification.

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**ARTICLE III**  
**MISCELLANEOUS TERMS**

3.1 Defense of Claims. The Executive agrees that, during the Employment Period, and for a period of six months after termination of the Executive's employment, upon request by the Company, the Executive shall reasonably cooperate with the Company in connection with any matters the Executive worked on during his employment with the Company and any related transitional matters. In addition, during the Employment Period and thereafter, the Executive agrees to reasonably cooperate with the Company in the defense of any claims or actions that may be made by or against the Company that affect the Executive's prior areas of responsibility or involve matters about which the Executive has knowledge, except if the Executive's reasonable interests are adverse to the Company in such claim or action and provided that after the Employment Period such level of cooperation shall be reasonable and shall take due account of the Executive's work and personal commitments. The Company agrees to promptly reimburse the Executive for all of the Executive's reasonable travel and other direct expenses incurred, or to be reasonably incurred, to comply with the Executive's obligations under this Section 3.1.

3.2 Nondisparagement. The Executive agrees to refrain from (i) making, directly or indirectly, any derogatory comments concerning the Company or its Subsidiaries or any current or former officers, directors, employees or shareholders thereof or (ii) taking any other action with respect to the Company or its Subsidiaries which is reasonably expected to result, or does result in, damage to the business or reputation of the Company, its Subsidiaries or any of its current or former officers, directors, employees or shareholders. The Company agrees to refrain from (i) making, directly or indirectly, any derogatory comments concerning the Executive or (ii) taking any other action with respect to the Executive which is reasonably expected to result, or does result in, damage to the reputation of the Executive. Notwithstanding anything to the contrary contained herein, nothing in this Agreement shall prohibit or restrict either party from, truthfully and in good faith: (i) making any disclosure of information required by law; (ii) providing information to, or testifying or otherwise assisting in any investigation or proceeding brought by, any federal regulatory or law enforcement agency or legislative body, any self-regulatory organization, or the Company's or the Executive's designated legal, compliance or human resources officers; or (iii) filing, testifying, participating in or otherwise assisting in a proceeding relating to an alleged violation of any federal, state or municipal law relating to fraud, or any rule or regulation of the Securities and Exchange Commission or any self-regulatory organization.

3.3 Source of Payments. All payments provided under this Agreement, other than payments made pursuant to a plan which provides otherwise and except as otherwise provided herein, shall be paid in cash from the general funds of the Company, and no special or separate fund shall be established, and no other segregation of assets shall be made, to assure payment. The Executive shall have no right, title or interest whatsoever in or to any investments which the Company or its Subsidiaries may make to aid the Company in meeting its obligations hereunder. To the extent that any person acquires a right to receive payments from the Company hereunder, such right shall be no greater than the right of an unsecured creditor of the Company.

3.4 Notices. Any notice provided for in this Agreement must be in writing and must be either personally delivered, mailed by first class mail (postage prepaid and return receipt requested), sent by reputable overnight courier service (charges prepaid) or sent by facsimile (with receipt confirmed) to the recipient at the address or facsimile number indicated below:

To the Company:

XCel Brands, Inc.  
475 Tenth Avenue, 4th Floor  
New York, New York 10018

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

Blank Rome LLP  
The Chrysler Building  
405 Lexington Avenue  
New York, NY 10174-0208  
Attn: Robert Mittman, Esquire  
Facsimile: (212) 885-5557

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To the Executive:

Seth Burroughs  
c/o XCel Brands, Inc.  
475 Tenth Avenue, 4th Floor  
New York, New York 10018

or such other address or to the attention of such other Person as the recipient Party will have specified by prior written notice to the sending Party. Any notice under this Agreement will be deemed to have been given when so delivered or sent.

3.5 Severability. Subject to the express provisions of Section 1.10 relating to certain specified changes, whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability will not affect any other provision or any other jurisdiction, but this Agreement will be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision had never been contained herein.

3.6 Complete Agreement. This Agreement embodies the complete agreement and understanding among the Parties with regard to the subject matter hereof and supersedes and preempts any prior understandings, agreements or representations by or among the Parties, written or oral, which may have related to the subject matter hereof in any way. To the extent that this Agreement provides greater benefits to the Executive or fewer obligations of the Executive than available or set forth under the Company's employee handbook or other corporate policies, then this Agreement shall prevail.

3.7 Counterparts. This Agreement may be executed in separate counterparts, each of which is deemed to be an original and all of which taken together constitute one and the same agreement.

3.8 Assignment. Without the Executive's consent, the Company may not assign its rights and obligations under this Agreement except (i) to a "Successor" (as defined below) or (ii) to an entity that is formed and controlled by the Company or any of its Subsidiaries. This Agreement is personal to the Executive, and the Executive shall not have the right to assign the Executive's interest in this Agreement, any rights under this Agreement or any duties imposed under this Agreement, nor shall the Executive have the right to pledge, hypothecate, transfer, assign or otherwise encumber the Executive's right to receive any form of compensation hereunder without the prior written consent of the Board. As used in Sections 3.8 and 3.9, "Successor" shall include any Person that at any time, whether by purchase, merger or otherwise, directly or indirectly acquires all or substantially all of the assets of, or ownership interests in, the Company and its Subsidiaries.

3.9 Successors and Assigns. This Agreement is intended to bind and inure to the benefit of and be enforceable by the Company, the Executive, and their respective heirs, successors and permitted assigns.

3.10 Choice of Law. This Agreement and the performance of the parties hereunder shall be governed by the internal laws (and not the law of conflicts) of the State of New York. Any claim or controversy arising out of or in connection with this Agreement, or the breach thereof, shall be adjudicated exclusively by the Supreme Court, New York County, State of New York, or by a federal court sitting in Manhattan in New York City, State of New York. The parties hereto agree to the personal jurisdiction of such courts and agree to accept process by regular mail in connection with any such dispute.

3.11 Waiver of Jury Trial. AS A SPECIFICALLY BARGAINED FOR INDUCEMENT FOR EACH OF THE PARTIES HERETO TO ENTER INTO THIS AGREEMENT (AFTER HAVING THE OPPORTUNITY TO CONSULT WITH COUNSEL), EACH PARTY HERETO EXPRESSLY WAIVES THE RIGHT TO TRIAL BY JURY IN ANY LAWSUIT OR PROCEEDING RELATING TO OR ARISING IN ANY WAY FROM THIS AGREEMENT OR THE MATTERS CONTEMPLATED HEREBY.

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3.12 Legal Fees and Court Costs. In the event that any action, suit or other proceeding in law or in equity is brought to enforce the provisions of this Agreement, and such action results in the award of a judgment for money damages or in the granting of any injunction in favor of the Company, all expenses (including reasonable attorneys' fees) of the Company in such action, suit or other proceeding shall be paid by the Executive. In the event that any action, suit or other proceeding in law or in equity is brought to enforce the provisions of this Agreement, and such action results in the award of a judgment for money damages or in the granting of any injunction in favor of the Executive, all expenses (including reasonable attorneys' fees and travel expenses) of the Executive in such action, suit or other proceeding shall be paid by the Company.

3.13 Remedies. Each Party will be entitled to enforce its rights under this Agreement specifically, to recover damages and costs caused by any breach of any provision of this Agreement and to exercise all other rights existing in its favor. Subject to Section 3.12, nothing herein shall prohibit any arbitrator or judicial authority from awarding attorneys' fees or costs to a prevailing Party in any arbitration or other proceeding to the extent that such arbitrator or authority may lawfully do so.

3.14 Amendment and Waiver. The provisions of this Agreement may be amended or waived only with the prior written consent of the Company and the Executive, and no course of conduct or failure or delay in enforcing the provisions of this Agreement will affect the validity, binding effect or enforceability of this Agreement.

3.15 Third Party Beneficiaries. This Agreement will not confer any rights or remedies upon any Person other than the Parties and their respective successors and permitted assigns and other than, in the event of the Executive's death, his estate, to which all of Executive's rights and remedies set forth herein shall accrue.

3.16 The Executive's Representations. The Executive hereby represents and warrants to the Company that (a) the execution, delivery and performance of this Agreement by the Executive do not and shall not conflict with, breach, violate or cause a default under any contract, agreement, instrument, order, judgment or decree to which the Executive is a party or by which he is bound, (b) the Executive is not a party to or bound by any employment agreement, noncompete agreement or confidentiality agreement with any other Person (or other agreement with any other person containing a restriction on the Executive's right to do business or obligating him to do business with any other Person on a priority or preferential basis), (c) upon the execution and delivery of this Agreement by the Company, this Agreement shall be the valid and binding obligation of the Executive, enforceable in accordance with its terms and (d) upon the execution and delivery of this Agreement by the Company, Executive shall not be in violation of clause (i) set forth in the definition of Cause and shall not be disabled.

3.17 Amendment to Comply with Section 409A of the Code. To the extent that this Agreement or any part thereof is deemed to be a nonqualified deferred compensation plan subject to Section 409A of the Code and the Treasury Regulations (including proposed regulations) and guidance promulgated thereunder, (a) the provisions of this Agreement shall be interpreted in a manner to the maximum extent possible to comply in good faith with Code Section 409A and (b) the parties hereto agree to amend this Agreement for purposes of complying with Code Section 409A promptly upon issuance of any Treasury regulations or guidance thereunder, *provided*, that any such amendment shall not materially change the present value of the benefits payable to the Executive hereunder or otherwise materially adversely affect the Executive, the Company, or any affiliate of the Company, without the consent of such party. With regard to any provision herein that provides for reimbursement of costs and expenses or in-kind benefits, except as permitted by Code Section 409A, (i) the right to reimbursement or in-kind benefits shall not be subject to liquidation or exchange for another benefit, (ii) the amount of expenses eligible for reimbursement, or in-kind benefits, provided during any taxable year shall not affect the expenses eligible for reimbursement, or in-kind benefits to be provided, in any other taxable year, and (iii) such payments shall be made on or before the last day of the Executive's taxable year following the taxable year in which the expense was incurred.

[END OF PAGE]  
[SIGNATURE PAGE FOLLOWS]

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

**XCel Brands, Inc.**

By: \_\_\_\_\_ /s/ Robert W. D'Loren  
Name: Robert W. D'Loren  
Title: Chairman and CEO

\_\_\_\_\_  
/s/ Seth Burroughs  
**Seth Burroughs**

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## FORM OF RELEASE

I, Seth Burroughs, on behalf of myself and my heirs, successors and assigns, in consideration of the performance by XCel Brands, Inc., a Delaware corporation (together with its Subsidiaries, the “*Company*”), of its material obligations under the Second Amended and Restated Employment Agreement, dated as of October 1, 2014 (the “*Agreement*”), do hereby release and forever discharge as of the date hereof the Company, its Affiliates, each such Person’s respective successors and assigns and each of the foregoing Persons’ respective present and former directors, officers, partners, stockholders, members, managers, agents, representatives, employees (and each such Person’s respective successors and assigns) (collectively, the “*Released Parties*”) to the extent provided below.

1. I understand that any payments or benefits paid or granted to me under Section 1.4(b) of the Agreement represent, in part, consideration for signing this General Release and are not salary, wages or benefits to which I was already entitled. I understand and agree that I will not receive the payments and benefits specified in Section 1.4(b) of the Agreement unless I execute this General Release and do not revoke this General Release within the time period permitted hereafter or breach this General Release.

2. I knowingly and voluntarily release and forever discharge the Company and the other Released Parties from any and all claims, controversies, actions, causes of action, cross-claims, counter-claims, demands, debts, compensatory damages, liquidated damages, punitive or exemplary damages, other damages, claims for costs and attorneys’ fees, or liabilities of any nature whatsoever in law and in equity, both past and present (through the date of this General Release), whether under the laws of the United States or another jurisdiction and whether known or unknown, suspected or claimed against the Company or any of the Released Parties which I, my spouse, or any of my heirs, executors, administrators or assigns, have or may have, which arise out of or are connected with my employment with, or my separation from, the Company (including, but not limited to, any allegation, claim or violation, arising under: Title VII of the Civil Rights Act of 1964, as amended; the Civil Rights Act of 1991; the Age Discrimination in Employment Act of 1967, as amended (including the Older Workers Benefit Protection Act); the Equal Pay Act of 1963, as amended; the Americans with Disabilities Act of 1990; the Family and Medical Leave Act of 1993; the Civil Rights Act of 1866, as amended; the Worker Adjustment Retraining and Notification Act; the Employee Retirement Income Security Act of 1974; any applicable Executive Order Programs; the Fair Labor Standards Act; Occupational Safety and Health Act of 1970, as amended, under the Worker Adjustment and Retraining Notification Act of 1988, as amended, under the Family and Medical Leave Act of 1993, as amended, under the Fair Credit Reporting Act of 1970, as amended, and under the Sarbanes-Oxley Act of 2002, under the Civil Rights Act of 1870, 42 U.S.C. § 1981, as amended, under the Civil Rights Act of 1871, as amended, under the Americans With Disabilities Act of 1990, as amended, under the Americans with Disabilities Act Amendments of 2008, under the Rehabilitation Act of 1973, as amended, under the Immigration Reform and Control Act of 1986, as amended, under the Vietnam Era Veterans Readjustment Assistance Act of 1974, as amended, under the Uniformed Service Employment and Reemployment Rights Act of 1994, as amended, under the Consolidated Omnibus Budget Reconciliation Act of 1985 (“*COBRA*”), and any and all claims under the New York State Human Rights Law, under the New York City Human Rights Law, and under the New York Labor Laws, and any and all claims under any other federal, state, or local labor law, civil rights law, fair employment practices law, human rights law, family and medical leave law, occupational safety and health law, whistleblower protection law, and equal pay law; or any and all claims of slander, libel, defamation, invasion of privacy, intentional or negligent infliction of emotional distress, intentional or negligent misrepresentation, fraud, prima facie torts or other tort; or any and all claims based on the design or administration of any of the Company’s employee benefit plan or program, or arising under any Company policy, practice, or procedure, or employee benefit plan; any and all claims for wages, commissions bonuses, vacation pay or other paid time off, employee benefits equity-based compensation, or other compensation or payments of any kind or nature, or for continued employment with the Company in any position; or under any other local, state, or federal law, regulation or ordinance; or under any public policy, contract or tort, or under common law; or any claim for wrongful discharge, breach of contract, or infliction of emotional distress; or any claim for costs, fees, or other expenses, including attorneys’ fees incurred in these matters) (all of the foregoing collectively referred to herein as the “*Claims*”); provided, however, that nothing contained in this General Release shall apply to, or release the Company from, (i) any obligation of the Company contained in the Agreement to be performed after the date hereof or (ii) any vested or accrued benefits pursuant to any employee benefit plan, program or policy of the Company.

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3. I represent that I have made no assignment or transfer of any right, claim, demand, cause of action, or other matter covered by paragraph 2 above.
4. I agree that this General Release does not waive or release any rights or claims that I may have under the Age Discrimination in Employment Act of 1967 which arise after the date I execute this General Release. I acknowledge and agree that my separation from employment with the Company in compliance with the terms of the Agreement shall not serve as the basis for any claim or action (including, without limitation, any claim under the Age Discrimination in Employment Act of 1967).
5. In signing this General Release, I acknowledge and intend that it shall be effective as a bar to each and every one of the Claims hereinabove mentioned or implied. I expressly consent that this General Release shall be given full force and effect according to each and all of its express terms and provisions, including those relating to unknown and unsuspected Claims (notwithstanding any state statute that expressly limits the effectiveness of a general release of unknown, unsuspected and unanticipated Claims), if any, as well as those relating to any other Claims hereinabove mentioned or implied. I acknowledge and agree that this waiver is an essential and material term of this General Release and that without such waiver the Company would not have agreed to the terms of the Agreement. I covenant that I shall not directly or indirectly, commence, maintain or prosecute or sue any of the Released Persons either affirmatively or by way of cross-complaint, indemnity claim, defense or counterclaim or in any other manner or at all on any Claim covered by this General Release. I further agree that in the event I should bring a Claim seeking damages against the Company, or in the event I should seek to recover against the Company in any Claim brought by a governmental agency on my behalf, this General Release shall serve as a complete defense to such Claims. I further agree that I am not aware of any pending charge or complaint of the type described in paragraph 2 as of the execution of this General Release.
6. I agree that neither this General Release, nor the furnishing of the consideration for this General Release, shall be deemed or construed at any time to be an admission by the Company, any Released Party or myself of any improper or unlawful conduct.
7. I agree that this General Release is confidential and agree not to disclose any information regarding the terms of this General Release, except to my immediate family and any tax, legal or other counsel I have consulted regarding the meaning or effect hereof or as required by law, and I will instruct each of the foregoing not to disclose the same to anyone.
8. Any non-disclosure provision in this General Release does not prohibit or restrict me (or my attorney) from responding to any inquiry about this General Release or its underlying facts and circumstances by the Securities and Exchange Commission, the Financial Industry Regulatory Authority or any other self-regulatory organization or governmental entity.
9. Without limitation of any provision of the Agreement, I hereby expressly re-affirm my obligations under Sections 1.5, 1.6, 1.7, 1.8, 1.9, 1.10 and 3.1.
10. Whenever possible, each provision of this General Release shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this General Release is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision or any other jurisdiction, but this General Release shall be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision had never been contained herein.

“*Affiliate*” means, with respect to any Person, any Person that controls, is controlled by or is under common control with such Person or an Affiliate of such Person.

“*Person*” means an individual, a partnership, a limited liability company, a corporation, an association, a joint stock company, a trust, a joint venture, an unincorporated organization, investment fund, any other business entity and a governmental entity or any department, agency or political subdivision thereof.

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“*Subsidiary*” means, with respect to any Person, any corporation, limited liability company, partnership, association, or business entity of which (i) if a corporation, a majority of the total voting power of shares of stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers, or trustees thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof, or (ii) if a limited liability company, partnership, association, or other business entity (other than a corporation), a majority of partnership or other similar ownership interest thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more Subsidiaries of that Person or a combination thereof. For purposes hereof, a Person or Persons shall be deemed to have a majority ownership interest in a limited liability company, partnership, association, or other business entity (other than a corporation) if such Person or Persons shall be allocated a majority of limited liability company, partnership, association, or other business entity gains or losses or shall be or control any managing director or general partner of such limited liability company, partnership, association, or other business entity.

BY SIGNING THIS GENERAL RELEASE, I REPRESENT AND AGREE THAT:

- (a) I HAVE READ IT CAREFULLY;
  - (b) I UNDERSTAND ALL OF ITS TERMS AND KNOW THAT I AM GIVING UP IMPORTANT RIGHTS, INCLUDING BUT NOT LIMITED TO, RIGHTS UNDER THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967, AS AMENDED, TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, AS AMENDED; THE EQUAL PAY ACT OF 1963, THE AMERICANS WITH DISABILITIES ACT OF 1990; AND THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, AS AMENDED;
  - (c) I VOLUNTARILY CONSENT TO EVERYTHING IN IT;
  - (d) I HAVE BEEN ADVISED TO CONSULT WITH AN ATTORNEY (VIA THE AGREEMENT AND THIS RELEASE) BEFORE EXECUTING IT AND I HAVE DONE SO OR, AFTER CAREFUL READING AND CONSIDERATION, I HAVE CHOSEN NOT TO DO SO OF MY OWN VOLITION;
  - (e) I HAVE HAD AT LEAST 21 DAYS FROM THE DATE OF MY RECEIPT OF THIS RELEASE SUBSTANTIALLY IN ITS FINAL FORM ON \_\_\_\_\_, \_\_\_\_\_ TO CONSIDER IT AND THE CHANGES MADE SINCE THE \_\_\_\_\_, \_\_\_\_\_ VERSION OF THIS RELEASE ARE NOT MATERIAL AND WILL NOT RESTART THE REQUIRED 21-DAY PERIOD;
  - (f) THE CHANGES TO THE AGREEMENT SINCE \_\_\_\_\_, \_\_\_\_\_ EITHER ARE NOT MATERIAL OR WERE MADE AT MY REQUEST.
  - (g) I UNDERSTAND THAT I HAVE SEVEN DAYS AFTER THE EXECUTION OF THIS RELEASE TO REVOKE IT AND THAT THIS RELEASE SHALL NOT BECOME EFFECTIVE OR ENFORCEABLE UNTIL THE EIGHTH DAY FOLLOWING EXECUTION OF THE AGREEMENT;
  - (h) I ACKNOWLEDGE THAT MY acceptance of any of the monies paid by the COMPANY as described in sections \_\_\_ of the employment Agreement, at any time more than seven days after the execution of this Agreement will constitute an admission by ME that I did not revoke this Agreement during the revocation period of seven days; and will further constitute an admission by ME that this Agreement has become effective and enforceable.
  - (i) I HAVE SIGNED THIS GENERAL RELEASE KNOWINGLY AND VOLUNTARILY AND WITH THE ADVICE OF ANY COUNSEL RETAINED TO ADVISE ME WITH RESPECT TO IT; AND
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(j) I AGREE THAT THE PROVISIONS OF THIS GENERAL RELEASE MAY NOT BE AMENDED, WAIVED, CHANGED OR MODIFIED EXCEPT BY AN INSTRUMENT IN WRITING SIGNED BY AN AUTHORIZED REPRESENTATIVE OF THE COMPANY AND BY ME.

DATE: \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_

Seth Burroughs

Acknowledged and agreed as of the date first written above:

**XCel Brands, Inc.**

By: \_\_\_\_\_

Name: Robert W. D'Loren

Title: Chairman and CEO

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AMENDED AND RESTATED  
EFFECTIVE [ ], 2014XCEL BRANDS, INC.  
2011 EQUITY INCENTIVE PLAN**Section 1. Purposes; Definitions.**

The purpose of the Xcel Brands, Inc. Equity Incentive Plan is to enable Xcel Brands, Inc. to offer to those of its employees and to the employees of its Subsidiaries and other persons who are expected to contribute to the success of the Company, long term performance-based stock and/or other equity interests in the Company, thereby enhancing their ability to attract, retain and reward such key employees or other persons, and to increase the mutuality of interests between those employees or other persons and the stockholders of Xcel Brands, Inc.

For purposes of the Plan, unless the context requires otherwise, the following terms shall be defined as set forth below:

- (a) "Award" means an award granted under the Plan including a Stock Option, Restricted Stock or a Cash Award.
  - (b) "Board" means the Board of Directors of Xcel Brands, Inc.
  - (c) "Cash Award" means an Award entitling the Participant to a payment of cash, in the amount, under the circumstances and at the times set forth in the Award, as further described in Section 7.
  - (d) "Cause" shall have the meaning ascribed thereto in Section 5(b)(ix) below.
  - (e) "Change of Control" shall have the meaning ascribed thereto in Section 9 below.
  - (f) "Code" means the Internal Revenue Code of 1986, as amended from time to time and any successor thereto.
  - (g) "Committee" means the Compensation Committee of the Board, if established, or any other committee of the Board which the Board may designate, consisting of two or more members of the Board each of whom shall meet the definition of an "independent director" under the listing rules of any securities exchange or national securities association on which the Stock is listed for trading and the requirements set forth in any other law, rule or regulation applicable to the Plan hereinafter enacted, provided, however, that (i) with respect to any Award that is intended to satisfy the requirements of Rule 16b-3, such Award shall be granted and administered by a committee of the Board consisting of at least such number of directors as are required from time to time by Rule 16b-3, and each such committee member shall meet such qualifications as are required by Rule 16b-3 and (ii) with respect to any Award that is intended to satisfy the requirements of Section 162(m) of the Code, such Award shall be granted and administered by a committee of the Board consisting of at least such number of directors as are required from time to time by Section 162(m) of the Code, and each such committee member shall meet such qualifications as are required by Section 162(m) of the Code.
  - (h) "Company" means Xcel Brands, Inc., a corporation organized under the laws of the State of Delaware or any successor entity.
  - (i) "Covered Employee" shall mean any employee of the Company or any of its Subsidiaries who is deemed to be a "covered employee" within the meaning of Section 162(m) of the Code.
  - (j) "Disability" means the permanent and total disability as defined in Section 22(e)(3) of the Code.
  - (k) "Early Retirement" means retirement, with the approval of the Board or the Committee, for purposes of one or more Award(s) hereunder, from active employment with the Company or any Parent or Subsidiary prior to age 65.
  - (l) "Exchange Act" means the Securities Exchange Act of 1934, as amended, as in effect from time to time.
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(m) “Fair Market Value”, unless otherwise required by any applicable provision of the Code or any regulations issued thereunder, means, as of any given date: (i) if the principal market for the Stock is a national securities exchange or the National Association of Securities Dealers Automated Quotations System (“NASDAQ”), the closing sales price of the Stock on such day as reported by such exchange or market system, or on a consolidated tape reflecting transactions on such exchange or market system, or (ii) if the principal market for the Stock is not a national securities exchange and the Stock is not quoted on NASDAQ, the arithmetic mean of the high and low prices of the Stock on the trading day of the grant as reported or provided by NASDAQ or the National Quotation Bureau, Inc., provided that if clauses (i) and (ii) of this paragraph are both inapplicable, or if no trades have been made or no quotes are available for such day, the Fair Market Value of the Stock shall be determined in good faith by the Board or the Committee, as the case may be, which determination shall be conclusive as to the Fair Market Value of the Stock.

(n) “409A Change” shall mean (i) the acquisition by any one person, or more than one person acting as a group, of Stock that, together with Stock held by such person or group, constitutes more than fifty percent (50%) of the total fair market value or total voting power of the Stock; (ii) (a) the acquisition by any one person, or more than one person acting as a group (or the acquisition during the 12-month period ending on the date of the most recent acquisition by such person or persons) of ownership of Stock possessing fifty percent (50%) or more of the total voting power of the Stock; or (b) a majority of members of the Board is replaced during any 12-month period by directors whose appointment or election is not endorsed by a majority of the members of the Board prior to the date of the appointment or election; or (iii) the acquisition by any one person or more than one person acting as a group (or the acquisition during the 12-month period ending on the date of the most recent acquisition by such person or persons) of assets from the Company resulting in a Change of Control and, in any event, that have a total gross fair market value equal to or more than forty percent (40%) of the total gross fair market value of all of the assets of the Company immediately prior to such acquisition or acquisitions. The foregoing definition of “409A Change” shall be interpreted consistent with, and shall include all of the requirements of, Section 409A of the Code and the Treasury regulations issued thereunder, to constitute a change in the ownership or effective control of the corporation, or in the ownership of a substantial portion of the assets of the corporation as defined therein.

(o) “Incentive Stock Option” means any Stock Option which is intended to be and is designated as an “incentive stock option” within the meaning of Section 422 of the Code, or any successor thereto. An Incentive Stock Option may only be granted to an employee of the Company, a Parent or a Subsidiary as set forth in Section 421 and 422 of the Code, as applicable.

(p) “Non-Qualified Stock Option” means any Stock Option that is not an Incentive Stock Option.

(q) “Normal Retirement” means retirement from active employment with the Company or any Parent or Subsidiary on or after age 65.

(r) “Participant” shall mean any person who has received an award of an Option, Restricted Stock or a Cash Award under the Plan.

(s) “Parent” means any present or future parent of the Company, as such term is defined in Section 424(e) of the Code, or any successor thereto.

(t) “Plan” means this Xcel Brands, Inc. 2011 Equity Incentive Plan, as hereinafter amended from time to time.

(u) “Restricted Stock” means Stock, received under an award made pursuant to Section 6 below that is subject to restrictions imposed pursuant to said Section 6.

(v) “Retirement” means Normal Retirement or Early Retirement.

(w) “Rule 16b-3” means Rule 16b-3 of the General Rules and Regulations under the Exchange Act, as in effect from time to time, and any successor thereto.

(x) “Securities Act” means the Securities Act of 1933, as amended, as in effect from time to time.

(y) “Stock” means the common stock of the Company.

(z) “Stock Option” or “Option” means any option to purchase shares of Stock which is granted pursuant to the Plan.

(aa) “Subsidiary” means any present or future subsidiary corporation of the Company, as such term is defined in Section 424(f) of the Code, or any successor thereto.

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## Section 2. Administration.

The Plan shall be administered by the Board, or, at its discretion, the Committee.

The Board or the Committee, as the case may be, shall have the authority to grant Awards pursuant to the terms of the Plan, to officers and other employees or other persons eligible under Section 4 below.

For purposes of illustration and not of limitation, the Board or the Committee, as the case may be, shall have the authority (subject to the express provisions of the Plan):

- (i) to select the officers, other employees of the Company or any Parent or Subsidiary and other persons to whom Stock Options and/or Restricted Stock may be from time to time granted hereunder;
- (ii) to determine the Incentive Stock Options, Non-Qualified Stock Options, Restricted Stock and/or Cash Awards or any combination thereof, if any, to be granted hereunder to one or more eligible persons;
- (iii) to determine the number of shares of Stock to be covered by each Award granted hereunder;
- (iv) to determine the terms and conditions, not inconsistent with the terms of the Plan, of any Award granted hereunder (including, but not limited to, share price, any restrictions or limitations, and any vesting acceleration, exercisability and/or forfeiture provisions); and
- (v) to determine the terms and conditions under which Awards granted hereunder are to operate on a tandem basis and/or in conjunction with or apart from other awards made by the Company or any Parent or Subsidiary outside of the Plan.

Subject to Section 10 hereof, the Board or the Committee, as the case may be, shall have the authority to (i) adopt, alter and repeal such administrative rules, guidelines and practices governing the Plan as it shall, from time to time, deem advisable, (ii) interpret the terms and provisions of the Plan and any Award issued under the Plan (and to determine the form and substance of all agreements relating thereto), and (iii) to otherwise supervise the administration of the Plan.

Subject to the express provisions of the Plan, all decisions made by the Board or the Committee, as the case may be, pursuant to the provisions of the Plan shall be made in the Board's or the Committee's, as the case may be, sole and absolute discretion and shall be final and binding upon all persons, including the Company, its Parent and Subsidiaries and the Plan Participants.

Subject to the provisions of the Plan, the Board or the Committee, as the case may be, may, in its sole discretion, from time to time delegate to the Chief Executive Officer of the Company (the "CEO") the authority, subject to such terms as the Board or the Committee, as the case may be, to determine and designate from time to time the employees or other persons to whom Awards may be granted and to perform other specified functions under the Plan; provided, however, that the CEO may not grant any Award to, or perform any function related to an Award to, himself or any individual (i) then subject to Section 16 of the Exchange Act or (ii) who is or, in the determination of the Board or the Committee, as the case may be, may become a Covered Employee, and any such grant or function relating to such individuals shall be performed solely by the Board or the Committee, as the case may be, to ensure compliance with the applicable requirements of the Exchange Act and the Code or (iii) where the grant or performance of such function by the CEO will cause the Plan not to comply with any applicable regulation of any securities exchange or automated quotation system where the Stock is listed for trading.

Any such delegation of authority by the Board or the Committee, as the case may be, shall be by a resolution adopted by the Board or the Committee, as the case may be, and shall specify all of the terms and conditions of the delegation. The resolution of the Board or the Committee, as the case may be, granting such authority may authorize the CEO to grant Awards pursuant to the Plan and may set forth the types of Awards that may be granted; provided, however, that the resolution shall (i) specify the maximum number of shares of Stock that may be awarded to any individual Plan Participant and to all Participants during a specified period of time and (ii) specify the exercise price (or the method for determining the exercise price), if any, of an Award, the vesting schedule, and any other terms, conditions, or restrictions that may be imposed by the Board or the Committee, as the case may be, in its sole discretion. The resolution of the Board or the Committee, as the case may be, shall also require the CEO to provide the Board or the Committee, as the case may be, on at least a monthly basis, a report that identifies the Awards granted, the Awards granted pursuant to the delegated authority and, with respect to each Award: the name of the Participant, the date of grant of the award, the number of shares of Stock, the exercise price and period, if any, and the vesting provisions of such Award, the terms of such Awards, in all cases, being subject to the resolutions of the Board or the Committee, as the case may be, granting such authority.

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The Board or the Committee, or the case may be, may also delegate to other officers of the Company, pursuant to a written delegation, the authority to perform specified functions under the Plan that are not inconsistent with Rule 16b-3 or other rules or regulations applicable to the Plan. Any actions taken by any officers of the Company pursuant to such written delegation of authority shall be deemed to have been taken by the Board or the Committee, as the case may be.

### **Section 3. Stock Subject to Plan.**

The total number of shares of Stock reserved and available for distribution under the Plan shall be 8,000,000 shares. Such shares may consist, in whole or in part, of authorized and unissued shares or treasury shares. The maximum number of shares of Stock with respect to which Incentive Stock Options may be granted under the Plan shall be 5,000,000 shares of Stock.

If any shares of Stock that have been optioned cease to be subject to a Stock Option award for any reason (other than by issuance of such shares upon exercise of a Stock Option), or if any shares of Stock that are subject to any Restricted Stock award are forfeited or any such award otherwise terminates without the issuance of such shares, such shares shall again be available for distribution under the Plan. Without limiting the foregoing, (i) any shares of Stock subject to an Award that remain unissued upon the cancellation, surrender, exchange or termination of such Award without having been exercised or settled, (ii) any shares of Stock subject to an Award that are retained by the Company as payment of the exercise price or tax withholding obligations with respect to an Award, and (iii) any shares of Stock equal to the number of previously owned shares of Stock surrendered to the Company as payment of the exercise price of a Stock Option or to satisfy tax withholding obligations with respect to an Award.

In the event of any merger, reorganization, consolidation, recapitalization, stock dividend, stock split, extraordinary distribution with respect to the Stock or other change in corporate structure affecting the Stock, such substitution or adjustments shall be made in the (A) aggregate number of shares of Stock reserved for issuance under the Plan, (B) number, kind and exercise price of shares of Stock subject to outstanding Options granted under the Plan, and (C) number, kind, purchase price and/or appreciation base of shares of Stock subject to other outstanding Awards granted under the Plan, as may be determined to be appropriate by the Board or the Committee, as the case may be, in order to prevent dilution or enlargement of rights; provided, however, that the number of shares of Stock subject to any Award shall always be a whole number. Such adjusted exercise price shall also be used to determine the amount which is payable to the optionee upon the exercise by the Board or the Committee, as the case may be, of the alternative settlement right which is set forth in Section 5(b)(xi) below.

Subject to the provisions of the immediately preceding paragraph, the maximum number of shares of Stock with respect to which Options or Restricted Stock may be granted or measured to any Participant under the Plan during any calendar year or part thereof shall not exceed 5,000,000 shares.

The maximum Cash Award that may be paid to any Participant under the Plan during any calendar year shall not exceed \$2,500,000.

### **Section 4. Eligibility.**

Officers and other employees of the Company or any Parent or Subsidiary (but excluding any person whose eligibility would adversely affect the compliance of the Plan with the requirements of Rule 16b-3) who are at the time of the grant of an Award under the Plan employed by the Company or any Parent or Subsidiary and who are responsible for or contribute to the management, growth and/or profitability of the business of the Company or any Parent or Subsidiary are eligible to be granted Awards under the Plan. In addition, Non-Qualified Stock Options and other Awards (but not Incentive Stock Options) may be granted under the Plan to any person, including, but not limited to, directors, independent agents, consultants and attorneys who the Board or the Committee, as the case may be, believes has contributed or will contribute to the success of the Company. Eligibility under the Plan shall be determined by the Board or the Committee, as the case may be.

The Board or the Committee, as the case may be, may, in its sole discretion, include additional conditions and restrictions in the agreement entered into in connection with such Awards under the Plan. The grant of an Option or other Award under the Plan, and any determination made in connection therewith, shall be made on a case by case basis and can differ among optionees and grantees. The grant of an Option or other Award under the Plan is a privilege and not a right and the determination of the Board or the Committee, as the case may be, can be applied on a non-uniform (discretionary) basis.

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## Section 5. Stock Options.

(a) Grant and Exercise. Stock Options granted under the Plan may be of two types: (i) Incentive Stock Options and (ii) Non-Qualified Stock Options. Any Stock Option granted under the Plan shall contain such terms as the Board or the Committee, as the case may be, may from time to time approve. The Board or the Committee, as the case may be, shall have the authority to grant to any optionee Incentive Stock Options, Non-Qualified Stock Options, or both types of Stock Options, and they may be granted alone or in addition to other awards granted under the Plan. To the extent that any Stock Option is not designated as an Incentive Stock Option or does not qualify as an Incentive Stock Option, it shall constitute a Non-Qualified Stock Option. The grant of an Option shall be deemed to have occurred on the date on which the Board or the Committee, as the case may be, by resolution, designates an individual as a grantee thereof, and determines the number of shares of Stock subject to, and the terms and conditions of, said Option, including the exercise price.

Anything in the Plan to the contrary notwithstanding, no term of the Plan relating to Incentive Stock Options or any agreement providing for Incentive Stock Options shall be interpreted, amended or altered, nor shall any discretion or authority granted under the Plan be exercised, so as to disqualify the Plan under Section 422 of the Code, or, without the consent of the optionee(s) affected, to disqualify any Incentive Stock Option under said Section 422.

(b) Terms and Conditions. Stock Options granted under the Plan shall be subject to the following terms and conditions:

(i) Option Price. The option price per share of Stock purchasable under a Stock Option shall be determined by the Board or the Committee, as the case may be, at the time of the grant and shall not be less than 100% (110% in the case of an Incentive Stock Option granted to an optionee who, at the time of grant, owns Stock possessing more than 10% of the total combined voting power of all classes of stock of the Company or its Parent, if any, or its Subsidiaries (“10% Stockholder”)) of the Fair Market Value of the Stock at the time the Stock Option is granted.

(ii) Option Term. The term of each Stock Option shall be fixed by the Board or the Committee, as the case may be, but no Incentive Stock Option shall be exercisable more than ten years (five years, in the case of an Incentive Stock Option granted to a 10% Stockholder) after the date on which the Option is granted.

(iii) Exercisability. Stock Options shall be exercisable at such time or times and subject to such terms and conditions as shall be determined by the Board or the Committee, as the case may be. If the Board or the Committee, as the case may be, provides, in its discretion, that any Stock Option is exercisable only in installments, the Board or the Committee, as the case may be, may waive such installment exercise provisions at any time at or after the time of grant in whole or in part, based upon such factors as the Board or the Committee, as the case may be, shall determine.

(iv) Method of Exercise. Subject to whatever installment, exercise and waiting period provisions are applicable in a particular case, Stock Options may be exercised in whole or in part at any time during the option period by giving written notice of exercise to the Company specifying the number of shares of Stock to be purchased. Such notice shall be accompanied by payment in full of the exercise price for the Stock Options exercised, which shall be in cash or, if provided in the Stock Option agreement referred to in Section 5(b)(xii) below or otherwise provided by the Board, or Committee, as the case may be, either at or after the date of grant of the Stock Option, in whole shares of Stock which are already owned by the holder of the Option or partly in cash and partly in such Stock. Cash payments shall be made by wire transfer, certified or bank check or personal check, in each case payable to the order of the Company; provided, however, that the Company shall not be required to deliver certificates for shares of Stock with respect to which an Option is exercised until the Company has confirmed the receipt of good and available funds in payment of the purchase price thereof. If permitted, payments of the exercise price and any tax required to be withheld by the Company in the form of Stock (which shall be valued at the Fair Market Value of a share of Stock on the date of exercise) shall be made by delivery of stock certificates in negotiable form which are effective to transfer good and valid title thereto to the Company, free of any liens or encumbrances. In addition to the foregoing, payment of the exercise price may be made by delivery to the Company by the optionee of an executed exercise form, together with irrevocable instructions to a broker-dealer to sell or margin a sufficient portion of the shares covered by the option and deliver the sale or margin loan proceeds directly to the Company. Except as otherwise expressly provided in the Plan or in the Stock Option agreement referred to in Section 5(b)(xii) below or otherwise provided by the Board or Committee, as the case may be, either at or after the date of grant of the Option, no Option which is granted to a person who is at the time of grant an employee of the Company or of a Subsidiary or Parent of the Company may be exercised at any time unless the holder thereof is then an employee of the Company or of a Parent or a Subsidiary. The holder of an Option shall have none of the rights of a stockholder with respect to the shares subject to the Option until the optionee has given written notice of exercise, has paid in full for those shares of Stock and, if requested by the Board or Committee, as the case may be, has given the representation described in Section 12(a) below.

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(v) **Transferability; Exercisability.** No Stock Option shall be transferable by the optionee other than by will or by the laws of descent and distribution, except as may be otherwise provided with respect to a Non-Qualified Option pursuant to the specific provisions of the Stock Option agreement pursuant to which it was issued as referred to in Section 5(b)(xii) below (which agreement may be amended, from time to time). Except as otherwise provided in the Stock Option agreement relating to a Non-Qualified Stock Option, all Stock Options shall be exercisable, during the optionee's lifetime, only by the optionee or his or her guardian or legal representative.

(vi) **Termination by Reason of Death.** Subject to Section 5(b)(x) below, if an optionee's employment by the Company or any Parent or Subsidiary terminates by reason of death, any Stock Option held by such optionee may thereafter be exercised, to the extent then exercisable or on such accelerated basis as the Board or Committee, as the case may be, may determine at or after the time of grant, for a period of one year (or such other period as the Board or the Committee, as the case may be, may specify at or after the time of grant) from the date of death or until the expiration of the stated term of such Stock Option, whichever period is the shorter.

(vii) **Termination by Reason of Disability.** Subject to Section 5(b)(x) below, if an optionee's employment by the Company or any Parent or Subsidiary terminates by reason of Disability, any Stock Option held by such optionee may thereafter be exercised by the optionee, to the extent it was exercisable at the time of termination or on such accelerated basis as the Board or the Committee, as the case may be, may determine at or after the time of grant, for a period of one year (or such other period as the Board or the Committee, as the case may be, may specify at or after the time of grant) from the date of such termination of employment or until the expiration of the stated term of such Stock Option, whichever period is the shorter; provided, however, that if the optionee dies within such one year period (or such other period as the Board or the Committee, as the case may be, shall specify at or after the time of grant), any unexercised Stock Option held by such optionee shall thereafter be exercisable to the extent to which it was exercisable at the time of death for a period of one year from the date of death or until the expiration of the stated term of such Stock Option, whichever period is the shorter.

(viii) **Termination by Reason of Retirement.** Subject to Section 5(b)(x) below, if an optionee's employment by the Company or any Parent or Subsidiary terminates by reason of Normal Retirement, any Stock Option held by such optionee may thereafter be exercised by the optionee, to the extent it was exercisable at the time of termination or on such accelerated basis as the Board or the Committee, as the case may be, may determine at or after the time of grant, for a period of one year (or such other period as the Board or the Committee, as the case may be, may specify at or after the time of grant) from the date of such termination of employment or the expiration of the stated term of such Stock Option, whichever period is the shorter; provided, however, that if the optionee dies within such one year period (or such other period as the Board or the Committee, as the case may be, shall specify at or after the date of grant), any unexercised Stock Option held by such optionee shall thereafter be exercisable to the extent to which it was exercisable at the time of death for a period of one year from the date of death or until the expiration of the stated term of such Stock Option, whichever period is the shorter. If an optionee's employment with the Company or any Parent or Subsidiary terminates by reason of Early Retirement, the Stock Option shall thereupon terminate; provided, however, that if the Board or the Committee, as the case may be, so approves at the time of Early Retirement, any Stock Option held by the optionee may thereafter be exercised by the optionee as provided above in connection with termination of employment by reason of Normal Retirement.

(ix) **Other Termination.** Subject to the provisions of Section 12(h) below, and unless otherwise determined by the Board or Committee, as the case may be, at or after the time of grant, if an optionee's employment by the Company or any Parent or Subsidiary terminates for any reason other than death, Disability or Retirement, the Stock Option shall thereupon automatically terminate, except that if the optionee is involuntarily terminated by the Company or any Parent or a Subsidiary without Cause (as hereinafter defined), such Stock Option may be exercised for a period of three months (or such other period as the Board or the Committee, as the case may be, shall specify at or after the time of grant) from the date of such termination or until the expiration of the stated term of such Stock Option, whichever period is shorter. For purposes of the Plan, "Cause" shall mean (1) the conviction of the optionee of a felony under Federal law or the law of the state in which such action occurred, (2) dishonesty by the optionee in the course of fulfilling his or her employment duties, or (3) the failure on the part of the optionee to perform his or her employment duties in any material respect. In addition, with respect to an option granted to an employee of the Company, a Parent or a Subsidiary, for purposes of the Plan, "Cause" shall also include any definition of "Cause" contained in any employment agreement between the optionee and the Company, Parent or Subsidiary, as the case may be.

(x) **Additional Incentive Stock Option Limitation.** In the case of an Incentive Stock Option, the aggregate Fair Market Value of Stock (determined at the time of grant of the Option) with respect to which Incentive Stock Options are exercisable for the first time by an individual optionee during any calendar year (under all such plans of optionee's employer corporation and its Parent and Subsidiaries) shall not exceed \$100,000.

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(xi) **Alternative Settlement of Option.** If provided for, upon the receipt of written notice of exercise or otherwise provided for by the Board or Committee, as the case may be, either at or after the time of grant of the Stock Option, the Board or the Committee, as the case may be, may elect to settle all or part of any Stock Option by paying to the optionee an amount, in cash or Stock (valued at Fair Market Value on the date of exercise), equal to the product of the excess of the Fair Market Value of one share of Stock, on the date of exercise over the Option exercise price, multiplied by the number of shares of Stock with respect to which the optionee proposes to exercise the Option. Any such settlements which relate to Options which are held by optionees who are subject to Section 16(b) of the Exchange Act shall comply with any “window period” provisions of Rule 16b-3, to the extent applicable, and with such other conditions as the Board or Committee, as the case may be, may impose.

(xii) **Stock Option Agreement.** Each grant of a Stock Option shall be confirmed by, and shall be subject to the terms of, an agreement executed by the Company and the Participant. An Incentive Stock Option granted pursuant to the Plan shall be issued substantially in the form set forth in Appendix I hereof, which form is hereby incorporated by reference and made a part hereof, and shall contain substantially the terms and conditions set forth therein. A Non-Qualified Stock Option granted to an Employee pursuant to the Plan shall be issued substantially in the form set forth in Appendix II hereof, which form is hereby incorporated by reference and made a part hereof, and shall contain substantially the terms and conditions set forth therein. A Non-Qualified Stock Option granted to a non-employee directors or consultants shall be issued substantially in the form set forth in Appendix III hereof, which form is hereby incorporated by reference and made a part hereof, and shall contain substantially the terms and conditions set forth therein. At the time of the grant of a Stock Option, the Board or Committee may, in the Board or Committee’s sole discretion, amend or supplement any of the option terms contained in Appendix I, II or III hereof for any particular optionee, provided that with respect to an Incentive Stock Option, the Stock Option satisfies the requirements for an Incentive Stock Option set forth in the Code.

## **Section 6. Restricted Stock.**

(a) **Grant and Exercise.** Shares of Restricted Stock may be issued either alone or in addition to or in tandem with other awards granted under the Plan. The Board or the Committee, as the case may be, shall determine the eligible persons to whom, and the time or times at which, grants of Restricted Stock will be made, the number of shares to be awarded, the price (if any) to be paid by the recipient, the time or times within which such Awards may be subject to forfeiture (the “Restriction Period”), the vesting schedule and rights to acceleration thereof, and all other terms and conditions of the Awards. The Board or the Committee, as the case may be, may condition the grant of Restricted Stock upon the attainment of such factors as the Board or the Committee, as the case may be, may determine.

(b) **Terms and Conditions.** Each Restricted Stock award shall be subject to the following terms and conditions:

(i) Restricted Stock, when issued, shall be represented by a stock certificate or certificates registered in the name of the holder to whom such Restricted Stock shall have been awarded. During the Restriction Period, any certificates representing the Restricted Stock and any securities constituting Retained Distributions (as defined below) shall bear a restrictive legend to the effect that ownership of the Restricted Stock (and such Retained Distributions), and the enjoyment of all rights related thereto, are subject to the restrictions, terms and conditions provided in the Plan and the Restricted Stock agreement referred to in Section 6(b)(iv) below. Any such certificates shall be deposited by the holder with the Company, together with stock powers or other instruments of assignment, endorsed in blank, which will permit transfer to the Company of all or any portion of the Restricted Stock and any securities constituting Retained Distributions that shall be forfeited or that shall not become vested in accordance with the Plan and the applicable Restricted Stock agreement.

(ii) Restricted Stock shall constitute issued and outstanding shares of Common Stock for all corporate purposes, and the issuance thereof shall be made for at least the minimum consideration (if any) necessary to permit the shares of Restricted Stock to be deemed to be fully paid and nonassessable. Unless the Board or the Committee, as the case may be, determines otherwise, the holder will have the right to vote such Restricted Stock, to receive and retain all regular cash dividends and other cash equivalent distributions as the Board or the Committee, as the case may be, may, in its sole discretion designate, pay or distribute on such Restricted Stock and to exercise all other rights, powers and privileges of a holder of Stock with respect to such Restricted Stock, with the exceptions that (A) the holder will not be entitled to delivery of the stock certificate or certificates representing such Restricted Stock until the Restriction Period shall have expired and unless all other vesting requirements with respect thereto shall have been fulfilled; (B) the Company will retain custody of the stock certificate or certificates representing the Restricted Stock during the Restriction Period; (C) other than regular cash dividends and other cash equivalent distributions as the Board or the Committee, as the case may be, may in its sole discretion designate, pay or distribute, the Company will retain custody of all distributions (“Retained Distributions”) made or declared with respect to the Restricted Stock (and such Retained Distributions will be subject to the same restrictions, terms and conditions as are applicable to the Restricted Stock) until such time, if ever, as the Restricted Stock with respect to which such Retained Distributions shall have been made, paid or declared shall have become vested and with respect to which the Restriction Period shall have expired; (D) the holder may not sell, assign, transfer, pledge, exchange, encumber or dispose of the Restricted Stock or any Retained Distributions during the Restriction Period; and (E) a breach of any of the restrictions, terms or conditions contained in the Plan or the Restricted Stock agreement referred to in Section 6(b)(iv) below, or otherwise established by the Board or the Committee, as the case may be, with respect to any Restricted Stock or Retained Distributions will cause a forfeiture of such Restricted Stock and any Retained Distributions with respect thereto.

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(iii) Upon the expiration of the Restriction Period with respect to each award of Restricted Stock and the satisfaction of any other applicable restrictions, terms and conditions (A) all or part of such Restricted Stock shall become vested in accordance with the terms of the Restricted Stock agreement referred to in Section 6(b)(iv) below, and (B) any Retained Distributions with respect to such Restricted Stock shall become vested to the extent that the Restricted Stock related thereto shall have become vested. Any such Restricted Stock and Retained Distributions that do not vest shall be forfeited to the Company and the holder shall not thereafter have any rights with respect to such Restricted Stock and Retained Distributions that shall have been so forfeited.

(iv) Restricted Stock Agreement. Each Restricted Stock award shall be confirmed by, and shall be subject to the terms of, an agreement executed by the Company and the Participant. A Restricted Stock award granted pursuant to the Plan shall be issued substantially in the form set forth in Appendix IV hereof, which form is hereby incorporated by reference and made a part hereof, and shall contain substantially the terms and conditions set forth therein. At the time of the grant of Restricted Stock, the Board or Committee may, in the Board or Committee's sole discretion, amend or supplement any of the terms contained in Appendix IV hereof for any particular Restricted Stock holder.

#### **Section 7. Cash Awards.**

(a) Grant. Cash Awards may be issued under the Plan either alone or in addition to or in tandem with other Awards granted under the Plan or other payments made to a Participant not under the plan. The Board or Committee, as the case may be, shall determine the eligible persons to whom, and the time or times at which, cash awards will be made, the amount that is subject to the Cash award, the circumstances and conditions under which such amount shall be paid, in whole or in part, the time of payment, and all other terms and conditions of the Awards.

(b) Written agreement. Each Cash Award shall be confirmed by, and shall be subject to the terms of, an agreement executed.

(c) Other cash payments. This Section 7 shall not be construed to prohibit the Company from making cash payments not under the Plan to employees, consultants, service providers, independent contractors and directors as determined by the Company in its sole discretion.

#### **Section 8. Performance-Based Awards.**

(a) In General. All Options, certain Restricted Stock awards and Cash Awards granted under the Plan, and the compensation attributable to such awards, are intended to (i) qualify as Performance-Based Awards (as defined in the next sentence) or (ii) be otherwise exempt from the deduction limitation imposed by Section 162(m) of the Code. Certain Awards granted under the Plan may be granted in a manner such that Awards qualify as "performance-based compensation" (as such term is used in Section 162(m) of the Code and the regulations thereunder) and thus be exempt from the deduction limitation imposed by Section 162(m) of the Code ("Performance-Based Awards"). Awards may only qualify as Performance-Based Awards if they are granted by the Committee at a time when the Committee is comprised solely of two or more "outside directors" (as such term is used in Section 162(m) of the Code and the regulations thereunder) ("Qualifying Committee").

(b) Options. Stock Options granted under the Plan with an exercise price at or above the Fair Market Value of Common Stock on the date of grant are intended to qualify as Performance-Based Awards.

(c) Other Performance-Based Awards. Restricted Stock awards and Cash Awards granted under the Plan may qualify as Performance-Based Awards if, as determined by a Qualifying Committee, in its discretion, either the granting of such award is subject to the achievement of a performance target or targets based on one or more of the performance measures specified in Section 8(d) below. With respect to such awards intended to qualify as Performance-Based Awards:

(1) the Qualifying Committee shall establish in writing (x) the objective performance-based goals applicable to a given period and (y) the individual employees or class of employees to which such performance-based goals apply no later than 90 days after the commencement of such period (but in no event after 25 percent of such period has elapsed);

(2) no Performance-Based Awards shall be payable to or vest with respect to, as the case may be, any Participant for a given period until the Qualifying Committee certifies in writing that the objective performance goals (and any other material terms) applicable to such period have been satisfied; and

(3) after the establishment of a performance goal, the Qualifying Committee shall not revise such performance goal or increase the amount of compensation payable thereunder (as determined in accordance with Section 162(m) of the Code) upon the attainment of such performance goal.

(d) Performance Measures. The Qualifying Committee may use the following performance measures (either individually or in any combination) to set performance targets with respect to awards intended to qualify as Performance-Based Awards: revenue; pretax income before allocation of corporate overhead and bonus; budget; earnings per share; net income; division, group or corporate financial goals; return on stockholders' equity; return on assets; return on net assets; return on investment capital; gross margin return on investment; gross margin dollars or percent; payroll as a percentage of revenues; inventory shrink; employee turnover; sales, general and administrative expense; attainment of strategic and operational initiatives; appreciation in and/or maintenance of the price of Common Stock or any other publicly-traded securities of the Company, if any; market share; gross profits; earnings before interest and taxes; earnings before interest, taxes, depreciation and amortization ("EBITDA"); EBITDA adjusted for non-cash or non-recurring items; economic value-added models; comparisons with various stock market indices; achievement of technological or product development milestones; and/or reductions in costs. The foregoing criteria shall have any reasonable definitions that the Qualifying Committee may specify, which may include or exclude any or all of the following items as the Qualifying Committee may specify: extraordinary, unusual or non-recurring items; effects of accounting changes; effects of financing activities; expenses for restructuring or productivity initiatives; other non-operating items; spending for acquisitions; effects of divestitures; and effects of litigation activities and settlements. Any such performance criterion or combination of such criteria may apply to the Participant's award opportunity in its entirety or to any designated portion or portions of the award opportunity, as the Qualifying Committee may specify.

### **Section 9. Change of Control Provisions.**

(a) A "Change of Control" shall be deemed to have occurred on the tenth day after:

(i) any individual, corporation or other entity or group (as defined in Section 13(d)(3) of the Exchange Act), becomes, directly or indirectly, the beneficial owner (as defined in the General Rules and Regulations of the Securities and Exchange Commission with respect to Sections 13(d) and 13(g) of the Exchange Act) of more than 50% of the then outstanding shares of the Company's capital stock entitled to vote generally in the election of directors of the Company; or

(ii) the commencement of, or the first public announcement of the intention of any individual, firm, corporation or other entity or of any group (as defined in Section 13(d)(3) of the Exchange Act) to commence, a tender or exchange offer subject to Section 14(d)(1) of the Exchange Act for any class of the Company's capital stock; or

(iii) the stockholders of the Company approve (A) a definitive agreement for the merger or other business combination of the Company with or into another corporation pursuant to which the stockholders of the Company do not own, immediately after the transaction, more than 50% of the voting power of the corporation that survives, or (B) a definitive agreement for the sale, exchange or other disposition of all or substantially all of the assets of the Company, or (C) any plan or proposal for the liquidation or dissolution of the Company; provided, however, that a "Change of Control" shall not be deemed to have taken place if beneficial ownership is acquired (A) directly from the Company, other than an acquisition by virtue of the exercise or conversion of another security unless the security so converted or exercised was itself acquired directly from the Company, or (B) by, or a tender or exchange offer is commenced or announced by, the Company, any profit-sharing, employee ownership or other employee benefit plan of the Company; or any trustee of or fiduciary with respect to any such plan when acting in such capacity.

(b) In the event of a "Change of Control" as defined in Section 9(a) above, and unless otherwise provided in a grant agreement, employment agreement or other agreement between the Company and the Participant, Awards granted under the Plan will be subject to the following provisions, unless the provisions of this Section 9 are suspended or terminated by an affirmative vote of a majority of the Board prior to the occurrence of such a "Change of Control":

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(i) all outstanding Stock Options which have been outstanding for at least six months shall become exercisable in full, whether or not otherwise exercisable at such time, and any such Stock Option shall remain exercisable in full thereafter until it expires pursuant to its terms; and

(ii) all restrictions and deferral limitations contained in Restricted Stock awards granted under the Plan shall lapse and the shares of stock subject to such awards shall be distributed to the Participant within thirty (30) days of the "Change of Control." Notwithstanding the foregoing to the contrary, all restrictions and deferral limitations with respect to an Award to which Section 409A of the Code applies shall not lapse and no distribution made under this Section 9(b) unless the "Change of Control" qualifies as a 409A Change and such lapse and distribution does not cause adverse tax consequences under Section 409A of the Code.

#### **Section 10. Amendments and Termination.**

The Board may at any time, and from time to time, amend any of the provisions of the Plan, and may at any time suspend or terminate the Plan. The Board or the Committee, as the case may be, may amend the terms of any Stock Option or other award theretofore granted under the Plan; provided, however, that subject to Section 3 above, no such amendment may be made by the Board or the Committee, as the case may be, which in any material respect impairs the rights of the Participant without the Participant's consent, except for such amendments which are made to cause the Plan to qualify for the exemption provided by Rule 16b-3. Moreover, no Stock Option previously granted under the Plan may be amended to reduce the exercise price of the Stock Option.

#### **Section 11. Unfunded Status of Plan.**

The Plan is intended to constitute an "unfunded" plan for incentive and deferred compensation. With respect to any payments not yet made to a Participant or optionee by the Company, nothing contained herein shall give any such Participant or optionee any rights that are greater than those of a creditor of the Company.

#### **Section 12. General Provisions.**

(a) The Board or the Committee, as the case may be, may require each person acquiring shares of Stock pursuant to an Option, Restricted Stock, or other award under the Plan to represent to and agree with the Company in writing, among other things, that the optionee or Participant is acquiring the shares for investment without a view to distribution thereof.

(b) All certificates for shares of Stock delivered under the Plan shall be subject to such stop transfer orders and other restrictions as the Board or the Committee, as the case may be, may deem to be advisable under the rules, regulations, and other requirements of the Securities and Exchange Commission, any stock exchange or association upon which the Stock is then listed or traded, any applicable Federal or state securities law, and any applicable corporate law, and the Board or the Committee, as the case may be, may cause a legend or legends to be put on any such certificates to make appropriate reference to such restrictions.

(c) Nothing contained in the Plan shall prevent the Board from adopting such other or additional incentive arrangements as it may deem desirable, including, but not limited to, the granting of stock options and the awarding of stock and cash otherwise than under the Plan; and such arrangements may be either generally applicable or applicable only in specific cases.

(d) Nothing contained in the Plan or in any award hereunder shall be deemed to confer upon any employee of the Company or any Parent or Subsidiary any right to continued employment with the Company or any Parent or Subsidiary, nor shall it interfere in any way with the right of the Company or any Parent or Subsidiary to terminate the employment of any of its employees at any time.

(e) No later than the date as of which an amount first becomes includable in the gross income of the Participant for Federal income tax purposes with respect to any Option, Restricted Stock, Cash Award or other award under the Plan, the Participant shall pay to the Company, or make arrangements satisfactory to the Board or the Committee, as the case may be, regarding the payment of, any Federal, state and local taxes of any kind required by law to be withheld or paid with respect to such amount. If permitted by the Board or the Committee, as the case may be, tax withholding or payment obligations may be settled with Stock, including Stock that is part of the award that gives rise to the withholding requirement. The obligations of the Company under the Plan shall be conditional upon such payment or arrangements, and the Company or the Participant's employer (if not the Company) shall, to the extent permitted by law, have the right to deduct any such taxes from any payment of any kind otherwise due to the Participant from the Company or any Parent or Subsidiary.

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(f) The Plan and all awards made and actions taken thereunder shall be governed by and construed in accordance with the laws of the State of **Delaware** (without regard to choice of law provisions).

(g) Any Stock Option, Restricted Stock, Cash Award or other award made under the Plan shall not be deemed compensation for purposes of computing benefits under any retirement plan of the Company or any Parent or Subsidiary and shall not affect any benefits under any other benefit plan now or subsequently in effect under which the availability or amount of benefits is related to the level of compensation (unless required by specific reference in any such other plan to awards under the Plan).

(h) Subject to the requirements of Section 409A of the Code if applicable, a leave of absence, unless otherwise determined by the Board or the Committee, as the case may be, prior to the commencement thereof, shall not be considered a termination of employment. Any Stock Option, Restricted Stock, Cash Award or other awards made under the Plan shall not be affected by any change of employment, so long as the holder continues to be an employee of the Company or any Parent or Subsidiary.

(i) Except as otherwise expressly provided in the Plan or in any Stock Option agreement, Restricted Stock agreement or Cash Award agreement, no right or benefit under the Plan may be alienated, sold, assigned, hypothecated, pledged, exchanged, transferred, encumbered or charged, and any attempt to alienate, sell, assign, hypothecate, pledge, exchange, transfer, encumber or charge the same shall be void. No right or benefit hereunder shall in any manner be subject to the debts, contracts or liabilities of the person entitled to such benefit.

(j) The obligations of the Company with respect to all Stock Options, Restricted Stock, Cash Awards and other awards under the Plan shall be subject to (A) all applicable laws, rules and regulations, and such approvals by any governmental agencies as may be required, including, without limitation, the effectiveness of a registration statement under the Securities Act, and (B) the rules and regulations of any securities exchange or association on which the Stock may be listed or traded.

(k) If any of the terms or provisions of the Plan conflicts with the requirements of Rule 16b-3 as in effect from time to time, or with the requirements of any other applicable law, rule or regulation, and with respect to Incentive Stock Options, Section 422 of the Code, then such terms or provisions shall be deemed inoperative to the extent they so conflict with the requirements of said Rule 16b-3, and with respect to Incentive Stock Options, Section 422 of the Code. With respect to Incentive Stock Options, if the Plan does not contain any provision required to be included herein under Section 422 of the Code, such provision shall be deemed to be incorporated herein with the same force and effect as if such provision had been set out at length herein.

(l) The Board or the Committee, as the case may be, may terminate any Stock Option, Restricted Stock, Cash Award or other award made under the Plan if a written agreement relating thereto is not executed and returned to the Company within 30 days after such agreement has been delivered to the optionee or Participant for his or her execution.

(m) The grant of awards pursuant to the Plan shall not in any way effect the right or power of the Company to make reclassifications, reorganizations or other changes of or to its capital or business structure or to merge, consolidate, liquidate, sell or otherwise dispose of all or any part of its business or assets.

### **Section 13. Effective Date of Plan.**

The Plan shall be effective upon the effective date of a business combination with a public reporting company that, upon the effectiveness of such business combination, such public reporting company shall have at least 2,000,000 authorized and unissued shares.

### **Section 14. Term of Plan.**

No Stock Option, Restricted Stock or Cash Award shall be granted pursuant to the Plan after the fifth anniversary of the effective date of the Plan, but awards granted on or prior to such fifth anniversary may extend beyond that date.

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## **Section 15. Section 409A of the Code Compliance.**

(a) Awards under the Plan are intended either to be exempt from the rules of Section 409A of the Code or to satisfy those rules and shall be construed accordingly. If intended to satisfy the applicable requirements of Section 409A of the Code, an Award and the Plan, as applicable, shall be performed and interpreted consistent with such intent. If the Board or the Committee, as the case may be, determines in good faith that any provision of this Plan does not satisfy such requirements or could cause any person to recognize additional taxes, penalties or interest under Section 409A of the Code, the Board or the Committee, as the case may be, is empowered to modify, to the extent practicable, the original intent of the applicable provision without violation of Section 409A of the Code. In addition, notwithstanding any provision contained herein to the contrary, the Board or the Committee, as the case may be, shall have broad authority to amend or to modify the Plan, without advance notice to or consent by any person, to the extent necessary or desirable to ensure compliance with Section 409A of the Code. However, the Company shall not be liable to any Participant or other holder of an Award with respect to any Award-related adverse tax consequences arising under Section 409A of the Code or other provision of the Code.

(b) If any provision of the Plan or an Award agreement contravenes any regulations or treasury guidance promulgated under Section 409A of the Code or could cause an Award to be subject to the interest and penalties under Section 409A of the Code, such provision of the Plan or Award shall be deemed automatically modified to maintain, to the maximum extent practicable, the original intent of the applicable provision without violating the provisions of Section 409A of the Code and the Board or the Committee, as the case may be, in its reasonable discretion, may take such actions as it determines to avoid contravention of Section 409A of the Code. Moreover, any discretionary authority that the Board or the Committee, as the case may be, may have pursuant to the Plan shall not be applicable to an Award that is subject to Section 409A of the Code to the extent such discretionary authority will contravene Section 409A of the Code or the treasury regulations or guidance promulgated thereunder.

(c) Notwithstanding any provisions of this Plan or any Award granted hereunder to the contrary, no acceleration shall occur with respect to any Award to the extent such acceleration would cause the Plan or an Award granted hereunder to fail to comply with Section 409A of the Code.

(d) Notwithstanding any provisions of this Plan or any applicable Award agreement to the contrary, no payment shall be made with respect to any Award granted under this Plan to a “specified employee” (as such term is defined for purposes of Section 409A of the Code) prior to the first date that is at least six months after the employee’s separation of service to the extent such six-month delay in payment is required to comply with Section 409A of the Code. To the extent required to comply with Section 409A of the Code, a termination of employment shall not be deemed to have occurred for purposes of any payment or distribution upon or following a termination of employment unless such termination is also a “separation from service” within the meaning of Section 409A of the Code and accordingly, a reference to termination of employment, termination of service or like terms shall mean a “separation from service” as the context may require.

(e) The Board or the Committee, as the case may be, may adopt rules and procedures subject to the requirements of Section 409A of the Code to permit a Participant to defer the receipt of any of the cash or Stock to be received pursuant to an Award.

(f) In the case of an Award providing for the payment of deferred compensation subject to Section 409A of the Code, any payment of such deferred compensation by reason of a “change of control” shall be made only if the “change of control” is (1) one described in Section 9 and (2) one described in a 409A Change, and shall be paid consistent with the requirements of Section 409A of the Code. If any deferred compensation that would otherwise be payable by reason of a “change of control” cannot be paid by reason of the immediately preceding sentence, it shall be paid as soon as practicable thereafter consistent with the requirements of Section 409A of the Code, as determined by the Board or the Committee, as the case may be.

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**APPENDIX I**

**INCENTIVE STOCK OPTION**

To: \_\_\_\_\_  
Name  
\_\_\_\_\_  
Address

Date of Grant: \_\_\_\_\_

You ("Optionee") are hereby granted an option, effective as of the date hereof, to purchase \_\_\_\_\_ shares of common stock ("Common Stock"), of Xcel Brands, Inc., a Delaware corporation (the "Company"), at a price of \$ \_\_\_ per share pursuant to the Company's Equity Incentive Plan (the "Plan").

This option shall terminate and is not exercisable after ten years from the date of its grant (the "Scheduled Termination Date"), except if terminated earlier as hereafter provided.

Your option may first be exercised on and after one year from the date of grant, but not before that time. On and after one year and prior to two years from the date of grant, your option may be exercised for up to \_\_\_\_\_ % of the total number of shares subject to the option minus the number of shares previously purchased by exercise of the option (as adjusted for any change in the outstanding shares of the Common Stock of the Company by reason of a stock dividend, stock split, combination of shares, recapitalization, merger, consolidation, transfer of assets, reorganization, conversion or what the Board or Committee deems in its sole discretion to be similar circumstances). Each succeeding year thereafter your option may be exercised for up to an additional \_\_\_\_\_ % of the total number of shares subject to the option minus the number of shares previously purchased by exercise of the option (as adjusted for any change in the outstanding shares of the Common Stock of the Company by reason of a stock dividend, stock split, combination of shares, recapitalization, merger, consolidation, transfer of assets, reorganization, conversion or what the Board or Committee deems in its sole discretion to be similar circumstances). Thus, this option is fully exercisable on and after \_\_\_\_\_ years after the date of grant, except if terminated earlier as provided herein.

You may exercise your option by giving written notice to the Secretary of the Company on forms supplied by the Company at its then principal executive office, accompanied by payment of the option price for the total number of shares you specify that you wish to purchase. The payment may be in any of the following forms: (a) cash, which may be evidenced by a check and includes cash received from a stock brokerage firm in a so-called "cashless exercise"; (b) (unless prohibited by the Board or Committee) certificates representing shares of Common Stock of the Company, which will be valued by the Secretary of the Company at the fair market value per share of the Company's Common Stock (as determined in accordance with the Plan) on the date of delivery of such certificates to the Company, accompanied by an assignment of the stock to the Company; or (c) (unless prohibited by the Board or Committee) any combination of cash and Common Stock of the Company valued as provided in clause (b). The use of the so-called "attestation procedure") to exercise a stock option may be permitted by the Board or Committee. Any assignment of stock shall be in a form and substance satisfactory to the Secretary of the Company, including guarantees of signature(s) and payment of all transfer taxes if the Secretary deems such guarantees necessary or desirable.

Your option will, to the extent not previously exercised by you, terminate three months after the date on which your employment by the Company or any Parent or Subsidiary is terminated other than: (i) by reason of Disability or death, in which case your option will terminate one year from the date of termination of employment due to Disability or death (but in no event later than the Scheduled Termination Date) or (ii) for Cause or your resignation, in which case your option will terminate immediately and you will forfeit any right to exercise the option. After the date your employment is terminated, as aforesaid (other than for the reasons stated in clause ii), you may exercise this option only for the number of shares which you had a right to purchase and did not purchase on the date your employment terminated. If you are employed by any Parent or Subsidiary, your employment shall be deemed to have terminated on the date your employer ceases to be a Parent or Subsidiary, unless you are on that date transferred to the Company or another Parent or Subsidiary. Your employment shall not be deemed to have terminated if you are transferred from the Company to any Parent or Subsidiary, or vice versa, or from one Subsidiary to another Subsidiary.

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If you die while employed by the Company or any Parent or Subsidiary, your executor or administrator, as the case may be, may, at any time within one year after the date of your death (but in no event later than the Scheduled Termination Date), exercise the option as to any shares which you had a right to purchase and did not purchase during your lifetime. If your employment with the Company or any Parent or Subsidiary is terminated by reason of your Disability, you or your legal guardian or custodian may at any time within one year after the date of such termination (but in no event later than the Scheduled Termination Date), exercise the option as to any shares which you had a right to purchase and did not purchase prior to such termination. Your executor, administrator, guardian or custodian must present proof of his authority satisfactory to the Company prior to being allowed to exercise this option.

In the event of any change in the outstanding shares of the Common Stock of the Company by reason of a stock dividend, stock split, combination of shares, recapitalization, merger, consolidation, transfer of assets, reorganization, conversion or what the Board or Committee deems in its sole discretion to be similar circumstances, the number and kind of shares subject to this option and the option price of such shares shall be appropriately adjusted in a manner to be determined in the sole discretion of the Board or Committee, whose decision shall be final, binding and conclusive in the absence of clear and convincing evidence of bad faith.

**In the event of a liquidation or proposed liquidation of the Company, including (but not limited to) a transfer of assets followed by a liquidation of the Company, or in the event of a Change in Control or proposed Change in Control, the Board shall have the right to accelerate this option.**

This option is not transferable otherwise than by will or the laws of descent and distribution, and is exercisable during your lifetime only by you, including, for this purpose, your legal guardian or custodian in the event of Disability. Until the option price has been paid in full pursuant to due exercise of this option and the purchased shares are delivered to you, you do not have any rights as a shareholder of the Company. The Company reserves the right not to deliver to you the shares purchased by virtue of the exercise of this option during any period of time in which the Company deems, in its sole discretion, that such delivery would violate a federal, state, local or securities exchange rule, regulation or law.

Notwithstanding anything to the contrary contained herein, this option is not exercisable until all the following events occur and during the following periods of time:

- (a) Until the Plan pursuant to which this option is granted is approved by the shareholders of the Company in the manner required by any applicable provision of the Code and the regulations thereunder and any applicable securities exchange or listing rule or agreement;
  - (b) Until this option and the optioned shares are approved, registered and listed with such federal, state, local and foreign regulatory bodies or agencies and securities exchanges as the Company may deem necessary or desirable, or the Company deems such option or optioned shares to be exempted therefrom;
  - (c) During any period of time in which the Company deems that the exercisability of this option, the offer to sell the shares optioned hereunder, or the sale thereof, may violate a federal, state, local or foreign law, rule or regulation, or any applicable securities exchange or listing rule or agreement, or may cause the Company to be legally obligated to issue or sell more shares than the Company is legally entitled to issue or sell; or
  - (d) Until you have paid or made suitable arrangements to pay (which may include payment through the surrender of Common Stock, unless prohibited by the Board or Committee) (i) all federal, state, local and foreign tax withholding required by the Company in connection with the option exercise and (ii) the employee's portion of other federal, state, local and foreign payroll and other taxes due in connection with the option exercise.
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The following two paragraphs shall be applicable if, on the date of exercise of this option, no registration statement and current prospectus under the Securities Act of 1933 covers the Common Stock to be purchased pursuant to such exercise, and shall continue to be applicable for so long as such registration has not occurred and such current prospectus is not available:

(a) You hereby agree, warrant and represent that you will acquire the Common Stock to be issued hereunder for your own account for investment purposes only, and not with a view to, or in connection with, any resale or other distribution of any of such shares, except as hereafter permitted. You further agree that you will not at any time make any offer, sale, transfer, pledge or other disposition of such Common Stock to be issued hereunder without an effective registration statement under the Securities Act of 1933, as amended, and under any applicable state securities laws or an opinion of counsel acceptable to the Company to the effect that the proposed transaction will be exempt from such registration. You agree to execute such instruments, representations, acknowledgments and agreements as the Company may, in its sole discretion, deem advisable to avoid any violation of federal, state, local or foreign law, rule or regulation, or any securities exchange rule or listing agreement.

(b) The certificates for the Common Stock to be issued to you hereunder shall bear the following legend:

"The shares represented by this certificate have not been registered under the Securities Act of 1933, as amended, or under applicable state securities laws. The shares have been acquired for investment and may not be offered, sold, transferred, pledged or otherwise disposed of without an effective registration statement under the Securities Act of 1933, as amended, and under any applicable state securities laws or an opinion of counsel acceptable to the Company that the proposed transaction will be exempt from such registration."

The foregoing legend shall be removed upon registration of the legended shares under the Securities Act of 1933, as amended, and under any applicable state laws, and the availability of a current prospectus, or upon receipt of any opinion of counsel acceptable to the Company that such registration and current prospectus are no longer required.

The sole purpose of the agreements, warranties, representations and legend set forth in the two immediately preceding paragraphs is to prevent violations of the Securities Act of 1933, as amended, and any applicable state securities laws.

It is the intention of the Company and you that this option shall, if possible, be an "Incentive Stock Option" as that term is used in Section 422(b) of the Code and the regulations thereunder. In the event this option is in any way inconsistent with the legal requirements of the Code or the regulations thereunder for an "Incentive Stock Option," this option shall be deemed automatically amended as of the date hereof to conform to such legal requirements, if such conformity may be achieved by amendment. To the extent that the number of shares subject to this option which are exercisable for the first time exceed the \$100,000 limitation contained in Section 422(d) of the Code, this option will not be considered an Incentive Stock Option.

If shares of Common Stock acquired by exercise of this option are disposed of within two (2) years following the date of grant or one (1) year following the issuance of the shares to you (or any situation in which the option will be taxed as a non-qualified option), you shall, immediately prior to such disposition, notify the Company in writing of the date and terms of such disposition and provide such other information regarding the disposition as the Company may reasonably require .

**Nothing herein shall modify your status as an at-will employee of the Company or any Parent or Subsidiary. Further, nothing herein guarantees you employment for any specified period of time. This means that either you or the Company or any Parent or Subsidiary may terminate your employment at any time for any reason, with or without cause, or for no reason. You recognize that, for instance, you may terminate your employment or the Company or any Parent or Subsidiary may terminate your employment prior to the date on which your option becomes vested or exercisable.**

You understand and agree that the existence of this option will not affect in any way the right or power of the Company or its shareholders to make or authorize any or all adjustments, recapitalizations, reorganizations, or other changes in the Company's capital structure or its business, or any merger or consolidation of the Company, or any issuance of bonds, debentures, preferred or other stocks with preference ahead of or convertible into, or otherwise affecting the common shares or the rights thereof, or the dissolution or liquidation of the Company, or any sale or transfer of all or any part of its assets or business, or any other corporate act or proceeding, whether of a similar character or otherwise.

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Any notice you give to the Company must be in writing and either hand-delivered or mailed to the office of the Company. If mailed, it should be addressed to the Chief Financial Officer of the Company at its then main headquarters. Any notice given to you will be addressed to you at your address as reflected on the personnel records of the Company. You and the Company may change the address for notice by like notice to the other. Notice will be deemed to have been duly delivered when hand-delivered or, if mailed, on the day such notice is postmarked.

In the event that any question or controversy shall arise with respect to the nature, scope or extent of any one or more rights conferred by this option, or any provision of this option, the determination in good faith by the Board of Directors of the Company (as constituted at the time of such determination) of your rights as the Optionee shall be conclusive, final and binding upon you as the Optionee and upon any other person who shall assert any right pursuant to this option.

This option shall be subject to the terms of the Plan in effect on the date this option is granted, which terms are hereby incorporated herein by reference and made a part hereof. Capitalized terms used herein and not otherwise defined herein shall have the meaning given to such terms in the Plan. In the event of any conflict between the terms of this option and the terms of the Plan in effect on the date of this option, the terms of the Plan shall govern. This option constitutes the entire understanding between the Company and you with respect to the subject matter hereof and no amendment, supplement or waiver of this option, in whole or in part, shall be binding upon the Company unless in writing and signed by the President of the Company. This option and the performances of the parties hereunder shall be construed in accordance with and governed by the laws of the State of Delaware.

Please sign the copy of this option and return it to the Company's Secretary, thereby indicating your understanding of and agreement with its terms and conditions.

XCEL BRANDS, INC.

By: \_\_\_\_\_

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**ACKNOWLEDGMENT**

I hereby acknowledge receipt of a copy of the Plan. I hereby represent that I have read and understood the terms and conditions of the Plan and of this option. I hereby signify my understanding of, and my agreement with, the terms and conditions of the Plan and of this option. I agree to accept as binding, conclusive, and final all decisions or interpretations of the Board or Committee concerning any questions arising under the Plan with respect to this option. I accept this option in full satisfaction of any previous written or verbal promise made to me by the Company or any Parent or Subsidiary with respect to option or stock grants.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Optionee

\_\_\_\_\_  
Print Name

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**APPENDIX II**

**NON-QUALIFIED STOCK OPTION FOR OFFICERS AND OTHER  
EMPLOYEES**

To: \_\_\_\_\_  
Name

\_\_\_\_\_  
Address

Date of Grant: \_\_\_\_\_

You ("Optionee") are hereby granted an option, effective as of the date hereof, to purchase \_\_\_\_\_ shares of common stock ("Common Stock"), of Xcel Brands, Inc. , a Delaware corporation (the "Company"), at a price of \$ \_\_\_ per share pursuant to the Company's Equity Incentive Plan (the "Plan").

This option shall terminate and is not exercisable after ten years from the date of its grant (the "Scheduled Termination Date"), except if terminated earlier as hereafter provided.

Your option may first be exercised on and after one year from the date of grant, but not before that time. On and after one year and prior to two years from the date of grant, your option may be exercised for up to \_\_\_\_\_% of the total number of shares subject to the option minus the number of shares previously purchased by exercise of the option (as adjusted for any change in the outstanding shares of the Common Stock of the Company by reason of a stock dividend, stock split, combination of shares, recapitalization, merger, consolidation, transfer of assets, reorganization, conversion or what the Board or Committee deems in its sole discretion to be similar circumstances). Each succeeding year thereafter your option may be exercised for up to an additional \_\_\_\_\_% of the total number of shares subject to the option minus the number of shares previously purchased by exercise of the option (as adjusted for any change in the outstanding shares of the Common Stock of the Company by reason of a stock dividend, stock split, combination of shares, recapitalization, merger, consolidation, transfer of assets, reorganization, conversion or what the Board or Committee deems in its sole discretion to be similar circumstances). Thus, this option is fully exercisable on and after \_\_\_\_\_ years after the date of grant, except if terminated earlier as provided herein.

You may exercise your option by giving written notice to the Secretary of the Company on forms supplied by the Company at its then principal executive office, accompanied by payment of the option price for the total number of shares you specify that you wish to purchase. The payment may be in any of the following forms: (a) cash, which may be evidenced by a check and includes cash received from a stock brokerage firm in a so-called "cashless exercise"; (b) (unless prohibited by the Board or Committee) certificates representing shares of Common Stock of the Company, which will be valued by the Secretary of the Company at the fair market value per share of the Company's Common Stock (as determined in accordance with the Plan) on the date of delivery of such certificates to the Company, accompanied by an assignment of the stock to the Company; or (c) (unless prohibited by the Board or Committee) any combination of cash and Common Stock of the Company valued as provided in clause (b). The use of the so-called "attestation procedure" to exercise a stock option may be permitted by the Board or Committee. Any assignment of stock shall be in a form and substance satisfactory to the Secretary of the Company, including guarantees of signature(s) and payment of all transfer taxes if the Secretary deems such guarantees necessary or desirable.

Your option will, to the extent not previously exercised by you, terminate three months after the date on which your employment by the Company or any Parent or Subsidiary is terminated other than: (i) by reason of Disability or death, in which case your option will terminate one year from the date of termination of employment due to Disability or death (but in no event later than the Scheduled Termination Date) or (ii) for Cause or your resignation, in which case your option will terminate immediately and you will forfeit any right to exercise the option. After the date your employment is terminated, as aforesaid (other than for the reasons stated in clause ii), you may exercise this option only for the number of shares which you had a right to purchase and did not purchase on the date your employment terminated. If you are employed by any Parent or Subsidiary, your employment shall be deemed to have terminated on the date your employer ceases to be a Parent or Subsidiary, unless you are on that date transferred to the Company or another Parent or Subsidiary. Your employment shall not be deemed to have terminated if you are transferred from the Company to any Parent or Subsidiary, or vice versa, or from one Subsidiary to another Subsidiary.

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If you die while employed by the Company or any Parent or Subsidiary, your executor or administrator, as the case may be, may, at any time within one year after the date of your death (but in no event later than the Scheduled Termination Date), exercise the option as to any shares which you had a right to purchase and did not purchase during your lifetime. If your employment with the Company or any Parent or Subsidiary is terminated by reason of your Disability, you or your legal guardian or custodian may at any time within one year after the date of such termination (but in no event later than the Scheduled Termination Date), exercise the option as to any shares which you had a right to purchase and did not purchase prior to such termination. Your executor, administrator, guardian or custodian must present proof of his authority satisfactory to the Company prior to being allowed to exercise this option.

In the event of any change in the outstanding shares of the Common Stock of the Company by reason of a stock dividend, stock split, combination of shares, recapitalization, merger, consolidation, transfer of assets, reorganization, conversion or what the Board or Committee deems in its sole discretion to be similar circumstances, the number and kind of shares subject to this option and the option price of such shares shall be appropriately adjusted in a manner to be determined in the sole discretion of the Board or Committee, whose decision shall be final, binding and conclusive in the absence of clear and convincing evidence of bad faith.

**In the event of a liquidation or proposed liquidation of the Company, including (but not limited to) a transfer of assets followed by a liquidation of the Company, or in the event of a Change in Control or proposed Change in Control, the Board shall have the right to accelerate this option.**

This option is not transferable otherwise than by will or the laws of descent and distribution, and is exercisable during your lifetime only by you, including, for this purpose, your legal guardian or custodian in the event of Disability. Until the option price has been paid in full pursuant to due exercise of this option and the purchased shares are delivered to you, you do not have any rights as a shareholder of the Company. The Company reserves the right not to deliver to you the shares purchased by virtue of the exercise of this option during any period of time in which the Company deems, in its sole discretion, that such delivery would violate a federal, state, local or securities exchange rule, regulation or law.

Notwithstanding anything to the contrary contained herein, this option is not exercisable until all the following events occur and during the following periods of time:

- (a) Until the Plan pursuant to which this option is granted is approved by the shareholders of the Company in the manner required by any applicable provision of the Code and the regulations thereunder and any applicable securities exchange or listing rule or agreement;
  - (b) Until this option and the optioned shares are approved, registered and listed with such federal, state, local and foreign regulatory bodies or agencies and securities exchanges as the Company may deem necessary or desirable, or the Company deems such option or optioned shares to be exempted therefrom;
  - (c) During any period of time in which the Company deems that the exercisability of this option, the offer to sell the shares optioned hereunder, or the sale thereof, may violate a federal, state, local or foreign law, rule or regulation, or any applicable securities exchange or listing rule or agreement, or may cause the Company to be legally obligated to issue or sell more shares than the Company is legally entitled to issue or sell; or
  - (d) Until you have paid or made suitable arrangements to pay (which may include payment through the surrender of Common Stock, unless prohibited by the Board or Committee) (i) all federal, state, local and foreign tax withholding required by the Company in connection with the option exercise and (ii) the employee's portion of other federal, state, local and foreign payroll and other taxes due in connection with the option exercise.
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The following two paragraphs shall be applicable if, on the date of exercise of this option, no registration statement and current prospectus under the Securities Act of 1933 covers the Common Stock to be purchased pursuant to such exercise, and shall continue to be applicable for so long as such registration has not occurred and such current prospectus is not available:

(a) You hereby agree, warrant and represent that you will acquire the Common Stock to be issued hereunder for your own account for investment purposes only, and not with a view to, or in connection with, any resale or other distribution of any of such shares, except as hereafter permitted. You further agree that you will not at any time make any offer, sale, transfer, pledge or other disposition of such Common Stock to be issued hereunder without an effective registration statement under the Securities Act of 1933, as amended, and under any applicable state securities laws or an opinion of counsel acceptable to the Company to the effect that the proposed transaction will be exempt from such registration. You agree to execute such instruments, representations, acknowledgments and agreements as the Company may, in its sole discretion, deem advisable to avoid any violation of federal, state, local or foreign law, rule or regulation, or any securities exchange rule or listing agreement.

(b) The certificates for the Common Stock to be issued to you hereunder shall bear the following legend:

"The shares represented by this certificate have not been registered under the Securities Act of 1933, as amended, or under applicable state securities laws. The shares have been acquired for investment and may not be offered, sold, transferred, pledged or otherwise disposed of without an effective registration statement under the Securities Act of 1933, as amended, and under any applicable state securities laws or an opinion of counsel acceptable to the Company that the proposed transaction will be exempt from such registration."

The foregoing legend shall be removed upon registration of the legended shares under the Securities Act of 1933, as amended, and under any applicable state laws or upon receipt of any opinion of counsel acceptable to the Company that said registration is no longer required.

The sole purpose of the agreements, warranties, representations and legend set forth in the two immediately preceding paragraphs is to prevent violations of the Securities Act of 1933, as amended, and any applicable state securities laws.

It is the intention of the Company and you that this option shall not be an "Incentive Stock Option" as that term is used in Section 422(b) of the Code and the regulations thereunder.

**Nothing herein shall modify your status as an at-will employee of the Company or any Parent or Subsidiary. Further, nothing herein guarantees you employment for any specified period of time. This means that either you or the Company or any Parent or Subsidiary may terminate your employment at any time for any reason, with or without cause, or for no reason. You recognize that, for instance, you may terminate your employment or the Company or any Parent or Subsidiary may terminate your employment prior to the date on which your option becomes vested or exercisable.**

You understand and agree that the existence of this option will not affect in any way the right or power of the Company or its shareholders to make or authorize any or all adjustments, recapitalizations, reorganizations, or other changes in the Company's capital structure or its business, or any merger or consolidation of the Company, or any issuance of bonds, debentures, preferred or other stocks with preference ahead of or convertible into, or otherwise affecting the common shares or the rights thereof, or the dissolution or liquidation of the Company, or any sale or transfer of all or any part of its assets or business, or any other corporate act or proceeding, whether of a similar character or otherwise.

Any notice you give to the Company must be in writing and either hand-delivered or mailed to the office of the **Company**. If mailed, it should be addressed to the **Chief Financial Officer** of the Company at its then main headquarters. Any notice given to you will be addressed to you at your address as reflected on the personnel records of the Company. You and the Company may change the address for notice by like notice to the other. Notice will be deemed to have been duly delivered when hand-delivered or, if mailed, on the day such notice is postmarked.

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In the event that any question or controversy shall arise with respect to the nature, scope or extent of any one or more rights conferred by this option, or any provision of this option, the determination in good faith by the Board of Directors of the Company (as constituted at the time of such determination) of your rights as the Optionee shall be conclusive, final and binding upon you as the Optionee and upon any other person who shall assert any right pursuant to this option.

This option shall be subject to the terms of the Plan in effect on the date this option is granted, which terms are hereby incorporated herein by reference and made a part hereof. Capitalized terms used herein and not otherwise defined herein shall have the meaning given to such terms in the Plan. In the event of any conflict between the terms of this option and the terms of the Plan in effect on the date of this option, the terms of the Plan shall govern. This option constitutes the entire understanding between the Company and you with respect to the subject matter hereof and no amendment, supplement or waiver of this option, in whole or in part, shall be binding upon the Company unless in writing and signed by the President of the Company. This option and the performances of the parties hereunder shall be construed in accordance with and governed by the laws of the State of Delaware.

Please sign the copy of this option and return it to the Company's Secretary, thereby indicating your understanding of and agreement with its terms and conditions .

XCEL BRANDS GROUP, INC.

By: \_\_\_\_\_

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**ACKNOWLEDGMENT**

I hereby acknowledge receipt of a copy of the Plan. I hereby represent that I have read and understood the terms and conditions of the Plan and of this option. I hereby signify my understanding of, and my agreement with, the terms and conditions of the Plan and of this option. I agree to accept as binding, conclusive, and final all decisions or interpretations of the Board or Committee concerning any questions arising under the Plan with respect to this option. I accept this option in full satisfaction of any previous written or verbal promise made to me by the Company or any Parent or Subsidiary with respect to option or stock grants.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Optionee

\_\_\_\_\_  
Print Name

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**APPENDIX III**

**NON-QUALIFIED STOCK OPTION FOR DIRECTORS  
AND CONSULTANTS**

To: \_\_\_\_\_  
Name  
\_\_\_\_\_  
Address

Date of Grant: \_\_\_\_\_

You ("Optionee") are hereby granted an option, effective as of the date hereof, to purchase \_\_\_\_\_ shares of common stock ("Common Stock"), of Xcel Brands Group, Inc., a Delaware corporation (the "Company"), at a price of \$ \_\_\_\_ per share pursuant to the Company's Equity Incentive Plan (the "Plan").

This option shall terminate and is not exercisable after ten years from the date of its grant (the "Scheduled Termination Date"), except if terminated earlier as hereafter provided.

Your option may first be exercised on and after one year from the date of grant, but not before that time. On and after one year and prior to two years from the date of grant, your option may be exercised for up to \_\_\_\_% of the total number of shares subject to the option minus the number of shares previously purchased by exercise of the option (as adjusted for any change in the outstanding shares of the Common Stock of the Company by reason of a stock dividend, stock split, combination of shares, recapitalization, merger, consolidation, transfer of assets, reorganization, conversion or what the Board or Committee deems in its sole discretion to be similar circumstances). Each succeeding year thereafter your option may be exercised for up to an additional \_\_\_\_% of the total number of shares subject to the option minus the number of shares previously purchased by exercise of the option (as adjusted for any change in the outstanding shares of the Common Stock of the Company by reason of a stock dividend, stock split, combination of shares, recapitalization, merger, consolidation, transfer of assets, reorganization, conversion or what the Board or Committee deems in its sole discretion to be similar circumstances). Thus, this option is fully exercisable on and after \_\_\_\_\_ years after the date of grant, except if terminated earlier as provided herein.

You may exercise your option by giving written notice to the Secretary of the Company on forms supplied by the Company at its then principal executive office, accompanied by payment of the option price for the total number of shares you specify that you wish to purchase. The payment may be in any of the following forms: (a) cash, which may be evidenced by a check and includes cash received from a stock brokerage firm in a so-called "cashless exercise"; (b) (unless prohibited by the Board or Committee) certificates representing shares of Common Stock of the Company, which will be valued by the Secretary of the Company at the fair market value per share of the Company's Common Stock (as determined in accordance with the Plan) on the date of delivery of such certificates to the Company, accompanied by an assignment of the stock to the Company; or (c) (unless prohibited by the Board or Committee) any combination of cash and Common Stock of the Company valued as provided in clause (b). The use of the so-called "attestation procedure" to exercise a stock option may be permitted by the Board or Committee. Any assignment of stock shall be in a form and substance satisfactory to the Secretary of the Company, including guarantees of signature(s) and payment of all transfer taxes if the Secretary deems such guarantees necessary or desirable.

Your option will, to the extent not previously exercised by you, terminate three months after the date on which your directorship or consultancy by the Company or any Parent or Subsidiary is terminated other than by reason of (i) Disability or death, in which case your option will terminate one year from the date of termination of directorship or consultancy due to Disability or death (but in no event later than the Scheduled Termination Date) or (ii) for Cause or your resignation, in which case your option will terminate immediately and you will forfeit any right to exercise the option. After the date your directorship or consultancy is terminated, as aforesaid (other than for the reasons stated in clause (ii), you may exercise this option only for the number of shares which you had a right to purchase and did not purchase on the date your directorship or consultancy terminated. Provided you are willing to continue your directorship or consultancy for the Company or a successor after a Change in Control at the same compensation you enjoyed immediately prior to such Change in Control, if your directorship or consultancy is involuntarily terminated without cause after a Change in Control, you may exercise this option for the number of shares you would have had a right to purchase on the date of an Acceleration Event. If you are employed by any Parent or Subsidiary, your directorship or consultancy shall be deemed to have terminated on the date your employer ceases to be a Parent or Subsidiary, unless you are on that date transferred to the Company or another Parent or Subsidiary. Your directorship or consultancy shall not be deemed to have terminated if you are transferred from the Company to a Parent or Subsidiary, or vice versa, or from one Subsidiary to another Subsidiary.

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If you die while acting as a director or consultant of the Company or any Parent or Subsidiary, your executor or administrator, as the case may be, may, at any time within one year after the date of your death (but in no event later than the Scheduled Termination Date), exercise the option as to any shares which you had a right to purchase and did not purchase during your lifetime. If your directorship or consultancy with the Company or any Parent or Subsidiary is terminated by reason of your Disability, you or your legal guardian or custodian may at any time within one year after the date of such termination (but in no event later than the Scheduled Termination Date), exercise the option as to any shares which you had a right to purchase and did not purchase prior to such termination. Your executor, administrator, guardian or custodian must present proof of his authority satisfactory to the Company prior to being allowed to exercise this option.

In the event of any change in the outstanding shares of the Common Stock of the Company by reason of a stock dividend, stock split, combination of shares, recapitalization, merger, consolidation, transfer of assets, reorganization, conversion or what the Board or Committee deems in its sole discretion to be similar circumstances, the number and kind of shares subject to this option and the option price of such shares shall be appropriately adjusted in a manner to be determined in the sole discretion of the Board or Committee, whose decision shall be final, binding and conclusive in the absence of clear and convincing evidence of bad faith.

**In the event of a liquidation or proposed liquidation of the Company, including (but not limited to) a transfer of assets followed by a liquidation of the Company, or in the event of a Change in Control or proposed Change in Control, the Board shall have the right to accelerate this option.**

This option is not transferable otherwise than by will or the laws of descent and distribution, and is exercisable during your lifetime only by you, including, for this purpose, your legal guardian or custodian in the event of Disability. Until the option price has been paid in full pursuant to due exercise of this option and the purchased shares are delivered to you, you do not have any rights as a shareholder of the Company. The Company reserves the right not to deliver to you the shares purchased by virtue of the exercise of this option during any period of time in which the Company deems, in its sole discretion, that such delivery would violate a federal, state, local or securities exchange rule, regulation or law.

Notwithstanding anything to the contrary contained herein, this option is not exercisable until all the following events occur and during the following periods of time:

- (a) Until the Plan pursuant to which this option is granted is approved by the shareholders of the Company in the manner required by any applicable provision of the Code and the regulations thereunder and any applicable securities exchange or listing rule or agreement;
  - (b) Until this option and the optioned shares are approved, registered and listed with such federal, state, local and foreign regulatory bodies or agencies and securities exchanges as the Company may deem necessary or desirable, or the Company deems such option or optioned shares to be exempted therefrom;
  - (c) During any period of time in which the Company deems that the exercisability of this option, the offer to sell the shares optioned hereunder, or the sale thereof, may violate a federal, state, local or foreign law, rule or regulation, or any applicable securities exchange or listing rule or agreement, or may cause the Company to be legally obligated to issue or sell more shares than the Company is legally entitled to issue or sell; or
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(d) Until you have paid or made suitable arrangements to pay (which may include payment through the surrender of Common Stock, unless prohibited by the Board or Committee) (i) all federal, state, local and foreign tax withholding required by the Company in connection with the option exercise and (ii) the employee's portion of other federal, state, local and foreign payroll and other taxes due in connection with the option exercise.

The following two paragraphs shall be applicable if, on the date of exercise of this option, no registration statement and current prospectus under the Securities Act of 1933 covers the Common Stock to be purchased pursuant to such exercise, and shall continue to be applicable for so long as such registration has not occurred and such current prospectus is not available:

(a) You hereby agree, warrant and represent that you will acquire the Common Stock to be issued hereunder for your own account for investment purposes only, and not with a view to, or in connection with, any resale or other distribution of any of such shares, except as hereafter permitted. You further agree that you will not at any time make any offer, sale, transfer, pledge or other disposition of such Common Stock to be issued hereunder without an effective registration statement under the Securities Act of 1933, as amended, and under any applicable state securities laws or an opinion of counsel acceptable to the Company to the effect that the proposed transaction will be exempt from such registration. You agree to execute such instruments, representations, acknowledgments and agreements as the Company may, in its sole discretion, deem advisable to avoid any violation of federal, state, local or foreign law, rule or regulation, or any securities exchange rule or listing agreement.

(b) The certificates for the Common Stock to be issued to you hereunder shall bear the following legend:

"The shares represented by this certificate have not been registered under the Securities Act of 1933, as amended, or under applicable state securities laws. The shares have been acquired for investment and may not be offered, sold, transferred, pledged or otherwise disposed of without an effective registration statement under the Securities Act of 1933, as amended, and under any applicable state securities laws or an opinion of counsel acceptable to the Company that the proposed transaction will be exempt from such registration."

The foregoing legend shall be removed upon registration of the legended shares under the Securities Act of 1933, as amended, and under any applicable state laws or upon receipt of any opinion of counsel acceptable to the Company that said registration is no longer required.

The sole purpose of the agreements, warranties, representations and legend set forth in the two immediately preceding paragraphs is to prevent violations of the Securities Act of 1933, as amended, and any applicable state securities laws.

It is the intention of the Company and you that this option shall not be an "Incentive Stock Option" as that term is used in Section 422(b) of the Code and the regulations thereunder.

**Nothing herein guarantees your term as a director of, or consultant to, the Company or any Parent or Subsidiary for any specified period of time. This means that either you or the Company or any Parent or Subsidiary may terminate your directorship or consultancy at any time for any reason, with or without cause, or for no reason. You recognize that, for instance, the Company or any Parent or Subsidiary may terminate your directorship or consultancy with the Company or any Parent or Subsidiary prior to the date on which your option becomes vested or exercisable.**

You understand and agree that the existence of this option will not affect in any way the right or power of the Company or its shareholders to make or authorize any or all adjustments, recapitalizations, reorganizations, or other changes in the Company's capital structure or its business, or any merger or consolidation of the Company, or any issuance of bonds, debentures, preferred or other stocks with preference ahead of or convertible into, or otherwise affecting the common shares or the rights thereof, or the dissolution or liquidation of the Company, or any sale or transfer of all or any part of its assets or business, or any other corporate act or proceeding, whether of a similar character or otherwise.

Any notice you give to the Company must be in writing and either hand-delivered or mailed to the office of the Company. If mailed, it should be addressed to the Chief Financial Officer of the Company at its then main headquarters. Any notice given to you will be addressed to you at your address as reflected on the records of the Company. You and the Company may change the address for notice by like notice to the other. Notice will be deemed to have been duly delivered when hand-delivered or, if mailed, on the day such notice is postmarked.

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In the event that any question or controversy shall arise with respect to the nature, scope or extent of any one or more rights conferred by this option, or any provision of this option, the determination in good faith by the Board of Directors of the Company (as constituted at the time of such determination) of your rights as the Optionee shall be conclusive, final and binding upon you as the Optionee and upon any other person who shall assert any right pursuant to this option.

This option shall be subject to the terms of the Plan in effect on the date this option is granted, which terms are hereby incorporated herein by reference and made a part hereof. Capitalized terms used herein and not otherwise defined herein shall have the meaning given to such terms in the Plan. In the event of any conflict between the terms of this option and the terms of the Plan in effect on the date of this option, the terms of the Plan shall govern. This option constitutes the entire understanding between the Company and you with respect to the subject matter hereof and no amendment, supplement or waiver of this option, in whole or in part, shall be binding upon the Company unless in writing and signed by the President of the Company. This option and the performances of the parties hereunder shall be construed in accordance with and governed by the laws of the State of Delaware.

Please sign the copy of this option and return it to the Company's Secretary, thereby indicating your understanding of and agreement with its terms and conditions.

XCEL BRANDS, INC.

By: \_\_\_\_\_

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**ACKNOWLEDGMENT**

I hereby acknowledge receipt of a copy of the Plan. I hereby represent that I have read and understood the terms and conditions of the Plan and of this option. I hereby signify my understanding of, and my agreement with, the terms and conditions of the Plan and of this option. I agree to accept as binding, conclusive, and final all decisions or interpretations of the Board or Committee concerning any questions arising under the Plan with respect to this option. I accept this option in full satisfaction of any previous written or verbal promise made to me by the Company or any Parent or Subsidiary with respect to option or Stock grants.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Optionee

\_\_\_\_\_  
Print Name

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APPENDIX IV

RESTRICTED STOCK AGREEMENT

To:

Date of Award:

You are hereby awarded, effective as of the date hereof (the "Award Date"), \_\_\_\_\_ shares (the "Shares") of common stock ("Common Stock"), of Xcel Brands, Inc., a Delaware corporation (the "Company"), pursuant to the Company's Equity Incentive Plan (the "Plan"), subject to certain restrictions specified below in **Restrictions and Forfeiture**. (While subject to the Restrictions, this Agreement refers to the Shares as "Restricted Shares").

During the period commencing on the Award Date and terminating on \_\_\_\_\_ (the "Restricted Period"), except as otherwise provided herein, the Shares may not be sold, assigned, transferred, pledged, or otherwise encumbered and are subject to forfeiture (the "Restrictions").

Except as set forth below, the Restricted Period with respect to the Shares will lapse in accordance with the vesting schedule set forth below (the "Vesting Schedule"). Subject to the restrictions set forth in the Plan, the Board or Committee shall have the authority, in its discretion, to accelerate the time at which any or all of the Restrictions shall lapse with respect to any Shares subject thereto, or to remove any or all of such Restrictions, whenever the Board or Committee may determine that such action is appropriate by reason of changes in applicable tax or other laws, or other changes in circumstances occurring after the commencement of the Restricted Period.

In addition to the terms, conditions, and restrictions set forth in the Plan, the following terms, conditions, and restrictions apply to the Restricted Shares:

**Restrictions and Forfeiture** You may not sell, assign, pledge, encumber, or otherwise transfer any interest in the Restricted Shares until the dates set forth in the Vesting Schedule, at which point the Restricted Shares will be referred to as "Vested."

**Vesting Schedule** Assuming you provide Continuous Service (as defined herein) as an employee of the Company or any Parent or Subsidiary of the Company, all Restrictions will lapse on the Restricted Shares on the Vesting date or Vesting dates set forth in the schedule below for the applicable grant of Restricted Shares and they will become Vested.

Vesting Schedule

Vesting Date Number of Restricted Shares that Vest

**Continuous Service** "Continuous Service," as used herein, means the absence of any interruption or termination of your service as an employee of the Company or any Parent or Subsidiary. If you are employed by a Parent or Subsidiary, your employment shall be deemed to have terminated on the date your employer ceases to be a Parent or Subsidiary, unless you are on that date transferred to the Company or another Parent or Subsidiary. Service shall not be considered interrupted in the case of sick leave, military leave or any other leave of absence approved by the Company or any then Parent or Subsidiary. Your employment shall not be deemed to have terminated if you are transferred from the Company to any Parent or Subsidiary, or vice versa, or from one Subsidiary to another Subsidiary.

**Share Certificates** The Company will issue a certificate (or certificates) in your name with respect to the Shares, and will hold such certificate (or certificates) on deposit for your account until the expiration of the Restricted Period with respect to the Shares represented thereby. Such certificate (or certificates) will contain the following restrictive legend:

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“The transferability of this certificate and the shares of stock represented hereby are subject to the terms and conditions (including forfeiture) contained in the Equity Incentive Plan of the Company, copies of which are on file in the office of the Secretary of the Company.”

**Additional Conditions to Issuance of Stock Certificates**

You will not receive the certificates representing the Restricted Shares unless and until the Company has received a stock power or stock powers in favor of the Company executed by you.

**Voting Rights**

Prior to vesting, you will have no voting rights with respect to any Restricted Shares that have not Vested.

**Cash Dividends**

Cash dividends, if any, paid on the Restricted Shares shall be held by the Company for your account and paid to you upon the expiration of the Restricted Period, except as otherwise determined by the Board or Committee. All such withheld dividends shall not earn interest, except as otherwise determined by the Board or Committee. **You will not receive withheld cash dividends on any Restricted Shares which are forfeited and all such cash dividends shall be forfeited along with the Restricted Shares which are forfeited.**

**Tax Withholding**

Unless you make an election under Section 83(b) of the Internal Revenue Code of 1986, as amended (the “Code”), and pay taxes in accordance with that election, you will be taxed on the Shares as they become Vested and must arrange to pay the taxes on this income. If the Board or Committee so determines, arrangements for paying the taxes may include your surrendering Shares that otherwise would be released to you upon becoming Vested or your surrendering Shares you already own. The fair market value of the Shares you surrender, determined as of the date when taxes otherwise would have been withheld in cash, will be applied as a credit against the withholding taxes.

**The Company shall have the right to withhold from your compensation an amount sufficient to fulfill its or its Parent’s or Subsidiary’s obligations for any applicable withholding and employment taxes. Alternatively, the Company may require you to pay to the Company the amount of any taxes which the Company is required to withhold with respect to the Shares, or, in lieu thereof, to retain or sell without notice a sufficient number of Shares to cover the amount required to be withheld. The Company may withhold from any cash dividends paid on the Restricted Shares an amount sufficient to cover taxes owed as a result of the dividend payment. The Company’s method of satisfying its withholding obligations shall be solely in the discretion of the Board or Committee, subject to applicable federal, state, local and foreign laws. The Company shall have a lien and security interest in the Shares and any accumulated dividends to secure your obligations hereunder.**

**Tax Representations**

You hereby represent and warrant to the Company as follows:

- (a) You have reviewed with your own tax advisors the federal, state, local and foreign tax consequences of this investment and the transactions contemplated by this Agreement. You are relying solely on such advisors and not on any statements or representations of the Company or any of its Employees or agents.
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(b) You understand that you (and not the Company) shall be responsible for your own tax liability that may arise as a result of this investment or the transactions contemplated by this Agreement. You understand that Section 83 of the Code taxes (as ordinary income) the fair market value of the Shares as of the date any “restrictions” on the Shares lapse. To the extent that an award hereunder is not otherwise an exempt transaction for purposes of Section 16(b) of the Securities Exchange Act of 1934, as amended (the “1934 Act”), with respect to officers, directors and 10% shareholders subject to Section 16 of the 1934 Act, a “restriction” on the Shares includes for these purposes the period after the award of the Shares during which such officers, directors and 10% shareholders could be subject to suit under Section 16(b) of the 1934 Act. Alternatively, you understand that you may elect to be taxed at the time the Shares are awarded rather than when the restrictions on the Shares lapse, or the Section 16(b) period expires, by filing an election under Section 83(b) of the Code with the Internal Revenue Service within thirty (30) days from the date of the award.

YOU HEREBY ACKNOWLEDGE THAT IT IS YOUR SOLE RESPONSIBILITY AND NOT THE COMPANY’S TO FILE TIMELY THE ELECTION AVAILABLE TO YOU UNDER SECTION 83(B) OF THE CODE, EVEN IF YOU REQUEST THAT THE COMPANY OR ITS REPRESENTATIVES MAKE THIS FILING ON YOUR BEHALF.

#### **Securities Law Representations**

The following two paragraphs shall be applicable if, on the date of issuance of the Restricted Shares, no registration statement and current prospectus under the Securities Act of 1933, as amended (the “1933 Act”), covers the Shares, and shall continue to be applicable for so long as such registration has not occurred and such current prospectus is not available:

(a) You hereby agree, warrant and represent that you will acquire the Shares to be issued hereunder for your own account for investment purposes only, and not with a view to, or in connection with, any resale or other distribution of any of such shares, except as hereafter permitted. You further agree that you will not at any time make any offer, sale, transfer, pledge or other disposition of such Shares to be issued hereunder without an effective registration statement under the 1933 Act, and under any applicable state securities laws or an opinion of counsel acceptable to the Company to the effect that the proposed transaction will be exempt from such registration. You agree to execute such instruments, representations, acknowledgments and agreements as the Company may, in its sole discretion, deem advisable to avoid any violation of federal, state, local or foreign law, rule or regulation, or any securities exchange rule or listing agreement.

(b) The certificates for Shares to be issued to you hereunder shall bear the following legend:

“The shares represented by this certificate have not been registered under the Securities Act of 1933, as amended, or under applicable state securities laws. The shares have been acquired for investment and may not be offered, sold, transferred, pledged or otherwise disposed of without an effective registration statement under the Securities Act of 1933, as amended, and under any applicable state securities laws or an opinion of counsel acceptable to the Company that the proposed transaction will be exempt from such registration.”

#### **Stock Dividend, Stock Split and Similar Capital Changes**

In the event of any change in the outstanding shares of the Common Stock of the Company by reason of a stock dividend, stock split, combination of shares, recapitalization, merger, consolidation, transfer of assets, reorganization, conversion or what the Board or Committee deems in its sole discretion to be similar circumstances, the number and kind of shares subject to this Agreement shall be appropriately adjusted in a manner to be determined in the sole discretion of the Board or Committee, whose decision shall be final, binding and conclusive in the absence of clear and convincing evidence of bad faith. Any shares of Common Stock or other securities received, as a result of the foregoing, by you with respect to the Restricted Shares shall be subject to the same restrictions as the Restricted Shares, the certificate or other instruments evidencing such shares of Common Stock or other securities shall be legended and deposited with the Company as provided above with respect to the Restricted Shares, and any cash dividends received with respect to such shares of Common Stock or other securities shall be accumulated as provided above with respect to the Restricted Shares.

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**Non-Transferability**

Restricted Shares are not transferable.

**No Effect on  
Employment**

Except as otherwise provided in your Employment Agreement [IF APPLICABLE], dated \_\_\_\_\_, nothing herein shall modify your status as an at-will employee of the Company or any Parent or Subsidiary. Further, nothing herein guarantees you employment for any specified period of time. This means that, except as provided in the Employment Agreement, either you or the Company or any Parent or Subsidiary may terminate your employment at any time for any reason, with or without cause, or for no reason. You recognize that, for instance, you may terminate your employment or the Company or any Parent or Subsidiary may terminate your employment prior to the date on which your Shares become vested.

**No Effect on Corporate  
Authority**

You understand and agree that the existence of this Agreement will not affect in any way the right or power of the Company or its shareholders to make or authorize any or all adjustments, recapitalizations, reorganizations, or other changes in the Company's capital structure or its business, or any merger or consolidation of the Company, or any issuance of bonds, debentures, preferred or other stocks with preferences ahead of or convertible into, or otherwise affecting the common shares or the rights thereof, or the dissolution or liquidation of the Company, or any sale or transfer of all or any part of its assets or business, or any other corporate act or proceeding, whether of a similar character or otherwise.

**Questions or  
Controversies**

In the event that any question or controversy shall arise with respect to the nature, scope or extent of any one or more rights conferred by this Agreement, or any provision of this Agreement, the determination in good faith by the Board of Directors of the Company (as constituted at the time of such determination) of your rights under this Agreement shall be conclusive, final and binding upon you and upon any other person who shall assert any right pursuant to this Agreement.

**Governing Law**

The laws of the State of Delaware will govern all matters relating to this Agreement, without regard to the principles of conflict of laws.

**Notices**

Any notice you give to the Company must be in writing and either hand-delivered or mailed to the office of the Chief Financial Officer of the Company. If mailed, it should be addressed to the Chief Financial Officer of the Company at its then main headquarters. Any notice given to you will be addressed to you at your address as reflected on the personnel records of the Company. You and the Company may change the address for notice by like notice to the other. Notice will be deemed to have been duly delivered when hand-delivered or, if mailed, on the day such notice is postmarked.

**Agreement Subject to  
Plan; Entire Agreement**

This Agreement shall be subject to the terms of the Plan in effect on the date hereof, which terms are hereby incorporated herein by reference and made a part hereof. Capitalized terms used herein and not otherwise defined herein shall have the meaning given to such terms in the Plan. This Agreement constitutes the entire understanding between the Company and you with respect to the subject matter hereof and no amendment, supplement or waiver of this Agreement, in whole or in part, shall be binding upon the Company unless in writing and signed by the Chief Executive Officer of the Company

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**Conflicting Terms**

Wherever a conflict may arise between the terms of this Agreement and the terms of the Plan in effect on the date hereof, the terms of the Plan will control.

Please sign the copy of this Restricted Stock Agreement and return it to the Chief Financial Officer, thereby indicating your understanding of, and agreement with, its terms and conditions.

XCEL BRANDS, INC.

By: \_\_\_\_\_

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**ACKNOWLEDGMENT**

I hereby acknowledge receipt of a copy of the Plan. I hereby represent that I have read and understood the terms and conditions of the Plan and of the Restricted Stock Agreement. I hereby signify my understanding of, and my agreement with, the terms and conditions of the Plan and of the Restricted Stock Agreement. I agree to accept as binding, conclusive, and final all decisions or interpretations of the Board or Committee concerning any questions arising under the Plan with respect to this Restricted Stock Agreement. I accept this Restricted Stock Agreement in full satisfaction of any previous written or oral promise made to me by the Company or any Parent or Subsidiary with respect to option or stock grants.

Date: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
**ADDRESS**

\_\_\_\_\_