

# SECURITIES & EXCHANGE COMMISSION EDGAR FILING

**ADOMANI, INC.**

**Form: 10-Q**

**Date Filed: 2020-08-14**

Corporate Issuer CIK: 1563568

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

**FORM 10-Q**

**QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**  
**FOR THE QUARTERLY PERIOD ENDED JUNE 30, 2020**

or

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

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission File Number: 001-38078

**ADOMANI, INC.**

(Exact name of registrant as specified in its charter)

**Delaware**

(State or other jurisdiction of  
incorporation or organization)

**46-0774222**

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

**4740 Green River Road, Suite 106**

**Corona, CA 92880**

(Address of principal executive offices, including zip code)

**(951) 407-9860**

(Registrant's telephone number, including area code)

**N/A**

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

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, par value \$0.00001 per share	ADOM	OTC Markets Group Inc.

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes  No

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

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

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

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

The number of shares outstanding of the registrant's common stock as of August 3, 2020 was 73,596,960.

ADOMANI, INC. AND SUBSIDIARIES  
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## CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS

This Quarterly Report on Form 10-Q (“Quarterly Report”) contains “forward-looking statements” that involve substantial risks and uncertainties. Forward-looking statements relate to future events or our future financial performance or condition and involve known and unknown risks, uncertainties and other factors that could cause our actual results, levels of activity, performance or achievement to differ materially from those expressed or implied by these forward-looking statements. In some cases, you can identify forward-looking statements by terms such as “anticipate,” “believe,” “could,” “estimate,” “expect,” “intend,” “may,” “plan,” “potential,” “should,” “will” and “would” or the negatives of these terms or other comparable terminology.

You should not place undue reliance on forward-looking statements. The cautionary statements set forth in this Quarterly Report, including in “Risk Factors” and elsewhere, identify important factors which you should consider in evaluating our forward-looking statements. These factors include, among other things:

- Our ability to continue as a going concern.
- Our ability to resolve the funding backlog related to and created by the California Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project (“HVIP”) staff that has to-date prevented us and our customers from accessing the funds, creating a significant delay in our ability to deliver products and to obtain new orders.
- Our ability to generate demand for our zero-emission commercial fleet vehicles, re-power conversion kits, and drivetrain systems in order to generate revenue.
- Our ability to raise capital from external sources for the financing of our operations on terms that are acceptable to us, which, in large part, will depend on our ability to mitigate the impact of certain anti-dilution and other rights contained in our outstanding warrants that have, to date, restricted our ability to obtain such funding.
- Our ability to effectively execute our business plan.
- Our ability and our suppliers’ ability to scale our zero-emission products assembling and converting processes effectively and quickly from low volume production to high volume production.
- Our ability to manage our expansion, growth and operating expenses and reduce and adequately control the costs and expenses associated with operating our business.
- Our ability to obtain, retain and grow our customers.
- Our ability to enter into, sustain and renew strategic relationships on favorable terms.
- Our ability to achieve and sustain profitability.
- Our ability to evaluate and measure our current business and future prospects.
- Our ability to compete and succeed in a highly competitive and evolving industry.
- Our ability to respond and adapt to changes in electric vehicle technology.
- Our ability to protect our intellectual property and to develop, maintain and enhance a strong brand.
- Our ability to respond and adapt to unexpected legal and regulatory changes resulting from the ongoing COVID-19 pandemic, such as shelter-in-place orders, travel, social distancing and quarantine policies, boycotts, curtailment of trade, and other business restrictions affecting our ability to assemble and sell our products, and provide our services.

You should read this Quarterly Report and the documents that we reference elsewhere in this Quarterly Report completely and with the understanding that our actual results may differ materially from what we expect as expressed or implied by our forward-looking statements. Factors that may cause or contribute to such differences include, but are not limited to, those discussed in greater detail, particularly in Part I, Item 2 (Management’s Discussion and Analysis of Financial Condition and Results of Operations) and in Part II, Item 1A (Risk Factors) of this Quarterly Report. In light of the significant risks and uncertainties to which our forward-looking statements are subject, you should not place undue reliance on or regard these statements as a representation or warranty by us or any other person that we will achieve our objectives and plans in any specified timeframe, or at all. These forward-looking statements represent our estimates and assumptions only as of the date of this Quarterly Report regardless of the time of delivery of this Quarterly Report. Except as required by law, we undertake no obligation to update or revise publicly any forward-looking statements, whether as a result of new information, future events or otherwise after the date of this Quarterly Report.

Unless expressly indicated or the context requires otherwise, references in this Quarterly Report to “ADOMANI,” the “Company,” “we,” “our,” and “us” refer to ADOMANI, Inc. and our consolidated subsidiaries, unless the context indicates otherwise.

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## PART I. FINANCIAL INFORMATION

## ITEM 1. FINANCIAL STATEMENTS

**ADOMANI, INC. AND SUBSIDIARIES**  
**CONSOLIDATED BALANCE SHEETS**  
(in thousands, except share data)  
(unaudited)

	June 30, 2020	December 31, 2019
<b>ASSETS</b>		
Current assets:		
Cash and cash equivalents	\$ 884	\$ 4,432
Marketable securities	—	2,771
Accounts receivable	9	661
Notes receivable, net	—	40
Inventory, net	431	494
Prepaid expenses	945	1,197
Other current assets	81	41
Total current assets	2,350	9,636
Property and equipment, net	122	112
Other non-current assets	783	569
Total assets	\$ 3,255	\$ 10,317
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
Current liabilities:		
Accounts payable	\$ 610	\$ 418
Accrued liabilities	732	649
Notes payable, net	115	—
Line of credit	—	5,820
Total current liabilities	1,457	6,887
Long-term liabilities		
Notes payable, net	297	—
Other non-current liabilities	305	148
Total liabilities	2,059	7,035
Commitments and contingencies		
Stockholders' equity:		
Preferred stock, 5,000,000 authorized \$0.00001 par value, none issued and outstanding as of June 30, 2020 and December 31, 2019	—	—
Common stock, 350,000,000 authorized \$0.00001 par value, 73,508,069 and 73,125,538 issued and outstanding as of June 30, 2020 and December 31, 2019, respectively	1	1
Additional paid-in capital	62,746	62,459
Accumulated deficit	(61,551)	(59,178)
Total stockholders' equity	1,196	3,282
Total liabilities and stockholders' equity	\$ 3,255	\$ 10,317

*See Accompanying Notes to Unaudited Consolidated Financial Statements.*

**ADOMANI, INC. AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENTS OF OPERATIONS**  
(in thousands, except share and per share data)  
(unaudited)

	For the Three Months Ended		For the Six Months Ended	
	June 30, 2020	June 30, 2019	June 30, 2020	June 30, 2019
Sales	\$ 130	\$ 4,388	\$ 413	\$ 4,808
Cost of sales	83	4,063	163	4,454
Gross profit	47	325	250	354
Operating expenses				
General and administrative	1,102	1,461	2,532	2,858
Consulting	58	77	102	154
Research and development	—	103	—	148
Total operating expenses, net	1,160	1,641	2,634	3,160
Loss from operations	(1,113)	(1,316)	(2,384)	(2,806)
Other income:				
Interest income, net	7	2	15	28
Other income (expense)	1	20	(4)	35
Total other income	8	22	11	63
Loss before income taxes	(1,105)	(1,294)	(2,373)	(2,743)
Income tax expense	—	—	—	—
Net loss	\$ (1,105)	\$ (1,294)	\$ (2,373)	\$ (2,743)
Net loss per share to common stockholders:				
Basic and diluted	\$ (0.02)	\$ (0.02)	\$ (0.03)	\$ (0.04)
Weighted shares used in the computation of net loss per share:				
Basic and diluted	73,387,815	72,860,560	73,289,623	72,829,372

*See Accompanying Notes to Unaudited Consolidated Financial Statements.*

**ADOMANI, INC. AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY**  
(in thousands, except per share data)  
(unaudited)

	Common Stock		Additional Paid-In Capital	Accumulated Deficit	Stockholders' Equity
	Shares	Amount			
<b>Balance, December 31, 2018</b>	72,732,292	\$ 1	\$ 61,628	\$ (54,025)	\$ 7,604
Common stock issued for services	30,161	—	10	—	10
Stock based compensation	—	—	253	—	253
Common stock issued for stock options exercised	71,084	—	7	—	7
Net loss	—	—	—	(1,449)	(1,449)
<b>Balance, March 31, 2019</b>	72,833,537	\$ 1	\$ 61,898	\$ (55,474)	\$ 6,425
Common stock issued for services	42,649	—	15	—	15
Stock based compensation	—	—	275	—	275
Net loss	—	—	—	(1,294)	(1,294)
<b>Balance, June 30, 2019</b>	72,876,186	\$ 1	\$ 62,188	\$ (56,768)	\$ 5,421
Common stock issued for services	107,854	—	15	—	15
Stock based compensation	—	—	202	—	202
Net loss	—	—	—	(1,218)	(1,218)
<b>Balance, September 30, 2019</b>	72,984,040	\$ 1	\$ 62,405	\$ (57,986)	\$ 4,420
Common stock issued for services	141,498	—	15	—	15
Stock based compensation	—	—	39	—	39
Net loss	—	—	—	(1,192)	(1,192)
<b>Balance, December 31, 2019</b>	73,125,538	\$ 1	\$ 62,459	\$ (59,178)	\$ 3,282
Common stock issued for services	104,824	—	15	—	15
Stock based compensation	—	—	200	—	200
Net loss	—	—	—	(1,268)	(1,268)
<b>Balance, March 31, 2020</b>	73,230,362	\$ 1	\$ 62,674	\$ (60,446)	\$ 2,229
Common stock issued for services	277,707	—	26	—	26
Stock based compensation	—	—	46	—	46
Net loss	—	—	—	(1,105)	(1,105)
<b>Balance, June 30, 2020</b>	73,508,069	\$ 1	\$ 62,746	\$ (61,551)	\$ 1,196

*See Accompanying Notes to Unaudited Consolidated Financial Statements.*

**ADOMANI, INC. AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS**  
(in thousands)  
(unaudited)

	Six Months Ended	
	June 30, 2020	June 30, 2019
<b>Cash flows from operating activities:</b>		
Net loss	\$ (2,373)	\$ (2,743)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	24	23
Stock based compensation expense	246	528
Common stock issued for services	41	25
Provision for bad debt	100	—
Changes in assets and liabilities:		
Accounts receivable	653	(1,670)
Notes receivable	(12)	—
Inventory	63	—
Prepaid expenses	252	—
Other current assets	(41)	(587)
Other non-current assets	(283)	35
Accounts payable	191	2,124
Accrued liabilities	85	(114)
Other non-current liabilities	156	(35)
Net cash used in operating activities	<u>(898)</u>	<u>(2,414)</u>
<b>Cash flows from investing activities:</b>		
Purchase of property and equipment, net	(11)	(11)
Investment in note receivable, net	—	(38)
Net sales (purchases) of marketable securities	2,770	(1,106)
Net cash provided by (used in) investing activities	<u>2,759</u>	<u>(1,155)</u>
<b>Cash flows from financing activities:</b>		
Advances on line of credit	150	3,400
Principal repayments on line of credit	(5,970)	(800)
Proceeds from SBA loans	411	—
Proceeds from exercise of stock options	—	7
Net cash provided by (used in) financing activities	<u>(5,409)</u>	<u>2,607</u>
Net change in cash and cash equivalents	(3,548)	(962)
Cash and cash equivalents at the beginning of the period	4,432	3,759
Cash and cash equivalents at the end of the period	<u>\$ 884</u>	<u>\$ 2,797</u>
Supplemental cash flow disclosures:		
Cash paid for interest expense	<u>\$ 32</u>	<u>\$ 51</u>
Cash paid for income taxes	<u>\$ —</u>	<u>\$ —</u>
Non-cash transactions:		
Assets received offsetting notes receivable	<u>\$ 22</u>	<u>\$ —</u>
Equipment transferred against note receivable	<u>\$ —</u>	<u>\$ 7</u>

*See Accompanying Notes to Unaudited Consolidated Financial Statements.*

## 1. Organization and Operations

ADOMANI, Inc. (“we”, “us”, “our” or the “Company”) is a provider of new purpose-built zero-emission electric vehicles focused on total cost of ownership. We are also a provider of advanced zero-emission electric drivetrain systems for integration in new buses and medium to heavy-duty commercial fleet vehicles. The Company also provides re-power conversion kits to replace conventional drivetrain systems for combustion powered vehicles with zero-emission electric drivetrain systems. The Company’s vehicles and drivetrain systems are designed to help fleet operators unlock the benefits of green technology and address the challenges of local, state and federal regulatory compliance and traditional-fuel price cost instability.

## 2. Summary of Significant Accounting Policies

**Basis of Presentation**—The consolidated financial statements and related disclosures as of June 30, 2020 and for the fiscal periods ended June 30, 2020 and 2019 are unaudited, pursuant to the rules and regulations of the United States Securities and Exchange Commission (“SEC”). Certain information and footnote disclosures normally included in financial statements prepared in accordance with U.S. generally accepted accounting principles (“GAAP”) have been condensed or omitted pursuant to such rules and regulations. In our opinion, these unaudited financial statements include all adjustments (consisting only of normal recurring adjustments) necessary for the fair statement of the results for the interim periods. These unaudited financial statements should be read in conjunction with our audited financial statements for the years ended December 31, 2019 and 2018 included in our Annual Report on Form 10-K for the fiscal year ended December 31, 2019. The results of operations for the fiscal period ended June 30, 2020 are not necessarily indicative of the results to be expected for the full year.

**Going Concern**— As of June 30, 2020, we had cash and cash equivalents of \$883,949. We do not believe that our existing cash and cash equivalents and short-term investments will be sufficient to fund our operations during the next eighteen months unless we are able to resolve the California Air Resources Board’s Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project (“HVIP”) funding issues created by the HVIP staff in the near-term or we are able to mitigate the impact of certain anti-dilution and other rights contained in our outstanding warrants that have, to date, restricted our ability to raise additional debt or equity capital on terms that are acceptable to us. Such determination that our present capital resources will likely not be sufficient to fund our planned operations for the eighteen months following the date of this Quarterly Report raises substantial doubt about our ability to continue as a going concern.

In the event we are unable to resolve the HVIP funding issues in the near-term and successfully execute our business plan, we will likely need additional capital to continue our operations and support the increased working capital requirements associated with the fulfillment of purchase orders.

The sale of additional equity securities in the future could result in additional dilution to our stockholders and those securities may have rights senior to those of our common stock. In particular, the warrants issued and sold in our January 2018 public offering include anti-dilution rights, which provide that if, at any time the warrants are outstanding, we issue or are deemed to have issued any shares of common stock or securities that are convertible into or exchangeable for shares of common stock (except for certain exempt issuances, including the issuance of certain stock options, shares of common stock upon the exercise of securities outstanding prior to January 2018 and securities issued in connection with certain acquisitions or strategic transactions) for consideration less than the then current exercise price of the warrants, which is currently \$4.50 per share and subject to adjustment pursuant to the terms thereof, the exercise price of such warrants is automatically reduced to the price per share of such new issuance. Further, simultaneously with any adjustment to the exercise price of such warrants, the number of shares of common stock that may be purchased upon exercise of such warrants will be increased or decreased proportionately, such that after such adjustment the aggregate exercise price payable thereunder for the adjusted number of shares of common stock underlying such warrants will be the same as the aggregate exercise price in effect immediately prior to such adjustment. To the extent that we issue or are or deemed to have issued securities for consideration that is substantially less than the exercise price of the warrants issued in our January 2018 public offering, holders of our common stock will experience dilution, which may be substantial and which could lower the

market price of our securities. Further, the potential application of such anti-dilution rights has, to date, restricted our ability to obtain additional financing on terms that are acceptable to us. In the event that we are unable to mitigate the impact of such anti-dilution rights and raise additional capital to finance our operations and continue to support our growth initiatives, we may not be able to continue as a going concern and may be forced to curtail all of our activities and, ultimately, cease our operations.

**Principles of Consolidation**—The accompanying financial statements reflect the consolidation of the individual financial statements of ADOMANI, Inc., ADOMANI California, Inc., Adomani (Nantong) Automotive Technology Co. Ltd., ADOMANI ZEV Sales, Inc., formerly known as School Bus Sales of California, Inc., Zero Emission Truck and Bus Sales of Arizona, Inc., and ZEV Resources, Inc. All significant intercompany accounts and transactions have been eliminated.

**Use of Estimates**—The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the reporting period. Actual results could differ from those estimates.

**Fair Value of Financial Instruments**—The carrying values of our financial instruments, including cash, notes receivable and accounts payable approximate their fair value due to the short-term nature of these financial instruments. Financial Accounting Standards Board (“FASB”) Accounting Standards Codification (“ASC”) No. 820, “Fair Value Measurement” defines fair value as the exchange price that would be received for an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. It also establishes a three-tier fair value hierarchy, which prioritizes the inputs used in measuring fair value as follows:

Level 1: Observable inputs such as quoted prices in active markets;

Level 2: Inputs, other than the quoted prices in active markets, that are observable either directly or indirectly; and

Level 3: Unobservable inputs that are supported by little or no market data and that require the reporting entity to develop its own assumptions.

The Company does not have any assets or liabilities that are required to be measured and recorded at fair value on a recurring basis.

**Revenue Recognition**— The Company recognizes revenue from the sales of zero-emission electric vehicles; from the sales of zero-emission electric drivetrain systems for fleet vehicles; and from contracting to provide related engineering and, effective February 2020, vehicle maintenance and inspection services. The Company recognizes revenue in accordance with ASC Topic 606, “Revenue from Contracts with Customers”, which requires an entity to recognize revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services.

In applying ASC Topic 606, the Company is required to:

- (1) Identify any contracts with customers.
- (2) Determine if multiple performance obligations exist.
- (3) Determine the transaction price.
- (4) Allocate the transaction price to the respective obligation; and,
- (5) Recognize the revenue as the obligation is satisfied.

As part of the termination agreement with Blue Bird, the Company is to be paid \$5,000 for each electric drivetrain Blue Bird ordered from Cummins Corporation during the period of June 1, 2019 through September 30, 2019. This agreement is a single performance obligation with the Company recognizing revenue upon notification from Blue Bird that delivery has been made to its customer. The final customer delivery by Blue Bird was made in April, 2020; thus, no additional revenue will be recorded by ADOMANI related to the termination agreement.

Product revenue also includes the sale of electric trucks and cargo vans. These sales represent a single performance obligation with revenue recognition occurring at the time title transfers. Transfer of title occurs when the customer has accepted the van and signed the appropriate documentation acknowledging receipt.

The Company is the recipient of a purchase order issued from GerWeiss EV USA LLC ("GerWeiss") to produce all-electric tricycles ("e-trikes"), or all-electric light weight commercial vehicles. The Company has agreed to provide deposits to GerWeiss to fund the procurement of the supplies and assembly of the tricycles. The purchase order represents a single performance obligation with the Company recognizing revenue upon notification that the assembled units have been completed by GerWeiss. Upon the recording of revenue, the corresponding deposits are recorded as cost of goods sold.

Other revenue includes, effective February 2020, performing basic vehicle maintenance and detailing, as well as safety inspections for compliance with United States Department of Transportation guidelines. These sales represent a single performance obligation with revenue recognition occurring at the time services are invoiced.

**Cash and Cash Equivalents**— The Company considers all highly liquid investments purchased with an original or remaining maturity of three months or less to be cash equivalents.

**Marketable Securities**—The Company invests in short-term, highly liquid, marketable securities, such as U.S. Treasury notes, U.S. Treasury bonds, and other government-backed securities. The Company classifies these marketable securities as held-to-maturity, as the intent is not to liquidate them prior to the respective stated maturity date.

**Accounts Receivable and Allowance for Doubtful Accounts**—The Company establishes an allowance for bad debts through a review of several factors including historical collection experience, current aging status of the customer accounts, and financial condition of its customers. The Company does not generally require collateral for its accounts receivable. The Company had trade accounts receivable of \$8,500 and \$661,352 as of June 30, 2020 and December 31, 2019, respectively. Because the trade accounts receivable balance as of June 30, 2020 is immaterial, and because all but \$15,000 of the trade accounts receivable balance as of December 31, 2019, respectively, related to two California government agencies, and was paid to ADOMANI during the three months ended June 30, 2020, no allowance has been recorded relative to the trade accounts receivable balance as of June 30, 2020 and December 31, 2019, respectively.

**Notes Receivables**— The Company also had notes receivable of \$823,848 and \$834,491 as of June 30, 2020 and December 31, 2019, respectively. The Company provided an allowance for notes receivable of \$571,000 and \$471,000 as of June 30, 2020 and December 31, 2019, respectively (see Note 4 below).

**Inventory and Inventory Valuation Allowance**— The Company records inventory at the lower of cost or market, and uses a First In, First Out ("FIFO") accounting valuation methodology. The Company had inventory on hand of \$431,470 and \$494,158 as of June 30, 2020 and December 31, 2019, respectively. The Company provided no inventory allowance as of June 30, 2020 and December 31, 2019, respectively.

**Inventory Deposits**—The Company records all inventory deposits as prepaid assets. Upon completion of production, and acceptance by the Company, deposits are reclassified to either inventory or cost of goods, depending on whether a sale of the product has occurred. The Company had inventory deposits of \$801,204 and \$935,204 as of June 30, 2020 and December 31, 2019, respectively.

**Net Loss Per Share**—Basic net loss per share is calculated by dividing the Company's net loss applicable to common stockholders by the weighted average number of shares of common stock outstanding during the period. Diluted net loss per share is calculated by dividing the Company's net loss applicable to common stockholders by the diluted weighted average number of shares of common stock outstanding during the period. The diluted

weighted average number of shares of common stock outstanding is the basic weighted number of shares of common stock adjusted for any potentially dilutive debt or equity securities. As of June 30, 2020, the Company had 13,904,436 and 7,556,323 stock options and stock warrants outstanding, respectively .

**Concentration of Credit Risk**—The Company has credit risks related to cash and cash equivalents on deposit with a federally insured bank, as at times it exceeds the \$250,000 maximum amount insured by the Federal Deposit Insurance Corporation.

**Impairment of Long-Lived Assets**—Long-lived assets, including property and equipment, are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. The Company evaluates these assets to determine potential impairment by comparing the carrying amount to the undiscounted estimated future cash flows of the related assets. If the estimated undiscounted cash flows are less than the carrying value of the assets, the assets are written down to their fair value. There was no impairment of long-lived assets, or property and equipment, as of June 30, 2020 and December 31, 2019, respectively.

**Research and Development**—Costs incurred in connection with the development of new products and manufacturing methods are charged to operating expenses as incurred. Research and development costs were \$0 and \$147,656 for the six months ended June 30, 2020 and 2019, respectively.

**Stock-Based Compensation**—The Company accounts for employee stock-based compensation in accordance with the guidance of FASB ASC Topic 718, “Compensation-Stock Compensation”, which requires all share-based payments to employees, including grants of employee stock options, to be recognized in the financial statements based on their fair values. The fair value of the equity instrument is charged directly to compensation expense and credited to additional paid-in capital over the period during which services are rendered.

**Property and Equipment**— Property and equipment are stated at cost, less accumulated depreciation and amortization. The Company provides for depreciation using the straight-line method over the estimated useful lives of the assets, which range from three to five years, except leasehold improvements, which are being amortized over the life of the lease term. Property and equipment qualify for capitalization if the purchase price exceeds \$2,000. Major repairs and replacements, which extend the useful lives of equipment, are capitalized and depreciated over the estimated useful lives of the property. All other maintenance and repairs are expensed as incurred.

**Leases**—The Company accounts for leases as required by ASC Topic 842. The guidance requires companies to recognize leased assets and liabilities on the balance sheet and to disclose key information regarding leasing arrangements.

**Recent Accounting Pronouncements**— Management has considered all recent accounting pronouncements issued, but not effective, and does not believe that they will have a significant impact on the Company's financial statements.

### 3. Property and Equipment, Net

On February 3, 2020, the Company purchased substantially all of the assets of Ebus, Inc. ("Ebus") at a foreclosure sale via a credit bid (see Note 4). In March 2020, the Company obtained possession of certain of these assets, with an estimated fair-market value of approximately \$22,440. These assets have been recorded as "Machinery & equipment" on the schedule below.

Components of property and equipment, net, consist of the following as of June 30, 2020 and December 31, 2019:

	June 30 2020	December 31, 2019
Furniture and fixtures	\$ 41,799	\$ 41,799
Leasehold improvements	35,042	23,338
Computers	59,668	59,667
Machinery & equipment	22,440	—
Vehicles	72,299	72,299
Test/Demo vehicles	15,784	15,784
Total property and equipment	\$ 247,032	\$ 212,887
Less accumulated depreciation	(124,734)	(101,044)
Net property and equipment	\$ 122,298	\$ 111,843

Depreciation expense was \$12,174 and \$11,678 for the three months ended June 30, 2020 and 2019, respectively, and \$23,690 and \$23,354 for the six months ended June 30, 2020 and 2019, respectively.

### 4. Notes Receivable

On February 3, 2020, the Company acquired substantially all of the assets of Ebus in a foreclosure sale through a credit bid in the amount of \$582,000, representing the amount then owed by Ebus to the Company on its note receivable. Following the Company's successful credit bid at the foreclosure sale, Ebus's obligations under the note were extinguished and the Company was entitled to take possession of substantially all of the assets of Ebus. In March 2020, the Company obtained possession of certain of the assets with an estimated fair market value of approximately \$22,440 (see Note 3). However, the Company has not been able to take possession of the rest of the assets. On April 13, 2020, the Company commenced an action in Los Angeles Superior Court against Ebus and certain of its insiders and affiliates seeking to recover the remainder of the assets and related damages (see Note 10). On April 13, 2020, the Company commenced an action in Los Angeles Superior Court against Ebus and certain of its insiders and affiliates seeking to recover the remainder of the assets and related damages (see Note 10). In June 2020, the Company recorded an additional \$100,000 allowance as bad debt expense against the amount receivable based on a revised assessment of recoverability from the assets obtained. The Company continues to evaluate several paths to obtaining the remaining assets that were purchased from Ebus at the foreclosure sale.

The Company loaned \$200,000 pursuant to a secured promissory note to an unaffiliated third party in the energy storage technology industry in September 2018. The stated interest rate under the note is 9% per annum and any unpaid interest will become part of the principal balance after one year and will compound accordingly. The amount outstanding under the note will automatically convert into preferred stock of the borrower in connection with a financing that results in aggregate gross proceeds to the borrower of at least \$500,000. Additionally, the Company may optionally convert into preferred stock of the borrower any or all of the amount outstanding under the note at any time. The note is secured by substantially all of the assets of the borrower and is scheduled to mature on December 31, 2020 unless conversion of the note occurs prior to that date. In May 2019, the Company loaned an additional \$38,000 pursuant to a secured promissory note to the same unaffiliated third party. The note carries the same terms and conditions as the initial note, but is scheduled to mature on March 31, 2020. The total unpaid principal and accrued interest, as of December 31, 2019, was \$39,995. During September through December 2019, accrued interest totaling \$23,496 on the original \$200,000 note, that had accrued between September 2018 and December 2019, was reclassified to principal. In December 2019, the Company recorded a \$100,000 allowance as bad debt expense against the original \$200,000 note based on a preliminary assessment of collectability. Although the original note matures on December 31, 2020, due to the uncertain timing of collection, the principal and unpaid interest of \$223,496 remain classified as a non-current asset on the consolidated balance sheet as of December 31, 2019. The additional \$38,000, which was scheduled to mature on March 31, 2020, was unpaid as of that date. The Company originally agreed to provide the third party until June 30, 2020 for the note to be repaid, as the third party had contracted financing to be funded by that date, which would, in part, be used to repay the note. However, while a term sheet between the third party and their lender was signed prior to June 30, 2020, the third party revealed to the Company that loan funding will not occur until sometime in Q3 2020 and, as such, repayment of the note will

occur at that time. Between March 31, 2020 and the date of repayment of the note, interest will accrue at the stated rate of 9% plus the default rate of 4%, as prescribed in the note. Though the Company feels comfortable that the principal and accrued, but unpaid, interest will be repaid during Q3 2020, as a conservative measure, existing amounts have been reclassified as a non-current asset, and no additional allowance has been recorded. The total principal and unpaid interest of both of these notes was \$275,988 and \$263,491 as of June 30, 2020 and December 31, 2019, respectively .

## 5. Debt

As of December 31, 2019, the principal amount outstanding under the Morgan Stanley line of credit was approximately \$5.8 million, and the undrawn borrowing availability was \$820,948. On February 3, 2020, the Company sold marketable securities and paid off the balance, including accrued interest, of the line of credit.

On May 6, 2020, the Company received \$261,244 in loan funding from the Paycheck Protection Program (the "PPP") established pursuant to the recently enacted Coronavirus Aid, Relief, and Economic Security Act of 2020 (the "CARES Act") and administered by the U.S. Small Business Administration ("SBA"). The unsecured loan (the "PPP Loan") is evidenced by a promissory note of the Company, dated May 3, 2020 (the "Note") in the principal amount of \$261,244 with Wells Fargo Bank, N.A. (the "Bank"), the lender. The PPP provides for loans to qualifying businesses for amounts up to 2.5 times of the average monthly payroll expenses of the qualifying business. The loans and accrued interest are forgivable after eight weeks, or, if elected by the Company, twenty-four weeks, in either case, as long as the borrower uses the loan proceeds for eligible purposes, including payroll, benefits, rent and utilities, and maintains its payroll levels. The amount of loan forgiveness will be reduced if the borrower terminates employees or reduces salaries during the eight-week or twenty-four week period, as applicable. Under the terms of the Note and the PPP, interest accrues on the outstanding principal at the rate of 1.0% per annum. The term of the Note is two years, though it may be payable sooner in connection with an event of default under the Note. To the extent the loan amount is not forgiven under the PPP, the Company will be obligated to make equal monthly payments of principal and interest beginning on November 1, 2020 through the maturity date of May 3, 2022. The Company intends to file its forgiveness application during August 2020, and it is the Company's belief that, at that time, they will have satisfied all requirements for full forgiveness of the loan. The Company anticipates the net amount forgiven will be \$251,244, which is the principal amount of \$261,244, less \$10,000 that was advanced as part of the Company's application for the EIDL loan (see below). Any EIDL advance must be repaid as part of the PPP loan forgiveness process. As of June 30, 2020, the principal and accrued interest on this note is \$261,680, of which \$115,331 and \$146,349 is reflected on the consolidated unaudited balance sheets as current and long-term liabilities, respectively.

On May 20, 2020, the Company received \$150,000 in loan funding from the U.S. SBA under the Economic Injury Disaster Loan ("EIDL") program administered by the SBA, which program was expanded pursuant to the recently enacted CARES Act. The EIDL is evidenced by a promissory note, dated May 17, 2020 (the "Note") in the original principal amount of \$150,000 with the SBA, the lender. Under the terms of the Note, interest accrues on the outstanding principal at the rate of 3.75% per annum. The term of the Note is thirty years, though it may be payable sooner upon an event of default under the Note. Under the Note, the Company will be obligated to make equal monthly payments of principal and interest beginning on May 17, 2021 through the maturity date of May 17, 2051. The Note may be prepaid in part or in full, at any time, without penalty. As of June 30, 2020, the principal and accrued interest on this note is \$150,939, of which \$0 and \$150,939 is reflected on the consolidated unaudited balance sheets as current and long-term liabilities, respectively.

## 6. Common Stock

Effective January 1, 2020, the Company renewed its agreement with a consultant to provide sales and marketing expertise. The consultant is to be paid \$8,200 per month, consisting of \$3,200 in cash and \$5,000 of common stock. The number of shares of common stock to be issued is determined by the Company's closing stock price on the last market day of the respective preceding month. For the six months ended June 30, 2020 and 2019, the Company issued 266,420 and 72,810 shares of common stock to the consultant, respectively. As of June 30, 2020, the Company has issued a total of 588,582 shares of common stock to the consultant. On July 1, 2020 and August 1, 2020, the Company issued 21,844 and 19,739 shares of common stock to the consultant, respectively, and, as of August 1, 2020, the Company has issued a total of 630,165 shares of common stock to the consultant (see Note 12).

Effective March 31, 2020, the Company hired a consultant with expertise in the public funding process for the State of California. The consultant is to be paid \$5,000 per month in common stock, and is entitled to a \$9,000 bonus should the Company receive public funding appropriate to it completing \$2 million in transactions as of June 30, 2020. The number of shares of common stock to be issued is determined by the Company's closing stock price on the last market day of the respective preceding month. Additionally, the consultant is entitled to 1% of the non-publicly funded portion of transactions completed during the term of the agreement and for the six months following. The agreement expired on June 30, 2020. On July 1, 2020, the Company issued 21,844 shares of common stock, and, as of that date, the Company has issued a total of 129,677 shares of common stock to the consultant.

Effective May 21, 2020, the Company hired a consultant with expertise in marketing and public relations strategy. The consultant is to be paid \$2,500 per month in common stock. The number of shares of common stock to be issued is determined by the average of the Company's closing stock price for respective preceding month. For the six months ended June 30, 2020 and 2019, the Company issued 8,278 and 0 shares of common stock to the consultant, respectively. As of June 30, 2020, the Company has issued a total of 8,278 shares of common stock to the consultant. On July 1, 2020 and August 1, 2020, the Company issued 16,743, and 8,721 shares of common stock to the consultant, respectively and, as of August 1, 2020, the Company has issued a total of 33,742 shares of common stock to the consultant (see Note 12).

## 7. Stock Warrants

As of June 30, 2020, the Company has issued warrants to purchase an aggregate of 7,556,323 shares of common stock. The Company's warrant activity for the six months ended June 30, 2020 is summarized as follows:

	Number of Shares	Weighted Average Exercise Price	Weighted Average Remaining Contractual Life (years)
Outstanding at December 31, 2019	7,556,323	\$ 4.45	2.8
Granted	—	\$ —	—
Forfeited	—	—	—
Outstanding at June 30, 2020	7,556,323	\$ 4.45	2.3
Exercisable at June 30, 2020	7,556,323	\$ 4.45	2.3

As of June 30, 2020, the outstanding warrants have no intrinsic value.

## 8. Stock-Based Compensation

Effective January 2, 2020, the Company entered into consulting agreement with Suneel Sawant under which Mr. Sawant will perform certain services for the Company, including, among other things, services related to the establishment, maintenance, and management of a network for the sale its zero-emission vehicles and related products and services to customers located in India. As full compensation for the services to be provided by Mr. Sawant under the agreement, the Company agreed to grant Mr. Sawant options to purchase up to 2,000,000 shares of the Company's common stock, all fully vested and exercisable on the grant date. One million of the shares subject to these options have an exercise price of \$0.50 per share and will expire if not exercised on or before December 31, 2020, and the remaining 1,000,000 shares subject to the options have an exercise price of \$1.00 per share and will

expire if not exercised on or before December 31, 2021. The options were valued using the Black-Scholes option-pricing model, resulting in fair market values of \$76,299 and \$86,099 for the options expiring on December 31, 2020 and 2021, respectively. The assumptions used in the valuation of the options expiring on December 31, 2020 included an expected term of one year, volatility of 172.40%, and a risk-free interest rate of 1.56%. The assumptions used in the valuation of the options expiring on December 31, 2021 included an expected term of two years, volatility of 155%, and a risk-free interest rate of 1.58%. Because these options were fully vested and exercisable as of the grant date, the combined fair market value of \$162,398 was recorded as stock based compensation expense during the period ending March 31, 2020. Should the Company's agreement with Mr. Sawant be terminated for any reason, any unexercised options shall be forfeited.

On March 6, 2018, Edward R. Monfort ceased serving as the Company's Chief Technology Officer. Upon Mr. Monfort's separation from service, the Company's board of directors suspended Mr. Monfort's outstanding options. Although such options remained outstanding, they were unexercisable as of December 31, 2019. As of December 31, 2019, outstanding options to purchase an aggregate of 14,297,902 shares of common stock were attributable to Mr. Monfort. Effective as of January 29, 2020, all such options were cancelled by the Company in connection with the settlement of Mr. Monfort's claims against the Company.

In May 2020, the Company's board of directors granted to certain employees and directors options to purchase an aggregate of 2,235,000 shares of common stock pursuant to the Company's 2017 Equity Incentive Plan. The options are for a contractual term of 10 years, vest over a three-year period, with one-third of the options vesting on the one-year anniversary of the grant date and the remainder vesting in equal monthly installments thereafter, subject to a grantee's continuous service to the Company through each such vesting date. The exercise price for these options is \$0.12 per share. The options were valued using the Black-Scholes option-pricing model, resulting in a fair market value of \$204,933. The assumptions used in the valuation included an expected term of 5.75 years, volatility of 147.50% and a risk-free interest rate of 0.50%.

Stock option activity for the six months ended June 30, 2020 is as follows:

	Number of Shares	Weighted Average Exercise Price	Weighted Average Remaining Contractual Life (years)
Outstanding at December 31, 2019	25,617,338	\$ 0.16	1.9
Granted	4,235,000	\$ 0.42	
Exercised	—	\$ —	
Canceled/Forfeited	(15,947,902)	\$ 0.14	
Outstanding at June 30, 2020	13,904,436	\$ 0.26	3.6
Exercisable at June 30, 2020	10,935,545	\$ 0.27	2.0

Stock-based compensation expense was \$46,093 and \$274,646 for the three months ended June 30, 2020 and 2019 respectively, and \$246,433 and \$527,542 for the six months ended June 30, 2020 and 2020, respectively, and is included in general and administrative expense in the accompanying unaudited consolidated statements of operations. As of June 30, 2020, the Company expects to recognize approximately \$373,412 of stock-based compensation expense for the non-vested portion of outstanding options over a weighted-average period of 2.2 years.

As of June 30, 2020, outstanding options have an intrinsic value of \$1.3 million.

## 9. Commitments

### **Operating Leases**

In January 2020, the Company renewed its lease for office space in Los Altos, California, which serves as office space for its Northern California operations. This lease expires December 31, 2020, and the total amount due under the renewal is \$6,432.

In February 2017, the Company signed a lease for storage space in Stockton, California to serve as a location to store vehicles and other equipment utilized for marketing and trade-show purposes. The lease is on a month-to-month basis and can be terminated by either party with 30-days' notice. The total amount due monthly is \$1,000.

In October 2017, the Company signed a non-cancellable lease for its corporate office space in Corona, California, to serve as its corporate headquarters. The lease is for a period of 65 months, terminating February 28, 2023. The base rent for the term of the lease is \$568,912. The total amount due monthly is \$7,600 at commencement and will escalate to \$10,560 by its conclusion. Additionally, the lease includes five months in which no rent payment is due.

In December 2019, the Company signed a lease for warehouse space in Corona, California. The facility will be used to conduct research and development activity, stage materials, assemble and/or manufacture vehicles, perform pre-delivery inspections, test demo vehicles, and securely store vehicles, equipment, parts and finished vehicle inventories. The lease is for a period of 36 months, commencing on January 1, 2020, and terminating on December 31, 2022. The base rent for the term of the lease is \$495,720, with \$265 due per month for fire sprinkler alarm monitoring and landscape maintenance. The base rent amount due monthly is \$13,108 at commencement and will escalate to \$13,906 by its conclusion.

On February 4, 2020, the Company signed a sublease agreement with Masters Transportation, Inc. ("Masters") for Masters to occupy a portion of the Corona, California, facility that the Company occupied effective January 1, 2020 (see above). The effective date of the Masters' sublease is February 1, 2020, and it expires when the Company's lease on the Corona, California facility expires on December 31, 2022. Under the sublease, Masters is obligated to pay the Company monthly rent payments in an amount equal to \$6,000 at commencement and thereafter escalating to \$6,365 by its conclusion.

### **Other Agreements**

In November 2019, the Company renewed its agreement with THINKP3 to provide services with the goal of securing federal grant assistance for development of the Company's zero-emission and hybrid transportation solutions for school bus, commercial, government and utility fleets. The agreement expires on November 30, 2020. Fees for these services are \$8,000 per month. Due to the COVID-19 pandemic, effective March 1, 2020, it was mutually agreed that the fee for services would be reduced to \$4,000 per month until both parties agree it should be restored. The contract can be terminated by either party with 30-days' advance notice.

Effective September 16, 2019, the Company renewed its employment agreement with James L. Reynolds, its Chief Executive Officer. The term of the renewed employment agreement is five years, with an annual base salary of \$294,000. The agreement includes an annual car allowance of \$18,000.

In June 2019, the Company entered into an agreement with Renmark Financial Communications USA, Inc. to provide investor relations services. Fees for these services are \$6,500 per month. Due to the COVID-19 pandemic, effective March 1, 2020, it was mutually agreed that the fee for services would be reduced to \$3,250 per month through July 2020.

Effective January 1, 2017, the Company entered into an employment agreement with Michael Menerey, its Chief Financial Officer. The term of the employment agreement is five years and the agreement provides for an annual base salary of \$200,000. Effective January 1, 2020, Mr. Menerey's annual base salary was increased to \$215,000.

The following table summarizes the Company's future minimum payments under contractual commitments, excluding debt, as of June 30, 2020:

	Payments due by period				
	Total	Less than one year	1 - 3 years	4 - 5 years	More than 5 years
Operating lease obligations	\$ 563,658	\$ 212,994	\$ 350,664	\$ —	\$ —
Employment contracts	1,622,500	527,000	731,500	364,000	—
Total	\$ 2,186,158	\$ 739,994	\$ 1,082,164	\$ 364,000	\$ —

## 10. Contingencies

On August 23, 2018, a purported class action lawsuit captioned *M.D. Ariful Mollik v. ADOMANI, Inc. et al.*, Case No. RIC 1817493, was filed in the Superior Court of the State of California for the County of Riverside against us, certain of our executive officers (together, the "Company Defendants"), Edward R. Monfort, our former Chief Technology Officer and former director, and the two underwriters of our offering of common stock under Regulation A in June 2017. This complaint alleges that documents related to our offering of common stock under Regulation A in June 2017 contained materially false and misleading statements and that all defendants violated Section 12(a)(2) of the Securities Act, and that we and the individual defendants violated Section 15 of the Securities Act, in connection therewith. The plaintiff seeks on behalf of himself and all class members: (i) certification of a class under California substantive law and procedure; (ii) compensatory damages and interest in an amount to be proven at trial; (iii) reasonable costs and expenses incurred in this action, including counsel fees and expert fees; (iv) awarding of rescission or rescissory damages; and (v) equitable relief at the discretion of the Court. Plaintiff's counsel has subsequently filed a first amended complaint, a second amended complaint, and a third amended complaint. Plaintiff Mollik was replaced by putative class representatives Alan K. Brooks and Electric Drivetrains, LLC. Alan K. Brooks was subsequently dropped as a putative class representative.

On October 25, 2019, we answered the third amended complaint, generally denying the allegations and asserting affirmative defenses. On November 5, 2019, Network 1 and Boustead Securities (together the "Underwriters") filed a cross-complaint against the Company seeking indemnification under the terms of the underwriting agreement the Company and the Underwriters entered for the Company's initial public offering (the "Underwriting Agreement"). On December 10, 2019, the Company filed its answer to the Underwriters' cross-complaint, generally denying the allegations and asserting affirmative defenses. Also on this date, the Company filed a cross-complaint against the Underwriters seeking indemnification under the terms of the Underwriting Agreement. On January 14, 2020, Mr. Monfort filed a cross-complaint against the Underwriters seeking indemnification under the terms of the Underwriting Agreement. On January 15, 2020, Mr. Monfort filed a cross-complaint against the Company seeking indemnification under the terms of the Company's Amended and Restated Bylaws and Section 145 of the Delaware General Corporation Law. On February 18, 2020 we filed an answer to Mr. Monfort's cross-complaint, generally denying the allegations and asserting affirmative defenses.

On April 6, 2020, the Company Defendants, Mr. Monfort, and Plaintiff Electric Drivetrains engaged in mediation. The Underwriters declined to participate in the mediation. The mediation did not result in settlement. On April 16, 2020, Electric Drivetrains requested that defendants stipulate to Electric Drivetrains' filing a fourth amended complaint. Defendants declined to stipulate to the fourth amended complaint, leading Electric Drivetrains to file a motion to amend the complaint. A hearing on this motion and a status conference are set for August 12, 2020. We believe that the purported class action lawsuit is without merit and intend to vigorously defend the action.

On June 19, 2019, Alan K. Brooks, an ADOMANI investor, filed a complaint, captioned *Alan K. Brooks v. ADOMANI, Inc., et al.*, Case No. 1-CV-349153 in the Superior Court of California for the County of Santa Clara, against the Company, certain of the Company's executive officers and directors, one of the underwriters (the "Underwriter") of the Company's offering of common stock under Regulation A in June 2017, and certain of the Underwriter's personnel, among others. The complaint alleges that the Company and other defendants breached the terms of an agreement between Mr. Brooks and the Company by refusing to release 1,320,359 shares of ADOMANI, Inc. stock to Mr. Brooks. Mr. Brooks seeks damages of \$13,500,000.00 plus interest and attorney's fees. On September 20, 2019, Mr. Brooks filed his first amended complaint ("FAC") reasserting his breach of

contract claim and alleging five additional claims for (i) violations of Cal. Corp. Code Section 25401, (ii) fraud, (iii) negligent misrepresentation, (iv) elder abuse, and (v) unfair competition. We answered the FAC on November 12, 2019, generally denying the allegations in the FAC and asserting affirmative defenses. On January 9, 2020, the Underwriter filed a notice of related case, notifying the court of *Mollik v. ADOMANI, et al.*, described above. On January 31, 2020, the Underwriter filed a motion to stay proceedings. The court heard the motion to stay on May 21, 2020 and took the matter under submission. The court subsequently issued a written order denying the motion to stay. A case management conference is scheduled in this matter for September 15, 2020. We believe that the lawsuit is without merit and intend to vigorously defend the action.

On April 13, 2020, the Company filed a complaint against Ebus, Inc., Anders B. Eklov and Carol J. Eklov, Case No. 20ST-CV14275, in the Superior Court of California for the County of Los Angeles seeking to recover the remainder of the assets acquired by the Company through a credit bid in the amount of \$582,000 at a foreclosure sale initiated by the Company following Ebus's default in its obligations to the Company under a related promissory note. The complaint, among other things, seeks possession of the remainder of the assets and alleges that Ebus and the other defendants improperly converted or used certain of the assets. The Company continues to vigorously pursue such action and continues to evaluate several paths to obtaining the remaining assets that were purchased from Ebus at the foreclosure sale.

#### **11. Leases**

As of June 30, 2020, the Company is a party to four operating leases. All of these leases are office or warehouse leases. As disclosed in Note 2, the Company accounts for leases as required by ASC Topic 842. The Company has elected to apply the short-term lease exception to all leases of one year or less. As of June 30, 2020, this exception applies to the Stockton, California lease, which is month-to-month, and the Los Altos, California lease, which is for a term of one year. In applying the guidance in ASC 842, the Company has determined that all current leases should be classified as operating leases.

During the six months ended June 30, 2020, the Company entered into an operating lease for warehouse space in Corona, California (see Note 9). As required by ASC 842, in conjunction with this lease, the Company recognized an operating liability of \$382,742 with a corresponding Right-Of-Use ("ROU") asset of the same amounts based on the present value of the minimum rental payments of such leases. The discount rate used for this lease is the Company's estimated borrowing rate of 14%. The ROU asset had a balance of \$502,224 and \$218,504 as of June 30, 2020 and December 31, 2019, respectively, which is included in other non-current assets in the consolidated balance sheets. Current liabilities relating to the ROU asset were \$198,076 and \$70,492 as of June 30, 2020 and December 31, 2019, respectively, and non-current liabilities relating to the ROU asset were \$304,148 and \$148,012 as of June 30, 2020 and December 31, 2019, respectively, and are included in accrued liabilities and other non-current liabilities in the unaudited consolidated balance sheets. Cash paid for amounts included in operating lease liabilities was \$107,560 and \$46,184 for the six months ended June 30, 2020 and 2019, respectively. As of June 30, 2020, the Company's operating leases had a weighted-average remaining lease term of 2.5 years.

#### **12. Subsequent Events**

On July 1, 2020 and August 1, 2020, the Company issued a total of 88,891 shares of its common stock to consultants engaged by the Company as partial consideration for such consultant's services (see Note 6).

## ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following discussion of our financial condition and the results of operations should be read in conjunction with the unaudited consolidated financial statements and notes thereto included in this Quarterly Report on Form 10-Q ("Quarterly Report"). This discussion contains forward-looking statements that are subject to known and unknown risks, uncertainties, and other factors that may cause our actual results to differ materially from those expressed or implied by such forward-looking statements. These risks, uncertainties, and other factors include, among others, those identified under the "Cautionary Statement Regarding Forward-Looking Statements" above, and elsewhere in this Quarterly Report, particularly in Part II, Item 1A "Risk Factors," below.

### Overview

We are a provider of new purpose-built zero-emission electric vehicles focused on total cost of ownership. The vehicles are manufactured by outside, original equipment manufacturer ("OEM") partners located in China, Malaysia and the Philippines that can be marketed, sold, warrantied and serviced through our developing distribution and service network. We also are a provider of advanced zero-emission electric drivetrain systems for integration in new buses and medium to heavy-duty commercial fleet vehicles. We also provide re-power conversion kits to replace conventional drivetrain systems for combustion powered vehicles with zero-emission electric drivetrain systems. Our vehicles and drivetrain systems are designed to help fleet operators unlock the benefits of technology that reduces greenhouse gases ("GHG"), nitrous oxide ("NOx"), particulate matter ("PM") and other pollutants, as well as to address the challenges of local, state and federal regulatory compliance and traditional-fuel price cost instability.

For the three months ended June 30, 2020 and 2019, our net losses were \$1.1 million and \$1.3 million, respectively, and \$2.4 million and \$2.7 million for the six months ended June 30, 2020 and 2019, respectively.

### Factors Affecting Our Performance

We believe that the growth and future success of our business depend on various opportunities, challenges and other factors, including the following:

**Availability of government subsidies, rebates and economic incentives.** We believe that the availability of government subsidies, rebates, and economic incentives is currently a critical factor considered by our customers when purchasing our zero-emission systems or converting their existing vehicles to zero-emission-electric or hybrids, and that our growth depends in large part on the availability and amounts of these subsidies and economic incentives. In particular, our business and operating results have been and continue to be significantly affected by our inability to resolve the California HVIP funding backlog created by the program's staff that has to-date prevented us and our customers from accessing the funds, creating a significant delay in our ability to deliver products and to obtain new orders. We are working with the California Air Resources Board and the HVIP to resolve the administrative issues and have hired an experienced lobbyist to supplement our efforts.

**New customers.** We are competing with other companies and technologies to help fleet managers and their districts/companies more efficiently and cost-effectively manage their fleet operations. Once these fleet managers have decided they want to buy from us, we still face challenges helping them obtain financing options to reduce the cost barriers to purchasing. We may also encounter customers with inadequate electrical services at their facilities that may delay their ability to purchase from us.

**Dependence on external sources of financing of our operations.** We have historically depended on external sources for capital to finance our operations. Our ability to raise additional capital on terms that are acceptable to us will depend, in large part, on our ability mitigate the impact of certain anti-dilution rights contained in our outstanding warrants that have, to date, restricted our ability to obtain such funding. In the event that we are unable to raise additional capital necessary to finance our operations and continue to support our growth initiatives, our business and results of operations would be significantly and adversely affected.

**Investment in growth.** We plan to continue to invest for long-term growth. We anticipate that our operating expenses will increase in the foreseeable future as we invest in research and development to enhance our zero-emission electric vehicles and systems; design, develop and manufacture our commercial fleet vehicles and their components; increase our sales and marketing to acquire new customers; and increase our general and administrative functions to support our growing operations. We believe that these investments will contribute to our long-term growth, although they will adversely affect our results of operations in the near term. In addition, the timing of these investments can result in fluctuations in our annual and quarterly operating results.

**Zero-emission electric vehicle experience.** Our dealer and service network is not currently completely established, although we do have certain agreements in place. One issue they may have, and we may encounter, is finding appropriately trained technicians with zero-emission electric fleet vehicle experience. Our performance will depend on having a robust dealer and service network, which will require appropriately trained technicians to be successful. Because vehicles that utilize our technology are based on a different technology platform than traditional internal combustion engines, individuals with sufficient training in zero-emission electric vehicles may not be available to hire, and we may need to expend significant time and expense training the employees we do hire. If we are not able to attract, assimilate, train or retain additional highly qualified personnel in the future, or do so cost-effectively, our performance would be significantly and adversely affected.

**Market growth.** We believe the market for all-electric solutions for alternative fuel technology, specifically all-electric vehicles, will continue to grow as more purchases of new zero-emission vehicles and as more conversions of existing fleet vehicles to zero-emission vehicles are made. However, unless the costs to produce such vehicles decrease dramatically, purchases of our products will continue to depend in large part on financing subsidies from government agencies. We cannot be assured of the continued availability, the amounts of such assistance to our customers, or our ability to access such funds.

**Sales revenue growth from additional products.** We seek to add to our product offerings additional zero-emission vehicles of all sizes manufactured by outside OEM partners, to be marketed, sold, warranted and serviced through our developing distribution and service network, as well as add other ancillary products discussed elsewhere in this report.

**Sales revenue growth from additional geographic markets.** We believe that growth opportunities for our products exist internationally, as well. Our future performance will depend in part upon the growth of these additional markets. Accordingly, our business and operating results will be significantly affected by our ability to timely enter and effectively address these emerging markets and the speed with which and extent to which demand for our products in these markets grows.

**Third-party contractors, suppliers and manufacturers.** We rely upon third parties to supply us with raw materials, parts, components and services in adequate quantity in a timely manner and at reasonable prices, quality levels, and volumes acceptable to us. Significant outbreaks of contagious diseases such as COVID-19, and other adverse public health developments, could have a material impact on our business, financial condition and results of operations. As of April 2020, the outbreak of COVID-19 has led to numerous confirmed cases worldwide, including in the United States. In addition to those who have been directly affected, millions more have been affected by governmental efforts around the world to slow the spread of the outbreak. Accordingly, our future performance will depend in part upon our ability to respond and adapt to unexpected legal and regulatory changes resulting from the ongoing COVID-19 pandemic, such as shelter-in-place orders, travel, social distancing and quarantine policies, boycotts, curtailment of trade, and other business restrictions affecting our ability to assemble and sell our products, and provide our services.

**COVID-19 pandemic.** Our ability to respond and adapt to unexpected legal and regulatory changes resulting from the ongoing COVID-19 pandemic, such as shelter-in-place orders, travel, social distancing and quarantine policies, boycotts, curtailment of trade, and other business restrictions affecting our ability to assemble and sell our products, and provide our services. In May 2020, we were awarded both an EIDL and a PPP loan, both administered by the SBA, as provided for under the CARES Act, and discussed in Note 5 to our unaudited consolidated financial statements included in this Quarterly Report.

## **Components of Results of Operations**

### **Sales**

Sales are recognized from the sales of new, purpose-built zero-emission electric vehicles; zero-emission electric drivetrain systems for fleet vehicles; the sale and/or installation of re-power conversion kits to replace conventional drivetrain systems in combustion powered vehicles with zero-emission electric drivetrain systems; and from contracting to provide engineering services. The Company also began providing vehicle maintenance and safety inspection services. Sales are recognized in accordance with Accounting Standards Codification ("ASC") Topic 606, as discussed in Note 2 to our unaudited consolidated financial statements included in this Quarterly Report.

### **Cost of Sales**

Cost of sales includes those costs related to the development, manufacture, and distribution of our products. Specifically, we include in cost of sales each of the following: material costs (including commodity costs); freight costs; labor and other costs related to the development and manufacture of our products; and other associated costs. Cost of sales for long-term contracts are recognized proportionate to the prescribed gross profit of each contract. Cost of sales also includes costs related to the valuation of inventory due to impairment, obsolescence, or shrinkage.

### **General and Administrative Expenses**

Selling, general and administrative expenses include all corporate and administrative functions that support our company, including personnel-related expense and stock-based compensation costs; costs related to investor relations activities; warranty costs, including product recall and customer satisfaction program costs; consulting costs; marketing-related expenses; and other expenses that cannot be included in cost of sales.

### **Consulting and Research and Development Costs**

These expenses are related to our consulting and research and development activity.

### **Other Income/Expenses, Net**

Other income/expenses include non-operating income and expenses, including interest income and expense.

### **Provision for Income Taxes**

We account for income taxes in accordance with Financial Accounting Standards Board ("FASB") ASC 740 "Income Taxes," which requires the recognition of deferred income tax assets and liabilities for the future tax consequences attributable to differences between the financial statements carrying amounts of existing assets and liabilities and their respective tax bases. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. Under FASB ASC 740, the effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period the enactment occurs. A valuation allowance is provided for certain deferred tax assets if it is more likely than not that we will not realize tax assets through future operations. Because we have incurred only losses to this point, no provision for income taxes has been made.

## **Results of Operations**

The following discussion compares operating data for the three and six months ended June 30, 2020 to the corresponding periods ended June 30, 2019:

### **Sales**

Sales, which were severely impacted by the HVIP-created administrative delays that effectively denied us access to funding, were \$129,590 and \$4.4 million for the three months ended June 30, 2020 and 2019, respectively, and \$413,047 and \$4.8 million for the six months ended June 30, 2020 and 2019, respectively. Sales for the three and six months ended June 30, 2020 consisted of cargo vans sold to SnowCap Community Charities in June and to the City of Orlando Florida in January, fees due us relating to the Blue Bird termination agreement, as discussed in Note 2 to

### **Cost of Sales**

Cost of sales were \$83,076 and \$4.1 million for the three months ended June 30, 2020 and 2019, respectively, and \$162,826 and \$4.5 million for the six months ended June 30, 2020 and 2019, respectively. Cost of sales for the three and six months ended June 30, 2020 consisted of the costs related to the sale of the cargo vans to SnowCap Community Charities and to the City of Orlando, and for maintenance and inspection services provided.

### **General and Administrative Expenses**

General and administrative expenses were approximately \$1.1 million and \$1.5 million for the three months ended June 30, 2020 and 2019. This decrease was primarily due to decreases in stock-based compensation expense, legal and professional fees, and investor relations expenses. General and administrative expenses for the three months ended June 30, 2020 include approximately \$158,267 in non-cash charges, including \$100,000 in bad debt expense, and \$46,093 in stock-based compensation expense.

General and administrative expenses were \$2.5 million and \$2.9 million for the six months ended June 30, 2020 and 2019, respectively. This decrease was primarily related to decreases in stock-based compensation and investor relations expenses. General and administrative expenses for the six months ended June 30, 2020 include approximately \$370,123 in non-cash charges, including \$246,433 in stock-based compensation expense, and \$100,000 in bad debt expense.

### **Consulting Expenses**

Consulting expenses were \$57,995 and \$77,491 for the three months ended June 30, 2020 and 2019, respectively, and \$101,698 and \$154,128 for the six months ended June 30, 2020 and 2019, respectively. These decreases are primarily a result of the absence of grant application and tax credit consulting expenses incurred in 2019 that were not incurred in 2020. Consulting expenses include non-cash charges of \$40,750 and \$25,000 for the six months ended June 30, 2020 and 2019, respectively (see Note 6 to our unaudited consolidated financial statements included in this Quarterly Report).

### **Research and Development Expenses**

Research and development expenses were \$0 and \$102,656 for the three months ended June 30, 2020 and 2019, respectively, and \$0 and \$147,656 for the six months ended June 30, 2020 and 2019, respectively. These decreases are primarily attributable to certain supply chain expenditures for research and development activity in 2019.

### **Liquidity and Capital Resources**

As of June 30, 2020, we had cash and cash equivalents of \$883,949. We do not believe that our existing cash and cash equivalents and short-term investments will be sufficient to fund our operations during the next eighteen months unless we are able to resolve the HVIP funding issues discussed above in the near-term or we are able to mitigate the impact of certain anti-dilution and other rights contained in our outstanding warrants that have, to date, restricted our ability to raise additional debt or equity capital on terms that are acceptable to us. Such determination that our present capital resources will likely not be sufficient to fund our planned operations for the eighteen months following the date of this Quarterly Report raises substantial doubt about our ability to continue as a going concern.

In the event we are unable to resolve the HVIP funding issues in the near-term and successfully execute our business plan, we will likely need additional capital to continue our operations and support the increased working capital requirements associated with the fulfillment of purchase orders.

The sale of additional equity securities in the future could result in additional dilution to our stockholders and those securities may have rights senior to those of our common stock. In particular, the warrants issued and sold in our January 2018 public offering include anti-dilution rights, which provide that if, at any time the warrants are

outstanding, we issue or are deemed to have issued any shares of common stock or securities that are convertible into or exchangeable for shares of common stock (except for certain exempt issuances, including the issuance of certain stock options, shares of common stock upon the exercise of securities outstanding prior to January 2018 and securities issued in connection with certain acquisitions or strategic transactions) for consideration less than the then current exercise price of the warrants, which is currently \$4.50 per share and subject to adjustment pursuant to the terms thereof, the exercise price of such warrants is automatically reduced to the price per share of such new issuance. Further, simultaneously with any adjustment to the exercise price of such warrants, the number of shares of common stock that may be purchased upon exercise of such warrants will be increased or decreased proportionately, such that after such adjustment the aggregate exercise price payable thereunder for the adjusted number of shares of common stock underlying such warrants will be the same as the aggregate exercise price in effect immediately prior to such adjustment. To the extent that we issue or are or deemed to have issued securities for consideration that is substantially less than the exercise price of the warrants issued in our January 2018 public offering, holders of our common stock will experience dilution, which may be substantial and which could lower the market price of our securities. Further, the potential application of such anti-dilution rights has, to date, restricted our ability to obtain additional financing on terms that are acceptable to us. In the event that we are unable to mitigate the impact of such anti-dilution rights and raise additional capital to finance our operations and continue to support our growth initiatives, we may not be able to continue as a going concern and may be forced to curtail all of our activities and, ultimately, cease our operations.

In May 2020, we were awarded both an EIDL and a PPP loan, both administered by the SBA, as provided for under the CARES Act (see Note 5 to our unaudited consolidated financial statements included in this Quarterly Report). The incurrence of additional indebtedness in the future would result in increased debt service obligations and could result in operating and financial covenants that would restrict our operations. Such capital, if required, may not be available on terms that are favorable to us or at all. We are currently incurring operating deficits that are expected to continue for the foreseeable future, and as we begin to execute our marketing plan, we expect our operating deficit will continue to grow until we begin to generate a sufficient level of sales revenue from our sales and marketing efforts. The sale of additional equity securities in the future could result in additional dilution to our stockholders and those securities may have rights senior to those of our common stock. The incurrence of additional indebtedness in the future would result in increased debt service obligations and could result in operating and financial covenants that would restrict our operations. Such capital, if required, may not be available on terms that are favorable to us or at all. We are currently incurring operating deficits that are expected to continue for the foreseeable future, and as we begin to execute our marketing plan, we expect our operating deficit will continue to grow until we begin to generate a sufficient level of sales revenue from our sales and marketing efforts. The sale of additional equity securities in the future could result in additional dilution to our stockholders and those securities may have rights senior to those of our common stock. The incurrence of additional indebtedness in the future would result in increased debt service obligations and could result in operating and financial covenants that would restrict our operations. Such capital, if required, may not be available on terms that are favorable to us or at all. We are currently incurring operating deficits that are expected to continue for the foreseeable future, and as we begin to execute our marketing plan, we expect our operating deficit will continue to grow until we begin to generate a sufficient level of sales revenue from our sales and marketing efforts.

#### ***Options to Purchase Common Stock***

As of June 30, 2020, we had outstanding options to purchase 13,904,436 shares of common stock, net of exercises, cancellations, and forfeitures, as discussed below. As of June 30, 2020, 10,935,545 shares of common stock were issuable upon the exercise of options vested at such date. Options to purchase 8,204,436 were issuable upon exercise at a price of \$0.10 per share, none were issuable upon exercise at a price of \$0.12 per share, 400,999 were issuable upon exercise at a price of \$0.45 per share, 1,000,000 were issuable upon exercise at a price of \$0.50 per share, 1,000,000 were issuable upon exercise at a price of \$1.00 per share, and 330,109 were issuable upon exercise at a price of \$1.31 per share. If all vested options to purchase common stock were exercised, we would receive proceeds of approximately \$2.9 million and we would be required to issue 10,935,545 shares of common stock. There can be no assurance, however, that any such options will be exercised.

On March 6, 2018, Edward R. Monfort ceased serving as the Company's Chief Technology Officer. Upon Mr. Monfort's separation from service, the Company's board of directors suspended Mr. Monfort's outstanding options. Although such options remain outstanding, they were unexercisable as of December 31, 2019. As of December 31,

2019, outstanding options to purchase an aggregate of 14,297,902 shares of common stock were attributable to Mr. Monfort. Effective as of January 29, 2020, all such options were cancelled by the Company in connection with the settlement of Mr. Monfort's claims against the Company.

### **Credit Facilities**

Effective May 2, 2018, the Company secured a line of credit from Morgan Stanley Private Bank, National Association ("Morgan Stanley"). Borrowings under the line of credit bear interest at 30-day LIBOR plus 2.0%. There is no maturity date for the line, but Morgan Stanley may at any time, in its sole discretion and without cause, demand the Company immediately repay any and all outstanding obligations under the line of credit in whole or in part. The line is secured by the cash and cash equivalents maintained by the Company in its Morgan Stanley accounts, which was approximately \$7.1 million as of December 31, 2019. Borrowings under the line may not exceed 95% of such cash, cash equivalents, and marketable securities balances. The maximum amount the Company could borrow at December 31, 2019, was approximately \$6.6 million, and the principal amount outstanding under this line of credit was approximately \$5.8 million at that date. The line of credit and related interest expense was repaid in full on February 3, 2020.

### **Capital Expenditures**

We do not have any contractual obligations for ongoing capital expenditures at this time. We do, however, purchase equipment necessary to conduct our operations on an as needed basis.

### **Cash Flows**

The following table summarizes our cash flows from operating, investing, and financing activities for the six months ended June 30, 2020 and 2019.

	Six Months Ended	
	June 30, 2020	June 30, 2019
<b>Consolidated Statements of Cash Flow Data:</b>		
Net cash used in operating activities	\$ (898)	\$ (2,414)
Net cash provided by (used in) investing activities	2,759	(1,155)
Net cash provided by (used in) financing activities	(5,409)	2,607
Net change in cash and cash equivalents	<u>\$ (3,548)</u>	<u>\$ (962)</u>

### **Operating Activities**

Cash used in operating activities is primarily the result of our operating losses, reduced by the impact of non-cash expenses, including non-cash stock-based compensation. These numbers are further impacted by adjustments for non-cash interest expense.

Net cash used in operating activities decreased by approximately \$1.5 million to approximately \$898,000 for the six months ended June 30, 2020 compared to net cash used in operating activities of approximately \$2.4 million for the six months ended June 30, 2019. The decrease in net cash used in operating activities was due to \$1.3 million net cash provided by changes in asset and liability accounts, reduced by a reduction in non-cash expenses of approximately \$165,000, combined with a decrease in net loss of approximately \$369,528.

We expect cash used in operating activities to fluctuate significantly in future periods as a result of a number of factors, some of which are outside of our control, including, among others: the success we achieve in generating revenue; the success we have in helping our customers obtain financing to subsidize their purchases of our products; our ability to efficiently develop our dealer and service network; the costs of batteries and other materials utilized to make our products; the extent to which we need to invest additional funds in research and development; and the amount of expense we incur to satisfy future warranty claims.

**Investing Activities**

Net cash provided by investing activities during the six months ended June 30, 2020 increased by \$3.9 million to approximately \$2.8 million, as compared to cash used in investing activities of \$1.2 million during the six months ended June 30, 2019. The increase in net cash provided by investing activities during the six months ended June 30, 2020 is primarily due to proceeds received from the sale of liquid marketable securities in the amount of approximately \$2.8 million, whereas net cash used in investing activities during the six months ended June 30, 2019 was primarily due to the purchase of liquid marketable securities in the amount of approximately \$1.1 million.

**Financing Activities**

Net cash used in financing activities during the six months ended June 30, 2020 increased by approximately \$8 million to approximately \$5.4 million, as compared to cash provided by financing activities of approximately \$2.6 million during the six months ended June 30, 2019. Net cash used in financing activities during the six months ended June 30, 2020 consisted of approximately \$5.8 million in net principal repayments made under our line of credit with Morgan Stanley, offset by \$411,244 in proceeds received from SBA loans.

Net cash provided by financing activities during the six months ended June 30, 2019 consisted of \$2.6 million in net proceeds received under our line of credit with Morgan Stanley.

**Contractual Obligations**

Except as set forth below, during the six months ended June 30, 2020, there were no material changes in our contractual obligations and commitments, as described in Part II, Item 7 of our Annual Report on Form 10-K for the fiscal year ended December 31, 2019.

On February 4, 2020, the Company signed a sublease agreement with Masters Transportation, Inc. ("Masters") for Masters to occupy a portion of the Corona, California facility that the Company occupied effective January 1, 2020 (see above). The effective date of the Masters' sublease is February 1, 2020, and it expires when the Company's lease on the property expires on December 31, 2022. Under the sublease, Masters is obligated to pay the Company monthly rent payments in an amount equal to \$6,000 at commencement and thereafter escalating to \$6,365 by its conclusion.

**Off-Balance Sheet Arrangements**

We did not have during the periods presented, and we do not currently have, any off-balance sheet arrangements, as defined in the rules and regulations of the SEC.

**Contingencies**

Certain conditions may exist as of the date the financial statements are issued, which may result in a loss to us, but which will only be resolved when one or more future events occur or fail to occur. Our management, in consultation with our legal counsel as appropriate, assesses such contingent liabilities, and such assessment inherently involves an exercise of judgment. In assessing loss contingencies related to legal proceedings that are pending against us or unasserted claims that may result in such proceedings, we, in consultation with our legal counsel, evaluates the perceived merits of any legal proceedings or unasserted claims, as well as the perceived merits of the amount of relief sought or expected to be sought therein. If the assessment of a contingency indicates it is probable that a material loss has been incurred and the amount of the liability can be estimated, then the estimated liability would be accrued in our financial statements. If the assessment indicates a potentially material loss contingency is not probable, but is reasonably possible, or is probable, but cannot be estimated, then the nature of the contingent liability, together with an estimate of the range of possible loss, if determinable and material, would be disclosed. Loss contingencies considered remote are generally not disclosed unless they involve guarantees, in which case the guarantees would be disclosed.

## **Stock-Based Compensation**

We measure the cost of services received in exchange for an award of equity instruments based on the fair value of the award. The fair value of the award is measured on the grant date and is then recognized over the period during which services are required to be provided in exchange for the award, usually the vesting period. The fair value of our common stock was estimated by management based on observations of the cash sales prices of its common shares. Awards granted to directors are treated on the same basis as awards granted to employees.

### **Fair Value Measurement**

The carrying values of our financial instruments, including cash, notes receivable and accounts payable approximate their fair value due to the short-term nature of these financial instruments. FASB ASC Topic 820, "Fair Value Measurement" defines fair value as the exchange price that would be received for an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. It also establishes a three-tier fair value hierarchy, which prioritizes the inputs used in measuring fair value as follows:

Level 1: Observable inputs such as quoted prices in active markets;

Level 2: Inputs, other than the quoted prices in active markets, that are observable either directly or indirectly; and

Level 3: Unobservable inputs for which there is little or no market data, and which require the reporting entity to develop its own assumptions.

We do not have any assets or liabilities that are required to be measured and recorded at fair value on a recurring basis.

### **Jumpstart Our Business Startups Act of 2012 ("JOBS Act")**

We are an "emerging growth company," as defined in the JOBS Act. The JOBS Act contains provisions that, among other things, reduce certain reporting requirements for emerging growth companies. We have irrevocably elected not to avail ourselves of this exemption from new or revised accounting standards, and, therefore, will be subject to the same new or revised accounting standards as other public companies that are not emerging growth companies. We have chosen to rely on the other exemptions and reduced reporting requirements provided by the JOBS Act. Subject to certain conditions set forth in the JOBS Act, as an emerging growth company we are not required to, among other things, (i) being permitted to provide only two years of audited financial statements, in addition to any required unaudited interim financial statements, with correspondingly reduced "Management's Discussion and Analysis of Financial Condition and Results of Operations" disclosure, (ii) not being required to comply with the auditor attestation requirements in the assessment of our internal control over financial reporting, (iii) not being required to comply with any requirement that may be adopted by the Public Company Accounting Oversight Board regarding mandatory audit firm rotation or a supplement to the auditor's report providing additional information about the audit and the financial statements, (iv) reduced disclosure obligations regarding executive compensation or (v) exemptions from the requirements of holding a nonbinding advisory vote on executive compensation and stockholder approval of any golden parachute payments not previously approved.

We will retain our emerging growth company status until the first to occur of: (i) the end of the fiscal year in which the fifth anniversary of the completion of our initial public offering occurs, (ii) the end of the fiscal year in which our annual revenues exceed \$1.07 billion, (iii) the date on which we issue more than \$1 billion in non-convertible debt during any three-year period or (iv) the date on which we qualify as a "large accelerated filer."

### **ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURE ABOUT MARKET RISK**

We are exposed to market risks in the ordinary course of our business. We do not currently face material market risks such as interest rate fluctuation risk and foreign currency exchange risk. Our cash and cash equivalents include cash in readily available checking and money market accounts. These investments are not dependent on interest rate fluctuations that may cause the principal amount of these investments to fluctuate, and we do not expect such fluctuation will have a material impact on our financial conditions. If we issue additional debt in the future, we will be subject to interest rate risk. The majority of our expenses are denominated in the U.S. dollar.

As we continue our commercialization efforts internationally, we may generate revenue and incur expenses denominated in currencies other than the U.S. dollar, a majority of which we expect to be denominated in Chinese Yuan. As a result, if and when the operations of ADOMANI China, our wholly owned subsidiary organized under the laws of China, expand in the future, our revenue may be significantly impacted by fluctuations in foreign currency exchange rates. We may face risks associated with the costs of raw materials, primarily batteries, as we go into production. To the extent these and other risks materialize, they could have a material effect on our operating results or financial condition. We currently anticipate that our international selling, marketing and administrative costs related to foreign sales will be largely denominated in the same foreign currency, which may mitigate our foreign currency exchange risk exposure.

### **ITEM 4. CONTROLS AND PROCEDURES**

#### **Evaluation of Disclosure Controls and Procedures**

Our management, with the participation of our Chief Executive Officer and Chief Financial Officer, has evaluated the effectiveness of our disclosure controls and procedures (as such term is defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended (the "Exchange Act")) as of the end of the period covered by this Quarterly Report. Based on this evaluation, our Chief Executive Officer and our Chief Financial Officer have concluded that our disclosure controls and procedures (a) were effective to ensure that information that we are required to disclose in reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in SEC rules and forms and (b) include, without limitation, controls and procedures designed to ensure that information required to be disclosed by us in reports filed or submitted under the Exchange Act is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure.

#### **Changes in Internal Control over Financial Reporting**

There were no changes in our internal control over financial reporting that occurred during the six months ended June 30, 2020 that materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

#### **Limitations on Effectiveness of Controls and Procedures**

In designing and evaluating our disclosure controls and procedures, management recognizes that any controls and procedures, no matter how well designed and operated, cannot provide absolute assurance of achieving the desired control objectives. In addition, the design of disclosure controls and procedures must reflect the fact that there are resource constraints and that management is required to apply judgment in evaluating the benefits of possible controls and procedures relative to their costs. Similarly, an evaluation of controls cannot provide absolute assurance that misstatements due to error or fraud will not occur or that all control issues and instances of fraud, if any, have been detected.

**ITEM 1. LEGAL PROCEEDINGS**

Except as set forth below, we know of no material, existing or pending, legal proceedings against our Company, nor are we involved as a plaintiff in any material proceeding or pending litigation. There are no proceedings in which any of our directors, officers or affiliates, or any registered or beneficial stockholder, is an adverse party or has a material interest adverse to our interest.

On August 23, 2018, a purported class action lawsuit captioned *M.D. Ariful Mollik v. ADOMANI, Inc. et al.*, Case No. RIC 1817493, was filed in the Superior Court of the State of California for the County of Riverside against us, certain of our executive officers (together, the “Company Defendants”), Edward R. Monfort, our former Chief Technology Officer and former director, and the two underwriters of our offering of common stock under Regulation A in June 2017. This complaint alleges that documents related to our offering of common stock under Regulation A in June 2017 contained materially false and misleading statements and that all defendants violated Section 12(a)(2) of the Securities Act, and that we and the individual defendants violated Section 15 of the Securities Act, in connection therewith. The plaintiff seeks on behalf of himself and all class members: (i) certification of a class under California substantive law and procedure; (ii) compensatory damages and interest in an amount to be proven at trial; (iii) reasonable costs and expenses incurred in this action, including counsel fees and expert fees; (iv) awarding of rescission or rescissionary damages; and (v) equitable relief at the discretion of the Court. Plaintiff’s counsel has subsequently filed a first amended complaint, a second amended complaint, and a third amended complaint. Plaintiff Mollik was replaced by putative class representatives Alan K. Brooks and Electric Drivetrains, LLC. Alan K. Brooks was subsequently dropped as a putative class representative.

On October 25, 2019, we answered the third amended complaint, generally denying the allegations and asserting affirmative defenses. On November 5, 2019, Network 1 and Boustead Securities (together the “Underwriters”) filed a cross-complaint against the Company seeking indemnification under the terms of the underwriting agreement the Company and the Underwriters entered for the Company’s initial public offering (the “Underwriting Agreement”). On December 10, 2019, the Company filed its answer to the Underwriters’ cross-complaint, generally denying the allegations and asserting affirmative defenses. Also on this date, the Company filed a cross-complaint against the Underwriters seeking indemnification under the terms of the Underwriting Agreement. On January 14, 2020, Mr. Monfort filed a cross-complaint against the Underwriters seeking indemnification under the terms of the Underwriting Agreement. On January 15, 2020, Mr. Monfort filed a cross-complaint against the Company seeking indemnification under the terms of the Company’s Amended and Restated Bylaws and Section 145 of the Delaware General Corporation Law. On February 18, 2020 we filed an answer to Mr. Monfort’s cross-complaint, generally denying the allegations and asserting affirmative defenses.

On April 6, 2020, the Company Defendants, Mr. Monfort, and Plaintiff Electric Drivetrains engaged in mediation. The Underwriters declined to participate in the mediation. The mediation did not result in settlement. On April 16, 2020, Electric Drivetrains requested that defendants stipulate to Electric Drivetrains’ filing a fourth amended complaint. Defendants declined to stipulate to the fourth amended complaint, leading Electric Drivetrains to file a motion to amend the complaint. A hearing on this motion and a status conference are set for August 12, 2020. We believe that the purported class action lawsuit is without merit and intend to vigorously defend the action.

On June 19, 2019, Alan K. Brooks, an ADOMANI investor, filed a complaint, captioned *Alan K. Brooks v. ADOMANI, Inc., et al.*, Case No. 1-CV-349153 in the Superior Court of California for the County of Santa Clara, against the Company, certain of the Company's executive officers and directors, one of the underwriters (the "Underwriter") of the Company's offering of common stock under Regulation A in June 2017, and certain of the Underwriter's personnel, among others. The complaint alleges that the Company and other defendants breached the terms of an agreement between Mr. Brooks and the Company by refusing to release 1,320,359 shares of ADOMANI, Inc. stock to Mr. Brooks. Mr. Brooks seeks damages of \$13,500,000.00 plus interest and attorney's fees. On September 20, 2019, Mr. Brooks filed his first amended complaint ("FAC") reasserting his breach of contract claim and alleging five additional claims for (i) violations of Cal. Corp. Code Section 25401, (ii) fraud, (iii) negligent misrepresentation, (iv) elder abuse, and (v) unfair competition. We answered the FAC on November 12, 2019, generally denying the allegations in the FAC and asserting affirmative defenses. On January 9, 2020, the Underwriter filed a notice of related case, notifying the court of *Mollik v. ADOMANI, et al.*, described above. On January 31, 2020, the Underwriter filed a motion to stay proceedings. The court heard the motion to stay on May 21, 2020 and took the matter under submission. The court subsequently issued a written order denying the motion to stay. A case management conference is scheduled in this matter for September 15, 2020. We believe that the lawsuit is without merit and intend to vigorously defend the action.

On April 13, 2020, the Company filed a complaint against Ebus, Inc., Anders B. Eklov and Carol J. Eklov, Case No. 20ST-CV14275, in the Superior Court of California for the County of Los Angeles seeking to recover the remainder of the assets acquired by the Company through a credit bid in the amount of \$582,000 at a foreclosure sale initiated by the Company following Ebus's default in its obligations to the Company under a related promissory note. The complaint, among other things, seeks possession of the remainder of the assets and alleges that Ebus and the other defendants improperly converted or used certain of the assets. The Company continues to vigorously pursue such action and continues to evaluate several paths to obtaining the remaining assets that were purchased from Ebus at the foreclosure sale.

## ITEM 1A. RISK FACTORS

Except as set forth below, there were no material changes from the risk factors previously disclosed in our Annual Report on Form 10-K for the year ended December 31, 2019, as filed with the SEC on March 10, 2020.

### ***Business interruptions resulting from the COVID-19 outbreak or similar public health crises could cause a disruption of the manufacturing of our products and adversely impact our business.***

Public health crises such as pandemics or similar outbreaks could adversely impact our business. In December 2019, a novel strain of a virus named SARS-CoV-2 (severe acute respiratory syndrome coronavirus 2), or coronavirus, which causes coronavirus disease, or COVID-19, was reported to have surfaced in Wuhan, China, and has reached multiple other regions and countries, including the United States and, more specifically, Southern California, where our primary office is located. The coronavirus pandemic is evolving, and to date has led to the implementation of various responses, including government-imposed quarantines, travel restrictions and other public health safety measures. Global health concerns, such as coronavirus, could result in social, economic and labor instability in the countries in which we or the third parties with whom we engage operate. The extent to which the coronavirus impacts our operations or those of our third party partners will depend on future developments, which are highly uncertain and cannot be predicted with confidence, including the duration of the outbreak, new information that may emerge concerning the severity of the coronavirus and the actions to contain the coronavirus or treat its impact, among others. We cannot presently predict the scope and severity of any potential business shutdowns or disruptions, but if we or any of the third parties with whom we engage, including the suppliers, customers and other third parties with whom we conduct business, were to experience shutdowns or other business disruptions, our ability to conduct our business in the manner presently planned could be materially and negatively impacted. The future progression of the COVID-19 outbreak and its resulting effects on our business, financial condition and results of operations are uncertain and are continuing to be assessed.

### ***There is substantial doubt about our ability to continue as a going concern, which will affect our ability to obtain future financing and may require us to curtail our operations.***

Our consolidated financial statements as of June 30, 2020, were prepared under the assumption that we will continue as a going concern. At June 30, 2020, we had cash and cash equivalents of \$883,949. We do not believe that our existing cash and cash equivalents and short-term investments will be sufficient to fund our operations during the next eighteen months unless we are able to resolve the HVIP funding issues in the near-term or we are able to mitigate the impact of certain anti-dilution and other rights contained in our outstanding warrants that have, to date, restricted our ability to raise additional debt or equity capital on terms that are acceptable to us. Accordingly, our ability to continue as a going concern will depend on our ability to mitigate the impact of such anti-dilution rights and raise additional capital to finance our operations and continue to support our growth initiatives, attain further operating efficiencies, reduce or contain expenditures, and, ultimately, to generate revenue.

If we are unable to continue as a going concern, we may have to liquidate our assets and may receive less than the value at which those assets are carried on our audited consolidated financial statements, and it is likely that investors will lose all or part of their investment. If we seek additional financing to fund our business activities in the future and there remains substantial doubt about our ability to continue as a going concern, investors or other financing sources may be unwilling to provide additional funding to us on commercially reasonable terms or at all. Based on these factors, management determined that there is substantial doubt about our ability to continue as a going concern.

## ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

None.

## ITEM 3. DEFAULTS UPON SENIOR SECURITIES

None.

## ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

None.

**ITEM 6. EXHIBITS**

A list of exhibits is set forth at the end of this Quarterly Report on Form 10-Q for the information required by this item.

Exhibit Number	Exhibit Description	Incorporated by Reference			Filed Herewith
		Form	File No.	Filing Date	
10.1	<a href="#">Paycheck Protection Program Promissory Note and Agreement, dated May 3, 2020, between ADOMANI, Inc. and Wells Fargo Bank, NA</a>				X
10.2	<a href="#">Loan Authorization and Agreement, dated May 17, 2020, between ADOMANI, Inc. and the U.S. Small Business Administration</a>				X
10.3	<a href="#">Promissory Note, dated May 17, 2020, issued by ADOMANI, Inc. to the U.S. Small Business Administration</a>				X
10.4	<a href="#">Security Agreement, dated May 17, 2020, executed by ADOMANI, Inc. in favor of the U.S. Small Business Administration</a>				X
31.1	<a href="#">Rule 13a-14(a)/15d-14(a) Certification of Chief Executive Officer</a>				X
31.2	<a href="#">Rule 13a-14(a)/15d-14(a) Certification of Chief Financial Officer</a>				X
32.1#	<a href="#">18 U.S.C. Section 1350 Certification of Chief Executive Officer, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002</a>				X
32.2#	<a href="#">18 U.S.C. Section 1350 Certification of Chief Financial Officer, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002</a>				X
101.INS	XBRL Instance Document*				X
101.SCH	XBRL Taxonomy Extension Schema Document*				X
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document*				X
101.LAB	XBRL Taxonomy Extension Label Linkbase Document*				X
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document*				X
101.DEF	XBRL Taxonomy Extension Definitions Linkbase Document*				X

# The information in Exhibits 32.1 and 32.2 shall not be deemed "filed" for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), or otherwise subject to the liabilities of that section, nor shall they be deemed incorporated by reference in any filing under the Securities Act or the Exchange Act (including this report), unless the Registrant specifically incorporates the foregoing information into those documents by reference.

\* In accordance with Rule 402 of Regulation S-T, this interactive data file is deemed not filed or part of this Quarterly Report for purposes of Sections 11 or 12 of the Securities Act or Section 18 of the Exchange Act and otherwise is not subject to liability under these sections.

**SIGNATURES**

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

ADOMANI, INC.

Date: August 14, 2020

By: /s/ James L. Reynolds  
James L. Reynolds  
President and Chief Executive Officer  
(Principal Executive Officer)

Date: August 14, 2020

By: /s/ Michael K. Meneray  
Michael K. Meneray  
Chief Financial Officer  
(Principal Financial and Accounting Officer)

Paycheck Protection Program Promissory Note and Agreement

# Wells Fargo SBA Lending

**Borrower Names:**

Adomani Inc

**Important Notice: This Instrument Contains A Confession Of Judgment Provision Which Constitutes A Waiver Of Important Rights You May Have As A Debtor And Allows The Creditor To Obtain A Judgment Against You Without Any Further Notice. Venue Will Be In The City Of Richmond.**

**Paycheck Protection Program Promissory Note and Agreement****1. Parties To Agreement And Acceptance**

This Wells Fargo Paycheck Protection Promissory Note and Agreement ("Agreement") governs the Wells Fargo Paycheck Protection Loan ("Loan") that Wells Fargo Bank, N.A. ("we" or "Lender" is providing to you (if a sole proprietor) or your business organization, Borrower(s) listed above, (such a sole proprietor or business organization are referred to in this Agreement as "Customer", "you", and "your" or "Borrower") and your designated representatives. The Loan is established under the terms and conditions of the SBA program of the United States Small Business Administration ("SBA") and the USA CARES Act (2020)(H.R. 748)(15 U.S.( 636 *et seq.*)(the "Act") and the availability of the Loan is expressly contingent on funds being available from the SBA under the Act to guaranty this Loan. You agree to be bound by and comply with each and every following term and condition of this Agreement. Lender agrees, based on the terms and conditions and relying upon the representations and warranties set forth in this Agreement, to make available to Borrower the Loan as more fully described herein.

**2. Promise to Pay**

Borrower promises to pay, to Lender, or order, the principal amount of **\$261,244**, together with interest on the outstanding principal balance. Borrower will pay Lender at Lender's address showing this Agreement or at such other place as Lender may designate in writing.

**3. Interest**

Interest will accrue on the outstanding principal balance at a fixed rate of 1.00%. Interest will be calculated as described in the Interest Accrual Basis paragraph below.

**4. Interest Accrual Basis**

Interest shall be computed on an actual/365 simple interest basis; that is, by multiplying the applicable interest rate, times the outstanding principal balance, times the actual number of days the principal is outstanding and dividing by a year of 365 days.

**5. Repayment**

Payments shall be due and payable monthly in the amount of **\$10,998.70** commencing **11/3/2020** and continuing on Day **03** of each month thereafter until maturity. The Loan shall mature two (2) years from the date of this Agreement, or 5/3/2022, at which time all unpaid principal, accrued interest, and any other unpaid amounts shall be due and payable in full. Unless otherwise agreed, all sums received from Borrower may be applied to interest, fees, principal, or any other amounts due to Lender in any order at Lender's sole discretion.

As discussed further herein, the Borrower may apply for the loan to be forgiven in whole or in part.

If any portion of the principal and/or interest payments are forgiven by the Lender, upon forgiveness, the remaining balance of the loan will be reamortized over the remaining term with the entire principal balance remaining unpaid, along with all accrued and unpaid interest, due and payable upon the Maturity Date.

## 6. Permissible Use

The Account will be used for only for purposes authorized by the Act, specifically the Paycheck Protection Program contained within such Act.

In no event shall the Loan be used for any transaction that is illegal under any applicable law. You represent that you (if a sole proprietor) and your business organization are not a Money Service Business as defined by federal law, or have identified yourself to Lender as such a business and have complied with all applicable laws, rules and regulations governing such businesses.

## 7. Forgiveness

The Borrower will not be responsible for any loan payment if Borrower provides to Lender, in its sole and absolute discretion, sufficient documentation that (i) the Borrower used all of the loan proceeds for forgivable purposes described below and (ii) employee and compensation levels are maintained.

The actual amount of loan forgiveness will depend, in part, on the total amount of payroll costs, payments of interest on mortgage obligations incurred before February 15, 2020, rent payments on leases dated before February 15, 2020, and utility payments under service agreements dated before February 15, 2020, over the eight-week period following the date of the loan. Not more than 25 percent of the loan forgiveness amount may be attributable to non-payroll costs. The following is an exhaustive list of forgivable purposes:

- 1) payroll costs (as defined in the Act and in 2.f.);
- 2) costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave, and insurance premiums;
- 3) mortgage interest payments (but not mortgage prepayments or principal payments);
- 4) rent payments;
- 5) utility payments;
- 6) interest payments on any other debt obligations that were incurred before February 15, 2020; and/or
- 7) refinancing an SBA EIDL loan made between January 31, 2020 and April 3, 2020.

## 8. Late Charges

For each payment of principal, interest, and/or fees which has not been paid in full within fifteen days after its date due, Borrower will pay to Lender a late charge of \$15.00 or five percent (5%) of the amount due, whichever is greater. Borrower acknowledges and agrees that the amount of this late fee is reasonable with respect to this Loan, taking into account Lender's expectation of timely receipt of payments with regard to the favorable pricing of this Loan, and the operational, administrative and regulatory burdens flowing from late payments and delinquencies. To the extent this late fee or any other fee or charge set forth in this Agreement may be prohibited or exceed any limit provided by any present or future applicable law, such fee or charge shall be reduced to the maximum amount allowed.

## 9. Prepayment

Borrower may prepay principal of the Loan at any time, in any amount, without penalty.

## 10. Default

The following constitute defaults under this Agreement:

- 1) a payment is not made when it is due;
- 2) the terms of this Agreement are breached in any way;
- 3) Customer defaults under the terms of any other obligation to Lender;
- 4) a bankruptcy petition is filed by or against Customer or any of Customer's owners;
- 5) a significant change occurs in the ownership or organizational structure of Customer or in the type or volume of such Customer's business or the death of a Customer;
- 6) Customer becomes insolvent or is dissolved, or Lender otherwise believes in good faith that the prospect of payment and/or performance under this Agreement;
- 7) payments to the Loan are returned or reversed for any reason;
- 8) Customer fails to submit required information the Lender deems necessary.

## 11. Remedies

In the event of any Default or failure to meet any condition under the preceding paragraphs, or upon any termination of a Loan, Lender may, at its option and without prior notification:

- 1) close any and all Loans to all use, as well as any other accounts for which the Customer is liable to Lender;

- 2) accelerate payment of the full balance on any or all Loans as well as any or all other accounts for which the Customer is liable to Lender, and thereby require immediate payment of the full balance, including, without limitation any Late Charges or any other charges or fees of any kind due Lender.
- 3) Lender may exercise its right of set-off against any obligation Lender owes to you, including a set-off to the extent permitted by law against any deposit account(s) you have with Lender.

**12. Borrower hereby certifies and represents that:**

- 1) Borrower is eligible to receive a loan under the rules in effect at the time the loan is made that have been issued by the Small Business Administration (SBA) implementing the Paycheck Protection Program under Division A, Title I of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) (the Paycheck Protection Program Rule).
- 2) Borrower does not operate an ineligible business under the CARES Act and any implementing rules, 13 CFR 120.110 and described further in SBA's Standard Operating Procedure 5010, Subpart B, Chapter 2. Borrower further certifies that Borrower is not engaged in any activity that is illegal under federal, state or local law.
- 3) Borrower (1) is an independent contractor, eligible self-employed individual, or sole proprietor or (2) employs no more than the greater of 500 or employees or, if applicable, the size standard in number of employees established by the SBA in 13 C.F.R. 121.201 for the Applicant's industry.
- 4) The Borrower or any owner of Borrower is not presently suspended, debarred, proposed for debarment, declared ineligible, voluntarily excluded from participate in this transaction by any Federal department or agency, or presently involved in any bankruptcy.
- 5) The Borrower, any owner of Borrower or any business owned or controlled by either of them, has not obtained a direct or guaranteed loan from SBA or any other Federal agency that is currently delinquent or has defaulted within the last seven (7) years and caused a loss to the government.
- 6) The Borrower (if an individual) or any individual owning 20% or more of the equity of the Borrower is not (a) subject to an indictment, criminal information, arraignment, or other means by which formal criminal charges are brought in any jurisdiction, (b) presently incarcerated, or (c) on probation or parole.
- 7) Within the last five (5) years, the Borrower (if an individual) or any individual owning 20% or more of the equity of the Borrower has not (a) been convicted of a felony; (b) pleaded guilty to a felony; (c) pleaded nolo contendere to a felony; (d) been placed on pretrial diversion for a felony; or (e) been placed on any form of parole or probation (including probation before judgment) for felony charges.
- 8) The Borrower is not a household employer (e.g. an individual who employs household employees such as nannies or housekeepers).
- 9) All documents submitted to Lender, including without limitation, payroll processor (records, payroll tax filings, Form 1099-MISC, or bank records, are true and correct.
- 10) The United States is the principal place of residence for all employees of the Borrower included in the Borrower's payroll calculation submitted to Lender.
- 11) If the Borrower operates a franchise business, such franchise is listed on the SBA Franchise Directory.
- 12) Any loan received by the Borrower under Section 7(b)(2) of the Small Business Act between January 31, 2020 and April 3, 2020 was for a purpose other than paying payroll costs and other, allowable uses loans under the Paycheck Protection Program Rule.
- 13) The Borrower was in operation on February 5, 2020 and had employees for whom it paid salaries and payroll taxes or paid independent contractors, as reported on Form(s) 1099-MISC.
- 14) Current economic uncertainty makes this Loan request necessary to support the ongoing operations of the Borrower.
- 15) The funds will be used to retain workers and maintain payroll or make mortgage interest payments, lease payments, and utility payments, as specified under the Paycheck Protection Program Rule; I understand that if the funds are knowingly used for unauthorized purposes, the federal government may hold me legally liable, such as for charges of fraud.
- 16) During the period beginning on February 15, 2020 and ending on December 31, 2020, the Borrower has not and will not receive another loan under the Paycheck Protection Program.
- 17) Borrower certifies that the information provided in the application and the information provided in all supporting documents and forms is true and accurate in all material respects. Borrower understands that knowingly making a false statement to obtain a guaranteed loan from SBA is punishable under the law, including under 18 USC 1001 and 3571 by imprisonment of not more than five years and/or a fine of up to \$250,000; under 15 USC 645 by imprisonment of not more than two years and/or a fine of not more than \$5,000; and, if submitted to a federally insured institution, under 18 USC 1014 by imprisonment of not more than thirty years and/or a fine of not more than \$1,000,000.
- 18) Borrower acknowledges that the lender will confirm the eligible loan amount using required documents submitted. Borrower understands, acknowledges and agrees that the Lender can share any tax information that it has provided with SBA's authorized representatives, including authorized representatives of the SBA Office of Inspector General, for the purpose of compliance with SBA Loan Program Requirements and all SBA reviews.

- 19) The undersigned officer of the Borrower is duly authorized to execute and deliver this Agreement, the Note and all other documents executed in connection therewith, and the performance by the Borrower of the transactions herein contemplated are and will be within its powers, have been duly authorized by all necessary entity action, and are not and will not be in contravention of any order of court or other agency of government, of law or, if applicable, its organizing or governing documents, or any indenture, agreement or undertaking to which it is a party or by which its property is bound, or be in conflict with, result in a breach of or constitute (with due notice and/or lapse of time) a default under any such indenture, agreement or undertaking or result in the imposition of any lien, charge or encumbrance of any nature on any of the properties of such Borrower.

### 13. Indemnification

Borrower agrees to indemnify Lender and hereby holds Lender harmless against any and all claims, actions, suits, proceedings, costs, expenses, brokerage or other fees, including reasonable attorneys' fees, losses, damages and liabilities of any kind, including in tort, penalties and interest, which Lender may incur in any manner other than Lender's own gross negligence or willful misconduct, by reason of any matter relating, directly or indirectly, to the Loan and the Loan Documents, including, but in no way limited to, without limitation, the calculation of the maximum Loan amount or the amount of the Loan that qualifies as eligible for forgiveness.

### 14. Attorney's fees and costs

Customer agrees to pay Lenders attorney's fees and costs: 1) related to this Agreement; or 2) related to enforcing this Agreement against customer or customer's owners (if applicable); or 3) related to collecting any amounts due under this Agreement from Customer or Customer's owners (if applicable).

### 15. Collateral Exclusions

No deed of trust, mortgage, security deed, or similar real estate collateral agreement ("Lien Document"), nor any personal property security agreement other than this Agreement or any modification of same ("Security Agreement"), shall secure this Note unless such Lien Document or Security Agreement specifically describes this Agreement as a part of the indebtedness secured thereby. As used herein, this "Agreement" means either (i) this Agreement or (ii) a promissory note, Confirmation Letter or other evidence of indebtedness which has been modified, renewed or extended in whole or in part by this Agreement. This exclusion shall apply notwithstanding the fact that such Lien Document or Security Agreement may appear to secure this Agreement by virtue of a cross-collateralization provision or other provisions expanding the scope of the secured obligations.

### 16. Supplemental provisions concerning cross-collateralization and personal property

Notwithstanding anything to the contrary in any Lien Document which specifically describes this Agreement as a part of the indebtedness secured thereby, (1) any cross-collateralization provision and any other provisions contained therein expanding the scope of the secured obligations beyond the Secured Debt, any related "swap agreements" (as defined in 11 U.S.C. Section 101), and obligations to protect and preserve collateral, shall have no force or effect, and (2) any lien or security interest granted in such Lien Document upon personal property shall not include any items of personal property located in a Covered Structure unless all applicable requirements of the Act, if any, have been satisfied with respect to such items of personal property. As used herein, "Secured Debt" means this Agreement and any other notes or agreements evidencing indebtedness specifically described or listed in and expressly secured by any such Lien Document(s) and modifications, renewals, and extensions of such notes and agreements, and "Covered Structure" means a building or mobile home as defined in the National Flood Insurance Act (as amended), and its implementing regulations (collectively, the "Act") located in an area designated by the Administrator of the Federal Emergency Management Agency as a special flood hazard area which requires flood insurance pursuant to the terms of the Act. Additionally, notwithstanding anything to the contrary in the Agreement, personal property security interests granted pursuant to the terms of the Agreement shall not secure any obligations beyond this Agreement any related "swap agreements" (as defined in 11 U.S.C. Section 101), and obligations to protect and preserve collateral. This exclusion shall apply notwithstanding the fact that the Agreement may appear to secure such other obligations by virtue of the definition of Indebtedness contained in the Agreement.

### 17. Money Laundering, Sanctions, Corrupt Practices, and Compliance with all laws

Borrower represents, warrants and agrees that Borrower, all Borrowers, and any of their parents, affiliates, subsidiaries, officers, directors, or agents (the "Borrowing Group") (1) are not now and will not become a Sanctioned Target (as defined below) of any trade, economic, financial, sectoral or secondary sanctions, restrictions, embargoes, or anti-terrorism laws promulgated by the United Nations or the governments of the United States, the United Kingdom, the European Union, or any other governmental authority with jurisdiction over any of the Borrowing Group (collectively, "Sanctions"), and are not owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, a Sanctioned Target, (2) now comply and will at all times comply with, and have instituted and maintain, policies, procedures and controls reasonably designed to assure compliance with, the requirements of all laws, rules, regulations and orders of any governmental authority with jurisdiction over any of the Borrowing Group, or that are otherwise applicable to the Borrowing Group, including, without limitation, (a) all Sanctions, (b) all laws and regulations that relate to money laundering, any predicate crime to money laundering, or any financial record keeping and reporting requirements related thereto ("Anti-Money Laundering Laws"), and (c) the U.S. Foreign Corrupt Practices Act of 1977, as amended, the U.K. Bribery Act of 2010, as amended, and any other anti-bribery or anti-corruption laws and regulations in any jurisdiction in which the Borrowing Group is located or doing business ("Anti-Corruption Laws"), (3) to the best of Borrower's knowledge, after due care and inquiry, are not under investigation for an alleged violation of Sanctions, Anti-Money Laundering Laws or Anti-Corruption Laws by a governmental authority that enforces such Sanctions, Anti-Money Laundering Laws or Anti-Corruption Laws, (4) will not at any time directly or indirectly use any proceeds of any credit extended by Lender to fund, finance or facilitate any activities, businesses or transactions that are prohibited by Sanctions, Anti-Money Laundering Laws or Anti-Corruption Laws, or that would be prohibited by the same if conducted by Lender or any other party hereto, and (5) shall not fund any

repayment of the credit with proceeds, or provide as collateral any property, that is directly or indirectly derived from any transaction or activity that is prohibited by Sanctions, Anti-Money Laundering Laws or Anti-Corruption Laws, or that could otherwise cause the Lender or any other party to this agreement to be in violation of Sanctions, Anti-Money Laundering Laws or Anti-Corruption Laws. Borrower shall notify Lender in writing not more than one (1) business day after first becoming aware of any breach of the foregoing paragraph. "Sanctioned Target" means any target of Sanctions, including (1) persons on any list of targets identified or designated pursuant to any Sanctions, (2) persons, countries, or territories that are the target of any territorial or country-based Sanctions program, (3) persons that are a target of Sanctions due to their ownership or control by any Sanctioned Target(s), or (4) persons otherwise a target of Sanctions, including vessels and aircraft, that are designated under any Sanctions program.

#### 18. Laws governing this agreement

The laws of the state of South Dakota shall govern this Agreement. If any part of this Agreement cannot be enforced, this fact will not affect the rest of this Agreement. Lender may delay or forego enforcing any of its rights or remedies under this Agreement without losing them. Notwithstanding anything to the contrary, this Agreement shall not require or permit the payment, taking, reserving, receiving, collection, or charging of any sums constituting interest that exceed any maximum amount of interest permitted by applicable law. Any such excess interest shall be credited against the then unpaid principal balance or refunded to Customer. Without limiting the foregoing, all calculations to determine whether interest exceeds the maximum amount shall be made by amortizing, pro-rating, allocating, and spreading such sums over the full term of the loan.

#### 19. Limitation on Lawsuits

Customer agrees that any lawsuit based upon any cause of action which Customer may have against Lender must be filed within one year from the date that it arises or Customer will be barred from filing the lawsuit. This limitation is intended to include tort, contract, and all other causes of action for which Customer and Lender may lawfully contract to set limitations for bringing suit.

#### 20. Credit Evaluation

**Credit reports and re-evaluation of credit:** You authorize Lender to obtain business and personal credit bureau reports in the name of the Customer or its owners, at any time. You agree to submit to Lender current financial information in the name of the Customer and to submit to Lender, current financial information in its name, and the name of its owners at any time upon request. Such information shall be used for the purpose of evaluating or re-evaluating Customer's or its owners' creditworthiness. You also authorize Lender to use such information and to share it with its affiliates in order to determine whether you are qualified for other products and services offered by Lender and its affiliates. Lender may report its credit experience with Customer, its owners', and Customer's Loan(s) to third parties. Customer agrees that Lender may release information about Customer, its owners', the Loan Borrower(s) and/or Customer's Loan to Lender affiliates.

Important Notice about Credit reporting: Lender may report information about your Loan(s) to credit bureaus and/or consumer reporting agencies in your name or the name of your business organization. Late payments, missed payments, or other defaults on your Loan(s) may be reflected in your personal credit report or your business organization's credit report(s).

#### 21. ARBITRATION

- 1) **Binding Arbitration:** The parties hereto agree, upon demand by any party, to submit any dispute to binding arbitration in accordance with the terms of this Paragraph 19 (the "Arbitration Program"). Arbitration may be demanded before the institution of a judicial proceeding, or during a judicial proceeding, but not more than 60 days after service of a complaint, third party complaint, cross-claim, or any answer thereto, or any amendment to any of such pleadings. A "Dispute" shall include any dispute, claim, or controversy of any kind, in contract or in tort, legal or equitable, now existing or hereafter arising, relating in any way to any aspect of this agreement, or any other agreement, document or instrument to which this Arbitration Program is attached or in which it appears or is referenced, or any related agreements, documents or instruments or any renewal, extension, modification, or refinancing of any indebtedness or obligation relating to the foregoing, including without limitation, their negotiation, execution, collateralization, administration, repayment, modification, extension, substitution, formation, inducement, enforcement, default, or termination. This provision is a material inducement for the parties entering into the transactions relating to this Agreement, DISPUTES SUBMITTED TO ARBITRATION ARE NOT RESOLVED IN COURT BY A JUDGE OR JURY. TO THE EXTENT ALLOWED BY APPLICABLE LAW, THE PARTIES IRREVOCABLY AND VOLUNTARILY WAIVE ANY RIGHT THEY MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY DISPUTE ARBITRATED PURSUANT TO THIS ARBITRATION PROGRAM.

- 2) **Governing Rules:** Any arbitration proceeding will: (i) be governed by the Federal Arbitration Act (Title 9 of the United States Code), notwithstanding any conflicting choice of law provision in any of the documents between the parties; and (ii) be conducted by the American Arbitration Association ("AAA"), or such other administrator as the parties shall mutually agree upon, in accordance with the AAA's commercial dispute resolution procedures, unless the claim or counterclaim is at least \$1,000,000.00 exclusive of claimed interest, arbitration fees, and costs in which case the arbitration shall be conducted in accordance with the AAA's optional procedures for large, complex commercial disputes (the commercial dispute resolution procedures or the optional procedures for large complex commercial disputes to be referred to herein, as applicable, as the "Rules"). If there is an inconsistency between the terms hereof and the Rules, the terms and procedures set forth herein shall control. Arbitration proceedings hereunder shall be conducted at a location mutually agreeable to the parties, or if they cannot agree, then at a location selected by the AAA in the state of South Dakota. Any party who fails or refuses to submit to arbitration following a demand by any other party shall bear all costs and expenses incurred by such other party in compelling arbitration of any Dispute. The arbitrator shall award all costs and expenses of the arbitration proceeding. Nothing contained herein shall be deemed to be a waiver by any party that is a lender of the protections afforded to it under 12 U.S.C. §91 or any similar applicable state law.
- 3) **No Waiver of Provisional Remedies, Self-Help, and Foreclosure:** The arbitration requirement does not limit the right of any party to: (i) foreclose against any real or personal property collateral; (ii) exercising self-help remedies relating to collateral or proceeds of collateral such as setoff or repossession; or (iii) obtain provisional or ancillary remedies such as replevin, injunctive relief, attachment, or the appointment of a receiver, before during or after the pendency of any arbitration proceeding. This exclusion does not constitute a waiver of the right of any party, including the plaintiff, to submit the controversy or claim to arbitration if any other party contests such action for judicial relief, including those arising from the exercise of the actions detailed in section (i), (ii), and (iii) of this paragraph.
- 4) **Arbitrator Qualifications and Powers:** Any arbitration proceeding in which the amount in controversy is \$5,000,000.00 or less will be decided by a single arbitrator selected according to the Rules, and shall not render an award of greater than \$5,000,000.00. Any Dispute in which the amount in controversy exceeds \$5,000,000.00 shall be decided by majority vote of a panel of three arbitrators; provided however, that all three arbitrators must actively participate in all hearings and deliberations. Every arbitrator must be a neutral practicing attorney or a retired member of the state or federal judiciary, in either case with a minimum of ten years' experience in the substantive law applicable to the subject matter of the Dispute. The arbitrator will determine whether or not an issue is arbitrable and will give effect to the statutes of limitation in determining any claim. In any arbitration proceeding the arbitrator will decide (by documents only or with a hearing at the arbitrator's discretion) all pre-hearing motions which are similar to motions to dismiss for failure to state a claim or motions for summary adjudication. The arbitrator shall resolve all Disputes in accordance with the applicable substantive law and may grant any remedy or relief that a court of such state could order or grant within the scope hereof and such ancillary relief as is necessary to make effective any award. The arbitrators shall also have the power to award recovery of all costs and fees, to impose sanctions and to take such other actions as the arbitrator deems necessary to the same extent a judge could pursuant to the Federal Rules of Civil Procedure, the applicable state rules of civil procedure, or other applicable law. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction. The institution and maintenance of an action for judicial relief or pursuit of a provisional or ancillary remedy shall not constitute a waiver of the right of any party, including the plaintiff, to submit the controversy or claim to arbitration if any other party contests such action for judicial relief.
- 5) **Discovery:** In any arbitration proceeding discovery will be permitted in accordance with the Rules. All discovery shall be expressly limited to matters directly relevant to the Dispute being arbitrated and must be completed no later than 20 days before the hearing date. Any requests for an extension of the discovery periods, of any discovery disputes, will be subject to final determination by the arbitrator upon a showing that the request for discovery is essential for the party's presentation and that no alternative means for obtaining information is available.
- 6) **Class Proceedings and Consolidations:** No party shall be entitled to join or consolidate disputes by or against others in any arbitration, except parties to this Agreement, or to include in any arbitration any dispute as a representative or member of a class, or to act in any arbitration in the interest of the general public or in a private attorney general capacity.
- 7) **Miscellaneous:** To the maximum extent practicable, the AAA, the arbitrators, and the parties shall take all action required to conclude any arbitration proceeding within 180 days of the filing of the Dispute with the AAA. No arbitrator or other party to an arbitration proceeding may disclose the existence, content or results thereof, except for disclosures of information by a party required in the ordinary course of its business or by applicable law or regulation. If more than one agreement for arbitration by or between the parties potentially applies to a Dispute, the arbitration provision most directly related to the documents between the parties or the subject matter of the disputes shall control. This arbitration provision shall survive the repayment of the obligations that are the subject of the agreement and the termination, amendment, or expiration of any of the documents or any relationship between the parties.
- 8) **SBA Arbitration:** The parties specifically agree that the provisions of the Arbitration Program set forth above are not applicable to any dispute between any party and the U.S. Small Business Administration (the "SBA"), including but not limited to, any dispute with the SBA after purchase of the loan by the SBA.

**22. SMALL BUSINESS ADMINISTRATION (SBA)**

When SBA is the holder, this Agreement will be interpreted and enforced under federal law, including SBA regulations. Lender or SBA may use state or local procedures for filing papers, recording documents, giving notice, foreclosing liens, and other purposes. By using such procedures, SBA does not waive any federal immunity from state or local control, penalty, tax or liability. As to this Agreement, Borrower may not claim or assert against SBA any local or state law to deny any obligation, defeat any claim of SBA, or preempt federal law.

**24. FACSIMILE AND COUNTERPARTS**

This document may be signed in any number of separate copies, each of which shall be effective as an original, but all of which taken together shall constitute a single document. This Agreement shall be valid, binding, and enforceable against a party when executed by an authorized individual on behalf of the party by means of (i) an electronic signature that complies with the federal Electronic Signatures in Global and National Commerce Act, state enactments of the

Uniform Electronic Transactions Act, or any other relevant and applicable electronic signatures law; (ii) an original manual signature; or (iii) a faxed, scanned, or photocopied manual signature. Each electronic signature or faxed, scanned, or photocopied manual signature shall for all purposes have the same validity, legal effect, and admissibility in evidence as an original manual signature.

**25. TELEPHONE MONITORING AND CONTACTING YOU**

The Lender may monitor or record calls. You agree, in order for Lender to service the Loan or to collect any amounts you may owe, that Lender may from time to time make calls and send text messages to you, using prerecorded/artificial voice messages and/or through the use of an automatic dialing device, at any telephone number associated with your account, including mobile telephone numbers that could result in charges to you. You also expressly consent to Lender sending email messages regarding your Loan to your email address.

**26. FINAL AGREEMENT**

The persons and entities signing below ("Party", or collectively, the "Parties") acknowledge and agree that each Party's execution of this Agreement constitutes acknowledgment that such Party (i) agrees that there are no oral agreements relating to this Agreement, (ii) agrees that agreements will be binding upon Lender only if in writing and signed by Lender, and (iii) acknowledges receipt of the following Notice, and to the fullest extent allowed by law, agrees to be bound by the terms of this Agreement and this Notice.

Notice: This Document And All Other Documents Relating To This Loan Constitute A Written Loan Agreement Which Represents The Final Agreement Between The Parties And May Not Be Contradicted By Evidence Of Prior, Contemporaneous, Or Subsequent Oral Agreements Of The Parties. There Are No Unwritten Oral Agreements Between The Parties Relating To This Loan.

**27. TIME IS OF THE ESSENCE.** Time is of the essence in the performance of the Agreement.

**28. JOINT AND SEVERAL LIABILITY.** The obligations of each Borrower shall be joint and several.

**29. STATE SPECIFIC PROVISIONS.**

If Borrower is resident of Delaware, Pennsylvania, or Maryland:

**Confession of Judgment.** The Undersigned Hereby Irrevocably Authorizes And Empowers Any Attorney-At-Law To Appear In Any Court Of Record And To Confess Judgment Against The Undersigned For The Unpaid Amount Of This Note As Evidenced By An Affidavit Signed By An Officer Of Lender Setting Forth The amount Then Due, Together With All Indebtedness Provided For Therein (With Or Without Acceleration Of Maturity), Plus Attorneys' Fees Of Ten Percent (10%) Of The Total indebtedness Or Five Thousand Dollars (\$5,000.00), Whichever Is The Larger Amount For The Collection, Which Borrower And Lender Agree Is Reasonable, Plus Costs Of Suit, and To Release All Errors, And Waive All Rights Of Appeal. The Undersigned Expressly Releases All Errors, Waives All Stay Of Execution, Rights Of Inquisition And Extension Upon Any Levy Upon Real Estate And All Exemption Of Property From Levy And Sale Upon Any Execution Hereon; And The Undersigned Expressly Agrees To Condemnation And Expressly Relinquishes All Rights To Benefits Or Exemptions Under Any And All Exemption Laws Now-In Force Or Which May Hereafter Be Enacted. No Single Exercise Of The Foregoing Warrant And Power To Confess Judgment Will Be Deemed To Exhaust The Power, Whether Or Not Any Such Exercise Shall Be Held By Any Court To Be Invalid, Voidable Or Void; But The Power Will Continue Undiminished And May Be Exercised From Time To Time As Lender May Elect Until All Amounts Owing On This Note Have Been Paid In Full. The Undersigned Hereby Waives And Releases Any And All Claims Or Causes Of Action Which The Undersigned Might Have Against Any Attorney Acting Under The Terms Of Authority Which The Undersigned Has Granted Herein Arising Out Of Or Connected With The Confession Of Judgment Hereunder.

**If Borrower is resident of Ohio:**

**Confession of Judgment.** The Undersigned Hereby Irrevocably Authorizes And Empowers Any Attorney-At-Law To Appear In Any Court Of Record And To Confess Judgment Against The Undersigned For The Unpaid Amount Of This Note As Evidenced By An Affidavit Signed By An Officer Of Lender Setting Forth The Amount Then Due, Together With All Indebtedness Provided For Therein (With Or Without Acceleration Of Maturity), Plus Attorneys' Fees Of Ten Percent (10%) Of The Total Indebtedness Or Five Thousand Dollars (\$5,000.00), Whichever Is The Larger Amount For The Collection, Which Borrower And Lender Agree Is Reasonable, Plus Costs Of Suit, And To Release All Errors, And Waive All Rights Of Appeal. The Undersigned Expressly Releases All Errors, Waives All Stay Of Execution, Rights Of Inquisition And Extension Upon Any Levy Upon Real Estate And All Exemption Of Property From Levy And Sale Upon Any Execution Hereon; And The Undersigned Expressly Agrees To Condemnation And Expressly Relinquishes All Rights To Benefits Or

Exemptions Under Any And All Exemption Laws Now In Force Or Which May Hereafter Be Enacted. No Single Exercise Of The Foregoing Warrant And Power To Confess Judgment Will Be Deemed To Exhaust The Power, Whether Or Not Any Such Exercise Shall Be Held By Any Court To Be Invalid, Voidable Or Void; But The Power Will Continue Undiminished And May Be Exercised From Time To Time As Lender May Elect Until All Amounts Owing On This Note Have Been Paid In Full. The Undersigned Hereby Waives And Releases Any And All Claims Or Causes Of Action Which The Undersigned Might Have Against Any Attorney Acting Under The Terms Of Authority Which The Undersigned Has Granted Herein Arising Out Of Or Connected With The Confession Of Judgment Hereunder.

WARNING--BY SIGNING THIS PAPER YOU GIVE UP YOUR RIGHT TO NOTICE AND COURT TRIAL. IF YOU DO NOT PAY ON TIME, A COURT JUDGMENT MAY BE TAKEN AGAINST YOU WITHOUT YOUR PRIOR KNOWLEDGE AND THE POWERS OF A COURT CAN BE USED TO COLLECT FROM YOU REGARDLESS OF ANY CLAIMS YOU MAY HAVE AGAINST THE CREDITOR WHETHER FOR RETURNED GOODS, FAULTY GOODS, FAILURE ON HIS PART TO COMPLY WITH THE AGREEMENT, OR ANY OTHER CAUSE

**If Borrower is resident of Virginia:**

Confession Of Judgment. In The Event Of Any Default Under This Instrument, Including, But Not Limited To Any Payment Under This Instrument Not Being Paid When Due, Whether At Maturity, By Acceleration Or Otherwise, Borrower Hereby Irrevocably Appoints And Constitutes Dawn Dibenedetto Whose Address Is 400 N 8Th Street, Suite 1150, Richmond, VA 23219, Borrower's Duly Constituted Attorney-In-Fact To Appear In The Clerk's Office Of The Circuit Court For City Of Richmond, Virginia Or In Any Other Court Of Competent Jurisdiction, And To Confess Judgment Pursuant To The Provisions Of Section 8.01- 432 Of The Code Of Virginia Of 1950, As Amended, Against Borrower For All Principal And Interest And Any Other Amounts Due And Payable Under This Instrument As Evidenced By An Affidavit Signed By An Officer Of The Lender Setting Forth The Amount Then Due, Together With Attorney's Fees And Collection Fees As Provided In This Instrument (To The Extent Permitted By Law). This Power Of Attorney Is Coupled With An Interest And May Not Be Terminated By Borrower And Shall Not Be Revoked Or Terminated By Borrower And Shall Not Be Revoked Or Terminated By Borrower's death, Disability Or Dissolution. If A Copy Of The Instrument, Verified By Affidavit, Shall Have Been Filed In The Above Clerk's Office; It Will Not Be Necessary To File The Original As A Warrant Of Attorney. Borrower Releases All Errors And Waives All Rights Of Appeal, Stay Of Execution, And The Benefit Of All Exemption Laws Now Or Hereafter In Effect. Borrower Shall, Upon Lender's Request, Name Such Additional Or Alternative Person(S) Designated By Lender As Borrower's Duly Constituted Attorney(S)-In-Fact To Confess Judgment Against The Borrower. No Single Exercise Of The Power To Confess Judgment Shall Be Deemed To Exhaust The Power And No Judgment Against Fewer Than All The Persons Constituting The Borrower Shall Bar Subsequent Action Or Judgment Against Any One Or More Of Such Persons Against Whom Judgment Has Not Been Obtained In This Instrument

**If Borrower is resident of Wisconsin:**

Each Borrower who is married represents that this obligation is incurred in the interest of his or her marriage or family.

**If Borrower is resident of Missouri:**

Oral or unexecuted agreements or commitments to loan money, extend credit or to forbear from enforcing repayment of a debt including promises to extend or renew such debt are not enforceable, regardless of the legal theory upon which it is based that is in any way related to the credit agreement To protect you, the Borrower(s), and us, the Lender, from misunderstanding or disappointment, any agreements we reach covering such matters are contained in this writing, which is the complete and exclusive statement of the agreement between us, except as we may later agree in writing to modify it.

**If Borrower is resident of Illinois:**

Borrower Agrees That Borrower, This Note And All Other Documents Executed In Connection Herewith, Regardless Of The Choice Of Law Made By Lender/Holder, Shall Be Governed By The Provisions Of The Credit Agreements Act (As Enacted By And Interpreted In The State Of Illinois) (815 Ilcs 160 Et. Seq.) And As That Act May Be Amended From Time To Time.

**If Borrower is resident of Oregon:**

Under Oregon Law, Most Agreements, Promises And Commitments Made By Lender Concerning Loans And Other Credit Extensions Which Are Not For Personal, Family, Or Household Purposes Or Secured Solely By Grantor's/Borrower's Residence Must Be In Writing, Express Consideration And Be Signed By An Authorized Representative Of Lender To Be Enforceable.

**If Borrower is resident of Washington:**

Oral Agreements Or Oral Commitments To Loan Money, Extend Credit, Or To Forbear From Enforcing Repayment Of A Debt Are Not Enforceable Under Washington Law.

**Wells Fargo Bank, National Association**

By 

Name Division Lending Manager

Title 05/03/2020

Date

**Borrower Acknowledgement and Acceptance**

By signing below, and intending to be legally bound, Borrower acknowledges receipt of the Agreement.  
Adomani Inc

BY. DocuSigned by:

**Michael K Menerey**

Nam (Signature)

Title (Borrower's Title)

**If Borrower is resident of Delaware, Pennsylvania, Ohio, Maryland or Virginia:**

Borrower (Borrower's Name)

**Wells Fargo Bank, National Association**

Lender

05/03/2020 | 7:03:20 PM CDT

Date

**Disclosure for Confession of Judgment**

I/We have executed a Promissory Note (the "Note") obligating Borrower to repay the amount described therein.

DS  
MKM  
Initials

\_\_\_\_\_

Initials

Initials

I/We understand that the Note contains wording that would permit Lender to enter judgment against Borrower in Court, without advance notice to Borrower and without offering Borrower an opportunity to defend against the entry of judgment, and that the judgment may be collected immediately by any legal means.

DS  
MKM  
Initials

\_\_\_\_\_

Initials

Initials

In executing the Note, Borrower is knowingly, understandingly and voluntarily waiving its rights to resist the entry of judgment against it at the courthouse, including any right to advance notice of the entry of, or execution upon, said judgment, and Borrower is consenting to the confession of judgment.

DS  
MKM  
Initials

\_\_\_\_\_

Initials

Initials

## LOAN AUTHORIZATION AND AGREEMENT (LA&A)

***A PROPERLY SIGNED DOCUMENT IS REQUIRED  
PRIOR TO ANY DISBURSEMENT***

### **CAREFULLY READ THE LA&A:**

This document describes the terms and conditions of your loan. It is your responsibility to comply with ALL the terms and conditions of your loan.

### **SIGNING THE LA&A:**

All borrowers must sign the LA&A.

- Sign your name exactly as it appears on the LA&A. If typed incorrectly, you should sign with the correct spelling.
- If your middle initial appears on the signature line, sign with your middle initial.
- If a suffix appears on the signature line, such as Sr. or Jr., sign with your suffix.
- Corporate Signatories: Authorized representatives should sign the signature page.

*Your signature represents your agreement to comply  
with the terms and conditions of the loan.*

## U.S. Small Business Administration

Economic Injury Disaster Loan

### LOAN AUTHORIZATION AND AGREEMENT

Date: 05.17.2020 (Effective Date)

On the above date, this Administration (SBA) authorized (under Section 7(b) of the Small Business Act, as amended) a Loan (SBA Loan #7852037408) to ADOMANI, Inc. (Borrower) of 4740 Green River Road, Ste. 106 Corona California 92880 in the amount of one hundred and fifty thousand and 00/100 Dollars (\$150,000.00), upon the following conditions:

#### PAYMENT

- Installment payments, including principal and interest, of \$731.00 Monthly, will begin Twelve (12) months from the date of the promissory Note. The balance of principal and interest will be payable Thirty (30) years from the date of the promissory Note.

#### INTEREST

- Interest will accrue at the rate of 3.75% per annum and will accrue only on funds actually advanced from the date(s) of each advance.

#### PAYMENT TERMS

- Each payment will be applied first to interest accrued to the date of receipt of each payment, and the balance, if any, will be applied to principal.
- Each payment will be made when due even if at that time the full amount of the Loan has not yet been advanced or the authorized amount of the Loan has been reduced.

#### COLLATERAL

- For loan amounts of greater than \$25,000, Borrower hereby grants to SBA, the secured party hereunder, a continuing security interest in and to any and all "Collateral" as described herein to secure payment and performance of all debts, liabilities and obligations of Borrower to SBA hereunder without limitation, including but not limited to all interest, other fees and expenses (all hereinafter called "Obligations"). The Collateral includes the following property that Borrower now owns or shall acquire or create immediately upon the acquisition or creation thereof: all tangible and intangible personal property, including, but not limited to: (a) inventory, (b) equipment, (c) instruments, including promissory notes (d) chattel paper, including tangible chattel paper and electronic chattel paper, (e) documents, (f) letter of credit rights, (g) accounts, including health-care insurance receivables and credit card receivables, (h) deposit accounts, (i) commercial tort claims, (j) general intangibles, including payment intangibles and software and (k) as-extracted collateral as such terms may from time to time be defined in the Uniform Commercial Code. The security interest Borrower grants includes all accessions, attachments, accessories, parts, supplies and replacements for the Collateral, all products, proceeds and collections thereof and all records and data relating thereto.
- For loan amounts of \$25,000 or less, SBA is not taking a security interest in any collateral.

REQUIREMENTS RELATIVE TO COLLATERAL

- Borrower will not sell or transfer any collateral (except normal inventory turnover in the ordinary course of business) described in the "Collateral" paragraph hereof without the prior written consent of SBA.
- Borrower will neither seek nor accept future advances under any superior liens on the collateral securing this Loan without the prior written consent of SBA.

USE OF LOAN PROCEEDS

- Borrower will use all the proceeds of this Loan solely as working capital to alleviate economic injury caused by disaster occurring in the month of January 31, 2020 and continuing thereafter and to pay Uniform Commercial Code (UCC) lien filing fees and a third-party UCC handling charge of \$100 which will be deducted from the Loan amount stated above.

REQUIREMENTS FOR USE OF LOAN PROCEEDS AND RECEIPTS

- Borrower will obtain and itemize receipts (paid receipts, paid invoices or cancelled checks) and contracts for all Loan funds spent and retain these receipts for 3 years from the date of the final disbursement. Prior to each subsequent disbursement (if any) and whenever requested by SBA, Borrower will submit to SBA such itemization together with copies of the receipts.
- Borrower will not use, directly or indirectly, any portion of the proceeds of this Loan to relocate without the prior written permission of SBA. The law prohibits the use of any portion of the proceeds of this Loan for voluntary relocation from the business area in which the disaster occurred. To request SBA's prior written permission to relocate, Borrower will present to SBA the reasons therefore and a description or address of the relocation site. Determinations of (1) whether a relocation is voluntary or otherwise, and (2) whether any site other than the disaster-affected location is within the business area in which the disaster occurred, will be made solely by SBA.
- Borrower will, to the extent feasible, purchase only American-made equipment and products with the proceeds of this Loan.
- Borrower will make any request for a loan increase for additional disaster-related damages as soon as possible after the need for a loan increase is discovered. The SBA will not consider a request for a loan increase received more than **two (2)** years from the date of loan approval unless, in the sole discretion of the SBA, there are extraordinary and unforeseeable circumstances beyond the control of the borrower.

DEADLINE FOR RETURN OF LOAN CLOSING DOCUMENTS

- **Borrower will sign and return the loan closing documents to SBA within 2 months of the date of this Loan Authorization and Agreement.** By notifying the Borrower in writing, SBA may cancel this Loan if the Borrower fails to meet this requirement. The Borrower may submit and the SBA may, in its sole discretion, accept documents after 2 months of the date of this Loan Authorization and Agreement.

COMPENSATION FROM OTHER SOURCES

- Eligibility for this disaster Loan is limited to disaster losses that are not compensated by other sources. Other sources include but are not limited to: (1) proceeds of policies of insurance or other indemnifications, (2) grants or other reimbursement (including loans) from government agencies or private organizations, (3) claims for civil liability against other individuals, organizations or governmental entities, and (4) salvage (including any sale or re-use) of items of damaged property.
- Borrower will promptly notify SBA of the existence and status of any claim or application for such other compensation, and of the receipt of any such compensation, and Borrower will promptly submit the proceeds of same (not exceeding the outstanding balance of this Loan) to SBA.

- Borrower hereby assigns to SBA the proceeds of any such compensation from other sources and authorizes the payor of same to deliver said proceeds to SBA at such time and place as SBA shall designate.
- SBA will in its sole discretion determine whether any such compensation from other sources is a duplication of benefits. SBA will use the proceeds of any such duplication to reduce the outstanding balance of this Loan, and Borrower agrees that such proceeds will not be applied in lieu of scheduled payments.

#### DUTY TO MAINTAIN HAZARD INSURANCE

- Within 12 months from the date of this Loan Authorization and Agreement the Borrower will provide proof of an active and in effect hazard insurance policy including fire, lightning, and extended coverage on all items used to secure this loan to at least 80% of the insurable value. Borrower will not cancel such coverage and will maintain such coverage throughout the entire term of this Loan. **BORROWER MAY NOT BE ELIGIBLE FOR EITHER ANY FUTURE DISASTER ASSISTANCE OR SBA FINANCIAL ASSISTANCE IF THIS INSURANCE IS NOT MAINTAINED AS STIPULATED HEREIN THROUGHOUT THE ENTIRE TERM OF THIS LOAN.** Please submit proof of insurance to: U.S. Small Business Administration, Office of Disaster Assistance, 14925 Kingsport Rd, Fort Worth , TX. 76155.

#### BOOKS AND RECORDS

- Borrower will maintain current and proper books of account in a manner satisfactory to SBA for the most recent 5 years until 3 years after the date of maturity, including extensions, or the date this Loan is paid in full , whichever occurs first. Such books will include Borrower 's financial and operating statements, insurance policies, tax returns and related filings, records of earnings distributed and dividends paid and records of compensation to officers, directors, holders of 10% or more of Borrower's capital stock , members , partners and proprietors.
- Borrower authorizes SBA to make or cause to be made , at Borrower's expense and in such a manner and at such times as SBA may require: (1) inspections and audits of any books, records and paper in the custody or control of Borrower or others relating to Borrower's financial or business conditions, including the making of copies thereof and extracts therefrom, and (2) inspections and appraisals of any of Borrower's assets.
- Borrower will furnish to SBA , not later than 3 months following the expiration of Borrower's fiscal year and in such form as SBA may require, Borrower's financial statements.
- Upon written request of SBA, Borrower will accompany such statements with an 'Accountant's Review Report' prepared by an independent public accountant at Borrower's expense.
- Borrower authorizes all Federal, State and municipal authorities to furnish reports of examination , records and other information relating to the conditions and affairs of Borrower and any desired information from such reports, returns, files, and records of such authorities upon request of SBA.

LIMITS ON DISTRIBUTION OF ASSETS

- Borrower will not, without the prior written consent of SBA, make any distribution of Borrower's assets, or give any preferential treatment, make any advance, directly or indirectly, by way of loan, gift, bonus, or otherwise, to any owner or partner or any of its employees, or to any company directly or indirectly controlling or affiliated with or controlled by Borrower, or any other company.

EQUAL OPPORTUNITY REQUIREMENT

- If Borrower has or intends to have employees, Borrower will post SBA Form 722, Equal Opportunity Poster (copy attached), in Borrower's place of business where it will be clearly visible to employees, applicants for employment, and the general public.

DISCLOSURE OF LOBBYING ACTIVITIES

- Borrower agrees to the attached Certification Regarding Lobbying Activities

BORROWER'S CERTIFICATIONS

Borrower certifies that:

- There has been no substantial adverse change in Borrower's financial condition (and organization, in case of a business borrower) since the date of the application for this Loan. (Adverse changes include, but are not limited to: judgment liens, tax liens, mechanic's liens, bankruptcy, financial reverses, arrest or conviction of felony, etc.)
- No fees have been paid, directly or indirectly, to any representative (attorney, accountant, etc.) for services provided or to be provided in connection with applying for or closing this Loan, other than those reported on SBA Form 5 Business Disaster Loan Application; SBA Form 3501 COVID-19 Economic Injury Disaster Loan Application; or SBA Form 159, 'Compensation Agreement'. All fees not approved by SBA are prohibited.
- All representations in the Borrower's Loan application (including all supplementary submissions) are true, correct and complete and are offered to induce SBA to make this Loan.
- No claim or application for any other compensation for disaster losses has been submitted to or requested of any source, and no such other compensation has been received, other than that which Borrower has fully disclosed to SBA.
- Neither the Borrower nor, if the Borrower is a business, any principal who owns at least 50% of the Borrower, is delinquent more than 60 days under the terms of any: (a) administrative order; (b) court order; or (c) repayment agreement that requires payment of child support.
- Borrower certifies that no fees have been paid, directly or indirectly, to any representative (attorney, accountant, etc.) for services provided or to be provided in connection with applying for or closing this Loan, other than those reported on the Loan Application. All fees not approved by SBA are prohibited. If an Applicant chooses to employ an Agent, the compensation an Agent charges to and that is paid by the Applicant must bear a necessary and reasonable relationship to the services actually performed and must be comparable to those charged by other Agents in the geographical area. Compensation cannot be contingent on loan approval. In addition, compensation must not include any expenses which are deemed by SBA to be unreasonable for services actually performed or expenses actually incurred. Compensation must not include charges prohibited in 13 CFR 103 or SOP 50-30, Appendix 1. **If the compensation exceeds \$500 for a disaster home loan or \$2,500 for a disaster business loan, Borrower must fill out the Compensation Agreement Form 159D which will be provided for Borrower upon request or can be found on the SBA website.**

- Borrower certifies, to the best of its, his or her knowledge and belief , that the certifications and representations in the attached Certification Regarding Lobbying are true, correct and complete and are offered to induce SBA to make this Loan.

#### CIVIL AND CRIMINAL PENALTIES

- Whoever wrongfully misapplies the proceeds of an SBA disaster loan shall be civilly liable to the Administrator in an amount equal to one-and-one halftimes the original principal amount of the loan under 15 U.S.C. 636(b). In addition , any false statement or misrepresentation to SBA may result in criminal, civil or administrative sanctions including, but not limited to: 1) fines, imprisonment or both , under 15 U.S.C. 645, 18 U.S.C. 1001, 18 U.S.C. 1014, 18 U.S.C. 1040, 18 U.S.C. 3571, and any other applicable laws; 2) treble damages and civil penalties under the False Claims Act , 31 U.S.C. 3729; 3) double damages and civil penalties under the Program Fraud Civil Remedies Act , 31 U.S.C. 3802; and 4) suspension and/or debarment from all Federal procurement and non-procurement transactions. Statutory fines may increase if amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.

#### RESULT OF VIOLATION OF THIS LOAN AUTHORIZATION AND AGREEMENT

- If Borrower violates any of the terms or conditions of this Loan Authorization and Agreement, the Loan will be in default and SBA may declare all or any part of the indebtedness immediately due and payable. SBA's failure to exercise its rights under this paragraph will not constitute a waiver.
- A default (or any violation of any of the terms and conditions) of any SBA Loan(s) to Borrower and/or its affiliates will be considered a default of all such Loan(s).

#### DISBURSEMENT OF THE LOAN

- Disbursements will be made by and at the discretion of SBA Counsel, in accordance with this Loan Authorization and Agreement and the general requirements of SBA.
- Disbursements may be made in increments as needed.
- Other conditions may be imposed by SBA pursuant to general requirements of SBA.
- Disbursement may be withheld if, in SBA's sole discretion, there has been an adverse change in Borrower's financial condition or in any other material fact represented in the Loan application, or if Borrower fails to meet any of the terms or conditions of this Loan Authorization and Agreement.
- **NO DISBURSEMENT WILL BE MADE LATER THAN 6 MONTHS FROM THE DATE OF THIS LOAN AUTHORIZATION AND AGREEMENT UNLESS SBA, IN ITS SOLE DISCRETION, EXTENDS THIS DISBURSEMENT PERIOD.**

**PARTIES AFFECTED**

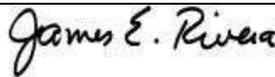
- This Loan Authorization and Agreement will be binding upon Borrower and Borrower's successors and assigns and will inure to the benefit of SBA and its successors and assigns.

**RESOLUTION OF BOARD OF DIRECTORS**

- Borrower shall, within 180 days of receiving any disbursement of this Loan, submit the appropriate SBA Certificate and/or Resolution to the U.S. Small Business Administration, Office of Disaster Assistance, 14925 Kingsport Rd, Fort Worth, TX. 76155.

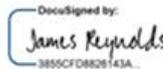
**ENFORCEABILITY**

- This Loan Authorization and Agreement is legally binding, enforceable and approved upon Borrower's signature, the SBA's approval and the Loan Proceeds being issued to Borrower by a government issued check or by electronic debit of the Loan Proceeds to Borrower's banking account provided by Borrower in application for this Loan.



James E. Rivera  
Associate Administrator  
U.S. Small Business Administration

The undersigned agree(s) to be bound by the terms and conditions herein during the term of this Loan, and further agree(s) that no provision stated herein will be waived without prior written consent of SBA. **Under penalty of perjury of the United States of America, I hereby certify that I am authorized to apply for and obtain a disaster loan on behalf of Borrower, in connection with the effects of the COVID-19 emergency.**

**ADOMANI, Inc.**

DecoSigned by:  
James Reynolds  
3856CFD8626143A...

Date: 05.17.2020

James Reynolds, Owner/Officer

**Note:** Corporate Borrowers must execute Loan Authorization and Agreement in corporate name, by a duly authorized officer. Partnership Borrowers must execute in firm name, together with signature of a general partner. Limited Liability entities must execute in the entity name by the signature of the authorized managing person.

	U.S. Small Business Administration	Date: 05.17.2020		
	<b>NOTE</b>	Loan Amount: \$150,000.00		
	(SECURED DISASTER LOANS)	Annual Interest Rate: 3.75%		

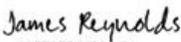
SBA Loan# 7852037408

Application #3600041404

1. **PROMISE TO PAY:** In return for a loan, Borrower promises to pay to the order of SBA the amount of **one hundred and fifty thousand and 00/100 Dollars (\$150,000.00)**, interest on the unpaid principal balance, and all other amounts required by this Note.
2. **DEFINITIONS: A)** "Collateral" means any property taken as security for payment of this Note or any guarantee of this Note. **B)** "Guarantor" means each person or entity that signs a guarantee of payment of this Note. **C)** "Loan Documents" means the documents related to this loan signed by Borrower, any Guarantor, or anyone who pledges collateral.
3. **PAYMENT TERMS:** Borrower must make all payments at the place SBA designates. Borrower may prepay this Note in part or in full at any time, without notice or penalty. Borrower must pay principal and interest payments of **\$731.00** every **month** beginning **Twelve (12)** months from the date of the Note. SBA will apply each installment payment first to pay interest accrued to the day SBA receives the payment and will then apply any remaining balance to reduce principal. All remaining principal and accrued interest is due and payable **Thirty (30) years** from the date of the Note.
4. **DEFAULT:** Borrower is in default under this Note if Borrower does not make a payment when due under this Note, or if Borrower: **A)** Fails to comply with any provision of this Note, the Loan Authorization and Agreement, or other Loan Documents; **B)** Defaults on any other SBA loan; **C)** Sells or otherwise transfers, or does not preserve or account to SBA's satisfaction for, any of the Collateral or its proceeds; **D)** Does not disclose, or anyone acting on their behalf does not disclose, any material fact to SBA; **E)** Makes, or anyone acting on their behalf makes, a materially false or misleading representation to SBA; **F)** Defaults on any loan or agreement with another creditor, if SBA believes the default may materially affect Borrower's ability to pay this Note; **G)** Fails to pay any taxes when due; **H)** Becomes the subject of a proceeding under any bankruptcy or insolvency law; **I)** Has a receiver or liquidator appointed for any part of their business or property; **J)** Makes an assignment for the benefit of creditors; **K)** Has any adverse change in financial condition or business operation that SBA believes may materially affect Borrower's ability to pay this Note; **L)** Dies; **M)** Reorganizes, merges, consolidates, or otherwise changes ownership or business structure without SBA's prior written consent; or, **N)** Becomes the subject of a civil or criminal action that SBA believes may materially affect Borrower's ability to pay this Note.
5. **SBA'S RIGHTS IF THERE IS A DEFAULT:** Without notice or demand and without giving up any of its rights, SBA may: **A)** Require immediate payment of all amounts owing under this Note; **B)** Have recourse to collect all amounts owing from any Borrower or Guarantor (if any); **C)** File suit and obtain judgment; **D)** Take possession of any Collateral; or **E)** Sell, lease, or otherwise dispose of, any Collateral at public or private sale, with or without advertisement.
6. **SBA'S GENERAL POWERS:** Without notice and without Borrower's consent, SBA may: **A)** Bid on or buy the Collateral at its sale or the sale of another lienholder, at any price it chooses; **B)** Collect amounts due under this Note, enforce the terms of this Note or any other Loan Document, and preserve or dispose of the Collateral. Among other things, the expenses may include payments for property taxes, prior liens, insurance, appraisals, environmental remediation costs, and reasonable attorney's fees and costs. If SBA incurs such expenses, it may demand immediate reimbursement from Borrower or add the expenses to the principal balance; **C)** Release anyone obligated to pay this Note; **D)** Compromise, release, renew, extend or substitute any of the Collateral; and **E)** Take any action necessary to protect the Collateral or collect amounts owing on this Note.

7. **FEDERAL LAW APPLIES:** When SBA is the holder, this Note will be interpreted and enforced under federal law, including SBA regulations. SBA may use state or local procedures for filing papers, recording documents, giving notice, foreclosing liens, and other purposes. By using such procedures, SBA does not waive any federal immunity from state or local control, penalty, tax, or liability. As to this Note, Borrower may not claim or assert against SBA any local or state law to deny any obligation, defeat any claim of SBA, or preempt federal law.
8. **GENERAL PROVISIONS: A)** All individuals and entities signing this Note are jointly and severally liable. **B)** Borrower waives all suretyship defenses. **C)** Borrower must sign all documents required at any time to comply with the Loan Documents and to enable SBA to acquire, perfect, or maintain SBA's liens on Collateral. **D)** SBA may exercise any of its rights separately or together, as many times and in any order it chooses. SBA may delay or forgo enforcing any of its rights without giving up any of them. **E)** Borrower may not use an oral statement of SBA to contradict or alter the written terms of this Note. **F)** If any part of this Note is unenforceable, all other parts remain in effect. **G)** To the extent allowed by law, Borrower waives all demands and notices in connection with this Note, including presentment, demand, protest, and notice of dishonor. Borrower also waives any defenses based upon any claim that SBA did not obtain any guarantee; did not obtain, perfect, or maintain a lien upon Collateral; impaired Collateral; or did not obtain the fair market value of Collateral at a sale. **H)** SBA may sell or otherwise transfer this Note.
9. **MISUSE OF LOAN FUNDS:** Anyone who wrongfully misapplies any proceeds of the loan will be civilly liable to SBA for one and one-half times the proceeds disbursed, in addition to other remedies allowed by law.
10. **BORROWER'S NAME(S) AND SIGNATURE(S):** By signing below, each individual or entity acknowledges and accepts personal obligation and full liability under the Note as Borrower.

**ADOMANI, Inc.**

DocuSigned by:  
  
3855CFD8826143A...  
James Reynolds, Owner/Officer

## **SECURITY AGREEMENT**

Read this document carefully. It grants the SBA a security interest (lien) in all the property described in paragraph 4.

This document is predated. DO NOT CHANGE THE DATE ON THIS DOCUMENT.



## U.S. Small Business Administration SECURITY AGREEMENT

SBA Loan #:	7852037408
Borrower:	ADOMANI, Inc.
Secured Party:	<b>The Small Business Administration, an Agency of the U.S. Government</b>
Date:	05.17 .2020
Note Amount:	\$150,000.00

### 1. DEFINITIONS.

Unless otherwise specified, all terms used in this Agreement will have the meanings ascribed to them under the Official Text of the Uniform Commercial Code, as it may be amended from time to time, ("UCC"). "SBA" means the Small Business Administration, an Agency of the U.S. Government.

### 2. GRANT OF SECURITY INTEREST.

For value received, the Borrower grants to the Secured Party a security interest in the property described below in paragraph 4 (the "Collateral").

### 3. OBLIGATIONS SECURED.

This Agreement secures the payment and performance of: (a) all obligations under a Note dated 05.17.2020, made by ADOMANI, Inc., made payable to Secured Lender, in the amount of \$150,000.00 ("Note"), including all costs and expenses (including reasonable attorney's fees), incurred by Secured Party in the disbursement, administration and collection of the loan evidenced by the Note; (b) all costs and expenses (including reasonable attorney's fees), incurred by Secured Party in the protection, maintenance and enforcement of the security interest hereby granted; (c) all obligations of the Borrower in any other agreement relating to the Note; and (d) any modifications, renewals, refinancings, or extensions of the foregoing obligations.

### 4. COLLATERAL DESCRIPTION.

The Collateral in which this security interest is granted includes the following property that Borrower now owns or shall acquire or create immediately upon the acquisition or creation thereof: all tangible and intangible personal property, including, but not limited to: (a) inventory, (b) equipment, (c) instruments, including promissory notes (d) chattel paper, including tangible chattel paper and electronic chattel paper, (e) documents, (f) letter of credit rights, (g) accounts, including health-care insurance receivables and credit card receivables, (h) deposit accounts, (i) commercial tort claims, (j) general intangibles, including payment intangibles and software and (k) as-extracted collateral as such terms may from time to time be defined in the Uniform Commercial Code. The security interest Borrower grants includes all accessions, attachments, accessories, parts, supplies and replacements for the Collateral, all products, proceeds and collections thereof and all records and data relating thereto.

**5. RESTRICTIONS ON COLLATERAL TRANSFER.**

Borrower will not sell, lease, license or otherwise transfer (including by granting security interests, liens, or other encumbrances in) all or any part of the Collateral or Borrower's interest in the Collateral without Secured Party's written or electronically communicated approval, except that Borrower may sell inventory in the ordinary course of business on customary terms. Borrower may collect and use amounts due on accounts and other rights to payment arising or created in the ordinary course of business, until notified otherwise by Secured Party in writing or by electronic communication.

**6. MAINTENANCE AND LOCATION OF COLLATERAL; INSPECTION; INSURANCE.**

Borrower must promptly notify Secured Party by written or electronic communication of any change in location of the Collateral, specifying the new location. Borrower hereby grants to Secured Party the right to inspect the Collateral at all reasonable times and upon reasonable notice. Borrower must: (a) maintain the Collateral in good condition; (b) pay promptly all taxes, judgments, or charges of any kind levied or assessed thereon; (c) keep current all rent or mortgage payments due, if any, on premises where the Collateral is located; and (d) maintain hazard insurance on the Collateral, with an insurance company and in an amount approved by Secured Party (but in no event less than the replacement cost of that Collateral), and including such terms as Secured Party may require including a Lender's Loss Payable Clause in favor of Secured Party. Borrower hereby assigns to Secured Party any proceeds of such policies and all unearned premiums thereon and authorizes and empowers Secured Party to collect such sums and to execute and endorse in Borrower's name all proofs of loss, drafts, checks and any other documents necessary for Secured Party to obtain such payments.

**7. CHANGES TO BORROWER'S LEGAL STRUCTURE, PLACE OF BUSINESS, JURISDICTION OF ORGANIZATION, OR NAME.**

Borrower must notify Secured Party by written or electronic communication not less than 30 days before taking any of the following actions: (a) changing or reorganizing the type of organization or form under which it does business; (b) moving, changing its place of business or adding a place of business; (c) changing its jurisdiction of organization; or (d) changing its name. Borrower will pay for the preparation and filing of all documents Secured Party deems necessary to maintain, perfect and continue the perfection of Secured Party's security interest in the event of any such change.

**8. PERFECTION OF SECURITY INTEREST.**

Borrower consents, without further notice, to Secured Party's filing or recording of any documents necessary to perfect, continue, amend or terminate its security interest. Upon request of Secured Party, Borrower must sign or otherwise authenticate all documents that Secured Party deems necessary at any time to allow Secured Party to acquire, perfect, continue or amend its security interest in the Collateral. Borrower will pay the filing and recording costs of any documents relating to Secured Party's security interest. Borrower ratifies all previous filings and recordings, including financing statements and notations on certificates of title. Borrower will cooperate with Secured Party in obtaining a Control Agreement satisfactory to Secured Party with respect to any Deposit Accounts or Investment Property, or in otherwise obtaining control or possession of that or any other Collateral.

**9. DEFAULT.**

Borrower is in default under this Agreement if: (a) Borrower fails to pay, perform or otherwise comply with any provision of this Agreement; (b) Borrower makes any materially false representation, warranty or certification in, or in connection with, this Agreement, the Note, or any other agreement related to the Note or this Agreement; (c) another secured party or judgment creditor exercises its rights against the Collateral; or (d) an event defined as a "default" under the Obligations occurs. In the event of default and if Secured Party requests, Borrower must assemble and make available all Collateral at a place and time designated by Secured Party. Upon default and at any time thereafter, Secured Party may declare all Obligations secured hereby immediately due and payable, and, in its sole discretion, may proceed to enforce payment of same and exercise any of the rights and remedies available to a secured party by law including those available to it under Article 9 of the UCC that is in effect in the jurisdiction where Borrower or the Collateral is located. Unless otherwise required under applicable law, Secured Party has no obligation to clean or otherwise prepare the Collateral for sale or other disposition and Borrower waives any right it may have to require Secured Party to enforce the security interest or payment or performance of the Obligations against any other person.

**10. FEDERAL RIGHTS.**

When SBA is the holder of the Note , this Agreement will be construed and enforced under federal law, including SBA regulations. Secured Party or SBA may use state or local procedures for filing papers, recording documents, giving notice, enforcing security interests or liens , and for any other purposes . By using such procedures, SBA does not waive any federal immunity from state or local control, penalty, tax or liability. As to this Agreement, Borrower may not claim or assert any local or state law against SBA to deny any obligation, defeat any claim of SBA, or preempt federal law.

**11. GOVERNING LAW.**

Unless SBA is the holder of the Note , in which case federal law will govern , Borrower and Secured Party agree that this Agreement will be governed by the laws of the jurisdiction where the Borrower is located, including the UCC as in effect in such jurisdiction and without reference to its conflicts of laws principles.

**12. SECURED PARTY RIGHTS.**

All rights conferred in this Agreement on Secured Party are in addition to those granted to it by law, and all rights are cumulative and may be exercised simultaneously. Failure of Secured Party to enforce any rights or remedies will not constitute an estoppel or waiver of Secured Party' s ability to exercise such rights or remedies . Unless otherwise required under applicable law, Secured Party is not liable for any loss or damage to Collateral in its possession or under its control, nor will such loss or damage reduce or discharge the Obligations that are due, even if Secured Party' s actions or inactions caused or in any way contributed to such loss or damage.

**13. SEVERABILITY.**

If any provision of this Agreement is unenforceable, all other provisions remain in effect.

**14. BORROWER CERTIFICATIONS.**

Borrower certifies that: (a) its Name (or Names) as stated above is correct; (b) all Collateral is owned or titled in the Borrower's name and not in the name of any other organization or individual; (c) Borrower has the legal authority to grant the security interest in the Collateral; (d) Borrower's ownership in or title to the Collateral is free of all adverse claims, liens, or security interests (unless expressly permitted by Secured Party); (e) none of the Obligations are or will be primarily for personal, family or household purposes; (f) none of the Collateral is or will be used, or has been or will be bought primarily for personal, family or household purposes; (g) Borrower has read and understands the meaning and effect of all terms of this Agreement.

**15. BORROWER NAME(S) AND SIGNATURE(S).**

By signing or otherwise authenticating below, each individual and each organization becomes jointly and severally obligated as a Borrower under this Agreement.

**ADOMANI, Inc.**

DocuSigned by:  
*James Reynolds*  
3855CFD8826143A

Date: 05.17.2020

James Reynolds, Owner/Officer

# **SECURITY AGREEMENT**

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Page 1 of 5



U.S. Small Business Administration  
**SECURITY AGREEMENT**

SBA Loan #:	7852037408
Borrower:	ADOMANI, Inc.
Secured Party:	<b>The Small Business Administration, an Agency of the U.S. Government</b>
Date:	05.17 .2020
Note Amount:	\$150,000.00

**1. DEFINITIONS.**

Unless otherwise specified, all terms used in this Agreement will have the meanings ascribed to them under the Official Text of the Uniform Commercial Code, as it may be amended from time to time, ("UCC"). "SBA" means the Small Business Administration, an Agency of the U.S. Government.

**2. GRANT OF SECURITY INTEREST.**

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**3. OBLIGATIONS SECURED.**

This Agreement secures the payment and performance of: (a) all obligations under a Note dated 05.17.2020, made by ADOMANI, Inc., made payable to Secured Lender, in the amount of \$150,000.00 ("Note"), including all costs and expenses (including reasonable attorney's fees), incurred by Secured Party in the disbursement, administration and collection of the loan evidenced by the Note; (b) all costs and expenses (including reasonable attorney's fees), incurred by Secured Party in the protection, maintenance and enforcement of the security interest hereby granted; (c) all obligations of the Borrower in any other agreement relating to the Note; and (d) any modifications, renewals, refinancings, or extensions of the foregoing obligations.

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**6. MAINTENANCE AND LOCATION OF COLLATERAL; INSPECTION; INSURANCE.**

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Borrower consents, without further notice, to Secured Party's filing or recording of any documents necessary to perfect, continue, amend or terminate its security interest. Upon request of Secured Party, Borrower must sign or otherwise authenticate all documents that Secured Party deems necessary at any time to allow Secured Party to acquire, perfect, continue or amend its security interest in the Collateral. Borrower will pay the filing and recording costs of any documents relating to Secured Party's security interest. Borrower ratifies all previous filings and recordings, including financing statements and notations on certificates of title. Borrower will cooperate with Secured Party in obtaining a Control Agreement satisfactory to Secured Party with respect to any Deposit Accounts or Investment Property, or in otherwise obtaining control or possession of that or any other Collateral.

**9. DEFAULT.**

Borrower is in default under this Agreement if: (a) Borrower fails to pay , perform or otherwise comply with any provision of this Agreement ; (b) Borrower makes any materially false representation, warranty or certification in, or in connection with, this Agreement, the Note, or any other agreement related to the Note or this Agreement ; (c) another secured party or judgment creditor exercises its rights against the Collateral ; or (d) an event defined as a "default" under the Obligations occurs . In the event of default and if Secured Party requests, Borrower must assemble and make available all Collateral at a place and time designated by Secured Party.

Upon default and at any time thereafter , Secured Party may declare all Obligations secured hereby immediately due and payable , and, in its sole discretion , may proceed to enforce payment of same and exercise any of the rights and remedies available to a secured party by law including those available to it under Article 9 of the UCC that is in effect in the jurisdiction where Borrower or the Collateral is located. Unless otherwise required under applicable law, Secured Party has no obligation to clean or otherwise prepare the Collateral for sale or other disposition and Borrower waives any right it may have to require Secured Party to enforce the security interest or payment or performance of the Obligations against any other person.

**10. FEDERAL RIGHTS.**

When SBA is the holder of the Note , this Agreement will be construed and enforced under federal law, including SBA regulations. Secured Party or SBA may use state or local procedures for filing papers, recording documents , giving notice, enforcing security interests or liens , and for any other purposes. By using such procedures, SBA does not waive any federal immunity from state or local control, penalty, tax or liability. As to this Agreement, Borrower may not claim or assert any local or state law against SBA to deny any obligation, defeat any claim of SBA, or preempt federal law.

**11. GOVERNING LAW.**

Unless SBA is the holder of the Note , in which case federal law will govern, Borrower and Secured Party agree that this Agreement will be governed by the laws of the jurisdiction where the Borrower is located, including the UCC as in effect in such jurisdiction and without reference to its conflicts of laws principles.

**12. SECURED PARTY RIGHTS.**

All rights conferred in this Agreement on Secured Party are in addition to those granted to it by law, and all rights are cumulative and may be exercised simultaneously. Failure of Secured Party to enforce any rights or remedies will not constitute an estoppel or waiver of Secured Party' s ability to exercise such rights or remedies. Unless otherwise required under applicable law, Secured Party is not liable for any loss or damage to Collateral in its possession or under its control, nor will such loss or damage reduce or discharge the Obligations that are due, even if Secured Party' s actions or inactions caused or in any way contributed to such loss or damage.

**13. SEVERABILITY.**

If any provision of this Agreement is unenforceable, all other provisions remain in effect.

**14. BORROWER CERTIFICATIONS.**

Borrower certifies that: (a) its Name (or Names) as stated above is correct; (b) all Collateral is owned or titled in the Borrower's name and not in the name of any other organization or individual; (c) Borrower has the legal authority to grant the security interest in the Collateral; (d) Borrower's ownership in or title to the Collateral is free of all adverse claims, liens, or security interests (unless expressly permitted by Secured Party); (e) none of the Obligations are or will be primarily for personal, family or household purposes; (f) none of the Collateral is or will be used, or has been or will be bought primarily for personal, family or household purposes; (g) Borrower has read and understands the meaning and effect of all terms of this Agreement.

**15. BORROWER NAME(S) AND SIGNATURE(S).**

By signing or otherwise authenticating below, each individual and each organization becomes jointly and severally obligated as a Borrower under this Agreement.

**ADOMANI, Inc.**

DocuSigned by:  
*James Reynolds*  
3855CFD8826143A...

05.17.2020

Date:

James Reynolds, Owner/Officer

**Certification Pursuant to  
Rules 13a-14(a) and 15d-14(a) of the  
Securities Exchange Act of 1934**

I, James L. Reynolds, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of ADOMANI, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 14, 2020

By: /s/ James L. Reynolds  
James L. Reynolds  
Chief Executive Officer  
(Principal Executive Officer)

**CERTIFICATION PURSUANT TO  
RULE 13a-14(a) OR RULE 15d-14(a) OF THE  
SECURITIES EXCHANGE ACT OF 1934**

I, Michael K. Menerey, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of ADOMANI, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 14, 2020

By: /s/ Michael K. Menerey  
Michael K. Menerey  
Chief Financial Officer  
(Principal Financial Officer)

**CERTIFICATION OF CHIEF EXECUTIVE OFFICER  
PURSUANT TO  
18 U.S.C. SECTION 1350**

In connection with the Quarterly Report of ADOMANI, Inc. (the "Company") on Form 10-Q for the period ended June 30, 2020, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, James L. Reynolds, Chief Executive Officer of the Company, hereby certify as of the date hereof, solely for purposes of Title 18, Chapter 63, Section 1350 of the United States Code, that to the best of my knowledge:

(i) the Report fully complies with the requirements of Section 13(a) or Section 15(d), as applicable, of the Securities Exchange Act of 1934, as amended; and

(ii) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: August 14, 2020

By: /s/ James L. Reynolds  
Name James L. Reynolds  
Title: Chief Executive Officer  
(Principal Executive Officer)

A signed original of this written statement required by 18 U.S.C. Section 1350 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request. This certification will not be deemed filed by the Company for purposes of Section 18 of the Securities Exchange Act of 1934, or otherwise subject to the liability of that Section. This certification will not be deemed to be incorporated by reference into any filing under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, except to the extent that the Company specifically incorporates it by reference.

**CERTIFICATION OF CHIEF FINANCIAL OFFICER  
PURSUANT TO  
18 U.S.C. SECTION 1350**

In connection with the Quarterly Report of ADOMANI, Inc. (the "Company") on Form 10-Q for the period ended June 30, 2020, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Michael K. Menerey, Chief Financial Officer of the Company, hereby certify as of the date hereof, solely for purposes of Title 18, Chapter 63, Section 1350 of the United States Code, that to the best of my knowledge:

(i) the Report fully complies with the requirements of Section 13(a) or Section 15(d), as applicable, of the Securities Exchange Act of 1934, as amended; and

(ii) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: August 14, 2020

By: /s/ Michael K. Menerey  
Michael K. Menerey  
Chief Financial Officer  
(Principal Financial Officer)

A signed original of this written statement required by 18 U.S.C. Section 1350 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request. This certification will not be deemed filed by the Company for purposes of Section 18 of the Securities Exchange Act of 1934, or otherwise subject to the liability of that Section. This certification will not be deemed to be incorporated by reference into any filing under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, except to the extent that the Company specifically incorporates it by reference.