

Designer Agreement

This Designer Agreement (this “**Agreement**”) is entered into by This is CALA, Inc., a Delaware corporation (“**Company**”), and you, the Designer (hereafter referred to as “**Designer**”, “**you**”, “**your**” or “**yours**”); with the foregoing also referred to herein individually as a “**Party**” and collectively as the “**Parties**.”

In consideration of the covenants and conditions described below, Company and Designer agree as follows:

By clicking on the “accept” or similar button, (1) you are consenting and expressly agree to be bound by and are becoming a party to (a) the terms of this Agreement, and (b) the terms of the Terms of Use located at <https://ca.la/terms> (the “Terms of Use”); and (2) you represent and acknowledge that you have read and reviewed this Agreement and the Terms of Use (“Acceptance”).

Please note that to be a Designer with Company and to use the Platform (as defined herein) and the associated Software (as defined herein), you must agree to the terms and conditions set forth in this Agreement and the Terms of Use. We may modify this Agreement at any time, and such modification shall be effective immediately upon either posting of the modified agreement or notifying you. You agree to review this Agreement periodically to ensure that you are aware of any modifications. Your continued access or use of the Platform shall be deemed your conclusive acceptance of the modified agreement. If you do not agree to the terms of this Agreement and/or the Terms of Use, you do not have our authorization to use any of the Services and you may not access or use any portion of the Site (as defined herein), Platform, or Software.

Terms not defined herein shall have the meaning as provided in our Terms of Use and incorporated herein by this reference. In the event of any conflict between the terms of this Agreement and the Terms of Use, the terms of this Agreement shall supersede and control to the extent of any such conflict. This Agreement is effective as of the date of Acceptance.

Agreement

1. Services

- (a) *General.* Through Company’s technology platform (the “**Platform**”), which includes Company’s proprietary software and content (the “**Software**”) on Company’s online website (including all content and functionality available through the <https://ca.la/> domain name, “**Site**”), Company will provide Designer with certain services, including (i) the procurement of Customer Service, Fulfillment, and, if expressly agreed pursuant to *Section 1(f)(i)* or *(ii)*, as applicable, Marketing Services and Other Services, and (ii) to connect Designer with Company’s design,

production, fulfillment and other partners (each, a “**Partner**” and collectively, “**Partners**”) for the provision of the foregoing in furtherance of the production of custom apparel, garments and accessories (collectively, “**Garments**”) in Designer’s design project(s) (each such design project, a “**Design Project**”) (such services, the “**Services**”). In connection with the Services, Company and/or its Partners shall provide Designer with certain production services (including fabric manufacturing, trim vendors and sample making and production of the Garments) and access to consultants (including technical designers, pattern makers, and other sourcing services) (collectively, the “**Production Services**”). For avoidance of doubt, the specific Services and Production Services provided to Designer will be consistent with the subscription model selected by Designer, as more fully described on the subscription pricing page (the “**Subscription Pricing Page**”) located at <https://ca.la/access> (“**Subscription**”).

(b) *Production Services.*

- (i) *Production Fee Approval Process.* Following design and submission by Designer of a proposed Design Project via the Platform, Company will review such Design Project to determine the estimated costs of the Production Services in connection with the applicable Design Project. Company will provide Designer with a quote for all costs and fees in connection with the Production Services for such Design Project, including without limitation, costs and fees for any of pattern-making, material sourcing, prototypes, product development, custom labels, samples for final approval, bulk units, a keep sample for Company and packaging (collectively, a “**Quote**”). For the avoidance of doubt, the Quote shall exclude Fulfillment Costs and, if applicable, Marketing Costs and Other Services Costs, which shall be assessed to Designer pursuant to the terms of *Section 1(c)*, *Section 1(f)(i)* and *Section 1(f)(ii)*, respectively.
- (ii) Upon review by Designer of a Quote, Designer shall either (x) approve such Quote (such approved Quote, a “**Production Fee**”) or (y) submit proposed revisions to the Design Project to Company in writing (email sufficient), which will again be subject to the process set forth in *Section 1(b)(i)* (the process described in *Sections 1(b)(i)* and *(ii)*, the “**Production Fee Approval Process**”). For the avoidance of doubt, any Production Fee (and all information used to create such Production Fee) is considered Company’s Confidential Information (as defined herein) subject to all obligations and restrictions in *Section 4* hereof.
- (iii) *Checkout.* Upon obtaining a mutually agreed to Production Fee via the Production Fee Approval Process for a given Design Project,

Company shall communicate to Designer, in its sole and absolute discretion, whether (1) Company shall require payment of such Production Fee (or any portion thereof) in accordance with *Section 2(c)* or (2) such Production Fee (or any portion thereof) may be financed in accordance with *Section 2(d)*. At “Checkout” for a Design Project in the Platform (the “**Checkout**”), Designer will confirm the following order details with respect to each Design Project (a) the Production Fee, which Production Fee is equal to the “Total Costs” set forth on the Checkout page on the Platform (the “**Checkout Page**”), (b) the Financing Amount, which Financing Amount is equal to the “Credit Applied” set forth on the Checkout Page, (c) the amount, if any, of the Production Fee to be paid at Checkout in accordance with *Section 2(c)*, which amount is equal to the “Total Costs” minus the “Credit Applied” set forth on the Checkout Page (the “**Checkout Payment**”) and (d) the estimated time to completion of production of the Garments, described as “Est. Time” on the Checkout Page (the “**Estimated Production Time**”). The initial delivery location of the Garments provided for in the Design Project shall be confirmed via email or any other method of communication mutually agreeable to the Parties.

- (iv) *Production.* Designer understands and agrees that with respect to each Design Project (1) Company may, in its sole discretion, match and connect Designer with a Partner (any such Partner, a “**Production Partner**”) based on the compatibility of the Production Services offered by such Production Partner to a Design Project; (2) Designer agrees to pay or finance the Production Fee as provided for in *Section 2* of this Agreement prior to the commencement of the Production Services; and (3) no Production Services will begin until the Checkout Payment is successfully processed. Company’s employment of commercially reasonable efforts to locate a Production Partner for a Design Project does not guarantee a Production Partner shall indeed be located and available to complete such Design Project.
- (v) *Samples, Review and Changes.* Prior to production of the Garments in connection with any given Design Project, Designer agrees to promptly review, approve and/or provide comments on any Garment sample (the “**Sample**”) created by a Production Partner in connection with such Design Project. If Designer desires to make major and substantial changes to a Sample (a “**Major Alteration**”) that materially impact the Estimated Production Time, the pricing estimate or other material term contained in a Quote, as determined in Company’s sole discretion, Company may place on hold or otherwise cancel the applicable Design Project for re-pricing and a new Quote shall be issued in accordance with *Section 1(b)(i)*. By way of illustration and without limitation, a Major Alteration may include

change of the product type, change of construction of a Garment by adding a hood or sleeve or other feature, change in the process type from print to embroidery or substantially changing materials (i.e., from denim to leather). Once an Approving Collaborator (as defined below) approves a Sample (an “**Approved Sample**”), no changes of any kind can be made to a Garment or the number of units for a given Garment in connection with the applicable Design Project.

- (vi) Designer will (1) provide clear instructions and timeline to any Production Partner for the production of Garments in connection the applicable Design Project, (2) be available during normal business hours to respond to any Production Partner’s questions related to a Garment, Approved Sample or a Design Project, and (3) will designate one (1) or more collaborators, at Designers discretion, for each Design Project via email (each an “**Approving Collaborator**”) to provide timely approval, rejection and/or comments to a Sample or other inquiries or questions. For the avoidance of doubt, each Approving Collaborator shall have Designer’s authorization to provide approval, rejection and/or comments to any Sample without further authorization from Designer or another Approving Collaborator and such approval shall be final, irrevocable and definitive for all purposes under this Agreement.
- (c) *Fulfillment and Delivery.* For the provision of fulfillment services to Designer from a Partner (any such Partner, a “**Fulfillment Partner**”), including warehousing and storage, shipping and delivery of the Garments to Designer’s customers (any such fulfillment services, “**Fulfillment**”), (i) the costs of any such Fulfillment (the “**Fulfillment Costs**”) shall be paid up front by Company and reimbursed by Designer as provided for in *Section 2(f)* hereof; (ii) Designer will provide accurate, truthful and up to date shipping information through the Platform for the delivery of Garments; (iii) Company or the Fulfillment Partner may, in its sole discretion, store Garments at a warehouse or with another Fulfillment Partner of its choosing; (iv) the method of shipping will be provided through a nationally recognized and reputable courier or delivery service (“**Courier**”) chosen by Company or Fulfillment Partner, as applicable; and (v) if Designer chooses to receive the Garments, Designer agrees to be present on the delivery date confirmed by the Fulfillment Partner (the “**Delivery Date**”) or designate an authorized adult to accept delivery of the Garments on the Delivery Date. Company shall not be responsible for any damage caused by a warehouse or other Fulfillment Partner or Courier to the Garments and Designer’s sole recourse will be against such warehouse or other Fulfillment Partner or Courier, as applicable, for such damage.
- (d) *Damaged Garments.* Upon delivery of the Garments, Designer or its designee will inspect all Garments promptly upon delivery and, if Garments are reasonably determined to be damaged, defective, or deficient

(the “**Damaged Garments**”), Designer will promptly, but in any event within five (5) days from the Delivery Date (the “**Notification Period**”), notify Company in writing and provide evidence of such damage, defect or deficiency. Following such notification, Company shall work with Designer and the Fulfillment or Production Partner, as applicable depending on the nature of the issue, to remedy the damage, defect, or deficiency and, if reasonably necessary, return the Damaged Garments at the applicable Fulfillment or Production Partner’s cost and expense. For the avoidance of doubt, if Designer fails to provide notice of its receipt of Damaged Garments within the Notification Period, then such Garments shall be deemed accepted and any cost, expense or other remedial measure shall be the sole and exclusive responsibility of Designer.

- (e) *Customer Service.* With respect to each Design Project, Company will manage the procurement of customer service from a Partner, including coordination of responses to customer inquiries and arranging for returns (such services, “**Customer Service**”) for no additional cost to Designer.
- (f) *Marketing; Other Services.*
 - (i) *Marketing Services.* With respect to each Design Project, Company may, at the request of Designer, set up paid marketing campaigns, creative and advertisements with a marketing Partner (a “**Marketing Partner**”) (such services, the “**Paid Marketing Services**”). Prior to initiation of Marketing Services with a Marketing Partner, Designer shall approve the costs and expenses associated therewith (“**Marketing Costs**”) in writing (email sufficient). The Marketing Costs shall be paid up front by Company and reimbursed by Designer as provided for in *Section 2(f)* hereof. For the avoidance of doubt, the Marketing Costs will include an additional service fee due and payable to Company.
 - (ii) *Other Services.* Any services that are outside the scope of the Services and Production Services specifically contemplated in this Agreement (the “**Other Services**”) may be requested by Designer and provided in Company’s sole discretion, subject to the costs and expenses thereof being the sole and exclusive responsibility of Designer (such costs and expenses, the “**Other Services Costs**”).
 - For the avoidance of doubt, the Marketing Costs and Other Services Costs shall be in addition to the Subscription Fee, the Production Costs and the Fulfillment Costs, as further detailed herein.

2. Fees; Financing; Payment

The scope of fees, costs and expenses that Designer may incur and be rendered due and payable to Company in accordance with the terms of this Agreement as

follows: (i) the Subscription Fee, (ii) the Revenue Share Fee, (iii) the Fulfillment Costs, (iv) Production Fee(s), (v) Financing Repayment(s), if applicable, (vi) the Marketing Costs, if applicable, (vii) the Other Services Costs, if applicable, and (viii) the Late Payment Charges, if applicable (the fees, costs and expenses described in the foregoing clauses (i) – (viii) of this Section 2, collectively, the “**Fees**”) each as further detailed herein.

- (a) *Subscription Fee.* Designer will pay via credit card, automatic transfer hold (ATH), wire transfer or any other direct transfer method approved by Company, in its sole discretion, to Company the non-cancelable and non-refundable monthly subscription fee applicable to Designer’s Subscription set forth on the Subscription Pricing Page (the “**Subscription Fee**”). The first payment of the Subscription Fee shall be due on the date of Acceptance and each subsequent Subscription Fee shall be due on each monthly anniversary thereafter as indicated by the applicable invoice (the “**Subscription Fee Invoice**”). At the end of the Initial Term, for the Renewal Term, if any, Designer will pay the then-current non-cancelable and non-refundable Subscription Fee set for on the Subscription Pricing Page.
- (b) *Revenue Share Fee.* With respect to each Design Project, Designer shall pay to Company, on a monthly basis as provided for in Section 2(f) hereof, a fee equal to the percentage applicable to Designer’s Subscription set forth on the Subscription Pricing Page (the “**Revenue Share Percentage**”) of all income of any kind whatsoever generated from the sale of any Garments by Designer or on Designer’s behalf and at its direction (“**Revenue**”), including, for the avoidance of doubt, any Garment sales occurring after termination of this Agreement (such monthly fee, the “**Revenue Share Fee**”).
- (c) *Production Fee.* As previously described in *Section 1(b)(iv)*, with respect to each Design Project, the Production Fee shall be paid at Checkout, prior to commencement of Production Services; provided, however, if all or any part of such Production Fee is financed in accordance with *Section 2(d)* hereof, the portion of the Production Fee subject to Financing as agreed to at Checkout shall be paid in accordance with *Section 2(f)* hereof.
- (d) *Financing.*
 - (i) Company may, in its sole discretion, offer financing to Designer to cover all or part of any Production Fees (the “**Financing**”). If Designer desires to apply for Financing, Designer will promptly provide Company with its bank statements for the past three (3) months, a direct connection into Designer’s relevant bank account, access to Designer’s e-commerce platform and any other information reasonably requested by Company. Following review by Company thereof,

Company may, in its sole discretion, determine the amount of Financing, if any, to be made available to Designer at any given time during the Term (the “**Credit Limit**”), which, for the avoidance of doubt, may be adjusted or revoked as the Company may, from time to time, determine. Designer may access the Financing to cover all or part of the Production Fee for each given Design Project (the amount of each such use, a “**Financing Amount**” and collectively, the “**Financing Amounts**”). For the avoidance of doubt, Company will not extend to Designer any Financing Amount, which together with already outstanding Financing Amounts, would, in the aggregate, exceed the Credit Limit.

- (ii) Designer will be responsible for repayment of the Financing Amounts in full in accordance with the terms hereof. The Financing Amounts outstanding will be repaid on a monthly basis as provided for in *Section 2(f)* hereof. Until all Financing Amounts are repaid in full, each such monthly repayment amount due under this *Section 2(d)(ii)* shall be equal to (a) (1) the applicable calendar month’s Revenue, minus (2) the Revenue Share Fee, minus (3) the Fulfillment Costs, minus (4) the Marketing Costs, if applicable, minus (5) the Other Services Costs, if applicable, minus (6) the Late Payment Charges, if applicable or (b) such smaller amount sufficient to pay the Financing Amount in full (such amount, as applicable, the “**Financing Repayment**”).
 - (iii) ## Notwithstanding anything to the contrary contained herein, the Financing Amounts must be repaid in full no later than the date that is four (4) months following the Checkout (the “**Final Repayment Date**”). Any portion of the Financing Amounts that have not been repaid by the Final Repayment Date (such portion, the “**Financing Balance**”) shall (a) become immediately due and payable. Company may exercise all remedial measures appropriate and available to it pursuant to applicable law, including without limitation, collection or seizure of Produced Garments in order to collect the outstanding Financing Balance and (b) accrue interest pursuant to *Section 2(e)* hereof. Notwithstanding the first sentence of this paragraph, in the event Designer does not offer the Garments, related to the financed Design Project, for sale within fourteen (14) days of the Delivery Date, the full Financing Balance shall become subject to clauses (a) and (b) in the preceding sentence as if the Final Repayment Date has occurred.
- (e) *Late Payments.* Any amounts owed by Designer to Company pursuant to this Agreement not paid by Designer within thirty (30) days of when due will bear interest at the maximum rate permitted by applicable law, computed and compounded daily from the date due until the date paid in

full (such late payments owed plus any accrued interest, “**Late Payment Charges**”).

- (f) *Invoicing; Payment.* No later than the fifteenth (15th) calendar day of each month, Company shall submit to Designer an invoice (the “**Invoice**”) for fees and costs due to Company for the preceding calendar month pursuant to this Agreement. The Invoice shall include the following amounts due and payable for each Design Project (such aggregate amounts, the “**Invoice Amount**”), (1) Revenue Share Fee, (2) Fulfillment Costs, (3) Marketing Costs, if applicable, (4) Other Services Costs, if applicable, (5) the Financing Repayment, if applicable, and (6) Late Payment Charges, if applicable. Unless disputed in accordance with *Section 2(g)*, all Invoices, excluding the Subscription Fee Invoice which shall be due as described in Section 2(a) hereof, shall be due and payable on the fifth (5th) business day following Company’s submission thereof (the “**Payment Deadline**”). Unless disputed in accordance with *Section 2(g)*, Company will charge Designer’s bank account, provided to Company in accordance with Section 2(d)(i), (the “**Provided Account**”) on the Payment Deadline (or, if such means of collection is not available or is insufficient at the time, Designer shall pay via automatic transfer hold (ATH), wire transfer or any other direct transfer method approved by Company, in its sole discretion any amounts that could not be collected through the Provided Account by the Payment Deadline).
- (g) *Invoice Disputes.* If Designer submits a writing (email sufficient) with evidence reasonably acceptable to Company to dispute any portion of the Invoice Amount (such writing, an “**Invoice Dispute**”) prior to the Payment Deadline, Company will not charge Designer for the amount reasonably disputed in such Invoice Dispute until the Invoice Dispute has been resolved in accordance with the terms of this *Section 2(g)*. In the event Designer submits an Invoice Dispute, the Parties will work together in good faith, using commercially reasonable efforts, to resolve such Invoice Dispute and to agree to a final Invoice Amount to be paid by Designer (such final Invoice Amount, a “**Resolved Invoice Amount**”). If, after thirty (30) calendar days, the Parties have not resolved the Invoice Dispute by agreeing to a Resolved Invoice Amount, the Invoice Dispute shall be submitted to a mutually agreeable independent, registered public accounting firm for resolution (the “**Accountant**”). Designer shall bear one hundred percent (100%) of the cost of such Accountant’s services. Notwithstanding the foregoing, if Designer is the prevailing party and the Resolved Invoice Amount is at least five percent (5%) less than the Invoice Amount, Company shall bear one hundred percent (100%) of the cost of such Accountant’s services. The Accountant’s determination of the amounts owed by Designer to Company for the applicable calendar month shall be final, binding and non-appealable (such amount, the “**Final Invoice Amount**”). Company will charge any Resolved Invoice Amount or Final Invoice Amount, as applicable, to Designer’s Provided

Account (or, if such means of collection is not available or is insufficient at the time, Designer shall pay via automatic transfer hold (ATH), wire transfer or any other direct transfer method approved by Company, in its sole discretion any amounts that could not be collected through such means) on the third (3rd) business day following the date of resolution of a Resolved Invoice Amount or Final Invoice Amount, as applicable.

- (h) *Recommended Retail Price.* Company will, for Designer's sole benefit, provide a recommended retail price for each Garment sold by Designer with a view to maximizing sales and thereby increasing the likelihood of covering the amounts set forth in this *Section 2 due and payable to Company*; provided, however, that Company is in no manner responsible for any recommendations provided to Designer or the effects thereof and Designer remains solely and exclusively responsible for payment of all amounts due and payable to Company under this *Section 2*.

3. Term; Termination; Deactivation; Survival

- (a) *Term.* Subject to earlier termination as provided in this Section 3, this Agreement shall be for an initial term of one (1) year from Acceptance (such term, the "**Initial Term**"); provided, however, if any Design Project submitted pursuant to Section 1(b)(iii) remains incomplete, the terms of this Agreement shall continue to govern completion of such Design Project regardless of whether this Agreement renews pursuant to the following sentence. At the end of the Initial Term, in the event Designer has not accepted a new agreement, this Agreement will automatically renew for successive renewal terms of thirty (30) days (each, a "**Renewal Term**" and together with the Initial Term, collectively, "**Term**"), unless either Party provides written notice of non-renewal to the other Party at least thirty (30) days prior to the end of the Initial Term. Either party may terminate any Renewal Term, for any reason, upon at least thirty (30) days' written notice.
- (b) *Termination for Cause.* This Agreement may be earlier terminated by either Party: (i) if the other Party materially breaches a provision of this Agreement, and fails to cure such breach within fifteen (15) business days after receiving written notice of such breach from the non-breaching Party; or (ii) immediately upon written notice, if the other Party makes any assignment for the benefit of creditors, or a receiver, trustee in bankruptcy or similar officer is appointed to take charge of any or all of the other Party's property, or the other Party seeks protection under any bankruptcy, receivership, trust deed, creditors arrangement, composition or comparable proceeding or such a proceeding is instituted against the other Party and is not dismissed within ninety (90) days, or the other Party becomes insolvent or, without a successor, dissolves, liquidates or otherwise fails to

operate in the ordinary course. If Designer is the terminating Party under the foregoing subsections (i) or (ii), Company will refund to Designer any Fees that were pre-paid for the then current Term, pro-rated for the remainder thereof.

- (c) *Deactivation Policy.* Company’s goal is to provide reliable and long lasting partnerships with Partners and contractors. Company does this by connecting the top designers with the top Partners in terms of design, quality, reliability, accountability, and transparency in communication. This is only possible when designers trust Partners and vice versa. If Company determines, in its sole discretion, that Designer has breached the terms of this Agreement or any other understanding or agreement, Designer may be barred or suspended from using the Platform, either temporarily or permanently, depending on the seriousness of the breach.

4. Property Rights of the Parties.

- (a) *Confidential Information.* Each Party recognizes and acknowledges that it may receive (“**Receiving Party**”) Confidential Information (as defined herein) of the other Party (“**Disclosing Party**”) provided under this Agreement. The Receiving Party agrees to hold all of the Disclosing Party’s Confidential Information in confidence, not to disclose any portion of it to others or use it in any way, commercially or otherwise, except as necessary to perform or receive the Services and/or Production Services and not to allow any unauthorized person access to it, either before or after termination of this Agreement; provided, however, that any such Confidential Information may be provided only to the Receiving Party’s employees, agents, partners, members, consultants, subcontractors or contractors (collectively, “**Representatives**”) that have a need for such access for the sole purposes of Designer’s performance of, or Designer’s receipt of, the Services and/or Production Services pursuant to this Agreement, such Representatives being, in each case, subject to confidentiality restrictions similar to those contained herein. The Receiving Party or its Representatives shall not make copies of, disassemble, reverse engineer, or otherwise decompile any of the Disclosing Party’s Confidential Information. The Receiving Party shall promptly notify the Disclosing Party in the event of any unauthorized use or disclosure of any of the Disclosing Party’s Confidential Information. Upon the Disclosing Party’s request or the termination of this Agreement, the Receiving Party shall promptly return all documents and other materials received from the Disclosing Party, unless otherwise provided in this Agreement. The Receiving Party agrees that the Disclosing Party owns the Disclosing Party’s Confidential Information and it shall continue to be the exclusive property of the Disclosing Party, whether or not prepared in whole or in part by the Receiving Party and whether or not disclosed to or entrusted to the Re-

ceiving Party's custody. Subject to *Section 4(b)*, Designer owns all right, title and interest in and to the Designer Materials.

As used herein, the term “**Confidential Information**” means all information (whether or not patentable and whether or not copyrightable), owned, possessed or used by the Disclosing Party hereunder, including, without limitation, inventions, products, designs, formulas, vendor and Partner identity and information, customer information or lists, apparatuses, equipment, processes, research, reports, technical data, know-how, computer programs, software, software or process documentation, hardware designs, technology, marketing or business plans, forecasts, unpublished financial statements, budgets, licenses, prices, costs and employee lists, specifications, samples, patterns, designs, plans, drawings, documents, data, and Third-Party Confidential Information that are communicated to, learned of, developed or otherwise acquired by the Receiving Party under this Agreement, whether disclosed orally or in written or electronic communication or other forms of media, and whether or not marked, designated or otherwise identified as being “confidential”, “secret”, or “proprietary”. For avoidance of doubt: (i) Company's Confidential Information includes confidential and proprietary information related to the Services, Production Services, Site, Platform, Software, Partners, Quote(s), Production Fee(s), the Revenue Share Fee, Subscription Fee, Fulfillment Costs, Marketing Costs and Other Services Costs; and (ii) Designer Confidential Information includes confidential and proprietary information related to any Design Project. For purposes of this Agreement, Confidential Information shall not include information the Receiving Party can document: (a) was or has become readily available to the public without restriction through no fault of the Receiving Party; (b) was received without restriction from a third party lawfully entitled to possess and disclose such information; (c) was rightfully in possession of the Receiving Party without restriction prior to the Disclosing Party's disclosure of such information to the Receiving Party; or (d) was or is independently developed by the Receiving Party, as established by documentary evidence, without reference to or use of, in whole or in part, any of the Disclosing Party's Confidential Information. For the purposes of this Agreement, “**Third-Party Confidential Information**” means confidential or proprietary information of third parties received by the Receiving Party for which the Receiving Party is subject to a duty to maintain the confidentiality of such information and to use it only for certain limited purposes.

- (b) *Designer License*. Designer hereby grants to Company a non-exclusive, sub-licensable (to Company's Partners or Representatives only), worldwide, royalty-free license to use, reproduce, modify, distribute, make derivatives, publicly perform, publicly display, and otherwise exploit any tangible or intangible ideas, inventions, marks, documents, memoranda, software, data, text, logos, content, designs, photographs, multimedia, and other Intellectual Property owned or created by Designer, as well as

Designer Confidential Information, any Design Project, products, Garments, software, technology, know-how and other materials (collectively, “**Designer Materials**”), only as reasonably necessary for Company’s performance of the Services and/or the Production Services and limited to the Term of this Agreement. For the purposes of this Agreement, “**Intellectual Property**” includes, without limitation, all (i) trademarks, service marks, trade dress, corporate names, trade names, slogans, logos, and other indicia of source, whether registered or unregistered, and all translations, adaptations, derivations and combinations of the foregoing, together with the goodwill associated therewith; (ii) Internet domain names, Internet addresses and domain name registrations; (iii) copyrights, including copyrights in software, copyrightable works and copyrightable subject matter, moral rights, neighboring rights, and derivative works thereof; (iv) patents, patent applications, and inventions (whether patentable or not and/or registered or not); (v) trade secrets, know-how, technologies, data, documentation, databases, processes, techniques, protocols, methods, formulae, algorithms, layouts, designs, artwork specifications, confidential information and lists of suppliers, vendors, customers and distributors; (vi) copies and tangible embodiments (in whatever form or medium) of any of the foregoing; and (vii) any other Intellectual Property rights in the foregoing (of every kind and nature however designated, regardless of whether such rights are registered or not) whether arising by operation of law, treaty, contract, license, or otherwise, together with all registrations, initial applications, renewals, extensions, continuations, divisions or reissues thereof.

- (c) *Company Property.* Company owns all right, title, and interest, including all Intellectual Property, in and related to the Services, Production Services, Marketing Services and Other Services (“**Company Property**”). Designer will not act to jeopardize, limit, or interfere in any manner with Company’s ownership of and rights with respect to the Company Property. For the avoidance of doubt, this Agreement does not convey any license or other grant of rights that would allow Designer to sell, disclose, duplicate or otherwise use for any other purposes, any assets, material, property, artwork, designers or any other Company Property or any property belonging to any Production Partner.
- (d) *Work Product Ownership.* Company owns all right, title, interests, including all Intellectual Property, and designs in and to, Garments, products, Samples and Approved Samples and other materials specifically produced for each Design Project for Designer in the performance of the Services under this Agreement (the “**Work Product**”). Prior to the payment by Designer to Company of the full balance of the Production Fee and Financing Amount, if applicable, for each Design Project (the “**Transfer Payment**”), Company grants to Designer a limited right to use Approved Samples by Designer, solely to the extent necessary to, and for the sole purpose of, promoting the applicable Design Product. Company shall

automatically, and without further action by any Party, assign all right, title and interests, including all Intellectual Property, in and to the Work Product to Designer solely upon the Transfer Payment. For the avoidance of doubt, immediately upon the occurrence of the condition stated in the preceding sentence, the Parties agree and acknowledge that Designer will maintain all right, title and interest in the Work Product.

- (e) *Defend Trade Secrets Act of 2016*. Each Party acknowledges and understands that, pursuant to the Defend Trade Secrets Act of 2016 (18 USC § 1833(b)), an individual may not be held criminally or civilly liable under any federal or state trade secret law for disclosure of a trade secret: (i) made in confidence to a government official, either directly or indirectly, or to an attorney, solely for the purpose of reporting or investigating a suspected violation of law; and/or (ii) in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. Additionally, an individual suing an employer for retaliation based on the reporting of a suspected violation of law may disclose a trade secret to his or her attorney and use the trade secret information in the court proceeding, so long as any document containing the trade secret is filed under seal and the individual does not disclose the trade secret except pursuant to court order.

5. Designer Representations and Warranties

Designer hereby agrees, represents and warrants that:

- (a) Designer (i) is duly formed, validly existing and in good standing under the laws of the jurisdiction of its organization and authorized to do business in the United States, (ii)(x) has no direct, nor indirect owner, nor does business with any person resident of, or entity domiciled in, such countries identified on the list of sanctioned countries as designated as such by the Office of Foreign Assets and Control from time to time and (y) is not a person with whom a citizen of the United States is prohibited to engage in transactions by any trade embargo, economic sanction, or other prohibition of United States law, rule, regulation or executive order of the President of the United States, and (iii) has the requisite corporate, limited partnership or limited liability company power and authority to execute and deliver this Agreement and to perform its obligations hereunder.
- (b) Designer hereby acknowledges and agrees that it will use the Services, Production Services, Site, Platform, and/or Software in full compliance at all times with all relevant state, federal and local laws, statutes, rules, ordinances, regulations, policies and other requirements.
- (c) Designer will comply with all terms and conditions of this Agreement and any other agreements and policies related to the use of the Services, Production Services, Site, Software and Platform.

- (d) Designer owns all right, title and interest in and to all Designer Materials and has all necessary rights to grant the license to Company as described in *Section 4(b)* hereof.
- (e) Designer's performance of its obligations pursuant to this Agreement does not violate any agreement or obligation between Designer and any third party.
- (f) The Designer Materials, including but not limited to Designer's Garment designs and any Design Project, do not and will not infringe, violate, or misappropriate any right of a third party, including but not limited to any privacy rights, copyright, patent, trade secrets, trademark, or other proprietary or Intellectual Property right held by any third party.
- (g) Designer will promptly update Partner via the Platform as to any relevant updates with respect to any Design Project, including, but not limited to, any preset list of tasks in connection with any Design Project and/or changes to such list.
- (h) Designer will not use the Services, Production Services, Site, Platform, or Software in any manner that (i) is harmful, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libelous, fraudulent, deceptive, or misleading or otherwise objectionable; or (ii) adversely affects or reflects negatively on Company's goodwill, name or reputation or causes duress, distress or discomfort to Company or anyone else, or discourages any person, firm or enterprise from using all or any portion, feature, or function of the Services, Production Services, Site, Platform or Software or from advertising, liking or becoming a supplier to use in connection with the Services, Production Services, Site, Platform or Software.
- (i) Designer (i) has obtained and currently holds all necessary permissions, rights and licenses to collect and use customer data needed for Fulfillment; (ii) its customer data does not and will not infringe, violate, or misappropriate any right of any third-party, including without limitation, any IP Right held by any third-party; and (iii) it is in full compliance with all applicable local, state and federal laws, rules and regulations with respect to its customer data and privacy. For the purposes of this Agreement, "**IP Rights**" shall mean, whether registered or unregistered, all patents, copyrights, trademarks, service marks, trade secrets, privacy rights, data rights, moral rights and other Intellectual Property and proprietary rights, including all classes and types in all countries in the world, and applications, continuations, divisionals, reexaminations, reissues, extensions, modifications and derivatives of all of the foregoing.

6. Company Representations and Warranties

Company hereby agrees, represents and warrants that:

- (a) Company is duly formed, validly existing and in good standing under the laws of the State of Delaware and it has the requisite corporate power and authority to execute and deliver this Agreement and to perform its obligations hereunder.
- (b) Company hereby acknowledges and agrees that it will provide the Services, Production Services, Site, Platform, and/or Software in full compliance at all times with all relevant state, federal and local laws, statutes, rules, ordinances, regulations, policies and other requirements.
- (c) Company will develop, manufacture, produce, promote, market, sell and distribute the Garments in full compliance with all applicable federal, state, provincial and local laws, regulations and standards; and

7. Indemnity

- (a) *Indemnification.* Each Party agrees to indemnify, defend, and hold the other Party and its affiliates, successors and assigns, and all of their officers, directors, employees, Partners and other agents (collectively, “**Indemnitees**”), harmless from any and all costs, expenses (including reasonable attorneys’ fees), losses, damages, claims, causes of action, liabilities, demands, penalties, forfeitures, suits and judgments, which any Indemnatee may hereafter incur, become responsible for or pay, as a result of any breach of such breaching Party’s representations, warranties, agreements or other promises contained in this Agreement.
- (b) *Limitation of Liability.* In no event shall either Party be liable to the other, for special, punitive, incidental, consequential or other indirect damages arising out of or in connection with any breach of this Agreement, even if advised of the possibility of such damages in advance. In no event will either Party’s liability for any damages to the other Party, regardless of the form of action, whether based on contract, tort (including negligence), strict liability, products liability or otherwise, ever exceed the Fees paid by Designer to Company for the Services on which the claim is based that were provided by Company in the twelve (12) months preceding the claim.

8. Taxes

Designer shall be solely responsible for all local, state and federal income taxes and assessments arising in connection with production of the Garments and other products created and sold pursuant to the terms of this Agreement. If Company is required to pay any local, state or federal, taxes or assessments based on the Services or Garments provided under this Agreement, such taxes shall be billed to and paid by Designer in addition to the other costs owed to Company pursuant to *Section 2*.

9. Non-Solicitation; Non-Circumvent

- (a) *Non-Solicitation.* To the fullest extent permitted under applicable law, for the Term and for eighteen (18) months following the termination or expiration of this Agreement pursuant to its terms, each Party agrees that, it shall not, and shall not attempt to, directly or indirectly, solicit or hire any of the other Party's board members, officers, employees, independent contractors and other agents whom the other Party meets or who becomes known to such Party during, or as a result of, performance of the Services and/or the Production Services. The foregoing provision will not prevent either Party from conducting generalized solicitations through the use of media advertisements, professional search firms or otherwise not specifically targeted to the other Party's Representatives.
- (b) *Non-Circumvent.* Designer may be introduced to or learn of Partners, entities, customers, distributors, clients and Representatives of Company (collectively, "**Designated Parties**"). To the fullest extent permitted under applicable law, for the Term and for eighteen (18) months following the expiration or earlier termination of this Agreement for any reason, Designer agrees not to circumvent, attempt to circumvent, or permit any other party or person on Designer's behalf to circumvent Company's relationships and/or agreements with the Designated Parties in any way, manner or form, including without limitation, contacting, calling on, soliciting, consummating transactions, contracts or engagements, or taking away, either directly or indirectly, any Designated Party without the prior written permission of Company. Further, Designer will not engage in any competition with Company, or engage in any action which may constitute intentional interference with Company's prospective economic advantage.
- (c) *Remedies.* In the event of any breach of this *Section 9*, both Parties, in addition to any other remedies at law or in equity that the Parties may have, will be entitled, without the requirement of posting a bond or other security, to seek equitable relief.

10. Miscellaneous

- (a) *Governing Law.* This Agreement shall be governed by the laws of the State of New York, without regard to any conflict of laws provisions or rules (whether of the State of New York or any other jurisdiction) that would cause the application of laws of any jurisdictions other than those of the State of New York.
- (b) *Dispute Resolution.* The Parties agree that any controversy or dispute (other than an Invoice Dispute, which shall be resolved exclusively in accordance with the terms of *Section 2(g)* hereof) between the Parties concerning this Agreement will first be subject to reasonable good faith

efforts by the Parties to resolve such dispute, and if such good faith efforts are not successful, shall be submitted to binding arbitration in New York County, New York, on the request of any Party, and the arbitration shall comply with and be governed by the provisions of the New York Civil Practice Law & Rules, Article 75. Any cause of action or claim Designer may have with respect to this Agreement must be commenced within one (1) year after the claim or cause of action arises. Arbitration shall be conducted by three (3) arbitrators familiar with the commercial practices of Company and Designer's industry. Each Party shall be entitled to select one (1) arbitrator, which two (2) selected arbitrators shall in turn select a third arbitrator. Any award or decision obtained from any such arbitration proceeding shall be final and binding on the Parties, and judgment upon any award thus obtained may be entered in any court having jurisdiction thereof. All Parties to the arbitration shall as an initial matter share the costs of such proceeding, but the prevailing Party may be awarded fees and costs, including reasonable attorney's fees. No action at law or in equity based upon any claim arising out of or related to this Agreement shall be instituted in any court by either Party except (a) an action to compel arbitration pursuant to this *Section 10(b)*, or (b) an action to enforce an award obtained in an arbitration proceeding in accordance with this *Section 10(b)*.

- (c) *Injunctive Relief.* Any breach of *Section 4* (Property Rights of Parties) of this Agreement will cause irreparable harm to Company for which damages would not be an adequate remedy, and therefore, Company will be entitled to seek injunctive relief with respect thereto in addition to any other remedies.
- (d) *Waiver.* Company's failure to insist upon or enforce strict performance of any provision of this Agreement shall not be construed as a waiver of any provision or right. No waiver of any term, provision or condition of this Agreement, whether by conduct or otherwise, in any one or more instances, shall be deemed to be, or shall constitute, a waiver of any other term, provision or condition hereof, whether or not similar, nor shall such waiver constitute a continuing waiver of any such term, provision or condition hereof.
- (e) *Severability.* In the event that any provision of this Agreement shall be determined to be illegal or unenforceable, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect and enforceable. Furthermore, in lieu of any such illegal or unenforceable provision hereof, the Parties shall add as a part of this Agreement a provision as similar in terms to such illegal or unenforceable provision as may be possible to be legal and enforceable.
- (f) *Entire Agreement; Amendments.* This Agreement entered into in connection with Designer's use of the Services and the Production Services,

including any terms of service, represent the entire understanding between the Parties with respect to the subject matter hereof and supersedes all prior proposals, representations, agreements and undertakings related to the subject matter of this Agreement. This Agreement may be amended or modified only by a written instrument executed by duly authorized representatives of both Company and Designer.

- (g) *Assignment.* This Agreement is personal to Designer and Designer shall not have the right or ability to assign, transfer or subcontract any rights or obligations under this Agreement without the written consent of Company. Any attempt to do so will be null and void and a material breach by Designer of this Agreement. Company may freely assign this Agreement, in whole or in part, to any third party.
- (h) *Survival.* Sections 2 (Fees; Financing; Payment), 3 (Termination), 4 (Proprietary Information; Ownership of Work Product), 7 (Indemnity), 9 (Non-Solicitation; Non-Circumvent) and 10 (Miscellaneous) hereof will survive any termination or expiration of this Agreement in accordance with their terms.
- (i) *Notices.* All notices by Designer under this Agreement shall be in writing and shall be deemed given when sent by Designer via email to hi@ca.la. All notices by Company under this Agreement can be sent to Designer via email set forth under Designer's name on the signature page hereto.