

Draft for Review

FORM OF NOTE

THE SECURITIES REPRESENTED HEREBY AND THE SECURITIES ISSUABLE UPON CONVERSION HEREOF HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “**SECURITIES ACT**”), OR UNDER THE SECURITIES LAWS OF CERTAIN STATES. THESE SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED UNDER THE SECURITIES ACT AND THE APPLICABLE STATE SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM. HOLDERS SHOULD BE AWARE THAT THEY MAY BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME. THE ISSUER OF THESE SECURITIES MAY REQUIRE AN OPINION OF COUNSEL IN FORM AND SUBSTANCE SATISFACTORY TO THE ISSUER TO THE EFFECT THAT ANY PROPOSED TRANSFER OR RESALE IS IN COMPLIANCE WITH THE SECURITIES ACT AND ANY APPLICABLE STATE SECURITIES LAWS.

CONVERTIBLE PROMISSORY NOTE

\$____,

_____, 2019

ELEVATE HOLDINGS, INC.

FOR VALUE RECEIVED, Elevate Holdings, Inc., a Cayman Island company (the “**Company**”), promises to pay to _____ (“**Investor**”), or its registered assigns, in lawful money of the United States of America, the principal sum of _____ (\$____), or such lesser amount as shall equal the outstanding principal amount hereof, together with interest from the date of this convertible promissory note (this “**Note**”) on the unpaid principal balance at a simple interest rate equal to six percent (6%) per annum, computed on the basis of the actual number of days elapsed and a year of 365 days. Unless converted earlier as provided herein, all unpaid principal, together with any then unpaid and accrued interest and other amounts payable hereunder, shall be due and payable on the earlier of (i) the Maturity Date; or (ii) when, upon the occurrence and during the continuance of an Event of Default, such amounts are declared due and payable by Investor or made automatically due and payable, in each case, in accordance with the terms hereof. This Note is one of the “**Notes**” issued pursuant to an offering of up to \$400,000 principal amount of similar Notes.. Certain capitalized terms used herein are defined below in Section 5.

The following is a statement of the rights of Investor and the conditions to which this Note is subject, and to which Investor, by the acceptance of this Note, agrees:

1. Payments.

(a) *Prepayment.* This Note may not be prepaid without the prior written consent of the Majority-in-Interest of Investors. Any prepayment of the Notes must be made in connection with the prepayment of all Notes issued under the Purchase Agreement.

(b) *Maturity Date.* Unless converted earlier as provided herein, this Note shall be due and payable in full on the thirty six (36) months anniversary of the date hereof (the “**Maturity Date**”).

Draft for Review

(c) *Annual Payments.* Annual interest payments will be made in cash or 'in kind' shares at the discretion of the Company, beginning 365 days after the Closing. Payments in kind will be converted to shares at the Conversion Price indicated herein and in the Subscription Agreement of same date.

2. ***Events of Default.*** The occurrence of any of the following shall constitute an "Event of Default" under this Note and the other Transaction Documents:

(a) *Voluntary Bankruptcy or Insolvency Proceedings.* The Company shall (i) apply for or consent to the appointment of a receiver, trustee, liquidator or custodian of itself or of all or a substantial part of its property, (ii) admit in writing its inability to pay its debts generally as they mature, (iii) make a general assignment for the benefit of its or any of its creditors, (iv) be dissolved or liquidated, (v) commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or consent to any such relief or to the appointment of or taking possession of its property by any official in an involuntary case or other proceeding commenced against it, or (vi) take any action for the purpose of effecting any of the foregoing.

(b) *Involuntary Bankruptcy or Insolvency Proceedings.* Proceedings for the appointment of a receiver, trustee, liquidator or custodian of the Company, or of all or a substantial part of the property thereof, or an involuntary case or other proceedings seeking liquidation, reorganization or other relief with respect to the Company or the debts thereof under any bankruptcy, insolvency or other similar law now or hereafter in effect shall be commenced and an order for relief entered or such proceeding shall not be dismissed or discharged within 60 days of commencement.

3. ***Rights of Investor upon Default.*** Upon the occurrence of any Event of Default which is not cured within 30 days following notice by Investor, all outstanding Obligations payable by the Company hereunder shall become due and payable, without further presentment, demand, protest or any other notice of any kind, all of which are hereby expressly waived, anything contained herein or in the other Transaction Documents to the contrary notwithstanding. In addition to the foregoing remedies, upon the occurrence and during the continuance of any Event of Default which is not cured within 30 days following notice by Investor, Investor may, with the written consent of a Majority-in Interest of Investors, exercise any other right power or remedy granted to it by the Transaction Documents or otherwise permitted to it by law, either by suit in equity or by action at law, or both.

4. ***Conversion.***

(a) *Automatic Conversion if a Qualified Financing Occurs.* If a Qualified Financing occurs prior to the Maturity Date, then the outstanding principal amount of this Note and all accrued and unpaid interest on this Note shall automatically convert into fully paid and non-assessable securities issued in such Qualified Financing at the Conversion Price.

(b) *Conversion Procedure.* If this Note is to be automatically converted pursuant to Section 4(a), written notice shall be delivered to Investor at the address last shown on the records of the Company for Investor or given by Investor to the Company for the purpose of notice, notifying Investor of the conversion to be effected, specifying the Conversion Price, the principal amount of the Note to be converted, together with all accrued and unpaid interest, the date on which such conversion is expected to occur and calling upon such Investor to surrender to the Company, in the manner and at the place designated on the Purchase Agreement. Upon such conversion of this Note, Investor hereby agrees to

Draft for Review

execute and deliver to the Company all transaction documents entered into by other purchasers participating in the Qualified Financing, including a purchase agreement, and other ancillary agreements, with customary representations and warranties and transfer restrictions (including, without limitation, a 180-day lock-up agreement in connection with an initial public offering). Investor also agrees to deliver the original of this Note (or a notice to the effect that the original Note has been lost, stolen or destroyed and an agreement acceptable to the Company whereby the holder agrees to indemnify the Company from any loss incurred by it in connection with this Note) at the closing of the Qualified Financing for cancellation; *provided, however*, that upon the closing of the Qualified Financing, this Note shall be deemed converted and of no further force and effect, whether or not it is delivered for cancellation as set forth in this sentence. The Company shall, as soon as practicable thereafter, issue and deliver to such Investor a certificate or certificates for the number of shares to which Investor shall be entitled upon such conversion, including a check payable to Investor for any cash amounts payable as described in Section 4(c). Any conversion of this Note pursuant to Section 4(a) shall be deemed to have been made immediately prior to the closing of the Qualified Financing and on and after such date the Persons entitled to receive the shares issuable upon such conversion shall be treated for all purposes as the record holder of such shares.

(c) *Automatic Conversion if a Change of Control Occurs*. If a Change of Control occurs prior to the conversion of this Note, then the outstanding principal amount of this Note and all accrued and unpaid interest on this Note shall automatically convert into fully paid and non-assessable Class B shares at The Conversion Price.

(d) *Fractional Shares; Interest; Effect of Conversion*. No fractional shares shall be issued upon conversion of this Note. All fractional shares will be rounded to the next whole share.

(e) *Notices of Record Date*. In the event of:

(i) any taking by the Company of a record of the holders of any class of securities of the Company for the purpose of determining the holders thereof who are entitled to receive any dividend or other distribution or any right to subscribe for, purchase or otherwise acquire any class of Shares or any other securities or property, or to receive any other right; or

(ii) any capital reorganization of the Company, any reclassification or recapitalization of the capital stock or Shares of the Company, any Change of Control or any consolidation or merger involving the Company; or

(iii) any voluntary or involuntary dissolution, liquidation or winding-up of the Company, the Company will mail to Investor, at least ten (10) days prior to the earliest date specified therein, a notice specifying (A) the date on which any such record is to be taken for the purpose of such dividend, distribution or right and the amount and character of such dividend, distribution or right; and (B) the date on which any such reorganization, reclassification, transfer, consolidation, merger, dissolution, liquidation or winding-up is expected to become effective and the record date for determining members entitled to vote thereon.

5. **Definitions**. As used in this Note, the following capitalized terms have the following meanings:

“**Change of Control**” shall mean (1) a dissolution, liquidation or sale of all or substantially all of the assets of the Company or (2) a merger, consolidation or other acquisition, in one

Draft for Review

transaction or a series of related transactions, in which a party or group that are not members of the Company on the date hereof acquire Shares possessing a majority of the voting power of the members of the Company.

“**Conversion Price**” shall mean the price of \$.08 per share.

“**Event of Default**” has the meaning given in Section 2 hereof.

“**Investor**” shall mean the Person specified in the introductory paragraph of this Note or any Person who shall at the time be the registered holder of this Note.

“**Investors**” shall mean the investors that have purchased Notes.

“**Majority-in-Interest of Investors**” shall mean the Investors holding a majority of the aggregate outstanding principal amount of the Notes.

“**Obligations**” shall mean and include all loans, advances, debts, liabilities and obligations, howsoever arising, owed by the Company to Investor of every kind and description, now existing or hereafter arising under or pursuant to the terms of this Note and the other Transaction Documents, including, all interest, fees, charges, expenses, attorneys’ fees and costs and accountants’ fees and costs chargeable to and payable by the Company hereunder and thereunder, in each case, whether direct or indirect, absolute or contingent, due or to become due, and whether or not arising after the commencement of a proceeding under Title 11 of the United States Code (11 U. S. C. Section 101 *et seq.*), as amended from time to time (including post-petition interest) and whether or not allowed or allowable as a claim in any such proceeding.

“**Notes**” shall mean the convertible promissory notes issued by the Company pursuant to the Purchase Agreement.

“**Person**” shall mean and include an individual, a partnership, a corporation (including a business trust), a joint stock company, a limited liability company, an unincorporated association, a joint venture or other entity or a governmental authority.

“**Qualified Financing**” is an initial public offering of the Company’s common stock or a transaction or series of transactions pursuant to which the Company issues and sells shares) for aggregate gross proceeds of at least Seven Million Five Hundred Thousand Dollars (\$7,500,000).

“**Securities Act**” shall mean the Securities Act of 1933, as amended.

“**Subscription Agreement**” shall mean the Subscription Agreement by and between the Company and the Investor further to which this Note is issued.

“**Transaction Documents**” shall mean this Note, each of the other Notes, and the Subscription Agreement to purchase the Note.

6. *Miscellaneous.*

(a) *Successors and Assigns; Transfer of this Note or Securities Issuable on Conversion Hereof.*

Draft for Review

(i) Subject to the restrictions on transfer described in this Section 6(a), the rights and obligations of the Company and Investor shall be binding upon and benefit the successors, assigns, heirs, administrators and transferees of the parties.

(ii) With respect to any offer, sale or other disposition of this Note or securities into which such Note may be converted, Investor will give written notice to the Company prior thereto, describing briefly the manner thereof, together with a written opinion of Investor's counsel, or other evidence if reasonably satisfactory to the Company, to the effect that such offer, sale or other distribution may be effected without registration or qualification (under any federal or state law then in effect). The Convertible Notes or the securities into which the Note may be converted hereunder are issued by the Company subject to a First Right of Refusal by the Company to purchase the Note should the Investor desire to sell it to a third party or otherwise attempt to transfer the Note to a third party. When the Company has been notified of the intent by the Investor to sell or transfer such Note it shall within 15 days notice the Investor of its decision to exercise its "Right of First Refusal" to purchase the Note or Securities. Should the Company decide not to purchase the Note, during the following 15 days the shareholders in the company may exercise the right to purchase such shares on a pro-rata basis to their share ownership. Such Right of First Refusal shall terminate immediately prior to the effective date of an IPO.

(iii) Following the 30 days total notice period, to the extent that the Company and the shareholders fail to exercise their right to repurchase, and upon receiving such written notice and reasonably satisfactory opinion, if so requested, or other evidence, the Company, as promptly as practicable, shall notify Investor that Investor may sell or otherwise dispose of this Note or such securities, all in accordance with the terms of the notice delivered to the Company. If a determination has been made pursuant to this Section 6(a) that the opinion of counsel for Investor, or other evidence, is not reasonably satisfactory to the Company, the Company shall so notify Investor promptly after such determination has been made. Each Note thus transferred and each certificate representing the securities thus transferred shall bear a legend as to the applicable restrictions on transferability in order to ensure compliance with the Securities Act, unless in the opinion of counsel for the Company such legend is not required in order to ensure compliance with the Securities Act. The Company may issue stop transfer instructions to its transfer agent in connection with such restrictions. Subject to the foregoing, transfers of this Note shall be registered upon registration books maintained for such purpose by or on behalf of the Company as provided in the Purchase Agreement. Prior to presentation of this Note for registration of transfer, the Company shall treat the registered holder hereof as the owner and holder of this Note for the purpose of receiving all payments of principal and interest hereon and for all other purposes whatsoever, whether or not this Note shall be overdue and the Company shall not be affected by notice to the contrary.

(iv) Neither this Note nor any of the rights, interests or obligations hereunder may be assigned, by operation of law or otherwise, in whole or in part, by the Company without the prior written consent of the Majority-in-Interest of the Investors.

(b) *Waiver and Amendment.* Any provision of this Note may be amended, waived or modified upon the written consent of the Company and the Majority-in-Interest of the Investors; *provided, however*, that no such amendment, waiver or consent shall: (i) reduce the principal amount of this Note without Investor's written consent, or (ii) reduce the rate of interest of this Note without Investor's written consent.

(c) *Notices.* All notices, requests, demands, consents, instructions or other communications required or permitted hereunder shall be in writing and faxed, mailed or delivered to

Draft for Review

each party at the respective addresses of the parties as set forth in the Purchase Agreement, or at such other address or facsimile number as the Company shall have furnished to Investor in writing. All such notices and communications will be deemed effectively given the earlier of (i) when received, (ii) when delivered personally, (iii) one business day after being delivered by facsimile (with receipt of appropriate confirmation), (iv) one business day after being deposited with an overnight courier service of recognized standing or (v) four days after being deposited in the U.S. mail, first class with postage prepaid.

(d) *Tax Treatment.* The Company and the Investor agree to treat the Note as equity for federal income tax purposes and will not take any position on any tax return inconsistent with this treatment unless required by applicable law.

(e) *Pari Passu Notes.* Investor acknowledges and agrees that the payment of all or any portion of the outstanding principal amount of this Note and all interest hereon shall be *pari passu* in right of payment and in all other respects to the other Notes. In the event Investor receives payments in excess of its pro rata share of the Company's payments to the Investors of all of the Notes, then Investor shall hold in trust all such excess payments for the benefit of the holders of the other Notes and shall pay such amounts held in trust to such other holders upon demand by such holders.

(f) *Payment.* Unless converted into the Company's equity securities pursuant to the terms hereof, payment shall be made in lawful tender of the United States.

(g) *Usury.* In the event any interest is paid on this Note which is deemed to be in excess of the then legal maximum rate, then that portion of the interest payment representing an amount in excess of the then legal maximum rate shall be deemed a payment of principal and applied against the principal of this Note.

(h) *Waivers.* The Company hereby waives notice of default, presentment or demand for payment, protest or notice of nonpayment or dishonor and all other notices or demands relative to this instrument.

(i) *Governing Law.* This Note and all actions arising out of or in connection with this Note shall be governed by and construed in accordance with the laws of the Cayman Islands without regard to the conflicts of law provisions of the Cayman Islands, or of any other venue.

(j) *Waiver of Jury Trial; Judicial Reference.* By acceptance of this Note, Investor hereby agrees and the Company hereby agrees to waive their respective rights to a jury trial of any claim or cause of action based upon or arising out of this Note or any of the Transaction Documents. If the jury waiver set forth in this paragraph is not enforceable, then any claim or cause of action arising out of or relating to this Note, the Transaction Documents or any of the transactions contemplated therein shall be settled by judicial reference pursuant to Code of Civil Procedure Section 638 *et seq.* before a referee sitting without a jury, such referee to be mutually acceptable to the parties or, if no agreement is reached, by a referee appointed by the Presiding Judge of the California Superior Court for Orange County. This paragraph shall not restrict a party from exercising remedies under the Uniform Commercial Code or from exercising pre-judgment remedies under applicable law.

* * *

IN WITNESS WHEREOF, the Company has caused this Note to be issued as of the date first stated above.

“COMPANY”

ELEVATE HOLDINGS, INC.
a Cayman Island company

By: _____
Name: _____
Title: _____

323638131.1

Confidential Document
Member #1001191

[Signature Page to Convertible Promissory Note]