

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, DC 20549

**FORM 8-K12G3**

CURRENT REPORT

Pursuant to Section 13 or 15(d)  
of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): January 11, 2024

**BLUM HOLDINGS, INC.**

(Exact name of registrant as specified in its charter)

<u>Delaware</u> (State or other jurisdiction of incorporation)	<u>000-54258</u> (Commission File Number)	<u>93-3735199</u> (IRS Employer Identification No.)
<u>3242 S. Halladay St., Suite 202</u> <u>Santa Ana, California</u> (Address of principal executive offices)		<u>92705</u> (Zip Code)

(888) 909-5564

Registrant's telephone number, including area code:

Not Applicable

(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

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

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

Indicate by check mark whether the registrant is an emerging growth company as defined in in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by checkmark 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.

### **Item 1.01 Entry into a Material Definitive Agreement.**

In connection with the Reorganization, Blüm assumed the Incentive Plans, each UNRV Note and each UNRV Warrant (each as defined below), the description of which is included in Item 2.01 below and is incorporated herein by reference.

### **Item 2.01 Completion of Acquisition or Disposition of Assets.**

On January 12, 2024, Unrivaled Brands, Inc., a Nevada corporation (“**UNRV**”) completed its previously announced reorganization merger pursuant to an Agreement and Plan of Merger, dated October 9, 2023 (the “**Reorganization Agreement**”), by and among UNRV, Blum Holdings, Inc., a Delaware corporation (“**Blüm**”), and Blum Merger Sub, Inc., a Nevada corporation and, as of immediately prior to the consummation of such merger, a wholly-owned subsidiary of Blüm (“**Merger Sub**”). The Reorganization Agreement provided for the merger of UNRV and Merger Sub, with UNRV surviving the merger as a wholly owned subsidiary of Blüm (the “**Reorganization**”). The Reorganization Agreement was approved and adopted by the stockholders of UNRV at its annual meeting of stockholders held on December 5, 2023.

At the effective time of the Reorganization, all of the issued and outstanding shares of UNRV’s common stock, par value \$0.001 per share (“**UNRV Common Stock**”) were converted automatically on a one-for-one basis into shares of Blüm’s common stock, par value \$0.001 per share (“**Blüm Common Stock**”), and all of the issued and outstanding shares of UNRV’s classes of preferred stock, par value \$0.001 per share (“**UNRV Preferred Stock**”), were converted automatically on a one-for-one basis into shares of Blüm’s respective classes of preferred stock, par value \$0.001 per share (“**Blüm Preferred Stock**”).

In connection with the Reorganization, Blüm assumed (a) the Terra Tech Corp. 2016 Equity Incentive Plan (the “**2016 Plan**”), (b) the Terra Tech Corp. Amended and Restated 2018 Equity Incentive Plan (as amended, the “**2018 Plan**”), and (c) the UMBRLA, Inc. 2019 Equity Incentive Plan (as amended, the “**UMBRLA Plan**,” and together with the 2016 Plan and the 2018 Plan, the “**Incentive Plans**”). Blüm also assumed all options to purchase shares of UNRV Common Stock that were outstanding under the Incentive Plans at the time of the Reorganization. The reserve of UNRV Common Stock under the Incentive Plans was automatically converted on a one-share-for-one-share basis into shares of Blüm Common Stock. The terms and conditions that were in effect immediately prior to the Reorganization under each outstanding equity award assumed by Blüm will continue in full force and effect after the Reorganization, except that the shares of common stock issuable under each such award will be shares of Blüm Common Stock. The foregoing description of the Incentive Plans is not complete and is qualified in its entirety by reference to the 2016 Plan, the 2018 Plan and the UMBRLA Plan, copies of which are filed as Exhibits 10.1, 10.2 and 10.3 hereto, respectively, and incorporated by reference herein.

At the effective time of the Reorganization, (i) each outstanding convertible promissory note (a “**UNRV Note**”) convertible into shares of UNRV Common Stock automatically converted into a convertible promissory note convertible into shares of Blüm Common Stock (a “**Blüm Note**”) and (ii) each outstanding warrant to purchase shares of UNRV Common Stock (a “**UNRV Warrant**”) automatically converted into a warrant to purchase shares of Blüm Common Stock (a “**Blüm Warrant**”). Each Blüm Note is subject to terms and conditions consistent with the applicable UNRV Note as in effect immediately prior to the effective time, a description of which is included in “Proposal 1. Reorganization – Description of the Company’s Capital Stock – Convertible Notes” of the joint proxy statement/prospectus of Blüm and UNRV (the “**Joint Proxy Statement/Prospectus**”) filed by Blüm with the Securities and Exchange Commission (the “**SEC**”) on October 23, 2023 and is incorporated by reference herein. Each Blüm Warrant is subject to terms and conditions consistent with the applicable UNRV Warrant as in effect immediately prior to the effective time, a description of which is included in “Proposal 1. Reorganization – Description of the Company’s Capital Stock – Warrants” of the Joint Proxy Statement/Prospectus and is incorporated by reference herein. The foregoing description is not complete and is qualified in its entirety by reference to the forms of warrants, copies of which are filed as Exhibits 4.1, 4.2, 4.3 and 4.4 hereto and incorporated herein by reference.

For a period of twenty (20) business days following the Reorganization, the shares of Blüm Common Stock will trade on the OTCQB tier of the OTC Markets under the symbol “UNRVD.” Thereafter, UNRV expects that the shares of Blüm Common Stock will trade under the symbol “BLMH.” The CUSIP number for the Blüm Common Stock is 09642F101.

The directors and executive officers of Blüm immediately following the Reorganization are the same individuals who were directors and executive officers, respectively, of UNRV immediately prior to the Reorganization.

Upon completion of the Reorganization, Blüm Common Stock was deemed to be registered under Section 12(g) of the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”), pursuant to Rule 12g-3(a) promulgated thereunder. For purposes of Rule 12g-3(a), Blüm is the successor issuer to UNRV.

The foregoing description of the terms of the Reorganization Agreement is not complete and is qualified in its entirety by reference to the Reorganization Agreement, a copy of which is included as Exhibit 2.1 and incorporated by reference herein.

**Item 2.03. Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.**

At the effective time of the Reorganization, Blüm assumed all outstanding promissory notes of UNRV.

**Item 3.03. Material Modification to Rights of Security Holdings.**

As a result of the Reorganization, stockholders of UNRV became stockholders of Blüm, and the rights of such stockholders are now defined by the Delaware General Corporation Law, the Amended and Restated Certificate of Incorporation of Blüm (the “**Certificate of Incorporation**”), the Certificate of Designation of Series V Preferred Stock of Blüm (the “**Series V Certificate**”), the Certificate of Designation of Series N Preferred Stock of Blüm (the “**Series N Certificate**,” and together with the Series V Certificate and the Certificate of Incorporation, the “**Charter**”) and the Amended and Restated Bylaws of Blüm (the “**Bylaws**”). A description of the comparative rights of the holders of Blüm capital stock and the holders of UNRV capital stock is included in the “Proposal 1. Reorganization” section of the Joint Proxy Statement/Prospectus, which description is incorporated by reference herein. Such description is not complete and is qualified in its entirety by reference to the Certificate of Incorporation, the Series V Certificate, the Series N Certificate and the Bylaws of Blüm, copies of which are filed as Exhibits 3.1, 3.2, 3.3 and 3.4 hereto, respectively, and incorporated by reference herein.

**Item 5.01. Change in Control of Registrant.**

The information set forth under Item 2.01 of this Current Report on Form 8-K is incorporated into this Item 5.01 by reference.

**Item 5.02. Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.**

The directors of Blüm are the same as the directors of UNRV immediately prior to the Reorganization. Such directors and their current committee positions are listed below. Biographical information about the Blüm directors is included under “Proposal 3. Election of Directors – Information Concerning Nominees for Directors” of the Joint Proxy Statement/Prospectus, which description is incorporated by reference herein. Information regarding transactions with related persons, including the directors, is set forth under “Proposal 3. Election of Directors – Board of Directors and Committees – Certain Relationships and Related Transactions” of the Joint Proxy Statement/Prospectus, which description is incorporated by reference herein.

## Board and Committees

<u>Director</u>	<u>Age</u>	<u>Audit</u>	<u>Compensation</u>	<u>Nominating</u>
Sabas Carrillo	46			
Matthew Barron	39	X	X	X
James Miller	63			

The executive officers of Blüm are the same as the executive officers of UNRV immediately prior to the Reorganization. Such executive officers and their current positions are listed below. Information about the Blüm executive officers is included under “Executive Officers – Information Concerning Executive Officers” and “Executive Compensation - Employment Contracts, Termination of Employment, and Change-in-Control Arrangements” of the Joint Proxy Statement/Prospectus, which description is incorporated by reference herein. Information regarding transactions with related persons, including the executive officers, is set forth under “Proposal 3. Election of Directors – Board of Directors and Committees – Certain Relationships and Related Transactions” of the Joint Proxy Statement/Prospectus, which description is incorporated by reference herein.

<u>Executive Officer</u>	<u>Age</u>	<u>Present Position</u>
Patty Chan	36	Chief Financial Officer
Christopher Rivera	45	Interim Chief Financial Officer
Sabas Carrillo	46	Chief Executive Officer, Chairman of Board of Directors

In connection with the Reorganization, Blüm assumed the Incentive Plans, a description of which is included in “Executive Compensation – Equity Compensation Plan Information” of the Joint Proxy Statement/Prospectus and is incorporated by reference herein.

### Item 5.03. Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.

On January 11, 2024, Blüm amended and restated its Charter and Bylaws in connection with the closing of the Reorganization. The description of Blüm’s Charter and Bylaws included in Item 3.03 above is incorporated herein by reference. The foregoing description of the terms of the Charter and Bylaws is not complete and is qualified in its entirety by reference to such documents, copies of which are filed as Exhibits 3.1, 3.2, 3.3 and 3.4 hereto, and incorporated by reference herein.

### Item 7.01. Regulation FD Disclosure.

On January 16, 2024, UNRV issued a press release relating to the consummation of the Reorganization, and Blüm issued a press release relating to the symbol change resulting from the reverse stock split and subsequent Reorganization. Copies of the press releases are attached hereto as Exhibits 99.1 and 99.2, respectively, and are incorporated herein by reference.

*The information provided under this Item 7.01 of this Current Report on Form 8-K, including Exhibit 99.1 and Exhibit 99.2 attached hereto, is being furnished and shall not be deemed “filed” for the purposes of Section 18 of the Exchange Act, or otherwise subject to the liabilities of that section, nor shall it be deemed incorporated by reference in any filing under the Securities Act of 1933, as amended, or the Exchange Act except as shall be expressly set forth by specific reference in such filing.*

### Item 8.01. Other Events.

At the effective time of the Reorganization, Blüm became the successor issuer to UNRV pursuant to Rule 12g-3(a) under the Exchange Act. Pursuant to Rule 12g-3(a) under the Exchange Act, shares of Blüm Common Stock, as the common stock of the successor issuer, are deemed registered under Section 12(g) of the Exchange Act. As a result, future filings with the SEC will be filed by Blüm under CIK No. 1996210.

**Item 9.01. Financial Statements and Exhibits.**

(d) Exhibits

<b>Exhibit Number</b>	<b>Description</b>
<a href="#">2.1</a>	<a href="#">Agreement and Plan of Merger, dated as of October 9, 2023, by and among Unrivaled Brands, Inc., Blum Holdings, Inc., and Blum Merger Sub, Inc. (incorporated by reference to exhibit 2.1 of Current Report on Form 8-K filed by Unrivaled Brands, Inc. (File No. 000-54258) with the SEC on October 10, 2023).</a>
<a href="#">3.1</a>	<a href="#">Amended and Restated Certificate of Incorporation of Blum Holdings, Inc., a Delaware corporation, effective January 11, 2024.</a>
<a href="#">3.2</a>	<a href="#">Certificate of Designation of Series V Preferred Stock of Blum Holdings, Inc., a Delaware corporation, effective January 11, 2024.</a>
<a href="#">3.3</a>	<a href="#">Certificate of Designation of Series N Preferred Stock of Blum Holdings, Inc., a Delaware corporation, effective January 11, 2024.</a>
<a href="#">3.4</a>	<a href="#">Amended and Restated Bylaws of Blum Holdings, Inc., a Delaware corporation, dated January 11, 2024.</a>
<a href="#">4.1</a>	<a href="#">Form of Common Stock Purchase Warrant (incorporated by reference to exhibit 4.3 of Current Report on Form 8-K filed by Unrivaled Brands, Inc. (File No. 000-54258) with the SEC on January 25, 2021).</a>
<a href="#">4.2</a>	<a href="#">Form of Common Stock Purchase Warrant (“A Warrant”) (incorporated by reference to exhibit 4.5 of Current Report on Form 8-K filed by Unrivaled Brands, Inc. (File No. 000-54258) with the SEC on January 25, 2021).</a>
<a href="#">4.3</a>	<a href="#">Form of Common Stock Purchase Warrant (“B Warrant”) (incorporated by reference to exhibit 4.6 of Current Report on Form 8-K filed by Unrivaled Brands, Inc. (File No. 000-54258) with the SEC on January 25, 2021).</a>
<a href="#">4.4</a>	<a href="#">Common Stock Purchase Warrant (incorporated by reference to exhibit 4.12 of Current Report on Form 8-K filed by Unrivaled Brands, Inc. (File No. 000-54258) with the SEC on March 30, 2021).</a>
<a href="#">10.1†</a>	<a href="#">2016 Equity Incentive Plan (incorporated by reference to exhibit 10.23 of Annual Report on Form 10-K filed by Unrivaled Brands, Inc. (File No. 000-54258) with the SEC on March 29, 2016).</a>
<a href="#">10.2†</a>	<a href="#">Form of Terra Tech Corp. Amended and Restated 2018 Equity Incentive Plan (incorporated by reference to exhibit 10.1 of Current Report on Form 8-K filed by Unrivaled Brands, Inc. (File No. 000-54258) with the SEC on June 26, 2019).</a>
<a href="#">10.2(a) †</a>	<a href="#">Amendment to Terra Tech Corp. Amended and Restated 2018 Equity Incentive Plan, dated as of February 14, 2020 (incorporated by reference to exhibit 10.5 of Current Report on Form 8-K filed by Unrivaled Brands, Inc. (File No. 000-54258) with the SEC on February 18, 2020).</a>
<a href="#">10.3†</a>	<a href="#">2019 Equity Incentive Plan of UMBRLA, Inc. (incorporated by reference to exhibit 10.22 of Current Report on Form 8-K filed by Unrivaled Brands, Inc. (File No. 000-54258) with the SEC on August 16, 2021).</a>
<a href="#">10.3(a) †</a>	<a href="#">Amendment to 2019 Equity Incentive Plan of UMBRLA, Inc., dated March 1, 2020 (incorporated by reference to exhibit 10.23 of Current Report on Form 8-K filed by Unrivaled Brands, Inc. (File No. 000-54258) with the SEC on August 16, 2021).</a>
<a href="#">10.3(b) †</a>	<a href="#">Amendment to 2019 Equity Incentive Plan of UMBRLA, Inc., dated October 22, 2020 (incorporated by reference to exhibit 10.24 of Current Report on Form 8-K filed by Unrivaled Brands, Inc. (File No. 000-54258) with the SEC on August 16, 2021).</a>
<a href="#">99.1</a>	<a href="#">Press release dated January 16, 2024</a>
<a href="#">99.2</a>	<a href="#">Press release dated January 16, 2024</a>
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

† Indicates a management contract or compensatory plan or arrangement.

**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 hereunto duly authorized.

**BLUM HOLDINGS, INC.**

Date: January 16, 2024

By: /s/ Sabas Carrillo  
Sabas Carrillo  
Chief Executive Officer

**AMENDED AND RESTATED  
CERTIFICATE OF INCORPORATION  
OF  
BLUM HOLDINGS, INC.**

Blum Holdings, Inc. (the "Corporation"), a corporation organized and existing under the General Corporation Law of the State of Delaware (the "DGCL"), does hereby certify as follows:

1. The name of the Corporation is Blum Holdings, Inc. The Corporation was incorporated under the name Blum Holdings, Inc. by the filing of its original Certificate of Incorporation with the Secretary of State of the State of Delaware on September 28, 2023 (the "Original Certificate").

2. This Amended and Restated Certificate of Incorporation (the "Amended and Restated Certificate"), which amends and restates the Original Certificate in its entirety, has been approved by the Board of Directors of the Corporation (the "Board of Directors") in accordance with Sections 242 and 245 of the DGCL and has been adopted by the stockholders of the Corporation at a meeting of the stockholders of the Corporation in accordance with the provisions of Section 211 of the DGCL.

3. The text of the Original Certificate is hereby amended and restated by this Amended and Restated Certificate to read in its entirety as set forth in EXHIBIT A attached hereto.

4. This Amended and Restated Certificate shall become effective on the date of filing with the Secretary of State of the State of Delaware.

IN WITNESS WHEREOF, Blum Holdings, Inc. has caused this Amended and Restated Certificate to be signed by a duly authorized officer of the Corporation, on December 27, 2023.

BLUM HOLDINGS, INC.

By: /s/ Sabas Carrillo

Name: Sabas Carrillo

Title: Chief Executive Officer

**EXHIBIT A**

**ARTICLE I — NAME**

The name of this Corporation is Blum Holdings, Inc.

**ARTICLE II — REGISTERED OFFICE AND AGENT**

The address of registered office of the Corporation in the State of Delaware is 13 W Main St PO Box 953, Felton, DE 19943. The name of its registered agent at such address is Telos Legal Corp.

**ARTICLE III — PURPOSE**

The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware, as amended from time to time (the "DGCL").

**ARTICLE IV — AUTHORIZED CAPITAL**

Section 4.01 Authorized Classes of Stock. The Corporation is authorized to issue two classes of stock to be designated respectively, "Common Stock" and "Preferred Stock." The total number of shares of all classes of stock which the Corporation shall have authority to issue is one billion forty million shares (1,040,000,000) of which (i) nine hundred ninety million (990,000,000) shares shall be designated Common Stock and shall have a par value of \$0.001 per share; and (ii) fifty million (50,000,000) shares shall be designated Preferred Stock and shall have a par value of \$0.001 per share.

Section 4.02 Common Stock. Each stockholder of record of Common Stock shall be entitled at each meeting of the stockholders to one vote for each share of such stock. Subject to the rights of holders of any series of outstanding Preferred Stock, holders of shares of Common Stock shall have equal rights of participation in the dividends and other distributions in cash, stock, or property of the Corporation when, as and if declared thereon by the Board of Directors from time to time out of assets or funds of the Corporation legally available therefor and shall have equal rights to receive the assets and funds of the Corporation available for distribution to stockholders in the event of any liquidation, dissolution, or winding up of the affairs of the Corporation, whether voluntary or involuntary. The number of authorized shares of Common Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by (in addition to any vote of the holders of one or more series of Preferred Stock that may be required by the terms of this Certificate of Incorporation) the affirmative vote of the holders of shares of capital stock of the Corporation representing a majority of the votes cast by the stockholders entitled to vote thereon who are present in person or represented by proxy, irrespective of the provisions of Section 242(b) (2) of the General Corporation Law.

Section 4.03 Preferred Stock. The Board of Directors is authorized to provide, out of the unissued shares of Preferred Stock, for the issuance of the shares of Preferred Stock in one or more series, and by filing a certificate pursuant to the applicable law of the State of Delaware, to establish from time to time the number of shares to be included in each such series, and to fix the designation, powers, preferences and rights of the shares of each such series and the qualifications, limitations or restrictions thereof.

The authority of the Board of Directors with respect to each series shall include, but not be limited to, determination of the following:

- a) The number of shares constituting that series and the distinctive designation of that series;
- b) The dividend rate on the shares of that series, whether dividends shall be cumulative and, if so, from which date or dates, and the relative rights of priority, if any, of payment of dividends on shares of that series;
- c) Whether that series shall have voting rights, in addition to the voting rights provided by law and, if so, the terms of such voting rights;



- d) Whether that series shall have conversion privileges and, if so, the terms and conditions of such conversion, including provision for adjustment of the conversion rate in such events as the Board of Directors shall determine;
- e) Whether or not the shares of that series shall be redeemable and, if so, the terms and conditions of such redemption, including the date or dates upon or after which they shall be redeemable and the amount per share payable in case of redemption, which amount may vary under different conditions and at different redemption dates;
- f) Whether that series shall have a sinking fund for the redemption or purchase of shares of that series and, if so, the terms and amount of such sinking fund;
- g) The rights of the shares of that series in the event of voluntary or involuntary liquidation, dissolution or winding up of the Corporation, and the relative rights of priority, if any, of payment of shares of that series; and
- h) Any other relative rights, preferences and limitations of that series.

#### **ARTICLE V — BOARD OF DIRECTORS**

Section 5.01 General Powers. The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors.

Section 5.02 Number. Subject to any rights of the holders of any series of Preferred Stock to elect additional directors under specified circumstances, the number of directors constituting the Board of Directors shall consist of not less than three (3) directors nor more than seven (7) directors. The number of directors of the Corporation shall be fixed from time to time by the Board of Directors either by a resolution or Bylaw adopted by the affirmative vote of a majority of the entire Board of Directors.

Section 5.03 Written Ballot. The directors of the Corporation need not be elected by written ballot unless the Bylaws so provide.

Section 5.04 Removal. Except as may otherwise be provided by law, any director or the entire Board of Directors may be removed, with or without cause, at an annual meeting or at a special meeting called for that purpose, by the affirmative vote of the holders of at least a supermajority of the shares then entitled to vote at an election of directors.

#### **ARTICLE VI — LIMITATION OF LIABILITY**

No director or officer of the Corporation shall be personally liable to the Corporation or its stockholders for monetary damages for any breach of fiduciary duty by such a director or officer as a director or officer, respectively, except to the extent provided by applicable law (i) for any breach of the director's or officer's duty of loyalty to the Corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) pursuant to Section 174 of the DGCL, as the same exists or hereafter may be amended, in the case of directors only, (iv) for any transaction from which such director or officer derived an improper personal benefit, or (v) for any action by or in the right of the Corporation, in the case of officers only. If the DGCL is amended to authorize corporate action further eliminating or limiting the personal liability of directors and officers, then the liability of a director or officer of the Corporation shall be eliminated or limited to the fullest extent permitted by the DGCL as so amended. No amendment to or repeal of this Article VI shall apply to or have any effect on the liability or alleged liability of any director or officer of the Corporation for or with respect to any acts or omissions of such director or officer occurring prior to such amendment or repeal.

## ARTICLE VII — INDEMNIFICATION OF OFFICERS AND DIRECTORS

This Corporation shall, to the maximum extent permitted from time to time under the law of the State of Delaware, indemnify and upon request shall advance expenses to any person who is or was a party or is threatened to be made a party to any threatened, pending or completed action, suit, proceeding or claim, whether civil, criminal, administrative or investigative, by reason of the fact that such person is or was or has agreed to be a director or officer of this Corporation or while a director or officer is or was serving at the request of this Corporation as a director, officer, partner, trustee, employee or agent of any corporation, partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans, against expenses (including attorney's fees and expenses), judgments, fines, penalties and amounts paid in settlement incurred in connection with the investigation, preparation to defend or defense of such action, suit, proceeding or claim; provided; however, that the foregoing shall not require this Corporation to indemnify or advance expenses to any person in connection with any action, suit, proceeding, claim or counterclaim initiated by or on behalf of such person. Such indemnification shall not be exclusive of other indemnification rights arising under any by-law, agreement, vote of directors or stockholders or otherwise and shall inure to the benefit of the heirs and legal representatives of such person. Any person seeking indemnification under this Article VII shall be deemed to have met the standard of conduct required for such indemnification unless the contrary shall be established. Any repeal or modification of the foregoing provisions of this Article VII shall not adversely affect any right or protection of a director or officer of this Corporation with respect to any acts or omissions of such director or officer occurring prior to such repeal or modification.

## ARTICLE VIII — CHOICE OF FORUM

Section 8.01 Exclusive Forum. Unless the Corporation consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware (or, if and only if the Court of Chancery of the State of Delaware lacks jurisdiction, any state court located within the State of Delaware or, if and only if all such state courts lack jurisdiction, the federal district court for the District of Delaware) and any appellate court therefrom shall be the sole and exclusive forum for the following claims or causes of action: (i) any derivative claim or cause of action brought on behalf of the Corporation; (ii) any claim or cause of action for breach of a fiduciary duty owed by any current or former director, officer, employee, agent, or stockholder of the Corporation, to the Corporation or the Corporation's stockholders, including without limitation a claim alleging the aiding and abetting of such a breach of fiduciary duty; (iii) any claim or cause of action against the Corporation or any current or former director, officer, employee, agent, or stockholder of the Corporation arising out of or pursuant to any provision of the DGCL, this Certificate of Incorporation, or the Bylaws of the Corporation (as each may be amended from time to time); (iv) any claim or cause of action seeking to interpret, apply, enforce, or determine the validity of this Certificate of Incorporation or the Bylaws of the Corporation (as each may be amended from time to time, including any right, obligation, or remedy thereunder); (v) any claim or cause of action as to which the DGCL confers jurisdiction on the Court of Chancery of the State of Delaware; and (vi) any action asserting a claim related to or involving the Corporation that is governed by the internal-affairs doctrine, in all cases to the fullest extent permitted by law. This Section A of Article VII shall not apply to claims or causes of action brought to enforce a duty or liability created by the Securities Act of 1933, as amended (the "1933 Act"), or the Securities Exchange Act of 1934, as amended, or any other claim for which the federal courts have exclusive jurisdiction. If any action the subject matter of which is within the scope of Section A of Article VII is filed in a court other than the courts in the State of Delaware (a "Foreign Action") in the name of any stockholder, such stockholder shall be deemed to have consented to (x) the personal jurisdiction of the state and federal courts in the State of Delaware in connection with any action brought in any such court to enforce the provisions of Section A of Article VII and (y) having service of process made upon such stockholder in any such action by service upon such stockholder's counsel in the Foreign Action as agent for such stockholder.

Section 8.02 Federal Forum. Unless the Corporation consents in writing to the selection of an alternative forum, to the fullest extent permitted by law, the federal district courts of the United States of America shall be the exclusive forum for the resolution of any complaint asserting a cause of action arising under the 1933 Act.

Section 8.03 Notice. Any person or entity holding, owning, or otherwise acquiring any interest in any security of the Corporation shall be deemed to have notice of and consented to the provisions of this Certificate of Incorporation.

Section 8.04 Severability. If any provision or provisions of this Article VII shall be held to be invalid, illegal, or unenforceable as applied to any circumstance for any reason whatsoever, (a) the validity, legality, and enforceability of such provisions in any other circumstance and of the remaining provisions of this Article VII (including, without limitation, each portion of any paragraph of this Article VII containing any such provision held to be invalid, illegal, or unenforceable that is not itself held to be invalid, illegal, or unenforceable) shall not in any way be affected or impaired thereby and (b) the application of such provision to other persons or entities and circumstances shall not in any way be affected or impaired thereby.

## ARTICLE IX — AMENDMENT OF BYLAWS

Section 9.01 Board of Directors. In furtherance and not in limitation of the power conferred upon the Board of Directors by law, the Board of Directors shall have the power to make, adopt, alter, amend and repeal from time to time Bylaws of this corporation, subject to the right of the stockholders entitled to vote with respect thereto to alter and repeal Bylaws made by the Board of Directors.

Section 9.02 Stockholders. The stockholders shall also have the power to adopt, amend, alter, or repeal the Bylaws; provided that, in addition to any affirmative vote of the holders of any particular class or series of capital stock of the Corporation required by applicable law or this Certificate of Incorporation, such adoption, amendment, alteration, or repeal shall be approved by the affirmative vote of the holders of at least a majority of the voting power of the shares of the then outstanding voting stock of the Corporation entitled to vote generally in the election of directors, voting together as a single class.

## ARTICLE X — STOCKHOLDER ACTION

Section 10.01 Stockholder Consent. Stockholders of the Corporation may take action by written consent in lieu of a meeting. Any action contemplated by the stockholders may also be taken at a duly called annual or special meeting.

Section 10.02 Special Meetings of Stockholders. Meetings of the stockholders may be held within or without the State of Delaware, as the Bylaws may provide. The books of the Corporation may be kept (subject to any provision contained in the Delaware Statutes) outside the State of Delaware at such place or places as may be designated from time to time by the Board of Directors or by the Bylaws of the Corporation. In addition to the rights of the holders of any series of Preferred Stock, special meetings of the stockholders of the Corporation may be called, for any purpose or purposes, only by (i) the Chairman, (ii) the Board or an officer of the Corporation authorized by the Board, pursuant to a resolution approved by a majority of the whole Board, (iii) the Chief Executive Officer of the Corporation; or (iv) the President of the Corporation (in the absence of a chief executive officer). Special meetings of the stockholders may also be called by the Board upon written request of the holders of record of a majority of the outstanding shares of the Corporation entitled to vote at the meeting requested to be called. Such request shall state the purpose or purposes of the proposed meeting.

## ARTICLE XI — AMENDMENT OF CERTIFICATE OF INCORPORATION

The Corporation reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon stockholders herein are granted subject to this reservation.

**CERTIFICATE OF DESIGNATION**  
**OF**  
**RIGHTS, PRIVILEGES, PREFERENCES, AND RESTRICTIONS**  
**OF**  
**SERIES V PREFERRED STOCK**  
**OF**  
**BLUM HOLDINGS, INC.**

Pursuant to Section 151 of the  
 General Corporation Law of the State of Delaware

The undersigned, Sabas Carrillo, hereby certifies that:

1. He is the Chief Executive Officer of Blum Holdings, Inc., a Delaware corporation (the “**Corporation**”).
2. The Corporation is authorized to issue 50,000,000 shares, \$0.001 par value per share, of Preferred Stock, of which 25,000,000 have been designated as “Series V Preferred Stock,” and 2,500,000 have been designated as “Series N Preferred Stock.”
3. The following resolutions were duly adopted by the board of directors of the Corporation (the “**Board of Directors**”), in accordance with the provisions of Section 151 of the General Corporation Law of the State of Delaware, as amended (the “**DGCL**”) on **October 9, 2023**, which resolutions provide for the creation of a series of the Corporation’s Preferred Stock, par value \$0.001 per share, which is designated as “Series V Preferred Stock,” with the rights, preferences, privileges and restrictions set forth therein.

**WHEREAS**, the Certificate of Incorporation of the Corporation (as amended, the “**Certificate of Incorporation**”), provides for a class of authorized capital stock of the Corporation known as preferred stock, comprised of 50,000,000 authorized shares, par value \$0.001 per share (the “**Preferred Stock**”), issuable from time to time in one or more series; and

**WHEREAS**, the Certificate of Incorporation further provides that the Board of Directors is expressly authorized to fix the dividend rights, dividend rate, voting rights, conversion rights, rights and terms of redemption, and liquidation preferences of any wholly unissued series of Preferred Stock, and the number of shares constituting any series and the designation thereof, of any of them.

**NOW, THEREFORE, BE IT RESOLVED**, that, pursuant to the authority conferred upon the Board of Directors by the Certificate of Incorporation, 25,000,000 shares of the 50,000,000 authorized shares of Preferred Stock of the Corporation are hereby designated as “Series V Preferred Stock,” par value \$0.001 per share, and the Board of Directors hereby fixes the rights, preferences, privileges and restrictions of such shares of Preferred Stock, in addition to any provisions set forth in the Certificate of Incorporation that are applicable to all series of the Preferred Stock, as follows:

**TERMS OF PREFERRED STOCK**

**Section 1. Designation; Ranking.** A series of Preferred Stock is hereby designated as the Corporation’s Series V Preferred Stock (the “**Series V Preferred Stock**”). All series of Preferred Stock, whether now or hereafter designated, may by their respective terms have a preference over the Series V Preferred Stock in respect of distribution upon liquidation, dividends, or any other right or matter; provided that, the Series V Preferred Stock shall, with respect to rights upon liquidation, dissolution, or winding-up of the affairs of the Corporation, rank senior and prior to the common stock, par value \$0.001 per share, of the Corporation (the “**Common Stock**”).

**Section 2. Number; Par Value.** The number of shares constituting Series V Preferred Stock is fixed at Twenty Five Million (25,000,000) shares, par value \$0.001 per share, and such authorized number may not be increased or decreased except by the favorable vote or the written consent of the holders of the issued and outstanding shares of Series V Preferred Stock and by a resolution of the Board of Directors.

**Section 3. Dividends.** The holders of Series V Preferred Stock do not have any preferential dividend rights and shall be entitled to receive dividends, if any, only if, when, and as declared by the Board of Directors in its sole and absolute discretion.

**Section 4. Voting Rights.** If issued and outstanding, each share of Series V Preferred Stock shall have the right to take action by written consent or vote in number equal to two (2) times the number of shares of Common Stock into which such shares of Series V Preferred Stock are then convertible. These voting rights may be exercised by vote at an annual meeting of the stockholders of the Corporation or at a special meeting of the stockholders of the Corporation or by written consent of the holders of Series V Preferred Stock. Except as otherwise provided by the Certificate of Incorporation or required by law, the holders of the shares of Common Stock and shares of Series V Preferred Stock shall vote together and not as separate classes.

**Section 5. Conversion.** Each share of Series V Preferred Stock shall be convertible into one-tenth ( $1/10^{\text{th}}$ ) of a share of Common Stock, in the manner set forth below. The shares of Series V Preferred Stock, once converted into shares of Common Stock in accordance with the terms hereof, shall resume the status of an authorized but unissued share of Preferred Stock and shall no longer be designated as Series V Preferred Stock.

(a) **Automatic Conversion.** Each share of Series V Preferred Stock shall automatically, without further action by the holder thereof, be converted into one-tenth ( $1/10^{\text{th}}$ ) of a fully paid and nonassessable share of Common Stock on the second ( $2^{\text{d}}$ ) anniversary of the date on which the holder's shares of Series V Preferred Stock were issued ("**Automatic Conversion**").

(b) **Conversions at Option of Holder.** At any time, or from time to time, from and after the first anniversary of the date on which a holder's shares of Series V Preferred Stock were issued, but prior to the date of the Automatic Conversion, such holder shall be entitled, upon written notice to the Corporation and the transfer agent (or solely to the Corporation if the Corporation serves as its own transfer agent for the Series V Preferred Stock), to convert each of such holder's shares of Series V Preferred Stock then held into one-tenth ( $1/10^{\text{th}}$ ) of a fully paid and nonassessable share of Common Stock.

(c) **Conversions Following a Split or Recombination of the Shares of Common Stock.** The conversion ratio set forth in Sections 5(a) and (b) shall be proportionately adjusted in the event of a stock split, stock dividend, or reverse stock split or combination of the shares of Common Stock.

(d) **Fractional Shares.** No fractional shares shall be issued upon the conversion of the Series V Preferred Stock. In lieu of any fractional share to which the holder would otherwise be entitled, the Corporation shall at its election, either pay to the holder a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the fair market value of the Common Stock as determined in good faith by the Board of Directors as of the date of conversion or round up to the next whole share.

**Section 6. Right of First Refusal.** For so long as a holder (“such holder”) owns shares (the “Ownership Period”) of Series V Preferred Stock, such holder shall not, directly or indirectly through an affiliate, enter into any agreement or consummate any transaction relating to a transfer of record or beneficial ownership of any such shares (a “Third-Party Transaction”) except in compliance with the terms and conditions of this Section 6.

(a) ROFR Offer; Notice. If at any time during the Ownership Period, such holder receives a bona fide written offer for a Third-Party Transaction that such holder desires to accept (each, a “Third-Party Offer”), such holder shall, within five (5) calendar days following receipt of the Third-Party Offer notify the holder with the greatest voting percentage of the Series V Preferred Stock (whether individually or in combination with his, her, or its affiliates or in connection with any voting agreement, voting trust, or equivalent agreement; the “offeree”) in writing (the “Offer Notice”) of the identity of all proposed parties to such Third-Party Transaction and the material financial and other terms and conditions of such Third-Party Offer (the “Material Terms”). Each Offer Notice shall constitute an offer made by such holder to enter into an agreement with the offeree on the same Material Terms of such Third-Party Offer (the “ROFR Offer”).

(b) Exercise. At any time prior to the expiration of the five (5) day period following the offeree’s receipt of the Offer Notice (the “Exercise Period”), the offeree may accept the ROFR Offer by delivery to such holder of a written notice of acceptance and any standard and customary conditions applicable to a transaction of this nature and magnitude; provided, however, that the offeree is not required to accept any non-financial terms or conditions contained in any Material Terms that cannot be fulfilled by the offeree as readily as by any person other than such holder.

(c) Consummation of Third-Party Transaction If, by the expiration of the Exercise Period, the offeree has not accepted the ROFR Offer, and provided that such holder has complied with all of the provisions of this Section 6, at any time during the thirty (30) day period following the expiration of the Exercise Period, such holder may consummate the Third-Party Transaction with the counterparty identified in the applicable Offer Notice on Material Terms that are the same or more favorable to such holder as the Material Terms set forth in the Offer Notice. If such Third-Party Transaction is not consummated within such thirty (30) day period, the terms and conditions of this Section 6 will again apply and such holder shall not enter into any Third-Party Transaction during the Ownership Period without affording the offeree the right of first refusal on the terms and conditions of this Section 6.

For the avoidance of doubt, the terms and conditions of this Section 6 apply to each Third-Party Offer received by any holder of shares of Series V Preferred Stock during the Ownership Period with the exception of the holder that would then qualify as the offeree.

**Section 7. Liquidation Preference.** Upon any Liquidation Event (as defined below), before any distribution or payment shall be made to the holders of any class or series of the Corporation’s capital stock ranking junior to the Series V Preferred Stock, the holders of the Series V Preferred Stock shall be entitled to be paid out of the assets of the Corporation an amount equal to an aggregate of \$1.00 allocated among all of the then-issued and outstanding shares of Series V Preferred Stock (the “Preference Value”). After the payment of the Preference Value of the shares of the Series V Preferred Stock as set forth herein, the remaining assets of the Corporation legally available for distribution, if any, shall be distributed ratably to the holders of the Corporation’s Common Stock and other classes or series of the Corporation’s capital stock in the manner provided by law or the Certificate of Incorporation of the Corporation. The Corporation shall mail written notice of any such Liquidation Event, not less than forty-five (45) days prior to the payment date stated therein, to the holders of the issued and outstanding shares of Series V Preferred Stock.

A “**Liquidation Event**” shall mean (a) the dissolution, liquidation, or winding up of the Corporation, whether voluntary or involuntary or (b) (i) any reorganization, consolidation, merger, or similar transaction or series of related transactions (each, a “**Combination Transaction**”) in which the Corporation is a constituent party, or a subsidiary of the Corporation is a constituent party and the Corporation issues shares of its capital stock pursuant to such Combination Transaction, if, as a result of such Combination Transaction, the voting securities of the Corporation that are outstanding immediately prior to the consummation of such Combination Transaction (other than any such securities that are held by an “Acquiring Stockholder” as defined below) do not represent, or are not converted into, securities of the surviving corporation of such Combination Transaction (or such surviving corporation’s parent corporation, if the surviving corporation is owned by the parent corporation) that, immediately after the consummation of such Combination Transaction, together possess at least a majority of the total voting power of all securities of such surviving corporation (or its parent corporation, if applicable) that are outstanding immediately after the consummation of such Combination Transaction, including securities of such surviving corporation (or its parent corporation, if applicable) that are held by the Acquiring Stockholder; or (ii) a sale, lease, license, transfer, or other disposition, whether in a single transaction or a series of related transactions, of all or substantially all of the assets of the Corporation. An “**Acquiring Stockholder**” means a stockholder or stockholders of the Corporation that (x) merges or combines with the Corporation in such Combination Transaction or (y) owns or controls a majority of another corporation that merges or combines with the Corporation in such Combination Transaction.

**Section 8. Miscellaneous.**

(a) Notices. Any and all notices or other communications or deliveries to be provided by the holders hereunder shall be in writing and shall be deemed to have been given: (i) when delivered by hand (with written confirmation of receipt); (ii) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (iii) on the date sent by facsimile or e-mail of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient; or (iv) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent (x) to the Corporation, at its principal executive office and (y) to any stockholder, at such holder’s address as it appears in the stock records of the Corporation (or such other address for a stockholder as shall be specified in a notice given in accordance with this Section 8).

(b) Lost or Mutilated Preferred Stock Certificate. If a holder’s Series V Preferred Stock certificate shall be mutilated, lost, stolen, or destroyed, the Corporation shall execute and deliver, in exchange and substitution for and upon cancellation of a mutilated certificate, or in lieu of or in substitution for a lost, stolen, or destroyed certificate, a new certificate for the share of Series V Preferred Stock so mutilated, lost, stolen, or destroyed, but only upon receipt of evidence of such loss, theft, or destruction of such certificate, and of the ownership hereof reasonably satisfactory to the Corporation.

(c) Amendment and Waiver. No provision of this Series V Certificate of Designation may be amended, modified, or waived except by an instrument in writing executed by the Corporation and by the holders of the issued and outstanding shares of Series V Preferred Stock, and any such written amendment, modification, or waiver will be binding upon the Corporation and the holders of shares of Series V Preferred Stock.

FURTHER RESOLVED, that the Chief Executive Officer of the Corporation be and hereby is authorized and directed to prepare and file this Certificate of Designation of Series V Preferred Stock in accordance with the foregoing resolutions and the DGCL.

*[Remainder of Page Intentionally Left Blank]*

IN WITNESS WHEREOF, Blum Holdings, Inc. has caused this Certificate of Designation of Series V Preferred Stock to be duly executed by the undersigned duly authorized officer as of this 27<sup>th</sup> day of December, 2023.

**BLUM HOLDINGS, INC.**

By: */s/ Sabas Carrillo*  
\_\_\_\_\_  
Sabas Carrillo  
Chief Executive Officer

*[Signature Page to Certificate of Designation of Series V Preferred Stock]*



**CERTIFICATE OF DESIGNATION**  
**OF**  
**RIGHTS, PRIVILEGES, PREFERENCES, AND RESTRICTIONS**  
**OF**  
**SERIES N PREFERRED STOCK**  
**OF**  
**BLUM HOLDINGS, INC.**

Pursuant to Section 151 of the  
 General Corporation Law of the State of Delaware

The undersigned, Sabas Carrillo, hereby certifies that:

1. He is the Chief Executive Officer of Blum Holdings, Inc., a Delaware corporation (the “**Corporation**”).
2. The Corporation is authorized to issue 50,000,000 shares, \$0.001 par value per share, of Preferred Stock, of which 25,000,000 have been designated as “Series V Preferred Stock,” and 2,500,000 have been designated as “Series N Preferred Stock.”
3. The following resolutions were duly adopted by the board of directors of the Corporation (the “**Board of Directors**”), in accordance with the provisions of Section 151 of the General Corporation Law of the State of Delaware, as amended (the “**DGCL**”) on **October 9, 2023**, which resolutions provide for the creation of a series of the Corporation’s Preferred Stock, par value \$0.001 per share, which is designated as “Series N Preferred Stock,” with the rights, preferences, privileges and restrictions set forth therein.

**WHEREAS**, the Certificate of Incorporation of the Corporation (as amended, the “**Certificate of Incorporation**”), provides for a class of authorized capital stock of the Corporation known as preferred stock, comprised of 50,000,000 authorized shares, par value \$0.001 per share (the “**Preferred Stock**”), issuable from time to time in one or more series; and

**WHEREAS**, the Certificate of Incorporation further provides that the Board of Directors is expressly authorized to fix the dividend rights, dividend rate, voting rights, conversion rights, rights and terms of redemption, and liquidation preferences of any wholly unissued series of Preferred Stock, and the number of shares constituting any series and the designation thereof, of any of them.

**NOW, THEREFORE, BE IT RESOLVED**, that, pursuant to the authority conferred upon the Board of Directors by the Certificate of Incorporation, 2,500,000 shares of the 50,000,000 authorized shares of Preferred Stock of the Corporation are hereby designated as “Series N Preferred Stock,” par value \$0.001 per share, and the Board of Directors hereby fixes the rights, preferences, privileges and restrictions of such shares of Preferred Stock, in addition to any provisions set forth in the Certificate of Incorporation that are applicable to all series of the Preferred Stock, as follows:

**TERMS OF SERIES N PREFERRED STOCK**

**Section 1. Designation; Ranking.** A series of Preferred Stock is hereby designated as the Corporation’s Series N Preferred Stock (the “**Series N Preferred Stock**”). All series of Preferred Stock, whether now or hereafter designated, may by their respective terms have a preference over the Series N Preferred Stock in respect of distribution upon liquidation, dividends, or any other right or matter; provided that, the Series N Preferred Stock shall, with respect to rights upon liquidation, dissolution, or winding-up of the affairs of the Corporation, rank senior and prior to the common stock, par value \$0.001 per share, of the Corporation (the “**Common Stock**”).

**Section 2. Number; Par Value.** The number of shares constituting Series N Preferred Stock is fixed at Two Million Five Hundred Thousand (2,500,000) shares, par value \$0.001 per share, and such authorized number may not be increased or decreased except by the favorable vote or the written consent of the holders of the issued and outstanding shares of Series N Preferred Stock and by a resolution of the Board of Directors.

**Section 3. Dividends.** The holders of Series N Preferred Stock do not have any preferential dividend rights and shall be entitled to receive dividends, if any, only if, when, and as declared by the Board of Directors in its sole and absolute discretion.

**Section 4. Voting Rights.** If issued and outstanding, each share of Series N Preferred Stock shall have the right to take action by written consent or vote in number equal to the number of shares of Common Stock into which shares of Series N Preferred Stock are then convertible. These voting rights may be exercised by vote at an annual meeting of the stockholders of the Corporation or at a special meeting of the stockholders of the Corporation or by written consent of the holders of Series N Preferred Stock. Except as otherwise provided by the Certificate of Incorporation or required by law, the holders of the shares of Common Stock and shares of Series N Preferred Stock shall vote together and not as separate classes.

**Section 5. Conversion.** Each share of Series N Preferred Stock shall be convertible into one (1) fully paid and nonassessable share of Common Stock, in the manner set forth below. The shares of Series N Preferred Stock, once converted into shares of Common Stock in accordance with the terms hereof, shall resume the status of an authorized but unissued share of Preferred Stock and shall no longer be designated as shares of Series N Preferred Stock.

(a) **Automatic Conversion.** Each share of Series N Preferred Stock shall automatically, without further action by the holder thereof, be converted into one (1) fully paid and nonassessable share of Common Stock on the first (1<sup>st</sup>) anniversary of the date on which the holder's shares of Series N Preferred Stock were issued (each, an "**Automatic Conversion**").

(b) **Conversions at Option of Holder.** At any time, or from time to time, but prior to the date of the Automatic Conversion, such holder shall be entitled, upon written notice to the Corporation and the transfer agent (or solely to the Corporation if the Corporation serves as its own transfer agent for the Series N Preferred Stock), to convert each of such holder's shares of Series N Preferred Stock then held into one (1) fully paid and nonassessable share of Common Stock.

(c) **Conversions Following a Split or Recombination of the Shares of Common Stock.** The conversion ratio set forth in Sections 5(a) and (b) shall be proportionately adjusted in the event of a stock split, stock dividend, or reverse stock split or combination of the shares of Common Stock.

(d) **Fractional Shares.** No fractional shares shall be issued upon the conversion of the Series N Preferred Stock. In lieu of any fractional share to which the holder would otherwise be entitled, the Corporation shall at its election, either pay to the holder a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the fair market value of the Common Stock as determined in good faith by the Board of Directors as of the date of conversion or round up to the next whole share.

**Section 6. Reserved.**

**Section 7. Liquidation Preference.** Upon any Liquidation Event (as defined below), before any distribution or payment shall be made to the holders of any class or series of the Corporation's capital stock ranking junior to the Series N Preferred Stock, the holders of the Series N Preferred Stock shall be entitled to be paid out of the assets of the Corporation an amount equal to an aggregate of \$1.00 allocated among all of the then-issued and outstanding shares of Series N Preferred Stock (the "**Preference Value**"). After the payment of the Preference Value of the shares of the Series N Preferred Stock as set forth herein, the remaining assets of the Corporation legally available for distribution, if any, shall be distributed ratably to the holders of the Corporation's Common Stock and other classes or series of the Corporation's capital stock in the manner provided by law or the Certificate of Incorporation of the Corporation. The Corporation shall mail written notice of any such Liquidation Event, not less than forty-five (45) days prior to the payment date stated therein, to each holder of the issued and outstanding shares of Series N Preferred Stock.

A "**Liquidation Event**" shall mean (a) the dissolution, liquidation, or winding up of the Corporation, whether voluntary or involuntary or (b) (i) any reorganization, consolidation, merger, or similar transaction or series of related transactions (each, a "**Combination Transaction**") in which the Corporation is a constituent party, or a subsidiary of the Corporation is a constituent party and the Corporation issues shares of its capital stock pursuant to such Combination Transaction, if, as a result of such Combination Transaction, the voting securities of the Corporation that are outstanding immediately prior to the consummation of such Combination Transaction (other than any such securities that are held by an "Acquiring Stockholder" as defined below) do not represent, or are not converted into, securities of the surviving corporation of such Combination Transaction (or such surviving corporation's parent corporation, if the surviving corporation is owned by the parent corporation) that, immediately after the consummation of such Combination Transaction, together possess at least a majority of the total voting power of all securities of such surviving corporation (or its parent corporation, if applicable) that are outstanding immediately after the consummation of such Combination Transaction, including securities of such surviving corporation (or its parent corporation, if applicable) that are held by the Acquiring Stockholder; or (ii) a sale, lease, license, transfer, or other disposition, whether in a single transaction or a series of related transactions, of all or substantially all of the assets of the Corporation. An "**Acquiring Stockholder**" means a stockholder or stockholders of the Corporation that (x) merges or combines with the Corporation in such Combination Transaction or (y) owns or controls a majority of another corporation that merges or combines with the Corporation in such Combination Transaction.

**Section 8. Miscellaneous.**

(a) Notices. Any and all notices or other communications or deliveries to be provided by the holders hereunder shall be in writing and shall be deemed to have been given: (i) when delivered by hand (with written confirmation of receipt); (ii) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (iii) on the date sent by facsimile or e-mail of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient; or (iv) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent (x) to the Corporation, at its principal executive office and (y) to any stockholder, at such holder's address as it appears in the stock records of the Corporation (or such other address for a stockholder as shall be specified in a notice given in accordance with this Section 8).

(b) Lost or Mutilated Preferred Stock Certificate. If a holder's Series N Preferred Stock certificate shall be mutilated, lost, stolen, or destroyed, the Corporation shall execute and deliver, in exchange and substitution for and upon cancellation of a mutilated certificate, or in lieu of or in substitution for a lost, stolen, or destroyed certificate, a new certificate for the share of Series N Preferred Stock so mutilated, lost, stolen, or destroyed, but only upon receipt of evidence of such loss, theft, or destruction of such certificate, and of the ownership hereof reasonably satisfactory to the Corporation.

(c) Amendment and Waiver. No provision of this Series N Certificate of Designation may be amended, modified, or waived except by an instrument in writing executed by the Corporation and by the holders of the issued and outstanding shares of Series N Preferred Stock, and any such written amendment, modification, or waiver will be binding upon the Corporation and the holders of shares of Series N Preferred Stock.

FURTHER RESOLVED, that the Chief Executive Officer of the Corporation be and hereby is authorized and directed to prepare and file this Certificate of Designation of Series N Preferred Stock in accordance with the foregoing resolutions and the DGCL.

*[Remainder of Page Intentionally Left Blank]*

IN WITNESS WHEREOF, Blum Holdings, Inc. has caused this Certificate of Designation of Series N Preferred Stock to be duly executed by the undersigned duly authorized officer as of this 27<sup>th</sup> day of December, 2023.

**BLUM HOLDINGS, INC.**

By: /s/ Sabas Carrillo  
Sabas Carrillo  
Chief Executive Officer

*[Signature Page to Certificate of Designation of Series N Preferred Stock]*

**AMENDED AND RESTATED BYLAWS  
OF  
BLUM HOLDINGS, INC.  
(Adopted January 11, 2024)**

**ARTICLE I – OFFICES**

Section 1. The registered office of Blum Holdings, Inc. (the “Corporation”) in the State of Delaware is 13 W Main St PO Box 953, Felton, DE 19943. The name of its registered agent at such address is Telos Legal Corp.

Section 2. The Corporation may have such offices within or without the State of Delaware as the Board of Directors may designate or as the business of the Corporation may require from time to time.

**ARTICLE II – STOCKHOLDERS**

Section 1. ANNUAL MEETING: The annual meeting of stockholders shall be held each year on a date and a time designated by the Board of Directors. At each annual meeting directors shall be elected and any other proper business may be transacted.

Section 2. SPECIAL MEETINGS: In addition to the rights of the holders of any series of Preferred Stock, special meetings of the stockholders may only be called at any time by (a) the Chairman, (b) the Board of Directors, or an officer of the Corporation authorized by the Board, pursuant to a resolution approved by a majority of the whole Board of Directors, (c) the Chief Executive Officer of the Corporation; or (d) the President of the Corporation (in the absence of a chief executive officer). Special meetings of the stockholders may also be called by the Board upon written request of the holders of record of a majority of the outstanding shares of the Corporation entitled to vote at the meeting requested to be called. Such request shall state the purpose or purposes of the proposed meeting. Business transacted at any special meeting of stockholders shall be limited to the purposes stated in the notice to stockholders.

Section 3. PLACE OF MEETING: The Board of Directors may designate any place, either within or without the State of Delaware, as the place of meeting for any annual meeting or for any special meeting called by the Board of Directors. The Board of Directors may, in its sole discretion, determine that the meeting shall not be held at any place, but may instead be held solely by means of remote communication as provided under the General Corporation Law of the State of Delaware, as amended from time to time (“DGCL”).

Section 4. NOTICE OF MEETING: Whenever stockholders are required or permitted to take any action at a meeting, a written notice of any such meeting shall be given which notice shall state the place, date and hour of the meeting, and, in the case of a special meeting, the purpose or purposes for which the meeting is called. The notice shall, unless otherwise prescribed by statute, be delivered not less than ten (10) nor more than sixty (60) days before the date of the meeting, either personally or by mail, by or at the direction of the Chairman, to each stockholder of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the stockholder at his address as it appears on the stock transfer books of the Corporation, with postage thereon prepaid. Notice of any meeting of the stockholders shall not be required to be given to any stockholder who shall attend such meeting in person or by proxy without protesting, prior to or at the commencement of the meeting, the lack of proper notice to such stockholder, or who shall waive notice thereof as provided in Article XI of these Bylaws. Notice of adjournment of a meeting of the stockholders need not be given if the date, time and place, if any, to which it is adjourned, and any means of remote communication for such adjourned meeting, are (i) announced at the meeting at which the adjournment is taken, (ii) displayed during the time scheduled for such meeting on the same electronic network used to enable stockholders and proxy holders to participate in such meeting by means of remote communication or (iii) set forth in the notice of such meeting given in accordance with the provisions of this Article 2.4; *provided, however*, that if the adjournment is for more than 30 days or, after adjournment, a new record date is fixed for the adjourned meeting, then a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting.

Section 5. NOTICE BY ELECTRONIC TRANSMISSION: Without limiting the manner by which notices of meetings otherwise may be given effectively to stockholders, any such notice may be given by electronic transmission in accordance with applicable law.

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Section 6. CLOSING OF TRANSFER BOOKS OR FIXING OF RECORD DATE: For the purpose of determining stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, or stockholders entitled to receive payment of any dividend, or in order to make a determination of stockholders for any other proper purpose, the Board of Directors of the Corporation may provide that the stock transfer books shall be closed for a stated period but not to exceed, in any case, sixty (60) days. In lieu of closing the stock transfer books, the Board of Directors may fix in advance a date as the record date for any such determination of stockholders, such date in any case to be not more than sixty (60) days, and, in case of a meeting of stockholders, not less than ten (10) days prior to the date on which the particular action, requiring such determination of stockholders, is to be taken. If the stock transfer books are not closed and no record date is fixed for the determination of stockholders entitled to notice of or to vote at a meeting of stockholders, or stockholders entitled to receive payment of a dividend, the date on which notice of the meeting is mailed or the date on which the resolution of the board of directors declaring such dividend is adopted, as the case may be, shall be the record date for such determination of stockholders. When a determination of stockholders entitled to vote at any meeting of stockholders has been made as provided in this Article 2.6, such determination shall apply to any adjournment thereof regardless of its length except where the determination has been made through the closing of the stock transfer books and the stated period of closing has expired.

Section 7. BOOKS AND ACCOUNTS: This Corporation shall keep and maintain at its principal office in this State:

- (a) A certified copy of its Certificate of Incorporation, and all amendments thereto.
- (b) A certified copy of its Bylaws, and all amendments thereto.
- (c) A stock ledger or a duplicate stock ledger, revised annually, containing the names, alphabetically arranged, of all persons who are stockholders of the Corporation, showing their places of residence, if known, and the number of shares held by them respectively; or
- (d) In lieu of the stock ledger or duplication stock ledger specified in paragraph (c), a statement setting out the name of the custodian of the stock ledger or duplicate stock ledger, and the present and complete post office address, including street and number, if any, where such stock ledger or duplicate stock ledger specified in this Article 2.7 is kept.

Section 8. QUORUM: Thirty three and one-third percent ( $33\frac{1}{3}\%$ ) of the outstanding shares of the Corporation entitled to vote, represented in person or by proxy, shall constitute a quorum at a meeting of stockholders; provided, however, that in the case of any vote to be taken by classes or series, the holders of thirty three and one-third percent ( $33\frac{1}{3}\%$ ) of the votes entitled to be cast by the stockholders of a particular class or series, present in person or by proxy, shall constitute a quorum of such class or series.

Section 9. ADJOURNMENTS; POSTPONEMENTS: In the absence of a quorum, holders of stock representing a majority of the voting power of all shares present in person or represented by proxy at the meeting, or the chairman of the meeting, may adjourn any meeting of stockholders (including an adjournment to address a technical failure to convene), from time to time, to reconvene at the same or some other place, and notice need not be given of any such adjourned meeting if the time and place thereof are announced at the meeting at which the adjournment is taken. Furthermore, after the meeting has been duly organized, the chairman of the meeting may adjourn any meeting of stockholders, from time to time, to reconvene at the same or some other place, and notice need not be given of any such adjourned meeting if the date, time and place, if any, thereof, and any means of remote communication for such meeting, are (i) announced at the meeting at which the adjournment is taken, (ii) displayed during the time scheduled for such meeting on the same electronic network used to enable stockholders and proxy holders to participate in such meeting by means of remote communication, or (iii) set forth in the notice of such meeting given in accordance with the provisions of Article 2.4. At the adjourned meeting, the Corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than thirty (30) days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting. Any previously scheduled meeting of stockholders may be postponed by the Board of Directors prior to the date previously scheduled for such meeting and the Corporation shall publicly announce such postponement.

Section 10. PROXIES: At any meeting of stockholders, a stockholder may vote in person or by proxy executed in writing by the stockholder or by his duly authorized attorney in fact. Proxies for use at any meeting of stockholders shall be in writing and filed with the Secretary, or such other officer as the Board of Directors may from time to time determine by resolution, before or at the time of the meeting. All proxies shall be received and taken charge of and all ballots shall be received and canvassed by the secretary of the meeting who shall decide all questions touching upon the qualification of voters, the validity of the proxies and the acceptance or rejection of votes, unless an inspector or inspectors shall have been appointed by the Chairman, in which event such inspector or inspectors shall decide all such questions. Any stockholder directly or indirectly soliciting proxies from other stockholders must use a proxy card color other than white, which shall be reserved for the exclusive use by the Board of Directors.

A proxy shall not be valid after six months from the date of its execution, unless coupled with an interest, but no proxy shall be valid after seven years from the date of its execution, unless renewed or extended at any time before its expiration.

Section 11. LIST OF STOCKHOLDERS ENTITLED TO VOTE: A complete list of stockholders entitled to vote at any meeting of stockholders, arranged in alphabetical order and showing the address of each stockholder and the number of shares registered in the name of each stockholder, shall be open to the examination of any stockholder, for any purpose germane to the meeting, for a period of ten (10) days ending on the day before the meeting date, (i) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting, or (ii) during ordinary business hours, at the principal place of business of the Corporation. In the event that the Corporation determines to make the list available on an electronic network, the Corporation may take reasonable steps to ensure that such information is available only to the stockholders of the Corporation.

Section 12. VOTING AND ELECTIONS: Each stockholder of record of any series of Preferred Stock shall be entitled at each meeting of the stockholders to such number of votes, if any, for each share of such stock as may be fixed in the Certificate of Incorporation, any certificate of designation or in the resolution or resolutions adopted by the Board of Directors provide for the issuance of such Preferred Stock, and each stockholder of record of Common Stock shall be entitled at each meeting of the stockholders to one vote for each share of such stock, in each case, registered in such stockholder's name on the books of the Corporation: (i) on the date fixed pursuant to Section 6 of Article II of these Bylaws as the record date for the determination of stockholders entitled to notice of and to vote at such meeting; or (ii) if no such record date shall have been so fixed, then at the close of business on the day next preceding the day on which notice of such meeting is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held.

At each meeting of the stockholders, except as required by the Certificate of Incorporation or applicable law, all corporate actions to be taken by vote of the stockholders (other than the election of directors) shall be authorized by a majority of the votes cast by the stockholders entitled to vote thereon who are present in person or represented by proxy, and where a separate vote by class or series is required, a majority of the votes cast by the stockholders of such class or series who are present in person or represented by proxy shall be the act of such class or series. Directors shall be elected by a plurality of the votes cast at a meeting of the stockholders by the holders of stock entitled to vote in the election of directors, provided a quorum is present.

Section 13. VOTING OF SHARES BY CERTAIN HOLDERS: Shares standing in the name of another corporation may be voted by such officer, agent or proxy as the bylaws or a resolution of the board of directors of such corporation may prescribe, and a certified copy of the by-law or resolution is presented at the meeting.

Shares held by an administrator, executor, guardian or conservator may be voted by him, either in person or by proxy, without a transfer of shares into his name. A stockholder whose shares are pledged shall be entitled to vote such shares until the shares have been transferred into the name of the pledgee, and thereafter the pledgee shall be entitled to vote the shares so transferred.

Neither treasury shares of its own stock held by the Corporation, nor shares held by another corporation if a majority of the shares entitled to vote for the election of directors of such other corporation are held by the corporation, shall be voted at any meeting or counted in determining the total number of outstanding shares at any given time for purposes of any meeting.



Section 14. VOTING TRUST: A stockholder, by agreement in writing, may transfer his stock to a voting trustee or trustees for the purpose of conferring the right to vote thereon for a period not exceeding 15 years upon the terms and conditions therein stated. The certificates of stock so transferred shall be surrendered and canceled and new certificates therefor issued to such trustee or trustees in which it shall appear that they are issued pursuant to such agreement, and in the entry of such ownership in the proper books of such corporation that fact shall also be noted, and thereupon such trustee or trustees may vote upon the stock so transferred during the terms of such agreement. A duplicate of every such agreement shall be filed in the principal office of the corporation and at all times during such terms be open to inspection by any stockholder or his attorney.

Section 15. ACTION WITHOUT MEETING: Any action to be taken at any annual or special meeting of stockholders may be taken without a meeting, without prior notice, and without a vote, if a consent or consents in writing or by electronic transmission setting forth the action to be so taken shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted and shall be delivered to the Corporation by delivery to its registered office in the State of Delaware (by hand or by certified or registered mail, return receipt requested), its principal place of business, an officer or agent of the Corporation having custody of the book in which proceedings of meetings of stockholders are recorded, or to an information processing system designated by the corporation for receiving such consents in accordance with applicable law. Every consent shall bear the date of signature of each stockholder who signs the consent, and no consent shall be effective to take the corporate action referred to therein unless, within 60 days of the earliest dated consent delivered in the manner required by this Section 2.11, consents signed by a sufficient number of holders to take action are delivered to the Corporation as aforesaid. Prompt notice of the taking of the corporate action by the stockholders by less than unanimous consent shall, to the extent required by applicable law, be given to those stockholders as of the record date for the action by consent who have not consented and who would have been entitled to notice of the meeting if the action had been taken at a meeting and the record date for the notice of the meeting were the record date for the action by consent.

Section 16. NOMINATION OF DIRECTORS:

(a) In addition to the rights of the holders of any series of Preferred Stock, nominations of any person for election to the Board of Directors at an annual meeting or at a special meeting (but only if the election of directors is a matter specified in the notice of meeting given by or at the direction of the person calling such special meeting) may be made at such meeting only (i) by or at the direction of the Board of Directors, including by any committee or persons appointed by the Board of Directors, or (ii) by a stockholder who (A) was a stockholder of record (and, with respect to any beneficial owner, if different, on whose behalf such nomination is proposed to be made, only if such beneficial owner was the beneficial owner of shares of the Corporation) both at the time of giving the notice provided for in this Article 2.16 and at the time of the meeting, (B) is entitled to vote at the meeting for the election of directors, and (C) has complied with this Article 2.16 as to such nomination. The foregoing clause (ii) shall be the exclusive means for a stockholder to make any nomination of a person or persons for election to the Board of Directors at an annual meeting or special meeting.

(b) Without qualification, in addition to such stockholder complying with the provisions of Rule 14a-19 under the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder (as so amended and inclusive of such rules and regulations, the "Exchange Act"), for a stockholder to make any nomination of a person or persons for election to the Board of Directors at an annual meeting, the stockholder must (i) provide timely notice (as described below) thereof in writing and in proper form to the Secretary of the Corporation either by personal delivery or by United States mail, postage prepaid, and (ii) provide any updates or supplements to such notice at the times and in the forms required by this Article 2.16. Without qualification, if the election of directors is a matter specified in the notice of meeting given by or at the direction of the person calling such special meeting, then for a stockholder to make any nomination of a person or persons for election to the Board of Directors at a special meeting, the stockholder must (i) provide timely notice thereof in writing and in proper form to the Secretary of the Corporation at the principal executive offices of the Corporation either by personal delivery or by United States mail, postage prepaid, and (ii) provide any updates or supplements to such notice at the times and in the forms required by this Article 2.16. To be timely, a stockholder's notice must be delivered to, or mailed and received at, the principal executive offices of the Corporation not less than ninety (90) days nor more than one hundred twenty (120) days prior to the one-year anniversary of the preceding year's annual meeting; provided, however, that if the date of the annual meeting is more than thirty (30) days before or more than sixty (60) days after such anniversary date, notice by the stockholder to be timely must be so delivered, or mailed and received, not later than the ninetieth (90th) day prior to such annual meeting or, if such annual meeting is announced later than the ninetieth day prior to the date of such annual meeting, the tenth (10th) day following the day on which public disclosure of the date of such annual meeting was first made. In no event shall any adjournment of an annual meeting or the announcement thereof commence a new time period for the giving of timely notice as described above.

To be timely, a stockholder's notice for nominations to be made at a special meeting must be delivered to, or mailed and received at, the principal executive offices of the Corporation not earlier than the one hundred twentieth (120th) day prior to such special meeting and not later than the ninetieth (90th) day prior to such special meeting or, if such special meeting is announced later than the ninetieth day prior to the date of such special meeting, the tenth (10th) day following the day on which public disclosure (as defined in Article 2.17(g)) of the date of such special meeting was first made. In no event shall any adjournment of an annual meeting or special meeting or the announcement thereof commence a new time period for the giving of timely notice as described above.

(c) To be in proper form for purposes of this Article 2.16, a stockholder's notice to the Secretary shall set forth:

- (i) As to each Nominating Person (as defined below), the Stockholder Information (as defined in Article 2.17(c)(i), except that for purposes of this Article 2.16 the term "Nominating Person" shall be substituted for the term "Proposing Person" in all places it appears in Article 2.17(c)(i));
- (ii) As to each Nominating Person, any Disclosable Interests (as defined in Article 2.17(c)(ii), except that for purposes of this Article 2.16 the term "Nominating Person" shall be substituted for the term "Proposing Person" in all places it appears in Article 2.17(c)(ii) and the disclosure in clause (L) of Article 2.17(c)(ii) shall be made with respect to the election of directors at the meeting);
- (iii) A representation that the Nominating Person is a holder or record or beneficial owner of shares of the Corporation entitled to vote at the meeting and intends to appear in person or by proxy at the meeting to nominate the person or persons specified in the notice;
- (iv) A representation as to whether the Nominating Person intends to solicit proxies in support of such person's nominee(s) in accordance with Rule 14a-19 under the Exchange Act;
- (v) A representation as to whether the Nominating Person intends or is part of a group that intends (x) to deliver a proxy statement and/or a form of proxy to holders of at least the percentage of the Corporation's outstanding stock reasonably believed by the Nominating Person to be sufficient to elect the nominee or nominees proposed to be nominating by the Nominating Person;
- (vi) As to each person whom a Nominating Person proposes to nominate for election as a director, (A) all information with respect to such proposed nominee that would be required to be set forth in a stockholder's notice pursuant to this Article 2.16 if such proposed nominee were a Nominating Person, (B) all information relating to such proposed nominee that is required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for election of directors in a contested election pursuant to Article 14(a) under the Exchange Act (including such proposed nominee's written consent to being named in the proxy statement as a nominee and to serving as a director if elected), (C) a description of all direct and indirect compensation and other material monetary agreements, arrangements and understandings during the past three years, and any other material relationships, between or among any Nominating Person, on the one hand, and each proposed nominee, his or her respective affiliates and associates and any other persons with whom such proposed nominee (or any of his or her respective affiliates and associates) is Acting in Concert (as defined in Article 2.17(c)), on the other hand, including, without limitation, all information that would be required to be disclosed pursuant to Item 404 under Regulation S-K if such Nominating Person were the "registrant" for purposes of such rule and the proposed nominee were a director or executive officer of such registrant, and (D) a completed and signed questionnaire, representation and agreement as provided in Article 2.16(f); and

(vi) The Corporation may require any proposed nominee to furnish such other information (A) as may reasonably be required by the Corporation to determine the eligibility of such proposed nominee to serve as an independent director of the Corporation in accordance with the Corporation's corporate governance guidelines or (B) that could be material to a reasonable stockholder's understanding of the independence or lack of independence of such proposed nominee.

For purposes of this Article 2.16, the term "Nominating Person" shall mean (i) the stockholder providing the notice of the nomination proposed to be made at the meeting, (ii) the beneficial owner or beneficial owners, if different, on whose behalf the notice of the nomination proposed to be made at the meeting is made, (iii) any affiliate or associate of such stockholder or beneficial owner, and (iv) any other person with whom such stockholder or such beneficial owner (or any of their respective affiliates or associates) is Acting in Concert.

(d) A stockholder providing notice of any nomination proposed to be made at a meeting shall further update and supplement such notice, if necessary, so that the information provided or required to be provided in such notice pursuant to this Article 2.16 shall be true and correct as of the record date for the meeting and as of the date that is ten (10) business days prior to the meeting or any adjournment or postponement thereof, and such update and supplement shall be delivered to, or mailed and received by, the Secretary at the principal executive offices of the Corporation not later than five (5) business days after the record date for the meeting (in the case of the update and supplement required to be made as of the record date), and not later than eight (8) business days prior to the date for the meeting, if practicable (or, if not practicable, on the first practicable date prior to) any adjournment or postponement thereof (in the case of the update and supplement required to be made as of ten (10) business days prior to the meeting or any adjournment or postponement thereof).

(e) Notwithstanding anything in these Bylaws to the contrary, no person shall be eligible for election as a director of the Corporation unless nominated in accordance with this Article 2.16. The presiding officer at the meeting shall, if the facts warrant, determine that a nomination was not properly made in accordance with this Article 2.16, and if he or she should so determine, he or she shall so declare such determination to the meeting and the defective nomination shall be disregarded.

(f) To be eligible to be a nominee for election as a director of the Corporation, the proposed nominee must deliver (in accordance with the time periods prescribed for delivery of notice under this Article 2.16) to the Secretary at the principal executive offices of the Corporation a written questionnaire with respect to the background and qualification of such proposed nominee (which questionnaire shall be provided by the Secretary upon written request) and a written representation and agreement (in form provided by the Secretary upon written request) that such proposed nominee (i) is not and will not become a party to (A) any agreement, arrangement or understanding with, and has not given any commitment or assurance to, any person or entity as to how such proposed nominee, if elected as a director of the Corporation, will act or vote on any issue or question (a "Voting Commitment") that has not been disclosed to the Corporation or (B) any Voting Commitment that could limit or interfere with such proposed nominee's ability to comply, if elected as a director of the Corporation, with such proposed nominee's fiduciary duties under applicable law, (ii) is not, and will not become a party to, any agreement, arrangement or understanding with any person or entity other than the Corporation with respect to any direct or indirect compensation, reimbursement or indemnification in connection with service or action as a director that has not been disclosed to the Corporation and (iii) in such proposed nominee's individual capacity and on behalf of the stockholder (or the beneficial owner, if different) on whose behalf the nomination is made, would be in compliance, if elected as a director of the Corporation, and will comply with applicable publicly disclosed corporate governance, conflict of interest, confidentiality and stock ownership and trading policies and guidelines of the Corporation.

(g) In addition to the requirements of this Article 2.16 with respect to any nomination proposed to be made at a meeting, each Nominating Person shall comply with all applicable requirements of the Exchange Act with respect to any such nominations. Unless otherwise required by law, (i) no Nominating Person shall solicit proxies in support of director nominees other than the Corporation's nominees unless such stockholder has complied with Rule 14a-19 under the Exchange Act in connection with the solicitation of such proxies, including the provision to the Corporation of notices required thereunder in a timely manner, and (ii) if such stockholder (1) provides notice pursuant to Rule 14a-19(b) under the Exchange Act and (2) subsequently fails to comply with all applicable requirements of Section 10 and this Article 2.16 and Rules 14a-19(a)(2) and 14a-19(a)(3) under the Exchange Act, then the Corporation shall disregard any proxies or votes solicited for such Nominating Person's director nominees. Upon request by the Corporation, if any such Nominating Person provides notice pursuant to Rule 14a-19(b) under the Exchange Act, such Nominating Person shall deliver to the Corporation, no later than five (5) business days prior to the applicable meeting, reasonable evidence that it has met the requirements of Rule 14a-19(a)(3) under the Exchange Act.

Section 17. NOTICE OF BUSINESS AT ANNUAL MEETINGS:

(a) At an annual meeting of the stockholders, only such business shall be conducted as shall have been properly brought before the meeting. To be properly brought before an annual meeting, business must be (i) brought before the meeting by the Corporation and specified in the notice of meeting given by or at the direction of the Board of Directors, (ii) brought before the meeting by or at the direction of the Board of Directors, or (iii) otherwise properly brought before the meeting by a stockholder who (A) was a stockholder of record (and, with respect to any beneficial owner, if different, on whose behalf such business is proposed, only if such beneficial owner was the beneficial owner of shares of the Corporation) both at the time of giving the notice provided for in this Article 2.17 and at the time of the meeting, (B) is entitled to vote at the meeting, and (C) has complied with this Article 2.17 as to such business. Except for proposals properly made in accordance with Rule 14a-8 under the Exchange Act, and included in the notice of meeting given by or at the direction of the Board of Directors, the foregoing clause (iii) shall be the exclusive means for a stockholder to propose business to be brought before an annual meeting of the stockholders. Stockholders shall not be permitted to propose business to be brought before a special meeting of the stockholders, and the only matters that may be brought before a special meeting are the matters specified in the notice of meeting given by or at the direction of the person calling the meeting. Stockholders seeking to nominate persons for election to the Board must comply with Article 2.16 and this Article 2.17 shall not be applicable to nominations except as expressly provided in Article 2.16.

(b) Without qualification, for business to be properly brought before an annual meeting by a stockholder, the stockholder must (i) provide timely notice (as described below) thereof in writing and in proper form to the Secretary of the Corporation either by personal delivery or by United States mail, postage prepaid, and (ii) provide any updates or supplements to such notice at the times and in the forms required by this Article 2.17. To be timely, a stockholder's notice must be delivered to, or mailed and received at, the principal executive offices of the Corporation not less than ninety (90) days nor more than one hundred twenty (120) days prior to the one-year anniversary of the preceding year's annual meeting; provided, however, that if the date of the annual meeting is more than thirty (30) days before or more than sixty (60) days after such anniversary date, notice by the stockholder to be timely must be so delivered, or mailed and received, not later than the ninetieth (90th) day prior to such annual meeting or, if such annual meeting is announced later than the ninetieth day prior to the date of such annual meeting, the tenth (10th) day following the day on which public disclosure of the date of such annual meeting was first made. In no event shall any adjournment of an annual meeting or the announcement thereof commence a new time period for the giving of timely notice as described above.

(c) To be in proper form for purposes of this Article 2.17, a stockholder's notice to the Secretary shall set forth:

(i) As to each Proposing Person (as defined below), (A) the name and address of such Proposing Person (including, if applicable, the name and address that appear on the Corporation's books and records); and (B) the class or series and number of shares of the Corporation that are, directly or indirectly, owned of record or beneficially owned (within the meaning of Rule 13d-3 under the Exchange Act) by such Proposing Persons, except that such Proposing Person shall in all events be deemed to beneficially own any shares of any class or series of the Corporation as to which such Proposing Person has a right to acquire beneficial ownership at any time in the future (the disclosures to be made pursuant to the foregoing clauses (i) and (ii) are referred to as "Stockholder Information");

(ii) As to each Proposing Person, (A) any derivative, swap or other transaction or series of transactions engaged in, directly or indirectly, by such Proposing Person, the purpose or effect of which is to give such Proposing Person economic risk similar to ownership of shares of any class or series of the Corporation, including due to the fact that the value of such derivative, swap or other transactions are determined by reference to the price, value or volatility of any shares of any class or series of the Corporation, or which derivative, swap or other transactions provide, directly or indirectly, the opportunity to profit from any increase in the price or value of shares of any class or series of the Corporation (“Synthetic Equity Interests”), which Synthetic Equity Interests shall be disclosed without regard to whether (x) the derivative, swap or other transactions convey any voting rights in such shares to such Proposing Person, (y) the derivative, swap or other transactions are required to be, or are capable of being, settled through delivery of such shares or (z) such Proposing Person may have entered into other transactions that hedge or mitigate the economic effect of such derivative, swap or other transactions (B) any proxy (other than a revocable proxy or consent given in response to a solicitation made pursuant to, and in accordance with, Article 14(a) of the Exchange Act by way of a solicitation statement filed on Schedule 14A), agreement, arrangement, understanding or relationship pursuant to which such Proposing Person has or shares a right to vote any shares of any class or series of the Corporation, (C) any agreement, arrangement, understanding or relationship, including any repurchase or similar so-called “stock borrowing” agreement or arrangement, engaged in, directly or indirectly, by such Proposing Person, the purpose or effect of which is to mitigate loss to, reduce the economic risk (of ownership or otherwise) of shares of any class or series of the Corporation by, manage the risk of share price changes for, or increase or decrease the voting power of, such Proposing Person with respect to the shares of any class or series of the Corporation, or which provides, directly or indirectly, the opportunity to profit from any decrease in the price or value of the shares of any class or series of the Corporation (“Short Interests”), (D) any rights to dividends on the shares of any class or series of the Corporation owned beneficially by such Proposing Person that are separated or separable from the underlying shares of the Corporation, (E) any performance related fees (other than an asset based fee) that such Proposing Person is entitled to based on any increase or decrease in the price or value of shares of any class or series of the Corporation, or any Synthetic Equity Interests or Short Interests, if any, (F)(x) if such Proposing Person is not a natural person, the identity of the natural person or persons associated with such Proposing Person responsible for the formulation of and decision to propose the business to be brought before the meeting (such person or persons, the “Responsible Person”), the manner in which such Responsible Person was selected, any fiduciary duties owed by such Responsible Person to the equity holders or other beneficiaries of such Proposing Person, the qualifications and background of such Responsible Person and any material interests or relationships of such Responsible Person that are not shared generally by any other record or beneficial holder of the shares of any class or series of the Corporation and that reasonably could have influenced the decision of such Proposing Person to propose such business to be brought before the meeting, and (y) if such Proposing Person is a natural person, the qualifications and background of such natural person and any material interests or relationships of such natural person that are not shared generally by any other record or beneficial holder of the shares of any class or series of the Corporation and that reasonably could have influenced the decision of such Proposing Person to propose such business to be brought before the meeting, (G) any significant equity interests or any Synthetic Equity Interests or Short Interests in any principal competitor of the Corporation held by such Proposing Persons (H) any direct or indirect interest of such Proposing Person in any contract with the Corporation, any affiliate of the Corporation or any principal competitor of the Corporation (including, in any such case, any employment agreement, collective bargaining agreement or consulting agreement), (I) any pending or threatened litigation in which such Proposing Person is a party or material participant involving the Corporation or any of its officers or directors, or any affiliate of the Corporation, (J) any material transaction occurring during the prior twelve months between such Proposing Person, on the one hand, and the Corporation, any affiliate of the Corporation or any principal competitor of the Corporation, on the other hand, (K) a summary of any material discussions regarding the business proposed to be brought before the meeting (x) between or among any of the Proposing Persons or (y) between or among any Proposing Person and any other record or beneficial holder of the shares of any class or series of the Corporation (including their names), and (L) any other information relating to such Proposing Person that would be required to be disclosed in a proxy statement or other filing required to be made in connection with solicitations of proxies or consents by such Proposing Person in support of the business proposed to be brought before the meeting pursuant to Article 14(a) of the Exchange Act (the disclosures to be made pursuant to the foregoing clauses (A) through (L) are referred to as “Disclosable Interests”); provided, however, that Disclosable Interests shall not include any such disclosures with respect to the ordinary course business activities of any broker, dealer, commercial bank, trust company or other nominee who is a Proposing Person solely as a result of being the stockholder directed to prepare and submit the notice required by these Bylaws on behalf of a beneficial owner;

(iii) As to each item of business that the stockholder proposes to bring before the annual meeting, (A) a reasonably brief description of the business desired to be brought before the annual meeting, the reasons for conducting such business at the annual meeting and any material interest in such business of each Proposing Person, (B) the text of the proposal or business (including the text of any resolutions proposed for consideration), and (C) a reasonably detailed description of all agreements, arrangements and understandings (x) between or among any of the Proposing Persons or (y) between or among any Proposing Person and any other record or beneficial holder of the shares of any class or series of the Corporation (including their names) in connection with the proposal of such business by such stockholder;

(iv) A representation that the Proposing Person is a holder or record or beneficial owner of shares of the Corporation entitled to vote at the meeting and intends to appear in person or by proxy at the meeting to propose the business specified in the notice; and

(v) A representation as to whether the Proposing Person intends to solicit proxies in support of such person's proposal.

For purposes of this Article 2.17, the term "Proposing Person" shall mean (i) the stockholder providing the notice of business proposed to be brought before an annual meeting, (ii) the beneficial owner or beneficial owners, if different, on whose behalf the notice of the business proposed to be brought before the annual meeting is made, (iii) any affiliate or associate (each within the meaning of Rule 12b-2 under the Exchange Act for purposes of these Bylaws) of such stockholder or beneficial owner, and (iv) any other person with whom such stockholder or beneficial owner (or any of their respective affiliates or associates) is Acting in Concert (as defined below).

A person shall be deemed to be "Acting in Concert" with another person for purposes of these Bylaws if such person knowingly acts (whether or not pursuant to an express agreement, arrangement or understanding) in concert with, or towards a common goal relating to the management, governance or control of the Corporation in parallel with, such other person where (A) each person is conscious of the other person's conduct or intent and this awareness is an element in their decision-making processes and (B) at least one additional factor suggests that such persons intend to act in concert or in parallel, which such additional factors may include, without limitation, exchanging information (whether publicly or privately), attending meetings, conducting discussions, or making or soliciting invitations to act in concert or in parallel; provided, that a person shall not be deemed to be Acting in Concert with any other person solely as a result of the solicitation or receipt of revocable proxies or consents from such other person in response to a solicitation made pursuant to, and in accordance with, Article 14(a) of the Exchange Act by way of a proxy or consent solicitation statement filed on Schedule 14A. A person Acting in Concert with another person shall be deemed to be Acting in Concert with any third party who is also Acting in Concert with such other person.

(d) A stockholder providing notice of business proposed to be brought before an annual meeting shall further update and supplement such notice, if necessary, so that the information provided or required to be provided in such notice pursuant to this Article 2.17 shall be true and correct as of the record date for the meeting and as of the date that is ten (10) business days prior to the meeting or any adjournment or postponement thereof, and such update and supplement shall be delivered to, or mailed and received by, the Secretary at the principal executive offices of the Corporation not later than five (5) business days after the record date for the meeting (in the case of the update and supplement required to be made as of the record date), and not later than eight (8) business days prior to the date for the meeting, if practicable (or, if not practicable, on the first practicable date prior to) any adjournment or postponement thereof (in the case of the update and supplement required to be made as of ten (10) business days prior to the meeting or any adjournment or postponement thereof).

(e) Notwithstanding anything in these Bylaws to the contrary, no business shall be conducted at an annual meeting except in accordance with this Article 2.17. The presiding officer of the meeting shall, if the facts warrant, determine that the business was not properly brought before the meeting in accordance with this Article 2.17, and if he or she should so determine, he or she shall so declare to the meeting and any such business not properly brought before the meeting shall not be transacted.

(f) This Article 2.17 is expressly intended to apply to any business proposed to be brought before an annual meeting of stockholders other than any proposal made pursuant to Rule 14a-8 under the Exchange Act. In addition to the requirements of this Article 2.17 with respect to any business proposed to be brought before an annual meeting, each Proposing Person shall comply with all applicable requirements of the Exchange Act with respect to any such business. Nothing in this Article 2.17 shall be deemed to affect the rights of stockholders to request inclusion of proposals in the Corporation's proxy statement pursuant to Rule 14a-8 under the Exchange Act.

(g) For purposes of these Bylaws, "public disclosure" shall mean disclosure in a press release reported by a national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Articles 13, 14 or 15(d) of the Exchange Act.

Section 18. CONDUCT OF MEETINGS:

(a) Meetings of stockholders shall be presided over by the Chairman or in the Chairman's absence by the Chief Executive Officer, or in the Chief Executive Officer's absence by the President (if the President shall be a different individual than the Chief Executive Officer), or in the President's absence by a Vice President, or in the absence of all of the foregoing persons by a chairman designated by the Board of Directors, or in the absence of such designation by a chairman chosen by vote of the stockholders at the meeting. The Secretary shall act as secretary of the meeting, but in the Secretary's absence the chairman of the meeting may appoint any person to act as secretary of the meeting.

(b) The Board of Directors of the Corporation may adopt by resolution such rules, regulations and procedures for the conduct of any meeting of stockholders of the Corporation as it shall deem appropriate including, without limitation, such guidelines and procedures as it may deem appropriate regarding the participation by means of remote communication of stockholders and proxyholders not physically present at a meeting. Except to the extent inconsistent with such rules, regulations and procedures as adopted by the Board of Directors, the chairman of any meeting of stockholders shall have the right and authority to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such chairman, are appropriate for the proper conduct of the meeting. Such rules, regulations or procedures, whether adopted by the Board of Directors or prescribed by the chairman of the meeting, may include, without limitation, the following: (i) the establishment of an agenda or order of business for the meeting; (ii) rules and procedures for maintaining order at the meeting and the safety of those present; (iii) limitations on attendance at or participation in the meeting to stockholders of record of the Corporation, their duly authorized and constituted proxies or such other persons as shall be determined; (iv) restrictions on entry to the meeting after the time fixed for the commencement thereof; and (v) limitations on the time allotted to questions or comments by participants. Unless and to the extent determined by the Board of Directors or the chairman of the meeting, meetings of stockholders shall not be required to be held in accordance with the rules of parliamentary procedure.

(c) The chairman of the meeting shall announce at the meeting when the polls for each matter to be voted upon at the meeting will be opened and closed. If no announcement is made, the polls shall be deemed to have opened when the meeting is convened and closed upon the final adjournment of the meeting. After the polls close, no ballots, proxies or votes or any revocations or changes thereto may be accepted.

(d) In advance of any meeting of stockholders, the Board of Directors, the Chairman or the Chief Executive Officer shall appoint one or more inspectors of election to act at the meeting and make a written report thereof. One or more other persons may be designated as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate is present, ready and willing to act at a meeting of stockholders, the chairman of the meeting shall appoint one or more inspectors to act at the meeting. Unless otherwise required by law, inspectors may be officers, employees or agents of the Corporation. Each inspector, before entering upon the discharge of such inspector's duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of such inspector's ability. The inspector shall have the duties prescribed by law and shall take charge of the polls and, when the vote is completed, shall make a certificate of the result of the vote taken and of such other facts as may be required by law.

**ARTICLE III – DIRECTORS**

Section 1. NUMBER AND TERM. The business of this Corporation shall be managed by a Board of Directors which shall consist of not less than three (3) directors nor more than seven (7) directors, who need not be residents of the State of Delaware or stockholders of the Corporation. The exact number of directors within the minimum and maximum limitations specified in the preceding sentence shall be fixed from time to time by the Board of Directors pursuant to a resolution adopted by a majority of the entire Board of Directors, which number shall initially be three (3). Except as otherwise provided in the Certificate of Incorporation, each director shall serve for a term ending on the date of the annual meeting of stockholders next following the annual meeting at which such director was elected. Notwithstanding the foregoing, each director shall hold office until such director's successor shall have been duly elected and qualified or until such director's earlier death, resignation or removal. Directors need not be stockholders.

Section 2. **REGULAR MEETINGS:** Each newly elected Board of Directors may hold its first meeting for the purpose of organization and the transaction of business, if a quorum is present, immediately after and at the same place as the annual meeting of the stockholders. Notice of such meeting shall not be required. At the first meeting of the Board of Directors in each year at which a quorum shall be present, held next after the annual meeting of stockholders, the Board of Directors shall proceed to the election of the officers of the Corporation. Regular meetings of the Board of Directors shall be held at such times and places as shall be designated from time to time by resolution of the Board of Directors. Notice of such regular meetings shall not be required.

Section 3. **SPECIAL MEETINGS:** Special meetings of the Board of Directors may be called by the Chairman of the Board, or on the written request of any two directors, by the Secretary, in each case on at least twenty-four (24) hours personal, written, telegraphic, cable or wireless notice to each director. Such notice, or any waiver thereof pursuant to Article 3.4 hereof, shall state the time and place of the special meeting, but need not state the purpose or purposes of such meeting, except as may otherwise be required by law or provided for in the Certificate of Incorporation or these Bylaws. If the day or date, time and place of a meeting of the Board of Directors has been announced at a previous meeting of the board, no notice is required. Notice of an adjourned meeting of the Board of Directors need not be given other than by announcement at the meeting at which adjournment is taken.

Section 4. **NOTICE WAIVER:** Notice of any meeting of the Board of Directors may be waived by any director either before, at or after such meeting orally or in a writing signed by such director. A director, by his or her attendance at any meeting of the Board of Directors, shall be deemed to have waived notice of such meeting, except where the director objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened and does not participate thereafter in the meeting. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting.

Section 5. **QUORUM AND MANNER OF ACTING:** Unless otherwise provided in the Certificate of Incorporation, a majority of the total number of directors then in office shall constitute a quorum for the transaction of business of the Board of Directors and the vote of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

Section 6. **RESIGNATION.** Any director may resign at any time by giving notice in writing or by electronic transmission to the Board of Directors or to the Secretary of the Corporation. The resignation of any director shall take effect upon receipt of notice thereof or at such later time as shall be specified in such notice; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 7. **NEWLY CREATED DIRECTORSHIPS.** A directorship to be filled by reason of any increase in the number of directors may be filled (i) by election at an annual or special meeting of stockholders called for that purpose or (ii) by the Board of Directors for a term of office continuing only until the next election of one or more directors by the stockholders.

Section 8. **VACANCIES IN THE BOARD OF DIRECTORS.** Subject to any rights of the holders of any series of Preferred Stock to elect directors under specified circumstances, any vacancies in the Board of Directors resulting from death, resignation, retirement, disqualification, removal from office or other cause shall be filled by a majority vote of the directors then in office, whether or not less than a quorum, or by a sole remaining director. Directors so chosen shall hold office for a term expiring at the annual meeting of stockholders at which the term of the class to which they have been elected expires. No decrease in the number of directors constituting the Board of Directors shall shorten the term of any incumbent director.

Section 9. **REMOVAL OF DIRECTORS.** Except as may otherwise be provided by law, any director or the entire Board of Directors may be removed, with or without cause, at an annual meeting or at a special meeting called for that purpose, by the affirmative vote of the holders of at least two-thirds of the shares then entitled to vote at an election of directors.



Section 10. ACTION WITHOUT A MEETING; TELEPHONE CONFERENCE MEETING: Unless otherwise restricted by the Certificate of Incorporation, any action required or permitted to be taken at any meeting of the Board of Directors, or any committee designated by the Board of Directors, may be taken without a meeting if all members of the Board of Directors or committee, as the case may be, either originally or in counterparts, consent thereto in writing. Such consent shall have the same force and effect as a unanimous vote at a meeting, and may be stated as such in any document or instrument filed with the Secretary of State of Delaware.

Unless otherwise restricted by the Certificate of Incorporation, subject to the requirement for notice of meetings, members of the Board of Directors, or members of any committee designated by the Board of Directors, may participate in a meeting of such Board of Directors or committee, as the case may be, by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in such a meeting shall constitute presence in person at such meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called or convened.

Section 10. EXECUTIVE AND OTHER COMMITTEES:

(a) The Board of Directors, by resolution adopted by a majority of the number of directors then in office may designate from among its members an executive committee and one or more other committees, each consisting of two or more directors, and each of which, to the extent provided in the resolution or in the charter or these Bylaws shall have and may exercise all of the authority of the Board of Directors except the power to:

(i) Declare dividends or distributions on stock;

(ii) Issue stock other than as provided in subsection (b) of this Article.

(iii) Recommend to the stockholders any action which requires stockholder approving, including, but not limited to, adopting an agreement of merger or consolidation, the sale, lease or exchange of all or substantially all of the Corporation's property and assets, a dissolution of the Corporation or a revocation of a dissolution of the Corporation; or

(iv) Amend the Certificate of Incorporation or the Bylaws.

(b) If the Board of Directors has given general authorization for the issuance of stock, a committee of the Board, in accordance with a general formula or method specified by the board by resolution or by adoption of a stock option or other plan, may fix the terms of stock subject to classification or reclassification and the terms on which any stock may be issued, including all terms and conditions required or permitted to be established or authorized by the Board of Directors under the DGCL.

(c) The appointment of any committee, the delegation of authority to it or action by it under that authority does not constitute of itself, compliance by any director not a member of the committee, with the standard provided by statute for the performance of duties of directors.

(d) Any committee designated pursuant to this Article 3.10 shall choose its own chairman, shall keep regular minutes of its proceedings and report the same to the Board of Directors when requested, shall fix its own rules or procedures, and shall meet at such times and at such place or places as may be provided by such rules, or by resolution of such committee or resolution of the Board of Directors. At every meeting of any such committee, the presence of a majority of all the members thereof shall constitute a quorum and the affirmative vote of a majority of the members present shall be necessary for the adoption by it of any resolution.

(e) The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of such committee. In the absence or disqualification of a member of a committee, the member or members present at any meeting and not disqualified from voting, whether or not constituting a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of the absent or disqualified member.

Section 11. CHAIRMAN OF THE BOARD: The Board shall elect from its members a Chairman, which Chairman shall preside at all meetings of the stockholders and the directors. The Chairman shall serve in such capacity until his or her successor is elected by the Board or until his or her earlier resignation or removal from the Board. He or she shall also perform such other duties the Board may assign to him or her from time to time.

Section 12. COMPENSATION: By resolution of the Board of Directors, each director may be paid his expenses, if any, of attendance at each meeting of the Board of Directors, and may be paid a stated salary as director or a fixed sum for attendance at each meeting of the Board of Directors or both. No such payment shall preclude any director from serving the Corporation in any other capacity and receiving compensation therefor.

Section 13. PRESUMPTION OF ASSENT: A director of the Corporation who is present at a meeting of the board of Directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken, unless he shall announce his dissent at the meeting and his dissent is entered in the minutes and he shall forward such dissent by registered mail to the secretary of the corporation immediately after the adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such action.

#### **ARTICLE IV – OFFICERS**

Section 1. NUMBER, TITLES, AND TERM OF OFFICE: The officers of the Corporation shall be chosen by the Board of Directors and shall include, if and when designated by the Board of Directors, a Chief Executive Officer, President, Chief Financial Officer, one or more Vice Presidents (any one or more of whom may be designated Executive Vice President or Senior Vice President), a Treasurer, a Secretary, and such other officers as the Board of Directors may from time to time elect or appoint. Each officer shall hold office until his successor shall be duly elected and shall qualify or until his death or until he shall resign or shall have been removed in the manner hereinafter provided. Any number of offices may be held by the same person, unless the Certificate of Incorporation provides otherwise. Except for the Chairman of the Board, if any, no officers need be a director.

Section 2. SALARIES: The salaries or other compensation of the officers and agents of the Corporation shall be fixed from time to time by the Board of Directors.

Section 3. REMOVAL: Any officer or agent elected or appointed by the Board of Directors may be removed, either with or without cause, by the vote of a majority of the Board of Directors then in office at a special meeting called for the purpose, or at any regular meeting of the Board of Directors, provided the notice for such meeting shall specify that the matter of any such proposed removal will be considered at the meeting but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer or agent shall not of itself create contract rights.

Section 4. VACANCIES: Any vacancy occurring in any office of the Corporation may be filled by the Board of Directors.

Section 5. CHIEF EXECUTIVE OFFICER: The Chief Executive Officer shall, in the absence of the Chairman, preside at all meetings of the stockholders. Subject to the control of the Board of Directors and the executive committee (if any), the Chief Executive Officer shall have general executive charge, management and control of the properties, business and operations of the Corporation with all such powers as may be reasonably incident to such responsibilities; he may agree upon and execute all leases, contracts, evidences of indebtedness and other obligations in the name of the Corporation and may sign all certificates for shares of capital stock of the Corporation and shall have such other powers and duties as designated in accordance with these Bylaws and as from time to time may be assigned to him by the Board of Directors.

Section 6. PRESIDENT: Subject to such supervisory powers, if any, as may be given by the Board to the Chief Executive Officer, the President shall have general supervision, direction, and control of the business and other officers of the corporation. The President shall have the general powers and duties of management usually vested in the office of President of a corporation and shall have such other powers and duties as may be prescribed by the Board or these Bylaws. If, for any reason, the Corporation does not have a Chairman or Chief Executive Officer, or such officers are unable to act, the President shall assume the duties of those officers.

Section 7. CHIEF FINANCIAL OFFICER: The Chief Financial Officer shall have general supervision, direction and control of the financial affairs of the Corporation. He or she shall provide for the establishment of internal controls and see that adequate audits are currently and regularly made. He or she shall submit to the Chief Executive Officer, the President, the Chief Operating Officer, the Chairman and the Board timely statements of the accounts of the Corporation and the financial results of the operations thereof. The Chief Financial Officer shall perform such other duties and have such other powers as may be prescribed by the Board or these Bylaws, all in accordance with basic policies as established by and subject to the oversight of the Board and the Chief Executive Officer. In the absence of a named Treasurer, the Chief Financial Officer shall also have the powers and duties of the Treasurer as hereinafter set forth and shall be authorized and empowered to sign as Treasurer in any case where such officer's signature is required.

Section 8. VICE PRESIDENTS: In the absence of the President, or in the event of his inability or refusal to act, a Vice President designated by the Board of Directors shall perform the duties of the President, and when so acting shall have all the powers of and be subject to all the restrictions of the President. In the absence of a designation by the Board of Directors of a Vice President to perform the duties of the President, or in the event of his absence or inability or refusal to act, the Vice President who is present and who is senior in terms of time as a Vice President of the Corporation shall so act. The Vice Presidents shall perform such other duties and have such other powers as the chief executive officer or the Board of Directors may from time to time prescribe.

Section 9. TREASURER: The Treasurer shall have responsibility for the custody and control of all the funds and securities of the Corporation, and he shall have such other powers and duties as designated in these Bylaws and as from time to time may be assigned to him by the Board of Directors. He shall perform all acts incident to the position of Treasurer, subject to the control of the chief executive officer and the Board of Directors; and he shall, if required by the Board of Directors, give such bond for the faithful discharge of his duties in such form as the Board of Directors may require.

Section 10. SECRETARY: The Secretary shall keep the minutes of all meetings of the Board of Directors, committees of directors and the stockholders, in books provided for that purpose; he shall attend to the giving and serving of all notices; he may in the name of the Corporation affix the seal of the Corporation to all contracts of the Corporation and attest the affixation of the seal of the Corporation thereto; he may sign with the other appointed officers all certificates for shares of capital stock of the Corporation; he shall have charge of the certificate books, transfer books and stock ledgers, and such other books and papers as the Board of Directors may direct, all of which shall at all reasonable times be open to inspection of any director upon application at the office of the Corporation during business hours; he shall have such other powers and duties as designated in these Bylaws and as from time to time may be assigned to him by the Board of Directors; and he shall in general perform all acts incident to the office of Secretary, subject to the control of the chief executive officer and the Board of Directors.

**ARTICLE V – INDEMNIFICATION OF OFFICERS, DIRECTORS,  
EMPLOYEES AND AGENTS**

Section 1. INDEMNIFICATION: The Corporation shall indemnify and hold harmless, to the fullest extent authorized by the DGCL, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than such law permitted the Corporation to provide prior to such amendment), any person who was or is a party or threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than action by or in the right of the Corporation) by reason of the fact that he is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise (an "indemnitee"), against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by an indemnitee in connection with such action, suit or proceeding if such indemnitee acted in good faith and in a manner such indemnitee reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe such conduct was unlawful; provided, however, that, except as provided in Article 5.3 with respect to proceedings to enforce rights to indemnification, the Corporation shall indemnify any such indemnitee in connection with a proceeding (or part thereof) initiated by such indemnitee only if such proceeding (or part thereof) was authorized by the Board of Directors of the Corporation. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the indemnitee did not act in good faith and in a manner which such indemnitee reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that such conduct was unlawful. The right to indemnification conferred by this Article 5.1 shall vest at the time an individual becomes an indemnitee.

Section 2. RIGHT TO ADVANCEMENT OF EXPENSES: The right to indemnification conferred in Article 5.1 shall include the right to be paid by the Corporation the expenses incurred in defending any such proceeding in advance of its final disposition (hereinafter an "advancement of expenses"); provided, however, that, if the DGCL requires, an advancement of expenses incurred by an indemnitee in his or her capacity as a director or officer (and not in any other capacity in which service was or is rendered by such indemnitee, including, without limitation, service to an employee benefit plan) shall be made only upon delivery to the Corporation of an undertaking (hereinafter an "undertaking"), by or on behalf of such indemnitee, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision from which there is no further right to appeal (hereinafter a "final adjudication") that such indemnitee is not entitled to be indemnified for such expenses under this Article 5.2 or otherwise. The rights to indemnification and to the advancement of expenses conferred in Articles 5.1 and 5.2 shall be contract rights and such rights shall continue as to an indemnitee who has ceased to be a director, officer, employee, or agent and shall inure to the benefit of the indemnitee's heirs, executors, and administrators.

Section 3. RIGHT OF INDEMNITEE TO BRING SUIT: If a claim under Article 5.1 or 5.2 is not paid in full by the Corporation within sixty (60) days after a written claim has been received by the corporation, except in the case of a claim for an advancement of expenses, in which case the applicable period shall be twenty (20) days, the indemnitee may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim. If successful in whole or in part in any such suit, or in a suit brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the indemnitee shall be entitled to be paid also the expense of prosecuting or defending such suit. In (i) any suit brought by the indemnitee to enforce a right to indemnification hereunder (but not in a suit brought by the indemnitee to enforce a right to an advancement of expenses) it shall be a defense that, and (ii) in any suit brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the Corporation shall be entitled to recover such expenses upon a final adjudication that, the indemnitee has not met any applicable standard for indemnification set forth in the DGCL. Neither the failure of the Corporation (including its Board of Directors, independent legal counsel, or its stockholders) to have made a determination prior to the commencement of such suit that indemnification of the indemnitee is proper in the circumstances because the indemnitee has met the applicable standard of conduct set forth in the DGCL, nor an actual determination by the Corporation (including its Board of Directors, independent legal counsel, or its stockholders) that the indemnitee has not met such applicable standard of conduct, shall create a presumption that the indemnitee has not met the applicable standard of conduct or, in the case of such a suit brought by the indemnitee, be a defense to such suit. In any suit brought by the indemnitee to enforce a right to indemnification or to an advancement of expenses hereunder, or brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the burden of proving that the indemnitee is not entitled to indemnification, or to such advancement of expenses, under this Article 5 or otherwise shall be on the Corporation.

Section 4. NON-EXCLUSIVITY OF RIGHTS: The rights to indemnification and to the advancement of expenses conferred in this Article 5 shall not be exclusive of any other right which any person may have or hereafter acquire under any statute, the corporation's Certificate of Incorporation, Bylaws, agreement, vote of stockholders, or disinterested directors or otherwise.

Section 5. INSURANCE: The Corporation may maintain insurance, at its expense, to protect itself and any director, officer, employee, or agent of the Corporation or another corporation, partnership, joint venture, trust, or other enterprise against any expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the DGCL.

Section 6. INDEMNIFICATION OF EMPLOYEES AND AGENTS OF THE CORPORATION: The Corporation may, to the extent authorized from time to time by the Board of Directors, grant rights to indemnification and to the advancement of expenses to any employee or agent of the Corporation to the fullest extent of the provisions of this Article 5 with respect to the indemnification and advancement of expenses of directors and officers of the Corporation.

Section 7. AMENDMENT OR MODIFICATION: This Article 5 may be altered or amended at any time as provided in these Bylaws, but no such amendment shall have the effect of diminishing the rights of any person who is or was an officer or director as to any acts or omissions taken or omitted to be taken prior to the effective date of such amendment.

## **ARTICLE VI – EXECUTION OF CORPORATE INSTRUMENTS AND VOTING OF SECURITIES OWNED BY THE CORPORATION**

Section 1. EXECUTION OF CORPORATE INSTRUMENTS. The Board of Directors may, in its discretion, determine the method and designate the signatory officer or officers, or other person or persons, to execute, sign or endorse on behalf of the Corporation any corporate instrument or document, or to sign on behalf of the Corporation the corporate name without limitation, or to enter into contracts on behalf of the Corporation, except where otherwise provided by applicable law or the Bylaws, and such execution or signature shall be binding upon the Corporation.

(a) All checks and drafts drawn on banks or other depositories on funds to the credit of the Corporation or in special accounts of the Corporation shall be signed by such person or persons as the Board of Directors shall from time to time authorize so to do.

(b) Unless otherwise specifically determined by the Board of Directors or otherwise required by applicable law, the execution, signing or endorsement of any corporate instrument or document by or on behalf of the Corporation may be effected manually, by facsimile or (to the extent not prohibited by applicable law and subject to such policies and procedures as the Corporation may have in effect from time to time) by electronic signature.

(c) Unless authorized or ratified by the Board of Directors or within the agency power of an officer, no officer, agent or employee shall have any power or authority to bind the Corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or for any amount.

Section 2. VOTING OF SECURITIES OWNED BY THE CORPORATION. All stock and other securities of or interests in other corporations or entities owned or held by the Corporation for itself, or for other parties in any capacity, shall be voted, and all proxies and consents with respect thereto shall be executed, by the person authorized so to do by resolution of the Board of Directors, or, in the absence of such authorization, by the Chairperson of the Board of Directors, the Chief Executive Officer, or the President.

## **ARTICLE VII – CERTIFICATES FOR SHARES AND THEIR TRANSFER**

Section 1. CERTIFICATES FOR SHARES: Notwithstanding any other provision in these Bylaws, any or all classes and series of shares of the Corporation, or any part thereof, may be represented by uncertificated shares, except that shares represented by a certificate that is issued and outstanding shall continue to be represented thereby until the certificate is surrendered to the corporation. Within a reasonable time after the issuance or transfer of uncertificated shares, the Corporation shall send to the registered owner thereof, a written notice containing the information required to be set forth or stated on certificates. The rights and obligations of the holders of shares represented by certificates and the rights and obligations of the holders of uncertificated shares of the same class or series shall be identical. If certificates for the shares of the Corporation are issued, each will be in such form as shall be determined by the Board of Directors. Such certificates shall be signed by the president or vice president and countersigned by the secretary or an assistant secretary and sealed with the Corporation seal or a facsimile thereof. The signatures of such officers upon a certificate may be facsimile signatures if the certificate is manually signed on behalf of a transfer agent or a registrar other than the Corporation or an employee of the Corporation. Each certificate for shares shall be consecutively numbered or otherwise identified. The name and address of the person to whom the shares represented thereby are issued, with the number of shares and date of issue, shall be entered on the stock transfer books of the Corporation. All certificates surrendered to the Corporation for transfer shall be cancelled and no new certificates shall be issued until the former certificates for a like number of shares shall have been surrendered and cancelled, except that in case of a lost, destroyed or mutilated certificate, a new one may be issued therefor upon such terms and indemnity to the Corporation as the Board of Directors may prescribe.

Section 2. TRANSFER OF SHARES: Transfer of shares of the Corporation shall be made only on the stock transfer books of the Corporation by the holder of record thereof or by his legal representative, who shall furnish proper evidence of authority to transfer, or by his attorney thereunto authorized by power of attorney duly executed and filed with the secretary of the corporation, and on surrender for cancellation of the certificate for such shares. The person in whose name shares stand on the books of the Corporation shall be deemed by the Corporation to be the owner thereof for all purposes.

**ARTICLE VIII – FISCAL YEAR**

Section 1. The fiscal year of the Corporation shall be determined by the Board of Directors.

**ARTICLE IX – DIVIDENDS**

Section 1. The Board of Directors may, from time to time, declare and the Corporation may pay dividends on its outstanding shares in the manner, and upon the terms and conditions provided by law and its Certificate of Incorporation.

**ARTICLE X – CORPORATE SEAL**

Section 1. The Board of Directors shall provide a corporate seal which shall be circular in form and shall have inscribed thereon the name of the Corporation, the year of its incorporation and the words, "Corporate Seal," and "Delaware."

**ARTICLE XI – WAIVER OF NOTICE**

Section 1. Whenever notice is required to be given by law, the Certificate of Incorporation or under any of the provisions of these Bylaws, a written waiver thereof, signed by the person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the stockholders, directors, or members of a committee of directors need be specified in any written waiver of notice unless so required by the Certificate of Incorporation or the Bylaws.

**ARTICLE XII – AMENDMENTS**

Section 1. Stockholders of the Corporation holding at least a majority of the Corporation's outstanding voting stock shall have the power to adopt, amend or repeal the Bylaws. To the extent provided in the Corporation's Certificate of Incorporation, the Board of Directors of the Corporation shall also have the power to adopt, amend or repeal the Bylaws of the Corporation.

**Unrivaled Brands Announces Successful Completion of Reorganization and Reverse Stock Split**

SANTA ANA, Calif., Jan. 16, 2023 (GLOBE NEWSWIRE) – Unrivaled Brands, Inc. (OTCQB: UNRV) (“UNRV,” “Unrivaled Brands,” “Company,” “we” or “us”), a cannabis company with operations throughout California, is pleased to announce the successful completion of its strategic reorganization and reverse stock split. This marks a significant milestone in the Company's growth and development strategy.

On January 12, 2024, UNRV completed its previously announced reorganization merger. Pursuant to such reorganization, Blum Holdings, Inc., a Delaware corporation (“Blüm”) is now the parent company of UNRV and has replaced UNRV as the publicly held corporation. The directors and officers of UNRV immediately prior to the reorganization now serve as the directors and officers of Blüm, and business operations continue from our current office locations and companies. The reorganization was completed in an effort to strategically position the Company to capitalize on growth opportunities.

Immediately prior to the completion of the reorganization, on January 12, 2024, UNRV implemented a reverse stock split of its common stock at a 1-for-100 ratio.

Pursuant to the reorganization, each share of UNRV's common stock and preferred stock outstanding immediately prior to the effective time (and immediately following the reverse stock split) has automatically converted into equivalent shares of Blüm's common stock and preferred stock, respectively, and Blüm's common stock will trade on the OTCQB tier of the OTC Markets under the symbol “BLMH”. Former stockholders of UNRV are required to surrender their original stock certificates to West Coast Stock Transfer, Inc., the Company's exchange agent, in accordance with the letters of transmittal to be distributed to the former stockholders in the coming days. Blüm's common stock has been assigned a new CUSIP number: 09642F 101.

Unrivaled Brands extends its gratitude to its stockholders, partners, and dedicated team for their unwavering support and contributions to this pivotal reorganization. We look forward to embarking on this exciting new chapter in our corporate journey.

**About Unrivaled Brands**

Unrivaled Brands is a company focused on the cannabis sector with operations in California. Unrivaled Brands operates four dispensaries and direct-to-consumer delivery, and several leading company-owned brands. Korova, an Unrivaled brand, is known for its high potency products across multiple product categories, including the legendary 1000 mg THC Black Bar.

For more info, please visit: <https://unrivaledbrands.com>.

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### Cautionary Note Regarding Forward Looking Statements

Certain statements contained in this communication regarding matters that are not historical facts, are forward-looking statements within the meaning of Section 21E of the Securities Exchange Act of 1934, as amended, and the Private Securities Litigation Reform Act of 1995, known as the PSLRA. The Company uses words such as “anticipates,” “believes,” “plans,” “expects,” “projects,” “future,” “intends,” “may,” “will,” “should,” “could,” “estimates,” “predicts,” “potential,” “continue,” “guidance,” and similar expressions to identify these forward-looking statements that are intended to be covered by the safe-harbor provisions of the PSLRA. These include statements regarding management's intentions, plans, beliefs, expectations, or forecasts for the future, and, therefore, you are cautioned not to place undue reliance on them. Forward-looking information in this news release includes statements regarding the growth of the Company's business as a result of the reorganization merger. Such forward-looking statements are based on the Company's current expectations based on information currently available and involve risks and uncertainties; consequently, actual results may differ materially from those expressed or implied in the statements due to a number of factors. No forward-looking statement can be guaranteed, and actual results may differ materially from those projected.

New factors emerge from time-to-time and it is not possible for the Company to predict all such factors, nor can the Company assess the impact of each such factor on the business or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained in any forward-looking statements. Such risks may include, among others, the risk that the Company will not achieve the anticipated benefits of the reorganization merger or the reverse stock split. Additional risks and uncertainties are identified and discussed in the “Risk Factors” section of the Company's Annual Report on Form 10-K, Quarterly Reports on Form 10-Q and other documents filed from time to time with the Securities and Exchange Commission (the “SEC”). Forward-looking statements included in this press release are based on information available to the Company as of the date of this press release. The Company undertakes no obligation to publicly update any forward-looking statement, whether as a result of new information, future events or otherwise, except to the extent required by law.

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678-570-6791



**Blum Holdings, Announces Future Trading as BLMH; Currently Trades as UNRVD Following Reorganization and Reverse Stock Split**

SANTA ANA, Calif., Jan. 16, 2023 (GLOBE NEWSWIRE) – Blum Holdings, Inc. (OTCQB: UNRVD) (“Company,” “we” or “us”), a cannabis company with operations throughout California, following the announcement of its strategic reorganization and reverse stock split also announces that pursuant to FINRA regulations and practice, the new symbol for trading will be **OTCQB:UNRVD** for a period of 20 business days, after which the ticker symbol will automatically change to “**BLMH**”. The corporate actions effecting the reorganization and split took effect at the open of business on 1/16.

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