

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

FORM 8-K

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

Date of Report (Date of earliest event reported): November 2, 2020

Red Cat Holdings, Inc.

(Exact name of registrant as specified in its charter)

Nevada
(State or Other Jurisdiction of Incorporation)

000-31587
(Commission File Number)

86-0490034
(I.R.S. Employer Identification Number)

**370 Harbour Drive
Palmas del Mar
Humacao, PR 00791**

(Address of principal executive offices) (zip code)

(833) 373-3228

(Registrant's telephone number, including area code)
(Former Name or Former Address, if Changed Since Last Report)
607 Ponce de Leon Ave, Suite 407 San Juan, PR 00909

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

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

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
None		

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

Item 2.01. Completion of Acquisition or Disposition of Assets

Item 3.02 Unregistered Sales of Equity Securities

On November 2, 2020 Red Cat Holdings, Inc. (the “Company”) completed its previously announced acquisition of Fat Shark Holdings, Ltd., a Cayman Islands Exempted Company (“Fat Shark”) from Greg French, its founder. In accordance with the Agreement, the Company issued 5,227,223 shares of common stock of the Company and paid \$250,000 in cash to the seller. Of the shares, 784,091 shares will be held in escrow for up to 18 months to satisfy any indemnification obligations of the seller and working capital adjustments.

In addition, Fat Shark issued a senior note in the amount of One Million Five Hundred Thousand Dollars (\$1,500,000) to the seller based upon an estimated positive working capital adjustment to the note in the amount of \$500,000 and the seller cancelled approximately \$950,000 in indebtedness owed by Fat Shark to seller. The note matures on November 1, 2023, subject to partial acceleration and repayment in certain circumstances including from the sale of certain securities by the Company for cash. The note is subject to a floating charge under Cayman law on all of the assets of Holdings and its subsidiaries.

The Company has agreed to register the shares under the Securities Act of 1933, as amended (the “Act”) under certain circumstances and are subject to various restrictions on disposition for a period of two (2) years following closing. Seller shall be permitted to sell an aggregate of up to the greater of twenty (20%) percent or One Million Dollars (\$1,000,000) of the shares prior to the twelve (12) month anniversary of the closing in privately negotiated transactions (provided the purchaser enters into a joinder agreement and agrees to be subject to the same restrictions on such shares applicable to Seller). Following the first year after closing, Seller is permitted to dispose of no more than ten (10%) percent of the average daily volume during the prior ten (10) trading days, as reported. The Agreement also requires Seller to sell a pro-rata amount of Seller’s Common Stock (a Drag-Along Right”) and provides for Seller’s participation in sales (a “Tag-Along Right”) in certain sales.

The Company deems this to be a material acquisition and will, in compliance with Regulation S-X (17 CFR 210.8-05), file audited and pro forma financial statements within 71 calendar days of the date of this Current Report on Form 8-K.

The foregoing descriptions of the terms of the Agreement, the Fat Shark note and floating charge are qualified in their entirety by reference to the full text of the Agreement filed as Exhibit 10.1 to the Company’s Current Report on Form 8-K filed October 5, 2020 and Exhibits 10.1 and 10.2 filed herewith.

Item 9.01. Financial Statements and Exhibits.

In accordance with General Instruction B.2 of Form 8-K, the information in this Current Report on Form 8-K shall not be deemed to be “filed” for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, or otherwise subject to the liabilities of that section, and shall not be deemed to be incorporated by reference into any of the Company’s filings under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, whether made before or after the date hereof and regardless of any general incorporation language in such filings, except to the extent expressly set forth by specific reference in such a filing.

(d) Exhibits.

Exhibit Number	Description
Exhibit 10.1	Secured Promissory Note dated November 2, 2020 of Fat Shark Holdings, Ltd.
Exhibit 10.2	Floating Charge by Fat Shark Holdings, Ltd in favor of Greg French dated November 2, 2020.

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.

RED CAT HOLDINGS, INC.

Date: November 6, 2020

By: /s/ Jeffrey Thompson
Name: Jeffrey Thompson
Title: Chief Executive Officer

THIS NOTE HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “**ACT**”), OR UNDER THE SECURITIES LAWS OF ANY STATES. THESE SECURITIES MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED, PLEDGED OR HYPOTHECATED EXCEPT AS PERMITTED UNDER THE ACT AND APPLICABLE STATE SECURITIES LAWS PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT OR AN EXEMPTION THEREFROM. THE ISSUER OF THESE SECURITIES MAY REQUIRE AN OPINION OF COUNSEL REASONABLY SATISFACTORY TO THE ISSUER THAT SUCH OFFER, SALE OR TRANSFER, PLEDGE OR HYPOTHECATION OTHERWISE COMPLIES WITH THE ACT AND ANY APPLICABLE STATE SECURITIES LAWS.

FAT SHARK HOLDINGS, LTD.

SECURED PROMISSORY NOTE

US \$1,500,000

November 2, 2020

FOR VALUE RECEIVED, Fat Shark Holdings, Ltd., a Cayman Islands Exempted Company (the “**Company**”), promises to pay to Greg French, or his permitted assigns (“**Purchaser**”), in lawful money of the United States of America the principal sum of One Million Five Hundred Thousand Dollars (\$1,500,000), or such lesser amount as shall equal the outstanding principal amount hereof, together with interest from the date of this Secured Promissory Note (this “**Note**”) on the unpaid principal balance at a rate equal to three (3%) percent per annum, computed on the basis of the actual number of days elapsed and a year of 365 days. All unpaid principal, together with any then unpaid and accrued interest and other amounts payable hereunder, shall be due and payable on the earlier of (i) November 1, 2023 (the “**Maturity Date**”), (ii) when specified in Section 1(c) in connection with a Put Prepayment (as defined below) or (iii) when, upon the acceleration of an Event of Default after giving effect to any applicable grace periods, such amounts are declared due and payable by Purchaser or made automatically due and payable, in each case, in accordance with the terms hereof. This Note is the “**Secured Note**” issued pursuant to the Share Purchase Agreement (as defined below). Capitalized terms not defined herein shall have the meaning ascribed to such terms in the Purchase Agreement.

THE OBLIGATIONS DUE UNDER THIS NOTE ARE SECURED BY A FLOATING CHARGE (THE “**SECURITY AGREEMENT**”) DATED AS OF THE DATE HEREOF AND EXECUTED BY THE COMPANY FOR THE BENEFIT OF PURCHASER. ADDITIONAL RIGHTS OF PURCHASER ARE SET FORTH IN THE SECURITY AGREEMENT.

NOTWITHSTANDING ANY CONTRARY PROVISION SET FORTH HEREIN OR IN THE PURCHASE AGREEMENT, THE SECURED PARTY ACKNOWLEDGES THAT THE NOTE IS ISSUED UPON THE SIMULTANEOUS CANCELLATION AND IN REPLACEMENT OF THE INDEBTEDNESS OF COMPANY TO PURCHASER PURSUANT TO THE PURCHASE AGREEMENT.

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

1. **Payments.**

- (a) *Interest.* Accrued interest on this Note shall be payable at maturity.
- (b) *Voluntary Prepayment.* The Company may prepay this Note at any time, in whole or in part, without penalty or premium.

(c) *Purchaser Put Prepayment.* At any time following a Qualified Financing or Change of Control, unless Purchaser shall have previously sold at least One million (\$1,000,000) of Stock Consideration, until the Maturity Date, Purchaser, at the sole election of the Purchaser and only if specified by the Purchaser to Parent in a writing given in accordance with Section 5(c) (the “**Put Notice**”), shall have the right to require the Company to repay, in lawful money of the United States of America and immediately available funds, all unpaid principal, together with any then unpaid and accrued interest and other amounts payable under the Note then outstanding (the “**Put Prepayment**”) up to the amount that shall equal twenty-five (25%) percent of the net proceeds of the Qualified Financing. Upon Purchaser’s election of a Put Prepayment, the Company shall repay the Note pursuant to this Section 1(c) within thirty (30) days from the date the Put Notice is given by the Purchaser to the Parent (as determined pursuant to Section 5(c)). For purposes hereof, a “**Change of Control**” shall mean the date of the consummation of a merger, reorganization or consolidation of the Parent or any Subsidiary with any other corporation that has been approved by the stockholders of the Parent or such Subsidiary, by means of any transaction or series of related transactions, other than a merger or consolidation which would result in the voting securities of Company outstanding immediately prior thereto continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity) more than fifty (50%) percent of the total voting power represented by the voting securities of such company or such surviving entity outstanding immediately after such merger or consolidation or a transaction or series of related transactions undertaken for the purpose of changing the jurisdiction of incorporation of Company; or the date of the consummation of the sale or disposition of all or substantially all of such Company’s assets.

2. **Events of Default.** The occurrence of any of the following shall constitute an “**Event of Default**” under this Note:

(a) *Failure to Pay.* The Company shall fail to pay (i) when due any principal payment on the due date hereunder or (ii) any interest payment or other payment required under the terms of this on the date due and such payment shall not have been made within ten (10) business days of the Company’s receipt of written notice from Purchaser of such failure to pay; or

(b) *Breaches of Covenants.* The Company shall fail to observe or perform any other covenant, obligation, condition or agreement in any material respect contained in this Note or the Security Agreement (other than those specified in **Section 2(a)**) and such failure shall continue for ten (10) business days after the Company’s receipt of written notice to the Company of such failure; or

(c) *Representations and Warranties.* Any representation, warranty, certificate, or other statement (financial or otherwise) made or

furnished by or on behalf of the Parent to Purchaser in writing in connection with this Note, including, without limitation, the representations and warranties of the Parent in the Purchase Agreement, or as an inducement to Purchaser to enter into this Note, shall be false, incorrect, incomplete or misleading in any material respect when made or furnished; or

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

(e) *Involuntary Bankruptcy or Insolvency Proceedings.* Proceedings for the appointment of a receiver, trustee, liquidator or custodian of the Company, or of all or a substantial part of the property thereof, or an involuntary case or other proceedings seeking liquidation, reorganization or other relief with respect to the Company, if any, or the debts thereof under any bankruptcy, insolvency or other similar law now or hereafter in effect shall be commenced and an order for relief entered or such proceeding shall not be dismissed or discharged within thirty (30) days of commencement.

3. **Rights of Purchaser upon Default.** Upon the occurrence of any Event of Default (other than an Event of Default described in **Sections 2(d) or 2(e)**) and at any time thereafter during the continuance of such Event of Default, Purchaser may, by written notice to the Company, declare all outstanding Obligations payable by the Company hereunder to be immediately due and payable without presentment, demand, protest or any other notice of any kind, all of which are hereby expressly waived, anything contained herein or in the other Transaction Documents to the contrary notwithstanding. Upon the occurrence of any Event of Default described in **Sections 2(d) or 2(e)**, immediately and without notice, all outstanding Obligations payable by the Company hereunder shall automatically become immediately due and payable, without presentment, demand, protest or any other notice of any kind, all of which are hereby expressly waived, anything contained herein or in the Security Agreement to the contrary notwithstanding. In addition to the foregoing remedies, upon the occurrence and during the continuance of any Event of Default, Purchaser may exercise any other right, power or remedy granted to it by the Security Agreement or otherwise permitted to it by law, either by suit in equity or by action at law, or both.

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

“**Affiliate**” shall mean, with respect to any Person, any other Person directly or indirectly controlling, directly or indirectly controlled by, or under direct or indirect common control with, such Person or a member of such Person’s immediate family; or, if such Person is a partnership or a limited liability company, any general partner or managing member, as applicable, of such Person or a Person controlling any such general partner or managing member. For purposes of this definition, “control” (including the correlative terms “controlling”, “controlled by” and “under common control with”) shall mean the power, directly or indirectly, to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

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

“**Obligations**” shall mean and include all loans, advances, debts, liabilities and obligations, howsoever arising, owed by the Company to Purchaser of every kind and description, now existing or hereafter arising under or pursuant to the terms of this Note and the Security Agreement, including, all interest, fees, charges, expenses, attorneys’ fees and costs and accountants’ fees and costs chargeable to and payable by the Company hereunder and thereunder, in each case, whether direct or indirect, absolute or contingent, due or to become due, and whether or not arising after the commencement of a proceeding (including post-petition interest) and whether or not allowed or allowable as a claim in any such proceeding.

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

“**Purchase Agreement**” shall mean the Stock Purchase Agreement, dated as of the date hereof, by and among the Seller, the Companies, Buyer and Parent (as defined in the Purchase Agreement).

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

“**Security Agreement**” has the meaning given in the introductory paragraphs to this Note.

“**Share Charge Agreements**” shall mean the Share Charge Agreements, each dated as of the date hereof, by and among Purchaser, and the Company concerning the shares of Fat Shark Tech. LTD., a Cayman Islands Exempted Company (“**Trading**”), and Fat Shark Technology SEZC, a Cayman Islands Special Economic Zone Company (“**Tech**”) wholly owned by the Company.

5. **Miscellaneous.**

(a) *Successors and Assigns; Transfer of this Note; No Transfers to Bad Actors; Notice of Bad Actor Status .*

(i) Subject to the restrictions on transfer described in this **Section 5(a)**, the rights and obligations of the Company and Purchaser shall be binding upon and benefit the successors, assigns, heirs, administrators and transferees of the parties.

(ii) With respect to any offer, sale or other disposition of this Note to any Person other than an Affiliate of Purchaser, Purchaser will give written notice to the Company prior thereto, describing briefly the manner thereof, together with a written opinion of Purchaser’s counsel, or other evidence if reasonably satisfactory to the Company, to the effect that such offer, sale or other distribution may be effected without registration or qualification (under any federal or state law then in effect). Upon receiving such written notice and reasonably satisfactory opinion, if so requested, or other evidence, the Company, as promptly as practicable, shall notify Purchaser that Purchaser may sell or otherwise dispose of this Note, all in accordance with the terms of the notice delivered to the Company. If a determination has been made pursuant to this **Section 5(a)** that the opinion of counsel for Purchaser, or other evidence, is not reasonably satisfactory to the Company, the Company shall so notify Purchaser promptly after such

determination has been made. Each Note thus transferred shall bear a legend as to the applicable restrictions on transferability in order to ensure compliance with the Securities Act, unless in the opinion of counsel for the Company such legend is not required in order to ensure compliance with the Securities Act. The Company may issue stop transfer instructions to its transfer agent in connection with such restrictions. Notwithstanding the foregoing, Purchaser may transfer the Note to an Affiliate of Purchaser.

(iii) Subject to **Section 5(a)(ii)**, transfers of this Note shall be registered upon registration books maintained for such purpose by or on behalf of the Company as provided in the Purchase Agreement. Prior to presentation of this Note for registration of transfer, the Company shall treat the registered holder hereof as the owner and holder of this Note for the purpose of receiving all payments of principal and interest hereon and for all other purposes whatsoever, whether or not this Note shall be overdue and the Company shall not be affected by notice to the contrary.

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

(b) *Waiver and Amendment.* Any provision of this Note may be amended, waived or modified upon the written consent of the Company and Purchaser.

Notices. All notices, requests, demands, consents, instructions or other communications required or permitted hereunder shall in writing and faxed, mailed, emailed or delivered to each party as follows: (i) if to Purchaser, at Red Cat Holdings, Inc., 370 Harbour Drive, Palmas del Mar, Humacao, PR 00791 (833) 373-3228, jeff@redcat.red (Att: Jeffrey Thompson CEO) with a copy to Law Office of Harvey J. Kesner, 500 Fifth Avenue, Suite 938, New York, NY 10036 telephone (646) 678-2543 email (pdox74@gmail.com) or at such other address as Purchaser shall have furnished the Company in writing, or (ii) if to the Company, to) if to the Company, to Allan Evans, Chief Executive Officer and Chief Financial Officer at Cayman Enterprise City, 90 North Church Street, George Town, Grand Cayman, Cayman Islands, P.O Box CEC 30 Grand Cayman, KY1-9012, with a copy to HSM Corporate Services Ltd., 68 Fort Street, George Town, Grand Cayman KY1-1207, Cayman Islands, Telephone: 345-815-7355 Att: Lisa Shemwell and Red Cat Holdings, Inc., 370 Harbour Drive, Palmas del Mar, Humacao, PR 00791 (833) 373-3228, jeff@redcat.red (Att: Jeffrey Thompson CEO) with a copy to Law Office of Harvey J. Kesner, 500 Fifth Avenue, Suite 938, New York, NY 10036 telephone (646) 678-2543 email (pdox74@gmail.com), or at such other address as the Company shall have furnished to Purchaser in writing. All such notices and communications shall be effective (i) when sent by Federal Express or other overnight service of recognized standing, on the business day following the deposit with such service; (ii) when mailed by registered or certified mail, first class postage prepaid and addressed as aforesaid through the United States Postal Service, upon receipt; (iii) when delivered by hand, upon delivery; and (d) when faxed or emailed, upon receipt.

(c) *Payment.* Payment shall be made in lawful tender of the United States.

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

(e) *Expenses; Waivers.* If action is instituted to collect this Note, the Company promises to pay all reasonable and documented costs and expenses, including, without limitation, reasonable attorneys' fees and costs, incurred in connection with such action. The Company hereby waives notice of default, presentment or demand for payment, protest or notice of nonpayment or dishonor and all other notices or demands relative to this instrument.

(f) *Governing Law; Venue.* This Note and all actions arising out of or in connection with this Note shall be governed by and construed in accordance with the laws of the State of Delaware, without giving effect to the conflicts of laws principles thereof. Each of Purchaser and the Company irrevocably submit to the exclusive jurisdiction of the courts of the State of Delaware and the federal courts of the United States located in the City of Wilmington, State of Delaware, in respect of any dispute arising from the subject matter hereof.

(g) *Waiver of Jury Trial.* By acceptance of this Note, Purchaser hereby agrees and the Company hereby agrees to waive their respective rights to a jury trial of any claim or cause of action based upon or arising out of this Note or the Purchase Agreement.

(Signature Page Follows)

The Company has caused this Note to be issued as of the date first written above.

FAT SHARK HOLDINGS, LTD.

By: _____

Name: Allan Evans

Title: Chief Executive Officer

Address: Cayman Enterprise City, 90 North Church Street, George Town, Grand Cayman, Cayman Islands, P.O Box CEC 30 Grand Cayman, KY1-9012

Dated: as of November 1, 2020

Floating Charge

by

Fat Shark Holdings, Ltd.

in favour of

Mr. Gregory French

HSM Chambers
68 Fort Street
PO Box 31726
George Town
Grand Cayman, KY1-1207
Cayman Islands

FLOATING CHARGE

This **Floating Charge** is made by:-

- (1) **Fat Shark Holdings, Ltd.** and Exempted Company incorporated and registered in the Cayman Islands with company number 327385 whose registered office is c/o HSM Corporate Services Ltd., 68 Fort Street, George Town, Grand Cayman (hereinafter referred to as the "**Company**"); and
- (2) **Mr. Gregory French** of 280 Raleigh Quay, Grand Cayman, Cayman Islands (the "**Lender**").

WHEREAS:

- (A) Pursuant to a Share Purchase Agreement of even date herewith (the "**Share Purchase Agreement**") the Company has issued a secured promissory note (the "**Promissory Note**") to the Lender in the amount of US\$1,500,000 (one million five hundred thousand and 00/100 US dollars) ; and
- (B) In security of the performances of the Company's obligations under the Promissory Note, the Company is required to grant this Floating Charge .

1. DEFINITIONS AND INTERPRETATION

1.1. Words and expressions defined in the Promissory Note or whose definitions are imported into the Promissory Note shall bear the same meanings in this Floating Charge (including the recitals and schedule hereto) unless otherwise defined herein or unless the context otherwise requires.

1.2. In this Floating Charge, the following words and expressions shall be defined as follows:

"**Assets**" means the whole of the property (including uncalled capital) assets and rights which is or may be from time to time comprised in the property and undertaking of the Company.

"**Business Day**" means a day other than a Saturday or Sunday when banks are open for ordinary business in the United States of America.

"**Secured Liabilities**" means all present and future obligations and liabilities of the Company to the Lender under the Promissory Note and/or this Floating Charge together with:

- (i) any refinancing, novation, refunding, deferral or extension of or increase in any of those obligations or liabilities;
- (ii) any further obligations and liabilities which may be made by the Lender to the Company under any agreement expressed to be supplemental to the Promissory Note and all interest, fees, and costs in connection therewith;
- (iii) all costs, charges and expenses properly incurred by the Lender in connection with the protection, preservation or enforcement of its respective rights under the Promissory Note and/or this Floating Charge;
- (iv) any claim for damages or restitution in the event of rescission of any of those obligations or liabilities or otherwise in connection with the Promissory Note;
- (v) any claim against the Company flowing from the recovery by the Company of a payment or discharge in respect of any of those obligations or liabilities on grounds of preference or otherwise; and
- (vi) any amounts which would be included in any of the foregoing but for any discharge, non-provability, unenforceability or non-allowability of the same in any insolvency or other proceedings.

1.3. References to:

- 1.3.1. statutes, statutory provisions and other legislation shall include all amendments, substitutions, modifications and re-enactments for the time being in force and shall include any orders, regulations, instruments or other subordinate legislation made under the relevant legislation;
- 1.3.2. "including" shall not be construed as limiting the generality of the words preceding it;
- 1.3.3. any term or phrase defined in the Companies Law of the Cayman Islands (as amended from time to time) shall bear the same meaning in this Floating Charge;
- 1.3.4. words importing the singular shall include the plural and vice versa and words denoting any gender shall include all genders;
- 1.3.5. this "Floating Charge" and to any provisions of it or to any other document referred to in this Floating Charge shall be construed as references to it in force for the time being as amended, varied, supplemented, restated, substituted or novated from time to time;
- 1.3.6. any person are to be construed to include references to a corporation, firm, company, partnership, joint venture, unincorporated body of persons, individual or any state or agency of a state, whether or not a separate legal entity;

1.3.7. any person are to be construed to include that person's assignees or transferees or successors in title, whether direct or indirect;

1.3.8. clause headings are for ease of reference only and are not to affect the interpretation of this Floating Charge;

1.4. The use of bold type shall be ignored in the construction of this Floating Charge.

2. PAYMENT OBLIGATION

2.1. The Company hereby undertakes to the Lender that it will pay and discharge the Secured Liabilities to the Lender in accordance with the terms of the Promissory Note and this Floating Charge.

2.2. All payments under this Floating Charge will be made in immediately available funds in the currency and to the account specified by the Lender in any demand.

3. CHARGING PROVISION

3.1. The Company grants a floating charge over the Assets to the Lender as a continuing security for the payment or discharge of the Secured Liabilities.

4. NEGATIVE PLEDGE AND RANKING OF FLOATING CHARGE

4.1. The Company agrees that it shall be prohibited from granting or creating subsequent to the date of this Floating Charge any fixed security or any other floating charge over the Assets or any part or parts of them, other than in favour of the Lender or in favour of another person and with the prior written consent of the Lender provided always that the Lender shall consent to the granting of a pledge, security, interest, mortgage, debenture, charge, lien or encumbrance in accordance with and subject to the terms of the Promissory Note .

4.2. Subject to the provisions of Clause 4.1 above, this Floating Charge shall rank in priority for the Secured Liabilities over any assets of the Company and ahead of any fixed security created by the Company after its execution of this Floating Charge and in priority to any other floating charge created by the Company after its execution of this Floating Charge.

5. PROTECTION OF SECURITY

5.1. The Company agrees that this Floating Charge is and shall be in addition and without prejudice to any other security or rights which the Lender holds or may hold in respect of all or any of the Secured Liabilities;

5.2. This Floating Charge will be a continuing security for the Secured liabilities notwithstanding any intermediate payment or settlement of all or any part of the Secured liabilities or any other matter or thing whatsoever.

5.3. The Lender shall be entitled, at its own expense, to have a valuation of the Assets or any part or parts of them carried out from time to time by an independent surveyor or valuer and the Company consents to any such valuation report being prepared and agrees to provide such access and other assistance as may be reasonably required by the Lender for such purposes.

5.4. If for any reason the security constituted hereby ceases to be a continuing security or the Lender receives or is deemed to have received notice (whether actual or constructive) of any subsequent security affecting all or any part of the Assets and/or the proceeds of sale thereof, the Lender may open a new account with or continue any existing account with the Company and the liability of the Company in respect of the Secured Liabilities at the date of such cessation shall remain regardless of any payments in or out of any such account.

6. LIABILITY TO PERFORM

6.1. In the event of failure of the Company to fulfil any of its obligations under this Floating Charge, the Lender may make such payments or perform or fulfil any of the obligations of the Company on behalf of the Company. Any amounts expended or costs incurred by the Lender under this provision (and interest thereon) shall be deemed properly paid, shall be recoverable from the Company and, until recovered, shall form part of the Secured Liabilities and shall be secured by this Floating Charge.

7. ENFORCEMENT

7.1. This Floating Charge shall only be enforceable following written notice from the Lender to the Company pursuant to clause 5(c) of the Promissory Note.

7.2. No purchaser or other person shall be bound or concerned to see or enquire whether the rights of the Lender to exercise any of the powers hereby conferred has arisen or not or be concerned with notice to the contrary or of the propriety of the exercise or purported exercise of such powers.

7.3. The Lender shall not be liable to account to the Company for any sums or be liable to the Company for any loss or damage arising:

7.3.1. from any realisation by the Lender of the Assets or any part thereof in the exercise of its rights or powers hereunder; or

7.3.2. from any act, default or omission of the Lender in relation to the exercise of its powers hereunder; or

7.3.3. from the exercise or non-exercise by the Lender of any power, authority or discretion conferred upon the Lender in relation to the Assets or any part thereof by or pursuant to this Floating Charge.

8. INDEMNITY

- 8.1. The Company hereby indemnifies and undertakes to keep indemnified the Lender in respect of all liabilities and expenses incurred by it or them in good faith in the proper execution or purported execution of any rights, powers or discretions vested in it or them pursuant hereto as a result of being the possessor of the Assets from whatsoever cause arising, provided that this indemnity shall not apply to the extent of any loss arising as a result of the gross negligence or wilful default of the Lender.
- 8.2. The Lender shall not be liable for any losses arising in connection with the exercise or purported exercise of any of its rights, powers and discretions in good faith hereunder.

9. AVOIDANCE

Where any discharge (whether in respect of the Secured Liabilities, this Floating Charge, any security therefor or otherwise) is made in whole or in part or any arrangement is made in whole or in part on the faith of any payment, security or other disposition which may be avoided or repaid on the bankruptcy, insolvency, liquidation, administration or otherwise without limitation of the Company, the liability of the Company under this Floating Charge shall continue as if there had been no such discharge or arrangement. The Lender shall be entitled to concede or compromise any claim that any such payment, security or other disposition is liable to avoidance or repayment.

10. SUSPENSE ACCOUNT

Until the Secured Liabilities have been irrevocably and unconditionally paid and discharged in full, the Lender may:

- (i) refrain from applying or enforcing any other security, moneys or rights held or received by the Lender in respect of the Secured Liabilities or apply and enforce the same in such manner and order as the Lender sees fit (whether against such amounts or otherwise) and the Company shall not be entitled to the benefit of the same; and
- (ii) hold in suspense account any moneys received from the Company on account of the Secured Liabilities by way of a partial payment, it being hereby agreed that interest shall be payable on the amount from time to time standing to the credit of such suspense account at such rate as the Lender from time to time determines and that any amounts of interest so paid shall be added to the principal amount held in such suspense account and be applied accordingly.

11. NO CONTRIBUTION

The Company shall not, by virtue of any enforcement of the security constituted hereby, or any payment made by it hereunder or otherwise, be entitled at any time to exercise, claim or have the benefit of any right of contribution or similar rights against the Lender, and all rights of contribution or similar rights against the Lender are hereby expressly waived by the Company.

12. PRESERVATION OF RIGHTS

Other than as provided in this Floating Charge, the Lender shall not be obliged before exercising any of the rights, powers, discretions or remedies conferred upon it by this Floating Charge or by law:

- (i) to take any action, including but not limited to the giving of notice to, or making of any demand upon, the Company or any other person or the obtaining or enforcement of any judgment, decree or order in any court against the Company or any other person;
- (ii) to make or file any claim or proof in a winding-up or liquidation of the Company or any other person;
- (iii) to enforce or seek to enforce any of its rights, powers, discretions or remedies under any other security in respect of the Secured Liabilities.

13. FURTHER ASSURANCE

The Company hereby irrevocably undertakes to the Lender that it shall take all steps that the Lender may require to perfect under any appropriate law the security intended to be constituted by or pursuant to this Floating Charge in respect of all or any part of its property, assets and rights for the purposes of protecting such security or (upon such security becoming enforceable) facilitating the realisation of such property and/or the enforcement of the security constituted by or pursuant to, and/or the exercise of any rights of the Lender or the receiver under, this Floating Charge.

14. REMEDIES AND WAIVERS

14.1 **No waiver**

No failure to exercise and no delay in exercising on the part of the Lender any right, power, discretion or remedy under this Floating Charge shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power, discretion or remedy preclude any other or further exercise thereof, or the exercise of any other right, power, discretion or remedy hereunder. The rights and remedies provided in this Floating Charge are cumulative and not exclusive of any rights or remedies provided by law or otherwise. Any waiver and any consent by the Lender under this Floating Charge must be made in writing and may be given subject to any conditions thought fit by the Lender.

14.2 **No prejudice**

This Floating Charge and the security constituted hereby shall not be affected by any amendment, novation, variation or replacement of the Promissory Note at any time after the date hereof or any other act, omission or other circumstances which, but for this provision, would or might discharge this Floating Charge or the security hereby created.

14.3 **Application to Court**

The Company hereby agrees that the Lender shall have an express and absolute right to apply to court for directions in connection with this Floating Charge including (without limitation) to seek judicial determination with respect to, inter alia, interpretation of the terms and provisions of this Floating Charge, the release of any security constituted hereby, the enforcement of any security constituted hereby and all such other issues in relation to this Floating Charge as the Lender may consider necessitates judicial determination. The Company further agrees that it shall not and shall not be entitled to apply for any costs award to be made against the Lender in connection with any such application.

15. **PARTIAL INVALIDITY**

If any provision of this Floating Charge shall to any extent be illegal, invalid or unenforceable, the remainder of this Floating Charge shall not be affected thereby and each provision of this Floating Charge shall be valid and enforceable to the fullest extent permitted by law and a substitute provision shall be negotiated by the parties hereto to preserve as nearly as possible the original intent of this Floating Charge. This Floating Charge shall remain in full force and effect to secure the Secured Liabilities notwithstanding termination of Share Purchase Agreement ..

16. **ATTORNEY**

The Company hereby irrevocably appoints the Lender (acting by a duly authorised official) to be its attorney and on its behalf and in its name or otherwise generally to sign, seal, execute and deliver and otherwise perfect this Floating Charge or any other documents required for the purpose of any enforcement action by the Lender in connection therewith and which the Company has not done, and generally to use the name of the Company in the exercise of all or any of the powers hereby conferred on the Lender.

The Company hereby undertakes that it shall on request by the Lender ratify and confirm the actions of any such attorney.

17. **ASSIGNATION**

17.1 **Lender**

This Floating Charge shall be binding upon and inure to the benefit of the Company and the Lender, the successors and permitted assignees of the Lender and the successors of the Company. References to the Lender hereunder include any permitted assignee or transferee of the Lender of its rights and obligations hereunder. Any successor to or permitted assignee of the Lender shall be entitled to the full benefit, subject to the burden, hereof.

17.2 **Company**

The Company may not assign or transfer all or any part of its rights or obligations hereunder

18. **CERTIFICATE**

Any account or certificate signed by an officer of the Lender or other signing official authorised by the Lender shall, in the absence of manifest error, ascertain, specify and constitute the sums for which the Company is liable hereunder and the Company hereto consents to the registration of this Floating Charge and of any such account or certificate for preservation and execution.

19. **NOTICES**

19.1 Any communication to be made under or in connection with this Floating Charge shall be made in writing and, unless otherwise stated, may be made by fax or letter.

19.2 The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each party for any communication or document to be made or delivered under or in connection with this Floating Charge is:

(i) in the case of the Company:
Allan Evans, CEO
Cayman Enterprise City,
90 North Church Street, George Town, Grand Cayman, Cayman Islands
P.O. Box CEC 30 Grand Cayman, KY1-9012
Direct Phone: +1.509.378.4685
Office Phone: +1.345.232.0727
Allan@fatshark.com

With a copy to:

Peter A. de Vere
Head of Corporate/Commercial
HSM Chambers
68 Fort Street, George Town,
PO Box 31726, Grand Cayman KY1-1207, Cayman Islands
Direct Tel: +1 345 815 7360
Mobile: +1 345 938 7360
Fax: +1 345 946 8825
Email: *pdevere@hsmoffice.com*

And a copy to:

FS Acquisition, Corp.
370 Harbour Drive
Palmas del Mar
Humacao, PR 00791
jeff@redcat.red
Tel: (833)373-3228

And a copy to:

Law Office of Harvey Kesner
500 Fifth Avenue, Ste 938
New York, NY 10036
Email: *pdox74@gmail.com*
Tel: 646-678-2543

(ii) in the case of the Lender:
Gregory French
Cayman Enterprise City,
90 North Church Street, George Town, Grand Cayman, Cayman Islands
P.O. Box CEC 30 Grand Cayman, KY1-9012

280 Raleigh Quay, Grand Cayman, Cayman Islands

or any substitute address, fax number or department or officer as the Company may notify the Lender, if a change is made by the Company or the Lender may notify to the Company, if a change is made by the Lender by not less than five Business Days' notice.

19.3 Any communication or document made or delivered by one person to another under or in connection with this Floating Charge will only be effective:

- (a) if by way of fax or email, immediately provided that an affirmative transmission report of such fax or email is obtained; or
- (b) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address.

19.4 Any notice given under or in connection with this Floating Charge must be in English.

All other documents provided under or in connection with this Floating Charge must be:

- (a) in English; or
- (b) if not in English, and if so required by the Lender, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

20. **CONSENT TO REGISTRATION**

The Company consents to the registration of this Floating Charge in the Register of Mortgages and Charges of the Company above for preservation.

21. **GOVERNING LAW**

This Floating Charge shall be governed by and construed in all respects in accordance with the laws of the Cayman Islands and the parties hereby submit to the non-exclusive jurisdiction of the Cayman Islands Courts.

IN WITNESS WHEREOF the Company has executed this Floating Charge:

Signed by Allan Evans, Chief Executive Officer
for and on behalf of **Fat Shark Holdings, Ltd.**

.....

Director

Witness: _____

Name:

Occupation: