

CAUSE NO. \_\_\_\_\_

**PLAINTIFF'S VERIFIED ORIGINAL PETITION, REQUEST FOR DISCLOSURE,  
AND APPLICATION FOR TEMPORARY RESTRAINING ORDER**

Made In Brooklyn Designs, Inc. (“Plaintiff”) hereby files Plaintiff’s Verified Original Petition, Request for Disclosure, and Application for Temporary Restraining Order complaining of Defendants Roger Morgan and Global Management Services LLC (“Defendants”). In support hereof, Plaintiff shows the Court as follows:

## I. DISCOVERY CONTROL PLAN

1. Pursuant to Rules 190.1 and 190.4 of the Texas Rules of Civil Procedure, Plaintiff  
intends for discovery to be conducted under Level 3.

## II. PARTIES

2. Plaintiff, Made In Brooklyn Designs, Inc., ("Made in Brooklyn") is a foreign for-profit corporation incorporated in the State of New York.

3. Defendant, Roger Morgan, is an individual who resides in Houston, Harris County, Texas, and may be served at his last known place of residence at 6464 San Felipe St., Apt. 3202, Houston, TX 77057, or wherever he may be found.

4. Defendant, Global Management Services LLC (“Global” or “Defendant Global”) is a for-profit Limited Liability Corporation doing business in the State of Texas and may be served

through its registered agent in this state: Roger Morgan, 2821 North Main St., Stafford, TX 77477, or wherever he may be found.

5. Pursuant to Rule 28 of the Texas Rules of Civil Procedure, Plaintiff expressly invokes the right to have the true name(s) of the parties substituted at a later time upon the motion of any party or of the Court.

### **III. JURISDICTION & VENUE**

6. The Court has jurisdiction over this case since Plaintiff seeks monetary relief of over \$1,000,000.00 which is within the jurisdictional limits of this Court. Tex. R. Civ. P. 47(c)(5).

7. Venue is proper in Harris County, Texas pursuant to TEX. CIV. PRAC. & REM. CODE § 15.020(b) because it was agreed upon in writing by parties involved in a major transaction.

### **IV. FACTUAL BACKGROUND**

8. Plaintiff has paid Defendants \$1,850,000 to deliver personal protection devices during this Covid 19 pandemic. Defendant has refused to deliver the masks and refused to refund the money. On or about April 3, 2020, Plaintiff submitted a written Purchase Order to Defendants for the purchase and delivery of 153,000 3M N95 Particulate Respirator Masks (a/k/a “PPE” or “masks”) intended to be used to combat the ongoing worldwide Covid-19 pandemic. Ex. A at 1, 7.

9. The details of the Parties’ agreement required Plaintiff to pay Defendants \$452,880.00 in advance to purchase the masks. *Id.* Though Plaintiff timely paid Defendants pursuant to the terms of their agreement, Defendants failed to timely deliver any of the PPE to Plaintiff.

10. The agreement further required Defendants, as Seller, to remit to Plaintiff, as Buyer, \$2.96 per mask for each mask that Defendants failed to deliver. *Id.* at 3. To date, Defendants have failed to remit any such funds.

11. On or about April 8, 2020, Plaintiff submitted a second written Purchase Order for the delivery 847,000 additional masks. Exhibit B at 1, 8. The details of the agreement required Plaintiff to pay Defendant \$2,507,120.00 for the purchase. *Id.* Once again, Defendants failed to fulfil their obligations under the contract and delivered none of the PPE it was obligated to timely deliver.

12. Like Purchase Order One, Purchase Order Two also required Defendants, as Seller, to remit to Plaintiff, as Buyer, \$2.96 per unit for each unit Defendants failed to deliver. *Id.* at 3. To date, Defendants have failed to remit any such funds.

13. On or about April 8, 2020, Plaintiff executed a third written Purchase Order with Defendants for the delivery 250,000 additional masks. The details of the agreement required Plaintiff to pay Defendant \$740,000.00 for the purchase. Once again, Defendants failed to fulfil their obligations under the contract and delivered none of the PPE it was obligated to timely deliver.

14. Like Purchase Order One, Purchase Order Three also required Defendants, as Seller, to remit to Plaintiff, as Buyer, \$2.96 per unit for each unit Defendants failed to deliver. To date, Defendants have failed to remit any such funds.

#### **V. COUNT 1 – BREACH OF CONTRACT**

15. Plaintiff hereby adopts and incorporates paragraphs 8–14 above as if fully set forth and articulated herein.

16. Plaintiff and Defendants entered into a series of valid and enforceable contracts and Plaintiff is a proper party to sue for breach of contract. Plaintiff performed its contractual obligations but Defendants breached the contracts thereby causing injury to Plaintiff. Plaintiff now sues for damages as articulated in greater detail below and which were proximately caused by Defendants' breaches.

#### **VI. COUNT 2 – COMMON-LAW FRAUD**

17. Plaintiff hereby adopts and incorporates paragraphs 8–14 above as if fully set forth and articulated herein.

18. Defendants made false and material representations to Plaintiff which, at the time they were made, Defendants knew to be false or which Defendants made recklessly, as a positive assertion, and/or without knowledge of their truth. Defendants made such representations with the intent that Plaintiff act upon them and enter into a series of paid-for purchase orders. Plaintiff reasonably relied upon these representations which caused injury to Plaintiff. A party commits fraud when it enters into a contract that it does not intend to perform.

#### **VII. APPLICATION FOR TEMPORARY RESTRAINING ORDER AND REQUEST FOR TEMPORARY INJUNCTION**

19. Plaintiff hereby adopts and incorporates paragraphs 8–14 above as if fully set forth and articulated herein.

20. Plaintiff seeks injunctive relief to have Defendants remit Plaintiff's personal property. Plaintiff is entitled to injunctive relief because he is entitled to the relief demanded, and all or part of the relief requires the restraint of an act prejudicial to Plaintiff—namely the resale or non-delivery of Plaintiff's paid-for merchandise or the conversion of funds already paid by Plaintiff to Defendants. Furthermore, without injunctive relief, irreparable injury or imminent harm to personal property is threatened, irrespective of any remedy at law.

21. Plaintiff satisfies the prerequisites for injunctive relief because he has pleaded a valid cause of action against Defendants for both breach of contract and for fraud. Plaintiff has also pleaded a probable right to relief based upon the written purchase orders mutually agreed upon by the Parties and attached hereto. *See* Exhibits. A–C. And Plaintiff has pleaded probable injury and imminent harm to personal property in light of the ongoing pandemic and the immediacy of the need for the merchandise.

22. Plaintiff, as the applicant for injunctive relief, is willing to post bond as the Court requires.

23. Plaintiff seeks the following relief: either the immediate delivery of all of the masks for which it contracted, or the immediate remittance of funds at the rate articulated in the written Purchase Orders by and between the Parties.

### **VIII. ATTORNEY FEES**

24. Plaintiff is entitled to recover his reasonable attorney fees for Defendants' breach of contract as provided by TEX. CIV. PRAC. & REM. CODE § 38.001.

### **IX. DAMAGES**

25. As a direct and proximate result of Defendants' breach of contract and common-law fraud, Plaintiff suffered actual damages and economic damages, including loss of expectation interest, liquidated damages, out-of-pocket expenses, attorneys fees, and costs of court.

### **X. CONDITIONS PRECEDENT**

26. All conditions precedent to Plaintiff's recovery have been performed or have occurred.

### **IX. REQUEST FOR DISCLOSURE**

27. Pursuant to Rule 194.1 of the Texas Rules of Civil Procedure, Plaintiff requests that Defendants disclose the information described in Rule 194.2(a)–(l) of the Texas Rules of Civil

procedure within fifty (50) days of service of this request.

28. Pursuant to Rule 193.7 of the Texas Rules of Civil Procedure, Plaintiff hereby gives actual notice to Defendants that any documents produced in response to written discovery may be used in pretrial proceedings and/or at trial without the necessity of authenticating the documents, unless Defendants object pursuant to Rule 193.7 of the Texas Rules of Civil Procedure.

**PRAYER**

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully requests that the Court issue citation commanding Defendants Roger Morgan and Global Management Services LLC to appear and answer, that Plaintiff have judgment against Defendants for actual damages, pre-judgment interest, post-judgment interest, attorneys fees, costs of court, and for such other and further relief to which Plaintiff may be show himself to be justly entitled.

Respectfully submitted,

**ABRAHAM, WATKINS, NICHOLS,  
SORRELS, AGOSTO, AZIZ & STOGNER**

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