

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) **October 19, 2012**

**Charles & Colvard, Ltd.**

(Exact name of registrant as specified in its charter)

**North Carolina**  
(State or other jurisdiction of  
incorporation)

**000-23329**  
(Commission File  
Number)

**56-1928817**  
(I.R.S. Employer  
Identification No.)

**300 Perimeter Park Drive, Suite A**  
**Morrisville, North Carolina**  
(Address of principal executive offices)

**27560**  
(Zip Code)

**(919) 468-0399**  
(Registrant's telephone number, including area code)

**N/A**  
(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))
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**Item Entry into a Material Definitive Agreement.**

**1.01**

On October 19, 2012, Charles & Colvard Direct, LLC (“Charles & Colvard Direct”), a wholly owned subsidiary of Charles & Colvard, Ltd. (the “Company”), entered into a Services and Licensing Agreement (the “Services Agreement”) with JudeFrances Jewelry, Inc. (“JudeFrances”). Under the Services Agreement, JudeFrances will custom design fashion and moissanite jewelry for *Lulu Avenue*<sup>TM</sup>, Charles & Colvard Direct’s home party direct sales division. The Services Agreement also provides Charles & Colvard Direct a worldwide, exclusive, non-transferable license to use and display the name “JudeFrances” in connection with *Lulu Avenue*<sup>TM</sup> branding, marketing, advertisement, promotion, sales, and distribution of certain deliverables and jewelry products. In exchange for the services and license provided by JudeFrances, Charles & Colvard Direct will make certain annual payments and royalty payments to JudeFrances and will reimburse JudeFrances for certain business expenses. The initial term of the Services Agreement is three years, and Charles & Colvard Direct has the right to extend the term of the Services Agreement for an additional one-year period if certain conditions are met.

The foregoing description of the Services Agreement does not purport to be complete and is qualified in its entirety by reference to the Services Agreement, a copy of which is filed as Exhibit 10.1 to this Current Report on Form 8-K and is incorporated herein by reference.

A copy of the press release announcing the Services Agreement is attached hereto as Exhibit 99.1 to this Current Report on Form 8-K.

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

**2.01**

On October 19, 2012, Charles & Colvard Direct entered into an Asset Purchase Agreement (the “Purchase Agreement”) with Bamboo Pink, Inc. (“Bamboo Pink”). Pursuant to the Purchase Agreement, Charles & Colvard Direct acquired certain assets (the “Purchased Assets”) from Bamboo Pink in exchange for consideration consisting of \$645,645 in cash. The Purchased Assets include certain jewelry inventory of Bamboo Pink, jewelry molds, a direct selling software platform, certain proprietary rights to the “love knot” trademark, information related to Bamboo Pink’s direct sales consultants, suppliers lists, advertising, and promotional material (other than any advertising or promotional material that includes the BambooPink name), the benefit of and the right to enforce the product warranties with respect to the purchased assets, and all hard and electronic versions of jewelry photographs (high-resolution and all others).

The Purchase Agreement contains customary representations, warranties, and covenants by the parties, and the parties have agreed to indemnify one another with respect to damages arising from the breach thereof and with respect to certain other matters under the Purchase Agreement.

The foregoing description of the Purchase Agreement does not purport to be complete and is qualified in its entirety by reference to the Purchase Agreement, a copy of which is filed as Exhibit 2.1 to this Current Report on Form 8-K and is incorporated herein by reference.

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**Item 9.01 Financial Statements and Exhibits.**

(d) Exhibits.

<b>Exhibit No.</b>	<b>Description of Document</b>
2.1	Asset Purchase Agreement, dated October 19, 2012, between Charles & Colvard Direct, LLC and Bamboo Pink, Inc.*
10.1	Services and Licensing Agreement, dated October 19, 2012, between Charles & Colvard Direct, LLC and JudeFrances Jewelry, Inc.**
99.1	Press Release dated October 22, 2012

\* Certain schedules have been omitted from this filing pursuant to Item 601(b)(2) of Regulation S-K. A list of omitted schedules is included in the agreement. The Company hereby agrees to furnish supplementally to the Securities and Exchange Commission a copy of any omitted schedule upon request.

\*\* Portions of this exhibit have been omitted and filed separately with the Securities and Exchange Commission as part of an application for confidential treatment pursuant to the Securities Exchange Act of 1934, as amended.

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**SIGNATURE**

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.

**Charles & Colvard, Ltd.**

October 25, 2012

By: /s/ Timothy L. Krist

Timothy L. Krist  
Chief Financial Officer

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**EXHIBIT INDEX**

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ASSET PURCHASE AGREEMENT  
BY AND AMONG  
CHARLES & COLVARD DIRECT, LLC  
AND  
BAMBOO PINK, INC.  
DATED AS OF OCTOBER 19, 2012

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## ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this "Agreement") is made and entered into as of October 19, 2012, by and among (1) CHARLES & COLVARD DIRECT, LLC, a North Carolina limited liability company ("Purchaser"), (2) BAMBOO PINK, INC., a California corporation ("Seller"), and (3) solely for purposes of ARTICLES 7 and 8 hereof, FRANCES GADBOIS, an individual resident in the State of California ("Ms. Gadbois"). Capitalized terms used in this Agreement without definition shall have the respective meanings given to such terms in [ARTICLE 1](#) hereof. Seller and Purchaser are collectively referred to herein as the "Parties" and individually as a "Party."

WHEREAS, Seller is engaged in, among other things, the Business;

WHEREAS, Ms. Gadbois is the majority shareholder of Seller;

WHEREAS, subject to the terms and conditions of this Agreement, Seller desires to sell, transfer and assign, and Purchaser desires to purchase the Purchased Assets; and

WHEREAS, the Parties acknowledge that this Agreement contemplates that Purchaser will only be acquiring the Purchased Assets, and that, accordingly, Purchaser will not be (i) acquiring any assets of Seller other than the Purchased Assets, (ii) employing or retaining any of Seller's employees, (iii) leasing any of Seller's facilities, or (iv) assuming any of Seller's liabilities.

NOW, THEREFORE, in consideration of the premises and the mutual promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

### ARTICLE 1

#### DEFINITIONS

1.1 Definitions. As used in this Agreement, the following terms have the meanings set forth below.

"Affiliate" of any particular Person means any other Person controlling, controlled by or under common control with such Person.

"Agreement" shall have the meaning set forth in the preamble hereof.

"Ancillary Agreements" means the Bill of Sale.

"Bill of Sale" means that certain bill of sale entered into at Closing in a form reasonably satisfactory to the Seller and Purchaser.

"Business" means the business of the design, marketing, distribution or sale of jewelry for a direct-to-consumer home-based jewelry business opportunity.

“Claim Notice” shall have the meaning set forth in Section 7.1(c)(i) hereof.

“Closing” shall have the meaning set forth in Section 2.7(a) hereof.

“Closing Date” shall have the meaning set forth in Section 2.7(a) hereof.

“Code” means the Internal Revenue Code of 1986, as amended.

“Competitor” shall have the meaning set forth in Section 6.2(a)(i) hereof.

“Contracts” means leases, subleases, maintenance agreements and all other agreements, contracts, subcontracts, arrangements, purchase orders, obligations, commitments, licenses, sublicenses, instruments, indentures, notes and understandings of any nature, whether written or oral (including any amendments and other modifications thereto), to which Seller is a party or by which Seller or any of its assets are bound.

“Employee Plan” shall have the meaning set forth in Section 4.15 hereof.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended, and the regulations promulgated thereunder.

“Excluded Assets” means all assets of Seller that are not expressly included in the definition of “Purchased Assets.”

“Excluded Liabilities” means all liabilities and obligations of Seller of whatever kind and nature (whether known or unknown, asserted or unasserted, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, and whether arising before, on or after the Closing Date) including, without limitation:

- (a) any obligations or liabilities of Seller to Purchaser under this Agreement and the Bill of Sale;
- (b) any Indebtedness of Seller;
- (c) Seller Transaction Expenses;

(d) any liability or obligation to the extent relating solely to an Excluded Asset (without limitation on the foregoing and for avoidance of doubt, all claims, liabilities or obligations arising under Seller’s amended and restated certificate of incorporation, bylaws and the agreements and instruments listed on Schedule 1.1(d) shall constitute Excluded Liabilities);

(e) any liability or obligation of Seller or any Purchaser Indemnitee to, or claim against Seller or any Purchaser Indemnitee by, any shareholder, warrant holder or option holder of Seller arising from or relating to the authorization, execution, delivery, and/or performance of this Agreement by Seller, or consummation of the transactions contemplated hereby,

(f) any claims made prior to or subsequent to Closing in connection with the litigation described in Schedule 4.11, any allegations arising out of or relating to the actual or alleged negligence, negligent misrepresentation, fraud, breach of fiduciary duty, wrongdoing, or breach of any duties by the directors, officers, or majority shareholders of Seller, and any claims by minority shareholders of Seller, arising out of or relating to the Agreement or the JF Agreement, including dissenters' or appraisal rights;

(g) any Taxes imposed on Seller or otherwise allocated to Seller pursuant to Section 6.7 hereof (but excluding any Taxes imposed on Purchaser or otherwise allocated to Purchaser pursuant to Section 6.7);

(h) any Scheduled Litigation;

(i) any liability arising from any product sold by Seller prior to the Closing; and

(j) any and all liabilities with respect to, or in respect of, any current or former employees, officers, directors, independent contractors or consultants, including any (i) current or historical litigation or litigation arising out of any termination in connection with the completion of the transactions contemplated in this Agreement, (ii) any claims for compensation, severance or other termination compensation arising from the completion of the transactions contemplated in this Agreement, (iii) or resulting from Employee Plans.

“Governmental Authority” means any foreign, federal, state, local, municipal or other administrative, regulatory, governmental or quasi-governmental authority of any nature (including, without limitation, any governmental agency, branch, board, commission, department, instrumentality, official or entity, and any domestic or foreign court, arbitral body or tribunal), or any administrative, executive, judicial, legislative, police, or regulatory or taxing authority.

“Indebtedness” means, with respect to Seller at any date, without duplication: (i) all obligations of such Seller for borrowed money; (ii) all obligations in respect of letters of credit, to the extent drawn; (iii) any accrued interest related to any of the foregoing, and any prepayment or other similar fees or expenses relating to the prepayment of the foregoing; (iv) and any trade accounts payable of Seller.

“Indemnification Cap” shall have the meaning set forth in Section 7.1(a)(iii)(A) hereof.

“Indemnification Deductible” shall have the meaning set forth in Section 7.1(a)(iii)(B) hereof.

“Inventory” means all inventory of Seller (whether located at or in transit to its respective places of business) listed on Schedule 4.8.

“JF Agreement” and “Jude Frances” shall have the meaning set forth in Section 2.7(b) hereof.

“Knowledge” means (i) in the case of an individual, the actual knowledge of such individual without independent investigation, and (ii) in the case of Seller, the knowledge, without investigation, of Jude Steel and Frances Gadbois.

“Leased Real Property” means all of the right, title and interest of Seller under all leases, subleases, licenses, concessions and other agreements (written or oral), pursuant to which Seller holds a leasehold or sub-leasehold estate in, or is granted the right to use or occupy, any land, buildings, improvements, fixtures or other interest in real property.

“Legal Requirements” means any federal, state, local, municipal, foreign, international, multinational or other administrative order, constitution, law, ordinance, principle of common law, regulation, statute or treaty.

“Liens” means any mortgage, pledge, security interest, conditional sale or other title retention agreement, encumbrance, lien, easement, option, debt, charge, claim or restriction of any kind.

“Loss” shall have the meaning set forth in Section 7.1(a) hereof.

“Love Knot Trademark” means the trade mark depicting the love knot, registered with the U.S. Patent and Trademark Office as U.S. Registration No. 4,180,227.

“Major Suppliers” shall have the meaning set forth in Section 4.19 hereof.

“Material Adverse Effect” means any event, occurrence, fact, condition or change that individually or taken together with any other event, occurrence, fact, condition or change is, or could reasonably be expected to become, materially adverse to (a) the ability of Seller to consummate the transactions contemplated hereby on a timely basis, or (b) the value of the Purchased Assets; provided, however, that “Material Adverse Effect” shall not include any event, occurrence, fact, condition, or change, directly or indirectly, arising out of or attributable to: (i) any changes, conditions or effects in the United States economies or securities or financial markets in general; (ii) changes, conditions or effects that generally affect the industries in which the Business operates; (iii) any change, effect or circumstance resulting from the transactions contemplated by this Agreement or an action required or permitted by this Agreement; or (iv) conditions caused by acts of terrorism or war (whether or not declared); provided further, however, that any event, occurrence, fact, condition, or change referred to in clauses (i), (ii) or (iv) immediately above shall be taken into account in determining whether a Material Adverse Effect has occurred or could reasonably be expected to occur to the extent that such event, occurrence, fact, condition, or change has a disproportionate effect on the Business compared to other participants in the industries in which the Business operates.

“Noncompetition Restricted Period” shall have the meaning set forth in Section 6.2(b) hereof.

“Payoff Accounts” shall have the meaning set forth in Section 6.2(b) hereof.

“Ms. Gadbois” shall have the meaning set forth in the preamble hereof.

“Parties” or “Party” shall have the meaning set forth in the preamble hereof.

“Permitted Liens” means (i) cashiers’, landlords’, mechanics’, materialmens’, carriers’, workmens’, repairmens’, contractors’ and warehousemens’ Liens arising or incurred in the ordinary course of business and for amounts which are not delinquent and which would not, individually or in the aggregate, be material, (ii) easements, rights-of-way, restrictions and other similar charges and encumbrances of record not interfering materially with the ordinary conduct of the Business or detracting materially from the use, occupancy, value or marketability of title of the assets subject thereto, and (iii) Liens for Taxes not yet due and payable.

“Person” means any individual, sole proprietorship, partnership, joint venture, trust, unincorporated association, corporation, limited liability company, entity or governmental entity (whether federal, state, county, city or otherwise and including, without limitation, any instrumentality, division, agency or department thereof).

“Proceeding” shall have the meaning set forth in Section 7.1(c)(i) hereof.

“Proprietary Rights” means all intellectual property, including all claims for past infringement, worldwide, whether registered or unregistered, including, without limitation: (a) all patents, patent applications and other patent rights, including divisional and continuation patents; (b) all registered and unregistered trade-marks, service marks, logos, slogans, corporate names, business names, private labels and other indicia of origin, and all applications and registrations therefor, including any common law rights that may exist and are associated therewith; (c) registered and unregistered copyrights and mask works, including all copyright in and to computer software programs, including software, and applications and registrations of such copyright; (d) internet domain names, applications and reservations for internet domain names, uniform resource locators and the corresponding Internet sites; (e) industrial designs; and (f) trade secrets and proprietary information not otherwise listed in (a) through (e) above, including, without limitation, all inventions (whether or not patentable), invention disclosures, moral and economic rights of authors and inventors (however denominated), confidential information, technical data, customer lists, corporate and business names, trade names, trade dress, brand names, know-how, show-how, mask works, circuit topography, formulae, methods (whether or not patentable), designs, processes, procedures, technology, business methods, source codes, object codes, computer software programs (in either source code or object code form), databases, data collections and other proprietary information or material of any type, and all derivatives, improvements and refinements thereof, howsoever recorded or unrecorded.

“Purchased Assets” means all of Seller’s right, title and interest in and with respect to the assets, properties, privileges, interests, claims and rights (wherever located), whether tangible or intangible or real or personal, that are owned, leased, used, or held for use by Seller (other than the Excluded Assets), including, without limitation, the assets, properties and rights referred to below to the extent owned, leased, used, or held for use by Seller (in each case other than to the extent included in the Excluded Assets):

- (a) all of the Inventory of Seller;
- (b) all of Seller’s jewelry molds;

(c) the customized Zoyto direct selling software platform (subject to license from Zoyto) (the “Zoyto Platform”);

(d) the Seller Love Knot Proprietary Rights;

(e) all information regarding Style Consultants, including contact information, sales history, email correspondence and other communication records;

(f) Seller’s suppliers lists, advertising and promotional material (other than any advertising or promotional material that includes the BambooPink name);

(g) to the extent transferable, the benefit of and the right to enforce the product warranties, if any, that Seller is entitled to enforce with respect to the Purchased Assets; and

(h) all hard and electronic versions of jewelry photographs (high-resolution and all others).

“Purchaser” shall have the meaning set forth in the preamble hereof.

“Purchase Price” shall have the meaning set forth in Section 2.6 hereof.

“Purchaser Indemnitee” shall have the meaning set forth in Section 7.1(a)(i) hereof.

“Scheduled Litigation” means any of the matters identified on Schedule 4.11.

“Seller” shall have the meaning set forth in the preamble hereof.

“Seller Indemnitees” shall have the meaning set forth in Section 7.1(b)(i) hereof.

“Seller Love Knot Proprietary Rights” shall have the meaning set forth in Section 2.10 hereof

“Seller Transaction Expenses” means costs and expenses incurred by Seller (or for which Seller has agreed to be liable) incident to its obligations under and in respect of this Agreement and the transactions contemplated hereby, including, but not limited to, any such costs and expenses incurred by Seller in connection with the negotiation, preparation and performance of and compliance with the terms of this Agreement (including, without limitation, the fees and expenses of legal counsel, accountants, investment bankers or other representatives and consultants).

“Style Consultant” shall mean any person that performed services for Seller as a sales representative or product distributor since Seller’s inception (but not including the shareholders of Seller or Jude Frances).

“Survival Date” shall have the meaning set forth in Section 7.1(a)(ii) hereof.

“Tax” or “Taxes” includes, without limitations, (i) any and all domestic and foreign federal, state, municipal and local taxes, assessments and other governmental charges, duties,



impositions and liabilities imposed by any Governmental Authority, including taxes based on or measured by gross receipts, income, profits, sales, capital, use, and occupation, and including goods and services, value added, ad valorem, transfer, franchise, withholding, customs, payroll, recapture, employment, excise and property duties and taxes, together with all interest, penalties, fines and additions imposed with respect to such amounts and (ii) any liability for the payment of any amount of the type described in the immediately preceding clause (i) as a result of being a transferee of or a successor in interest to another entity or a member of a related, non-arm's length, affiliated or combined group.

"Tax Returns" means all returns, declarations, reports, claims for refund, forms, designations, estimates, information statements and other documents relating to Taxes required to be filed or in fact filed, including all schedules and attachments thereto, and including all amendments thereof, and the term "Tax Return" means any one of the foregoing Tax Returns.

## ARTICLE 2

### PURCHASE, SALE AND ASSUMPTION

2.1 Purchase and Sale of Purchased Assets. Upon the terms and subject to the conditions set forth herein and on the basis of the representations, warranties, covenants and agreements contained herein, at the Closing, Seller shall sell, assign, transfer, convey and deliver to Purchaser, and Purchaser will purchase, acquire and accept, all of Seller's right, title and interest, legal and equitable, in and to the Purchased Assets, free and clear of all Liens other than Permitted Liens. Purchaser acknowledges that the Purchased Assets are being sold to Purchaser "AS IS," with all faults and defects, and with no representations or warranties whatsoever with respect thereto, and Seller hereby disclaims any and all representations and warranties, except for those representations and warranties expressly set forth in this Agreement.

2.2 Excluded Assets. Notwithstanding anything contained in Section 2.1 to the contrary, Seller is not selling, and Purchaser is not purchasing, any of the Excluded Assets, all of which will be retained exclusively by Seller.

2.3 Assumed Liabilities. Purchaser shall not assume any liabilities of Seller in connection with the purchase and sale of the Purchased Assets pursuant to this Agreement.

2.4 Excluded Liabilities. Notwithstanding any other provision of this Agreement to the contrary, Purchaser does not assume or agree to, and shall not, be liable for any of the Excluded Liabilities. Seller shall, and shall cause each of its Affiliates to, pay and satisfy, or otherwise discharge, in due course all Excluded Liabilities which they are obligated to pay and satisfy.

2.5 Consideration. In consideration for the transactions contemplated hereby Purchaser will pay the Purchase Price to Seller.

2.6 Purchase Price. The purchase price payable at Closing for the Purchased Assets (the "Purchase Price") shall be \$645,645. At the Closing, Purchaser shall pay the Purchase Price by wire transfer of immediately available funds in the amounts and to the accounts set forth on

Schedule 2.6 (the “Payoff Accounts”), which correspond to certain existing Indebtedness of Seller.

## 2.7 Closing Transactions.

(a) The Closing. The closing of the transactions contemplated by this Agreement (the “Closing”) shall take place at the offices of Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan, L.L.P. at the Wells Fargo Capitol Center, 150 Fayetteville St., Suite 2300, Raleigh, North Carolina 27601, commencing at 10:00 a.m. local time on the date hereof. The date and time of the Closing are referred to herein as the “Closing Date.”

(b) Closing Deliveries. At the Closing (in addition to the other instruments, documents, and items described in ARTICLE 3 hereof), Purchaser shall deliver to Seller the Purchase Price pursuant to Section 2.6 and all other items required to be delivered by Purchaser to Seller at Closing as specified in Section 3.1. Additionally, Seller acknowledges that a condition to Purchaser’s execution of this Agreement is the satisfactory negotiation of a license and consulting agreement (the “JF Agreement”) between Purchaser and JudeFrances Jewelry Inc., a California corporation.

2.8 Allocation of Purchase Price. Seller and Purchaser hereby agree to allocate the Purchase Price among the Purchased Assets in accordance with Schedule 4.8 attached hereto. Such allocation shall be made in accordance with the principles of section 1060 of the Code. The Parties each agree to (i) be bound by such allocation, subject, however, to each Party’s right to agree to settle any challenge to such allocation by a Governmental Authority, whether in connection with a Tax audit or otherwise, (ii) act in accordance with such allocation in the filing of all Tax Returns (including filing Form 8594 with its federal income Tax Return for the taxable year that includes the Closing Date), and (iii) take no position inconsistent with such allocation for Tax purposes, other than in connection with the settlement of any audit or other challenge to such allocation by a Governmental Authority.

2.9 Assignment of Contracts. Notwithstanding anything in this Agreement to the contrary, this Agreement shall not constitute an agreement to assign or novate any Contract.

2.10 Assignment of Love Knot Trademark. Upon the Closing, Seller does hereby sell, assign, convey and transfer unto Purchaser and its successors, assigns and legal representatives, Seller’s entire right, title and interest in and throughout the world in and to the Love Knot Trademark (including any common law rights that may exist and are associated therewith) relating to the “love knot”, together with the goodwill of the business symbolized thereby and appurtenant thereto, if any (collectively, but without any representations as to the extent or validity thereof, the “Seller Love Knot Proprietary Rights”), the same to be held and enjoyed by Purchaser, its successors, permitted assigns or legal representatives, together with income, royalties, damages or payments due on or after the Closing, including, without limitation, all claims for damages or payments by reason of infringement or unauthorized use of the Love Knot Trademark, along with the right to sue for past infringements and collect the same for Purchaser’s sole use and enjoyment. Seller covenants that it will cooperate with Purchaser to properly record such assignment with the U.S. Patent and Trademark Office.

ARTICLE 3

FURTHER DELIVERIES AT CLOSING

3.1 Deliveries by Purchaser. At the Closing, and in addition to payment of the Purchase Price, Purchaser shall deliver to Seller the following:

- (a) the Bill of Sale, duly executed by Purchaser;
- (b) certified copies of the resolutions duly adopted by the managers or members of Purchaser authorizing the execution, delivery and performance of this Agreement and the other agreements contemplated hereby and the consummation of all transactions contemplated hereby and thereby;
- (c) copies of all consents, approvals, releases from and filings with, governmental or other regulatory agencies required of Purchaser in order to effect the transactions contemplated by this Agreement; and
- (d) a copy of Purchaser's resale certificate issued by the State of California.

Receipt of delivery of any item specified in this Section 3.1 may be waived by Seller; provided, however, that no such waiver will be effective against Seller unless it is set forth in a writing executed by Seller.

3.2 Deliveries by Seller. At the Closing, Seller shall deliver or cause to be delivered to Purchaser the following:

- (a) the Bill of Sale, duly executed by Seller;
- (b) certified copies of the resolutions duly adopted by the board of directors and shareholders of Seller authorizing the execution, delivery and performance of this Agreement and the other agreements contemplated hereby and the consummation of all transactions contemplated hereby and thereby;
- (c) copies of all consents, approvals and releases from and filings with, governmental or other regulatory agencies, or any other Person (including third parties to Contracts) which are set forth on Schedule 4.4; and
- (d) executed payoff letters and releases, in form reasonably satisfactory to Purchaser, which correspond to the accounts specifically denoted with an asterisk and set forth on Schedule 2.6.

Receipt of delivery of any item specified in this Section 3.2 may be waived by Purchaser; provided, however, that no such waiver shall be effective unless it is set forth in a writing executed by Purchaser.

REPRESENTATIONS AND WARRANTIES OF SELLER

As a material inducement to Purchaser to enter into this Agreement and purchase the Purchased Assets, Seller hereby represents and warrants to Purchaser as follows:

4.1 Organization and Power. Seller is a corporation duly incorporated, validly existing, organized and in good standing under the laws of the State of California; however, Purchaser acknowledges that Seller has ceased business operations and has filed a Certificate of Dissolution in connection with the pending dissolution and liquidation of Seller. Seller does not own or control (directly or indirectly) any stock, partnership interest, joint venture interest, equity participation or other security or interest in any other Person.

4.2 Authorization. Seller has the authority and power to execute, deliver and perform this Agreement and the Ancillary Agreement and to consummate the transactions contemplated hereby and thereby. This Agreement and the Ancillary Agreement have been duly and validly authorized, executed and delivered by Seller, and each such agreement constitutes a legal, valid and binding obligation of Seller, enforceable against it in accordance with its terms, except (a) as such enforceability may be limited by bankruptcy, insolvency, moratorium, reorganization and similar laws affecting creditors' rights generally, and (b) as such enforceability may be limited by general principles of equity, regardless of whether asserted in a proceeding in equity or law.

4.3 Capitalization. Schedule 4.3 accurately sets forth the authorized and outstanding capital stock of Seller and the name and number of shares of capital stock held by each shareholder. All of the issued and outstanding shares of capital stock of Seller are owned of record by the shareholders of Seller as shown on Schedule 4.3. Except as shown on Schedule 4.3, there are no outstanding or authorized options, warrants, rights, contracts, pledges, calls, puts, rights to subscribe, conversion rights or other agreements or commitments to which Seller is a party or which is binding upon Seller providing for the issuance, disposition or acquisition of any of its equity or any rights or interests exercisable therefor. There are no outstanding or authorized equity appreciation, phantom stock or similar rights with respect to Seller.

4.4 No Breach. Except as set forth on Schedule 4.4, the execution, delivery and performance by Seller of this Agreement and the other agreements contemplated hereby and the consummation of each of the transactions contemplated hereby or thereby, do not and will not (a) violate, conflict with, result in any breach of, constitute a default under, result in the termination or acceleration of, create in any party the right to accelerate, terminate, modify or cancel, or require any notice under Seller's articles of incorporation or bylaws or any instrument or material Contract; (b) conflict with or result in a violation or breach of any provision of any Legal Requirement applicable to Seller, the Business or the Purchased Assets; (c) result in the creation or imposition of any Lien (other than Permitted Liens) upon any assets or any of the equity of Seller; or (d) require any authorization, consent, approval, exemption or other action by, declaration or filing with, or notice to, any Governmental Authority or other Person under the provisions of any Legal Requirement or any material Contract.

4.5 [Intentionally omitted].

4.6 Absence of Certain Developments. Except as set forth in Schedule 4.6, since December 31, 2011, Seller has not:

- (a) suffered a Material Adverse Effect;
- (b) adopted any plan of merger, consolidation or reorganization or filing of a petition in bankruptcy under any provision of federal or state bankruptcy law or consent to the filing of any bankruptcy petition against it under any similar law;
- (c) amended or authorized the amendment of its articles of incorporation (other than by filing a certificate of dissolution) or bylaws;
- (d) made any issuance of (i) capital stock of Seller, (ii) any options, warrants, rights of conversion or other rights, agreements, arrangements or commitments obligating Seller to issue, deliver or sell any capital stock of Seller other than options granted in the ordinary course of business consistent with past practices, or (iii) any notes, bonds or other debt security;
- (e) amended, terminated or waived any rights constituting Purchased Assets; or
- (f) committed or agreed to any of the foregoing.

4.7 Real Property Leases.

(a) Leased Real Property. Schedule 4.7 sets forth the address of each Leased Real Property facility of Seller.

(b) Real Property Used in the Business. The Leased Real Property identified on Schedule 4.7 comprises all of the real property used in the operation of Seller.

4.8 Purchased Assets.

(a) Seller owns good and valid title, free and clear of all Liens, other than Permitted Liens, to all of the personal, tangible and intangible personal property and assets comprising the Purchased Assets, except that the Zoyto Platform is subject to license from Zoyto.

(b) All of the Purchased Assets are situated in the States of California and Texas (in the Zoyto warehouse).

(c) Schedule 4.8 sets forth a complete and accurate list of Inventory of Seller.

4.9 Indebtedness. Schedule 4.9 contains a complete and accurate list of the Company's accounts payable and Indebtedness on the date hereof.

4.10 Proprietary Right.

(a) Set forth on Schedule 4.10 is the U.S. Patent and Trademark Office registration information with respect to the Love Knot Trademark.

(b) Seller makes no representations or warranties as to the extent or validity of the Proprietary Rights comprising the Seller Love Knot Proprietary Rights, except that, to Seller's Knowledge: (i) Seller has not misappropriated and is not infringing upon the Proprietary Rights of any third party relating to the "love knot"; and (ii) none of the Seller Love Knot Proprietary Rights is being infringed upon or misappropriated by activities, products or services of any third party.

4.11 Litigation; Proceedings. Except as described on Schedule 4.11, there are no (a) actions, suits, proceedings, hearings, or orders or (b) investigations, charges, complaints or claims, pending or, to the Seller's Knowledge, threatened against Seller, or any of its assets or the Business; and Seller is not subject to any judgment, order or decree of any Governmental Authority.

4.12 Compliance with Legal Requirements. Seller is, in all material respects, in compliance with all Legal Requirements, except where the failure to be in such compliance could not reasonably be expected to have a Material Adverse Effect. No written notice has been received by Seller alleging a violation of or liability or potential responsibility under any such law, rule or regulation which is pending or remains unresolved.

4.13 [Intentionally omitted].

4.14 Employees.

(a) Seller does not currently have any employees. Since January 1, 2008, Seller has complied in all material respects with all Legal Requirements relating to employment (including but not limited to, the Fair Labor Standards Act of 1938), employment practices, terms and conditions of employment, equal employment opportunity, non-discrimination, immigration, wages, hours, benefits, collective bargaining, and occupational safety and health. All employees classified as exempt under the Fair Labor Standards Act of 1938 and state and local wage and hour laws are properly classified.

(b) All liabilities in respect of current or former employees, officers, directors, independent contractors, and consultants, have or shall have been paid by Seller or otherwise discharged on or before the Closing Date, including but not limited to, insurance premium contributions, unemployment insurance, income tax, workers' compensation and any other employment related legislation, accrued wages, vacation pay, bonuses, Taxes, salaries, commissions, and employee benefit plan payments. There are no outstanding, pending, threatened or anticipated assessments, actions, causes of action, claims, complaints, demands, orders, prosecutions or suits against Seller, its directors, officers or agents before any Governmental Authority pursuant to or under any applicable laws, including, but not limited to

unemployment insurance, income tax, employment discrimination, employment standards, labor relations, occupational health and safety, workers' compensation, pay equity or any other matters relating to the employment of labor.

(c) Seller is not a party to any collective bargaining agreement or other labor contract.

(d) The consummation of the transactions contemplated by this Agreement will not: (i) entitle any current or former employee, officer, director, independent contractor, or consultant, to severance pay, unemployment compensation, or any similar payment for which Purchaser could be liable or (ii) accelerate the time of payment or vesting or increase the amount of compensation to or in respect of any current or former employee, officer, director, independent contractor, or consultant, for which Purchaser could be liable.

#### 4.15 Employee Benefit Plans.

(a) Seller does not currently have any employees and thus does not maintain, contribute to or have any obligation to contribute to, or have any other liability or obligation with respect to (i) any employee pension plans; (ii) employee benefit plans; or (iii) any other written or oral plan, policy, program, agreement or arrangement providing direct or indirect compensation or any other employee benefit of any kind, including without limitation, pension, retirement, savings, health, life, accident, vacation, tuition reimbursement, dependent care reimbursement, health savings account or disability benefits or that provide deferred compensation, stock options, stock purchase, phantom stock, stock based programs, stock appreciation rights, severance or incentive compensation or other fringe benefits. Any of the above shall be referred to herein collectively as the "Employee Plans."

(b) With respect to each Employee Plan, no event has occurred, and there exists no condition or set of circumstances in connection therewith, for which Seller could be subject to any liability under ERISA, the Code or any other applicable Legal Requirement, except liability for benefit claims and funding obligations payable in the ordinary course. Each of the Employee Plans heretofore maintained by Seller was established, maintained, funded, invested and administered in compliance in all material respects with its terms, all employee plan summaries and booklets, ERISA, the Code and other applicable laws. Seller has never maintained, sponsored, contributed to, participated in or had any liability with respect to (i) any Employee Plan subject to Title IV of ERISA or Section 412 of the Code, (ii) any "multi employer plan" as defined under Sections 3(37) or 4001(a)(3) of ERISA or Section 414(f) of the Code, (iii) any Employee Plan that promises or provides retiree medical or other welfare benefits to any person, except as required by ERISA, the Code or other applicable Legal Requirement, including, but not limited to, the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended or (iv) any "multiple employer welfare arrangement" as defined in Section 3(40) of ERISA.

(c) All required contributions and/or premiums to be made under the Employee Plans have been fully paid to the date hereof in accordance with the terms of that Employee Plan and all applicable laws, and no taxes, penalties or fees are owing or exigible

under any Employee Plan, and there are no liabilities or contingent liabilities in respect of any Employee Plan that has been discontinued.

(d) No Employee Plan promises or provides retiree health benefits or retiree life insurance benefits or any other non-pension post-retirement benefits to any person.

(e) There are no outstanding actions, suits or claims pending or threatened concerning the assets held in the funding media for the Employee Plans (other than routine claims for the payment of benefits submitted by members or beneficiaries in the normal course), and there is no litigation, legal action, suit, investigation, claim, counterclaim or proceeding pending or threatened against or affecting any Employee Plan which could have a Material Adverse Effect on Seller or on any Employee Plan maintained as of the Closing Date.

4.16 Insurance. Schedule 4.16 sets forth a true and complete list of all current policies or binders of fire, liability, product liability, umbrella liability, real and personal property, workers' compensation, errors and omissions, vehicular, fiduciary liability and other casualty and property insurance policies to which Seller is a party, a named insured or otherwise the beneficiary of coverage.

4.17 Tax Matters.

(a) Seller has, (i) duly and timely filed (taking into account applicable filing date extensions), or caused to be filed, all Tax Returns required to be filed by it prior to the date hereof and all such Tax Returns are true, correct and complete in all material respects and have not been amended; (ii) paid all Taxes and all assessments and reassessments of Taxes due on or before the date hereof, other than Taxes which are being or have been contested in good faith; (iii) duly and timely withheld, or caused to be withheld, all Taxes required or permitted by law to be withheld by it (including Taxes and other amounts required or permitted to be withheld by it in respect of any amount paid or credited or deemed to be paid or credited by it to or for the account of any person, including any employees, officers or directors and any nonresident person) and duly and timely remitted, or caused to be remitted, to the appropriate Tax authority such Taxes required by law to be remitted by it; and (iv) duly and timely collected, or caused to be collected, any sales or transfer taxes, including goods and services, harmonized sales and state, local or territorial sales taxes, required by law to be collected by it and duly and timely remitted to the appropriate Tax authority any such amounts required by law to be remitted by it.

(b) There are (i) no audits or investigations in progress, pending or threatened by any Governmental Authority with respect to Taxes against Seller or any of the assets of Seller; and (ii) no deficiencies, litigation, proposed adjustments or matters in controversy with respect to Taxes exist or have been asserted or have been raised by any Governmental Authority which remain unresolved at the date hereof, and no action or proceeding for assessment or collection of Taxes has been taken, asserted, or to the Knowledge of Seller, threatened, against Seller or any of its assets, except, in each case, as are being contested in good faith.

(c) There are no Liens for Taxes (other than statutory Liens for Taxes not yet due) upon any of the assets of Seller.



(d) Seller has not entered into any advance pricing agreement with any Governmental Authority.

(e) Seller is not a “foreign person” as that term is used in Treasury Regulations Section 1.1445-2.

4.18 Brokerage. There are no claims for brokerage commissions, finders fees or similar compensation in connection with the transactions contemplated by this Agreement based on any arrangement or agreement made by Seller.

4.19 Customers and Suppliers. Schedule 4.1919 lists the ten largest suppliers (measured by dollars paid since January 1, 2010) of Seller (“Major Suppliers”) and the amount of business done with each Major Supplier in such period.

4.20 Questionable Payments. Neither Seller nor, to the Seller’s Knowledge, any of its current or former officers, directors, stockholders, managers, employees, agents, or representatives, have in connection with the Business or operations of the Business (a) used any corporate funds for any contributions, gifts, entertainment or other expenses relating to political activity, or used any corporate funds to reimburse any Person for any such payment, in each case, in contravention of any Legal Requirements, (b) used any corporate funds for any direct or indirect payments to any foreign or domestic government officials or employees in contravention of any Legal Requirements, or (c) made any bribe, rebate, payoff, influence payment, kickback or other payment of any nature in contravention of any Legal Requirements.

## ARTICLE 5

### REPRESENTATIONS AND WARRANTIES OF PURCHASER

As an inducement to Seller to enter into this Agreement, Purchaser represents and warrants to Seller as follows:

5.1 Organization and Power. Purchaser is a limited liability company duly organized, validly existing and in good standing under the laws of the State of North Carolina. Purchaser has all requisite power and authority to execute and deliver this Agreement and the other agreements contemplated hereby and to perform its obligations hereunder and thereunder.

5.2 Authorization. Purchaser has the capacity, authority and power to execute, deliver and perform this Agreement and all of the agreements contemplated hereby to which it is a party (including each of the Ancillary Agreements to which it is or will respectively become a party) and to consummate the transactions contemplated hereby and thereby. This Agreement and all of the agreements contemplated hereby to which Purchaser is a party have been duly and validly authorized, executed and delivered by Purchaser and each such agreement constitutes a legal, valid and binding obligation of Purchaser, enforceable against it in accordance with its terms, except (a) as such enforceability may be limited by bankruptcy, insolvency, moratorium, reorganization and similar laws affecting creditors’ rights generally, and (b) as such

enforceability may be limited by general principles of equity, regardless of whether asserted in a proceeding in equity or law.

5.3 No Breach. The execution, delivery and performance by Purchaser of this Agreement and the other agreements contemplated hereby and the consummation of each of the transactions contemplated hereby or thereby, do not and will not (a) violate, conflict with, result in any breach of, constitute a default under, result in the termination or acceleration of, create in any party the right to accelerate, terminate, modify or cancel, or require any notice under Purchaser's governing documents or any instrument or contract; (b) conflict with or result in a violation or breach of any provision of any Legal Requirement applicable to Purchaser; or (c) except as set forth on Schedule 5.3, require any authorization, consent, approval, exemption or other action by, declaration or filing with, or notice to, any Governmental Authority or other Person under the provisions of any Legal Requirement or any contract or instrument.

5.4 Governmental Authorities and Consents. No permit, consent, approval or authorization of, or declaration to or filing with, any governmental or regulatory authority or any other Person is required in connection with the execution, delivery or performance of this Agreement by Purchaser or the consummation by Purchaser of the transactions contemplated hereby and thereby.

5.5 Litigation. There are no actions, suits, proceedings, orders or investigations pending or, to the best of Purchaser's knowledge, threatened against or affecting Purchaser, at law or in equity, or before or by any federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, which would adversely affect Purchaser's performance under this Agreement, the other agreements contemplated hereby or the consummation of the transactions contemplated hereby or thereby.

5.6 Brokerage. There are no claims for brokerage commissions, finders fees or similar compensation in connection with the transactions contemplated by this Agreement based on any arrangement or agreement made or alleged to have been made by or on behalf of Purchaser. Purchaser is solely responsible for and shall pay all amounts owed in respect of any arrangement or agreement disclosed on such Schedule.

## ARTICLE 6

### NON-COMPETITION AND OTHER POST-CLOSING MATTERS

6.1 Confidentiality; Press Releases. The Parties hereto will, and will cause each of their respective Affiliates and representatives to, maintain the confidentiality of this Agreement and the transactions contemplated hereby and will not, and will cause each of their respective Affiliates not to, issue or cause the publication of any press release or other public announcement with respect to this Agreement or the transactions contemplated hereby without the prior written consent of the other Parties hereto which consent shall not be unreasonably withheld.

6.2 Non-competition. Seller acknowledges that (a) Seller is engaged in the Business, (b) prior to Closing, Seller has had access to Confidential and Proprietary Information (as defined below) of Seller and the Business; and (c) the agreements and covenants contained in

this Section 6.2 are essential to protect the Purchased Assets, all of which are being purchased by Purchaser. Accordingly, Seller covenants and agrees as follows:

(a) During the Noncompetition Restricted Period (as defined below), Seller shall not, within any Territory (as defined below), directly or indirectly:

(i) engage or invest in, or own, control, manage or participate in the ownership, control or management of any business that engages in the Business (a "Competitor"); or

(ii) (A) solicit, divert or take away, or accept any business relating to the Business (or help any other Person, entity or enterprise to solicit, divert, take-away or accept any such business) from any Person, entity or enterprise who, during the two year period ending on the Closing Date, is or was a customer or supplier of Seller, or who to Seller's Knowledge (after inquiry of Purchaser with respect to such matter) during the Nonsolicitation Restricted Period becomes a customer or supplier of Purchaser or (B) actively cause any customer, referral source, supplier or other business relation to curtail doing business with Purchaser.

(b) As used herein, the term "Noncompetition Restricted Period" shall mean the period commencing on the Closing Date and ending on the expiration of four (4) years following the Closing Date. If Seller breaches any agreement or covenant contained in this Section 6.2, the Noncompetition Restricted Period shall be extended for an additional period equal to the period during which such breach occurred and continued. Seller acknowledges that Seller sells its products, and/or otherwise conducts its business throughout the world. As used herein, the term "Territory" shall mean the entire world including but not limited to: (i) Canada, (ii) Europe, (iii) Asia, (iv) all U.S. territories and (v) each of the following States within the United States: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin and Wyoming.

(c) Purchaser and Seller agree and acknowledge that the duration, scope and geographic area of the covenants described in this Section 6.2 are fair, reasonable and necessary in order to protect the good will and other legitimate interests of Purchaser, that adequate consideration has been received by Seller for such obligations. If, however, for any reason any court of competent jurisdiction determines that the restrictions in this Section 6.2 are not reasonable, such restrictions shall be interpreted, modified or rewritten to include as much of the duration, scope and geographic area identified in this Section 6.2 as will render such restrictions valid and enforceable (it being understood that none of the duration, scope or geographic area will be expanded).

(d) Purchaser acknowledges that the foregoing covenants bind only Seller and are not binding on the shareholders of Seller or any other Person.

6.3 [Intentionally omitted].

6.4 Mutual Assistance

(a) Each of the Parties hereto agrees that they will mutually cooperate in the expeditious filing of all notices, reports and other filings with any Governmental Authority required to be submitted jointly by any of the Parties hereto in connection with the execution and delivery of this Agreement, the other agreements contemplated hereby and the consummation of the transactions contemplated hereby or thereby. Subsequent to the Closing, each of the Parties hereto will assist each other (including by the retention of records and the provision of access to relevant records) in the preparation of their respective Tax Returns and the filing and execution of Tax elections, if required, as well as in the defense of any audits or litigation that may ensue as a result of the filing thereof, to the extent that such assistance is reasonably requested; *provided, however*, that no Party shall by reason of this Section 6.4(a) be required to retain accountants or attorneys or incur other out-of-pocket expenses that are not reimbursed by the requesting Party.

(b) In order to assist with the transitioning of Seller's Style Consultants, subsequent to the Closing, Seller shall send a mutually agreed to email message to each of its Style Consultants and Seller will also make follow-up calls to such Style Consultants as reasonably requested by Seller.

6.5 Expenses. Except as otherwise set forth in this Agreement, each of the Parties hereto shall be solely responsible for and shall bear all of its own costs and expenses incident to its obligations under and in respect of this Agreement and the transactions contemplated hereby, including, but not limited to, any such costs and expenses incurred by any Party hereto in connection with the negotiation, preparation and performance of and compliance with the terms of this Agreement (including, without limitation, the fees and expenses of legal counsel, accountants, investment bankers or other representatives and consultants), regardless of whether the transactions contemplated hereby are consummated.

6.6 Further Transfers. At Closing, and at all times thereafter as may be necessary, each of the Parties hereto shall, and shall cause its Affiliates to, execute and deliver such further instruments and take such additional action as any other Party hereto may reasonably request to effect or consummate the transactions contemplated hereby and to vest in Purchaser good and indefeasible title to the Purchased Assets and to comply with this Agreement.

6.7 Transfer Taxes; Recording Charges. Notwithstanding anything to the contrary herein, all transfer, documentary, sales, use, stamp, registration and other such Taxes, and all conveyance fees, recording charges and other fees and charges (including any penalties and interest) incurred in connection with consummation of the transactions contemplated by this Agreement shall be shared equally by Purchaser and Seller. Each Party will, at its own expense, file all necessary Tax Returns and other documentation with respect to all such Taxes, fees and charges, and, if required by applicable law, Seller and Purchaser will, and will cause its Affiliates to, join in the execution of any such Tax Returns and other documentation.

6.8 Use of Name. Other than as reasonably necessary in connection with the liquidation of any of its remaining assets and the satisfaction of its obligations and liabilities, Seller shall make no further business use of the name “Bamboo Pink” or any derivative thereof or of any trademark or service mark including or incorporating the name “Bamboo Pink” or any derivative thereof. Purchaser is not hereby granted any rights to the name “Bamboo Pink” or to any trademark or service mark incorporating such name.

6.9 Tax Matters; Cooperation; Procedures Relating to Tax Claims.

(a) Purchaser and Seller shall cooperate fully, and to the extent reasonably requested by the other party, in connection with any audit, litigation or other proceeding with respect to Taxes. Such cooperation shall include the retention and (upon the other party’s request) the provision of records and information that are reasonably relevant to any such audit, litigation or other proceeding and making employees available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder. Purchaser and Seller agree (i) to retain all books and records with respect to Tax matters pertinent to Seller relating to any taxable period beginning before the Closing Date until the expiration of the statute of limitations (and, to the extent notified by Purchaser or Seller, any extensions thereof) of the respective taxable periods, and to abide by all record retention agreements entered into with any taxing authority, and (ii) to give the other party reasonable written notice prior to transferring, destroying or discarding any such books and records and, if the other party so requests, Purchaser or Seller, as the case may be, shall allow the other party to take possession of such books and records. For the avoidance of doubt, no Party is required hereby to retain any books or records if such Party instead allows Purchaser or Seller (as the case may be) to take possession of such books and records.

(b) After the Closing Date, Purchaser shall not be bound by or have any liability under any tax-sharing agreements or similar agreements involving Seller and its subsidiaries or shareholders.

6.10 Employee Matters.

(a) Purchaser is under no obligation, and has no intention, to offer employment or to hire any of the employees of Seller.

(b) As between Purchaser and Seller, Seller shall remain solely responsible for the satisfaction or discharge of all claims for medical, dental, life insurance, health accident or disability benefits brought by or in respect of current or former employees, officers, directors, independent contractors or consultants of the Business or the spouses, dependents or beneficiaries thereof, which claims relate to events occurring on or prior to the Closing Date. As between Purchaser and Seller, Seller also shall remain solely responsible for all worker’s compensation claims of any current or former employees, officers, directors, independent contractors or consultants of the Business which relate to events occurring on or prior to the Closing Date.

ADDITIONAL AGREEMENTS; COVENANTS AFTER CLOSING7.1 Indemnification.(a) Seller's Indemnification.

(i) Subject to the other limitations in this ARTICLE 7, from and after the Closing, Seller and Ms. Gadbois jointly and severally agree to indemnify Purchaser and its Affiliates and their respective officers, directors, employees, shareholders, agents and representatives (collectively, the "Purchaser Indemnitees") and hold each Purchaser Indemnitee harmless against any actions, suits, proceedings, hearings, investigations, charges, complaints, claims, loss, liability, fine, penalty, deficiency, damage, amount paid in settlement, obligation, Taxes, or expense (including reasonable legal expenses and costs) (a "Loss") which such Purchaser Indemnitee suffers or incurs as a result of: (A) the breach by Seller of any representation or warranty contained in ARTICLE 4 hereof; (B) the breach by Seller of any covenant or agreement contained in this Agreement or in any other agreement, instrument or certificate delivered by Seller pursuant to this Agreement, (C) any Taxes imposed on Seller for any time on or before the Closing Date or any Taxes with respect to the Purchased Assets or the Business imposed on Purchaser as a transferee or successor, by contract or pursuant to any law, rule or regulation, which such Taxes relate to any event or transaction occurring before the Closing, (D) any Excluded Liabilities; (E) any allegations arising out of or relating to the actual or alleged negligence, negligent misrepresentation, fraud, breach of fiduciary duty, wrongdoing, or breach of any duties by the directors, officers, or majority shareholders of Seller, and any claims by minority shareholders (past or present) arising out of or relating to the Agreement or the JF Agreement, including dissenters' or appraisal rights.

(ii) Seller and Ms. Gadbois will not be liable under Section 7.1(a)(i) unless written notice of a claim for indemnification pursuant to such Section, setting forth with reasonable specificity the nature, basis and amount of such claim, is given by the claiming Purchaser Indemnitee to Seller on or before the Survival Date, it being understood that so long as such written notice is given on or prior to the Survival Date, such claim shall continue to survive until such matter is resolved. For purposes of this Agreement, the term "Survival Date" shall mean the date that is the eighteen (18) month anniversary of the Closing Date.

(iii) The indemnification provided for in Section 7.1(a)(i) above is subject to each of the following limitations:

(A) The aggregate amount of all payments made by Seller in satisfaction of such claims for indemnification shall not exceed Two Hundred Fifty Thousand Dollars (\$250,000) (the "Indemnification Cap").

(B) Seller shall not be liable to indemnify Purchaser Indemnitees pursuant to such claims for indemnification unless and until such

Purchaser Indemnitee has collectively suffered or incurred Losses by breaches in respect of such representations and warranties in excess of \$25,000 in the aggregate (the “Indemnification Deductible”), in which event Seller shall be required to pay or be liable for all such Losses to the extent exceeding the Indemnification Deductible.

(b) Purchaser’s Indemnification.

(i) From and after the Closing, Purchaser agrees to indemnify Seller and its officers, directors, employees, shareholders, agents and representatives (collectively, the “Seller Indemnitees”) and hold each Seller Indemnitee harmless against any Loss which any Seller Indemnitee suffers, as a result of: (A) the breach by Purchaser of any representation or warranty contained in ARTICLE 5 hereof; (B) the breach by Purchaser of any covenant or agreement of Purchaser contained in this Agreement; (C) Purchaser’s ownership and use of the Purchased Assets (unless such claim relates to an alleged defect in the Purchased Assets existing on the date hereof or other condition within the control of Seller); and (D) any allegations arising out of or relating to the actual or alleged negligence, negligent misrepresentation, fraud, breach of fiduciary duty, wrongdoing, or breach of any duties by the directors, officers, or parent company of Purchaser arising out of or relating to the Agreement.

(ii) Purchaser shall not be liable with respect to any claim under Section 7.1(b)(i) unless written notice of a claim for indemnification pursuant to such Section, setting forth with reasonable specificity the nature, basis and amount of such claim, is given by the claiming Seller Indemnitee to Purchaser on or before the Survival Date, it being understood that so long as such written notice is given on or prior to the Survival Date, such claim shall continue to survive until such matter is resolved.

(iii) The indemnification provided for in Section 7.1(b)(i) above is subject to each of the following limitations:

(A) The aggregate amount of all payments made by Purchaser in satisfaction of such claims for indemnification shall not exceed the Indemnification Cap.

(B) Seller shall not be liable to indemnify Seller Indemnitees pursuant to such claims for indemnification unless and until such Seller Indemnitee has collectively suffered or incurred Losses by breaches in respect of such representations and warranties in excess of the Indemnification Deductible, in which event Purchaser shall be required to pay or be liable for all such Losses to the extent exceeding the Indemnification Deductible.

(c) Indemnification Procedures.

(i) Notice of Claim. Any indemnified party making a claim for indemnification pursuant to Section 7.1(a) or (b) on account of a Proceeding must give Seller or Purchaser, as the case may be, written notice of such claim describing such claim and the nature and amount of such Loss, to the extent that the nature and amount

thereof are determinable at such time (a "Claim Notice") promptly after the indemnified party receives any written notice of any action, lawsuit, proceeding, investigation or other claim (a "Proceeding") against or involving the indemnified party by a third party; provided, however, that the failure to notify or delay in notifying Seller or Purchaser, as the case may be, will not relieve the indemnitor of its obligations pursuant to Section 7.1(a) or (b), except to the extent that the indemnitor is prejudiced as a result thereof.

(ii) Control of Defense; Exceptions, etc. With respect to any Proceeding, the indemnifying party, upon acknowledgement of its acceptance of its obligations to indemnify the indemnified party pursuant to the terms hereunder in connection with such Proceeding, shall be entitled to assume the defense of such action or claim with counsel reasonably satisfactory to the indemnified party. The indemnified party shall have the right to participate at its own expense in the defense of such asserted liability. The indemnifying party and the indemnified party each agree to reasonably cooperate with each other and their respective counsel in the defense against any such asserted liability and the settlement thereof. Notwithstanding the foregoing, if (A) the claim for indemnification is with respect to a criminal proceeding, criminal action, criminal indictment, criminal allegation or criminal investigation against the indemnified party, (B) the indemnifying party has been advised in writing by counsel that a reasonable likelihood exists of a conflict of interest between the indemnifying party and the indemnified party, (C) the indemnifying party has failed or is failing to prosecute or defend such claim or shall have failed to engage counsel reasonably satisfactory to the indemnified party within a reasonable period of time, or (D) the indemnified party has been advised by counsel in writing that a reasonable likelihood exists that such claim will result in damages in excess of the amount of the Indemnification Cap, then (1) the indemnifying party shall not be entitled to assume the defense of any such claim or action, (2) the indemnified party shall have the right to conduct and control the defense of, and, subject to the consent of the indemnifying party (which consent shall not be unreasonably withheld), to compromise and settle such action or claim (subject to Section 7.1(c)(iii) below) with counsel reasonably acceptable to the indemnifying party, and in any such case, the indemnifying party shall have the right to participate at its own expense in the defense of such asserted liability.

(iii) Settlement of Claims. No indemnifying party shall consent to the entry of any judgment or enter into any compromise or settlement without the consent of the indemnified party (which consent shall not be unreasonably withheld) (A) if such judgment, compromise or settlement does not include as an unconditional term thereof the giving by each claimant or plaintiff to each indemnified party of a release from all liability in respect to such claim, (B) if such judgment, compromise or settlement would result in the finding or admission of any violation of applicable law, regulation or other legal requirement by the indemnified party, or (C) if as a result of such consent, compromise or settlement, injunctive or other equitable relief would be imposed against the indemnified party or such judgment, compromise or settlement would enjoin or interfere with or adversely affect in any material respect the business, operations or assets of the indemnified party. Further, the indemnifying party shall have no liability with



respect to any consent to entry of judgment, compromise or settlement thereof effected by the indemnified party without its consent (which shall not be unreasonably withheld).

(d) Payments. Any payment pursuant to a claim for indemnification shall be made not later than thirty (30) business days after receipt by the indemnitor of written notice from the indemnified party stating the amount of the claim, unless the claim is being defended as provided in Section 7.1(c).

(e) Exclusive Remedy. The indemnification provided by this ARTICLE 7 shall be the exclusive remedy for Purchaser, Seller, and Ms. Gadbois, as the case may be, with respect to this Agreement and the Transaction Documents delivered pursuant hereto; provided, however, that nothing herein will limit any indemnified party's rights hereunder or otherwise to injunctive or other equitable relief to enforce its rights under this Agreement or otherwise in connection with the transactions contemplated hereby; and provided further that nothing contained in this Agreement shall limit or restrict any Person who is a party to any other Ancillary Agreement to recover Losses or obtain any other legal or equitable relief from any other Person who is a party to any such agreement in connection with the breach of such agreement by such other Person pursuant to the terms thereof. Without limiting the generality of the foregoing, and for the avoidance of doubt, in no event shall Ms. Gadbois have any liability under this Agreement or with respect to the transactions contemplated hereby in excess (in the aggregate) of two hundred fifty thousand dollars (\$250,000), and in no event shall Purchaser or any other Purchaser Indemnitee, on the one hand, or Seller, Ms. Gadbois, or any other Seller Indemnitee on the other hand, have a right to assert any claim under this Agreement or with respect to the transactions contemplated hereby after the eighteen (18) month anniversary of the Closing Date.

(f) Seller and Purchaser agree that any indemnification payment made pursuant to this ARTICLE 7 shall constitute an increase or decrease, as the case may be, of the Purchase Price.

7.2 Survival. All covenants, agreements, representations and warranties made by the Parties hereto pursuant to this Agreement shall survive Closing and remain effective, subject to the time limitations described in Section 7.1.

## ARTICLE 8

### MISCELLANEOUS

8.1 Amendment and Waiver. This Agreement may not be amended, altered or modified except by a written instrument executed by Seller and Purchaser (and with respect to a change to Article 7 or Article 8 affecting her interests, Ms. Gadbois). No course of dealing between or among any Persons having any interest in this Agreement will be deemed effective to modify, amend or discharge any part of this Agreement or any rights or obligations of any Person under or by reason of this Agreement. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute, a waiver of any other provisions, whether or not similar, nor shall any waiver constitute a continuing waiver.

8.2 Notices. All notices, demands and other communications to be given or delivered to Purchaser or Seller under or by reason of the provisions of this Agreement will be in writing and will be deemed to have been given when personally delivered, sent by reputable overnight courier or transmitted by facsimile, telecopy or e-mail of a PDF document (transmission confirmed), to the addresses indicated below (unless another address is so specified in writing):

If to Seller or to Ms. Gadbois, then to:

Bamboo Pink, Inc. or Frances Gadbois (as the case may be)  
c/o JudeFrances Jewelry Inc.,  
2151 Michelson Drive, Suite 175  
Irvine, California 92612  
Attention: Frances Gadbois  
Facsimile No.: (949) 553-8861

with a copy to:

Michelman & Robinson, LLP  
15760 Ventura Blvd., 5<sup>th</sup> Floor  
Encino, California 91436  
Attention: Sanford L. Michelman  
Facsimile No.: (818) 783-5507  
E-Mail (does not constitute Notice): smichelman@mrlp.com

If to Purchaser, then to:

Charles & Colvard Direct, Ltd.  
300 Perimeter Park Drive  
Morrisville, NC 27560

Attn: Randall N. McCullough  
President  
Facsimile No.: (919) 468-5052  
E-Mail (does not constitute Notice): rmccullough@charlesandcolvard.com

with a copy to:

Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan, L.L.P.  
Wells Fargo Capital Center  
150 Fayetteville St., Suite 2300  
Raleigh, North Carolina 27601  
Attention: Margaret Rosenfeld  
Facsimile No.: (919) 821-6800  
E-Mail (does not constitute Notice): mrosenfeld@smithlaw.com

8.3 Assignment. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of each of the Parties hereto and their respective successors and

permitted assigns. Neither this Agreement nor any rights, benefits or obligations set forth herein may be assigned by any of the Parties hereto without the prior written approval of the other Parties hereto; provided, that Purchaser shall be permitted, without any such prior written approval, to assign its interest in and under this Agreement and the other agreements and documents executed in connection with this Agreement to a purchaser of all of the capital stock or all or substantially all of the assets of Purchaser.

8.4 Severability. If any provision of this Agreement or portion thereof or the application thereof to any Person or circumstance shall to any extent be illegal, invalid or unenforceable: (a) the remainder of this Agreement or the application of such provision or portion thereof to any other Person or circumstance shall not be affected thereby; and (b) the Parties will negotiate in good faith to amend this Agreement to implement the intentions set forth in this Agreement. Each provision of this Agreement shall be legal, valid and enforceable to the fullest extent permitted by law.

8.5 No Strict Construction. The language used in this Agreement shall be deemed to be the language chosen by the Parties hereto to express their mutual intent, and no rule of strict construction will be applied against any Person. The use of the word "including" in this Agreement or in any of the agreements contemplated hereby shall be by way of example rather than by limitation.

8.6 Captions. The captions used in this Agreement are for convenience of reference only and do not constitute a part of this Agreement and shall not be deemed to limit, characterize or in any way affect any provision of this Agreement, and all provisions of this Agreement shall be enforced and construed as if no caption had been used in this Agreement.

8.7 No Third-Party Beneficiaries. Seller and Purchaser intend that this Agreement is for the sole benefit of the Parties to this Agreement and nothing in this Agreement, express or implied, is intended to or shall confer upon any other Person any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement, except for (i) Purchaser Indemnitees under ARTICLE 7, (ii) Seller Indemnitees under ARTICLE Z, (iii) Charles & Colvard, Ltd., as parent of Purchaser, and (iv) the shareholders of Seller.

8.8 Complete Agreement. This document and the documents referred to herein contain the complete agreement between the Parties and supersede any prior understandings, agreements or representations by or between the Parties, written or oral, which may have related to the subject matter hereof in any way.

8.9 Counterparts. This Agreement may be executed in one or more counterparts, any one of which may be by facsimile or electronically by PDF, and all of which taken together shall constitute one and the same instrument. The exchange of copies of this Agreement or amendments thereto and of signature pages by facsimile transmission or electronically by PDF shall constitute effective execution and delivery of such instrument(s) as to the parties and may be used in lieu of the original Agreement or amendment for all purposes. Signatures of the parties transmitted by facsimile or electronically by PDF shall be deemed to be their original signatures for all purposes.

8.10 Governing Law and Jurisdiction. This Agreement shall be construed in accordance with the laws of the State of North Carolina and shall be treated, in all respects, as a North Carolina contract. Each of the Parties to this Agreement irrevocably submits to the exclusive jurisdiction of the state courts of, and the federal courts sitting in, the State of New York for the resolution of any disputes relating this Agreement and the transactions contemplated hereby.

*[signature page follows]*

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first above-written.

**SELLER:**

**BAMBOO PINK, INC.**

By: /s/ Frances Gadbois  
Name: Frances Gadbois  
Title: President and CEO

**PURCHASER:**

**CHARLES & COLVARD DIRECT**

By: /s/ Randall N. McCullough  
Name: Randall N. McCullough  
Title: President and CEO

**Solely for purposes of ARTICLES 7 and 8:**

/s/ Frances Gadbois  
Frances Gadbois

[Signature page to Asset Purchase Agreement]

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## SERVICES AND LICENSING AGREEMENT

This SERVICES AND LICENSING AGREEMENT (this "Agreement") is entered into effective as of the 19<sup>th</sup> day of October, 2012 (the "Effective Date"), by and between Charles & Colvard Direct, LLC ("CCD"), a North Carolina limited liability company with its principal place of business at 300 Perimeter Park Drive, Morrisville, NC 27560 and JudeFrances Jewelry, Inc. ("JF"), a California corporation with its principal place of business at 2151 Michelson Drive, Suite 170, Irvine, CA 92612.

WHEREAS, CCD, a wholly-owned subsidiary of Charles & Colvard Ltd., operates the direct-to-consumer home party jewelry sales business; and

WHEREAS, CCD desires to engage the services of JF and license certain intellectual property of JF specifically for CCD's Lulu Avenue™ line to advance its business, for the consideration set forth herein.

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein, and other valuable consideration, the Parties agree as follows:

## 1. DEFINITIONS

As used in this Agreement, the following terms shall have the meanings set forth below:

"Affiliates" means any corporation or business entity controlled by, controlling, or under common control with a Party to this Agreement only for so long as such control continues to exist. For this purpose, "control" shall mean direct or indirect beneficial ownership of at least fifty percent (50%) of the voting stock or income interest in such corporation or other business entity, or such other relationship as, in fact, constitutes actual control.

"Agreement Year" means each one year period during the Term, with "Year 1" commencing on the Effective Date, "Year 2" one year thereafter, and so forth.

"Asset Purchase Agreement" means the Asset Purchase Agreement dated as of October 19, 2012, between CCD and Bamboo Pink, Inc., pursuant to which Bamboo Pink, Inc., sold and conveyed inventory and certain other assets to CCD.

"Bamboo Pink Molds" means the jewelry molds conveyed to CCD by Bamboo Pink, Inc. pursuant to the Asset Purchase Agreement.

"CCD Marks" means trademarks and service marks, both registered and under common law, as well as trade dress, names, trade names, logos, insignia, symbols, designs, combinations thereof, or other marks identifying CCD or its Affiliates, or its or their respective products, including without limitation the Love Knot Logo.

"Deliverables" means drawings, design art, support renderings, molds, models, samples (and sample review and approval for such designs) for 2 full lines each calendar year (Spring and Fall) with a minimum of at least [\*\*\*\*] unique jewelry items including products developed for interim holiday/seasonal campaigns, and related marketing materials, provided that CCD will pay the third party manufacturers cost (if any) for building any molds, all as further described on Exhibit A.

[\*\*\*\*] Confidential treatment requested pursuant to a request for confidential treatment filed with the Securities and Exchange Commission. Omitted portions have been filed separately with the Commission.

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“Intellectual Property Rights” means any trade secret, patent, copyright, trademark, know-how, moral, and similar rights of any type under the applicable laws of any governmental authority, domestic or foreign, including without limitation all applications, registrations, and issuances relating to any of the foregoing.

“JF Name” means “JudeFrances” and such other names, service marks, logos, insignia or trademarks identifying JF or its Affiliates as mutually agreed by the Parties in writing.

“Love Knot Logo” means the “love knot” logo comprising or incorporating the “love knot” trademark, U.S. Registration No. 4,180,227, conveyed by Bamboo Pink, Inc. to CCD pursuant to the Asset Purchase Agreement.

“Lulu Avenue Brand” means the logos, symbols, designs and combinations thereof bearing the JF Name and the CCD Marks, as developed by one or both Parties during the Term and approved in writing by CCD.

“Net Revenue” means the amounts received by CCD for sales by CCD of the Products, less all (a) applicable refunds and returns, (b) sales credits accrued in accordance with generally accepted accounting principles, (c) applicable taxes, (d) reimbursement of customer expenses or pass-through costs from customers, or (e) other similar deductions.

“Party” means CCD or JF; and “Parties” means CCD and JF, collectively.

“Products” means the fashion and moissanite jewelry manufactured by or on behalf of Lulu Avenue, a division of CCD, which replicates the jewelry designs provided by JF as Deliverables under this Agreement.

“Royalty Payments” means the 2012 Net Revenue Payment and Post-2012 Net Revenue Payments, collectively.

“Services” has the meaning set forth in Section 2.

## **2. SERVICES**

2.1 Services. Subject to the terms and conditions of this Agreement, during the Initial Term and any Renewal Terms, JF shall develop and provide to CCD those services identified on the attached Exhibit A and otherwise in this Agreement (“Services”) and the Deliverables. Unless otherwise distinguished in this Agreement, “Services” and “Deliverables” shall collectively be referred to as “Services.” Unless otherwise set forth in this Agreement, JF shall furnish, at its own expense, the equipment, supplies and other materials used to perform the Services. CCD shall not control the manner or means by which JF performs the Services. Any additional services that CCD may request be provided by JF (including, for example, graphic design services) shall be subject to mutual agreement of the Parties as to such services and JF’s compensation therefor, which shall be set forth in an addendum executed by the Parties.

2.2 Project Management. The Parties shall, during the Initial Term and any Renewal Terms, maintain within its organization a project manager to serve as such Party’s primary point of contact for day-to-day communications, consultation and decision-making regarding the Services hereunder. Each such project manager shall be responsible for providing all day-to-day consents and approvals. The project managers shall meet no less than each calendar quarter



during the Initial Term and any Renewal Terms to track performance against contractual obligations, and address ways to improve the execution of the obligations hereunder. The Parties shall ensure its project manager has the requisite organizational authority, and necessary skill, experience and qualifications, to perform in such capacity. Each of CCD's and JF's initial project managers are: For CCD, Sondra Johnson, Director of Merchandising ([sjohnson@charlesandcolvard.com](mailto:sjohnson@charlesandcolvard.com)) for product development; and for JF, Susan Bush, Vice President ([susan@judefrances.com](mailto:susan@judefrances.com)). The Parties shall use commercially reasonable efforts to maintain the same project manager in place throughout the Initial Term and any Renewal Terms. If either CCD's or JF's project manager ceases to be employed by such Party or such Party otherwise wishes to replace its project manager, such Party shall promptly name a new project manager by written notice to the other Party.

### 3. LICENSE GRANTS

3.1 License to the JF Name. Subject to the terms and conditions of this Agreement, JF hereby grants to CCD a worldwide, exclusive, non-transferable license to use and display and have used and displayed during the Term the JF Name and JF Property (to the extent incorporated into Deliverables hereunder or as otherwise provided as part of the Services) solely as part of the Lulu Avenue Brand (and not for use other than in association with the Lulu Avenue Brand) in connection with the branding, design, marketing, advertisement, promotion, sales and distribution of the Deliverables and Products, solely through a direct-to-consumer home-based jewelry business opportunity channel (or, with JF's prior written consent, to be granted or withheld at JF's discretion, other sales channels), all in accordance with JF's trademark guidelines furnished by CCD to JF in writing. For the avoidance of doubt, the foregoing license does not apply outside of the direct-to-consumer home-based jewelry business opportunity channel (or as otherwise approved with JF's prior written consent), and nothing hereunder is intended to restrict JF from using the JF Name outside of the direct-to-consumer home-based jewelry business opportunity channel. Any use by CCD of the JF Name pursuant to this license right must be pre-approved in writing (not to be unreasonably withheld or conditioned) by one of the following JF's representatives: Frances Gadbois, Susan Bush or any other project manager designated by JF in writing from time to time. If such JF representative does not respond to a request from CCD for such approval in writing by the forty-ninth (49<sup>th</sup>) hour after CCD's written request for such approval, the written approval by JF shall be deemed given for purposes of this Agreement. For clarity, written requests for approval and approvals may be provided through traditional means or the use of email correspondence.

3.2 License to CCD Marks. Subject to the terms and conditions of this Agreement, CCD hereby grants to JF a worldwide, non-exclusive, non-transferable license to use the CCD Marks solely in connection with JF's development of the Lulu Avenue Brand and performance of the Services involving the branding and sourcing of the Products in accordance with the terms of this Agreement and CCD's trademark guidelines furnished by CCD to JF in writing from time to time, and for no other purpose.

3.3 Reservation of Rights. Except as otherwise expressly provided in this Agreement, nothing in this Agreement shall be construed as granting a Party any rights to use, or any other rights in or to, the Intellectual Property Rights of another Party. All goodwill arising out of use of a Party's Marks will inure solely to the benefit of the owner of such Marks.

### 4. FEES AND EXPENSES

4.1 Consideration. As full compensation for the Services and the rights granted to CCD in this Agreement, CCD shall pay JF the following amounts during the Initial Term and any Renewal Terms:

4.1.1 \$[\*\*\*\*] in each Agreement Year (“Agreement Year Payment”), provided that in the event this Agreement is terminated other than at the end of an Agreement Year, such fees will be prorated through the date of such termination.

4.1.2 [\*\*\*\*]% of Net Revenue in 2012 (“2012 Net Revenue Payment”).

4.1.3 Beginning January 1, 2013 and continuing during the remainder of the Term (collectively, “Post-2012 Net Revenue Payment”):

Net Revenue in a Calendar Year (in USD)	Percentage of Net Revenue Payable to JF
Up to \$[****]	[****]%
\$[****] up to \$[****]	[****]%
\$[****] up to \$[****]	[****]%
\$[****] up to \$[****]	[****]%
\$[****] up to \$[****]	[****]%
\$[****] up to \$[****]	[****]%
\$[****] up to \$[****]	[****]%
\$[****] up to \$[****]	[****]%
Over \$[****]+	[****]%

#### 4.2 Payment Terms.

4.2.1 Agreement Year Payment. Subject to the terms of this Agreement, CCD shall make the Agreement Year Payment in monthly intervals, with the first such installment payable upon the Effective Date, and subsequent installments at the beginning of each calendar month thereafter during the Initial Term and any Renewal Terms.

4.2.2 Royalty Payments. Subject to the terms of this Agreement, the 2012 Net Revenue Payment shall be calculated as of December 31, 2012, and paid on or before January 15, 2013. The Post-2012 Net Revenue Payments shall be calculated as of the last day of each calendar quarter using the Net Revenue actually received by CCD in that calendar quarter as soon as practical, but not later than 15 days after each calendar quarter accounting close.

#### 4.3 Expenses.

4.3.1 CCD will reimburse JF for all reasonable and documented business travel expenses incurred by JF employees to the extent such travel is for the benefit of CCD (e.g., if a business trip pursuant to this section is made equally for the business purposes of JF and CCD, CCD would reimburse JF for half of the reimbursable business travel expenses).

4.3.2 CCD will reimburse JF for all reasonable and documented, out-of pocket business expenses incurred by JF in connection with its performance of the Services (including, without limitation, postage, shipping, courier, printing and other similar charges), but excluding than JF’s overhead and employee compensation expenses.

[\*\*\*\*] Confidential treatment requested pursuant to a request for confidential treatment filed with the Securities and Exchange Commission. Omitted portions have been filed separately with the Commission.

4.3.3 It shall be considered reasonable to utilize business class for flights that are four (4) hours or more in duration.

4.3.4 CCD will pay direct all jewelry samples, models and molds used for the Deliverables.

4.3.5 Notwithstanding anything herein to the contrary, CCD must approve in writing in advance all costs and expenses payable hereunder, other than travel expenses, that are over \$500.

4.3.6 CCD will pay direct manufacturing costs, including insurance, freight and duties. CCD will reimburse JF for any such reasonable and documented costs incurred by JF (subject to advance approval as required by Section 4.3.5) and will reimburse any documented production commissions for which the CCD and JF have mutually agreed in writing in advance. Without limiting the generality of the foregoing, CCD agrees that it and JMO Corp. have or will enter into, and during the Term CCD will maintain (to the extent JMO Corp. abides by the terms and conditions thereof), at CCD's expense, a contractor's agreement pursuant to which JMO Corp. will provide production management services with respect to the Products designed by JF pursuant to this Agreement that are manufactured for the Lulu Avenue Brand.

4.3.7 JF shall submit any permitted expenses for which payment is due from CCD according to the terms of this Agreement for reimbursement by CCD within twenty (20) days of the end of each month during the Term. CCD will pay all undisputed amounts of each such invoice from JF within twenty (20) days after CCD'S receipt thereof. CCD may dispute invoiced amounts in good faith; provided, however, that the Parties shall negotiate in good faith promptly to resolve any such disputes. Upon resolution of any such dispute, any formerly disputed amounts that are determined to be payable by CCD pursuant to such resolution shall be paid to JF within fifteen (15) days after such resolution.

4.4 Taxes. All amounts payable under this Agreement are exclusive of all use, sales, property, value added, withholding and other taxes. Each Party will be responsible for and pay all such taxes, except for taxes payable on the income of the other Party or its Affiliates. If a Party is exempt from paying such taxes, it will provide the other Party with evidence of such exemption.

4.5 Audit Right. CCD shall keep complete and accurate books and records showing the description price, quantity and date of manufacture and sale of all Products. CCD shall make such books and records available during normal business hours for inspection and audit by JF (or its authorized representative), who shall be entitled to take copies of or extracts from the same. If such inspection or audit should reveal a discrepancy in the royalties paid from those payable under this Agreement, CDD shall immediately make up the shortfall and shall reimburse JF for any professional charges incurred for such audit or inspection. Such inspection and audit right of JF shall expire six (6) months after expiration of the Tail Period.

## 5. TERM AND TERMINATION

5.1 Term of Agreement. This Agreement commences as of the Effective Date and shall remain in effect for three (3) years ("Initial Term"), unless terminated earlier in accordance with the provisions hereof. CCD shall have the option to extend the term of this Agreement for an additional period of one (1) year (a "Renewal Term"), provided that the option to extend in the first year may only be exercised if (i) this Agreement has not yet terminated, (ii) CCD is in

material compliance with its obligations under the terms of this Agreement, and (iii) the Net Revenue for the Products exceeds [\*\*\*\*] Dollars (\$[\*\*\*\*]) in the Agreement Year immediately preceding the Renewal Term. Such option may be exercised (if exercisable) by written notice to JF given not later than sixty (60) days prior to the end of the Initial Term. The Initial Term and the Renewal Term, if any, are collectively referred to herein as the "Term". This Agreement may be extended for such additional period or periods as may be mutually agreed by CCD and JF.

5.2 Termination. A Party may terminate this Agreement at any time upon material breach by another Party of the obligations herein, provided that it has first provided written notice to the other Parties of the breach and the other Parties have failed to cure such breach within thirty (30) days following such notice.

5.3 Effect of Termination.

(a) Obligations of JF. Upon expiration or termination of this Agreement for any reason, or at any other time upon CCD's written request, JF shall within ten (10) days after such expiration or termination (i) deliver to CCD all Deliverables (whether complete or incomplete), CCD Property (including without limitation molds for the CCD Property) and materials provided for JF's use by CCD; (ii) deliver to CCD all tangible documents and materials (and any copies) containing, reflecting, incorporating or based on the Confidential Information of CCD; (iii) permanently erase all of the Confidential Information of CCD from JF's computer systems; (iv) cease using the CCD Marks; and (v) certify in writing to CCD that JF has complied with the requirements of this Section.

(b) Obligations of CCD. Upon expiration or termination of this Agreement for any reason (and regardless of fault of or breach of this Agreement by either party), CCD shall (i) pay JF on a proportional basis any fees then due and payable for any Services completed up to and including the date of such termination, and continue the Royalty Payments pursuant to this Agreement; and (ii) deliver to JF all JF Property (including without limitation molds for the JF Property).

(c) Sell-Off Period. Following the expiration or termination of this Agreement, CCD may continue selling off its existing inventory of Products, inventory that is work-in-process and may replenish orders of existing Products for sale and distribution, and during such period CCD may continue to include the JF Name in marketing materials (as and to the extent herein provided) for such purposes as set forth above, all of the foregoing for a period of two (2) years following the date of such expiration or termination (such period, the "Tail Period"); provided, that all sales of such inventory to be governed by the terms of this Agreement, including but not limited to the provisions relating to payment of royalties.

[\*\*\*\*] Confidential treatment requested pursuant to a request for confidential treatment filed with the Securities and Exchange Commission. Omitted portions have been filed separately with the Commission.

5.4 Survival. Notwithstanding any other provision of this Agreement, the “Term” shall be deemed to end upon the termination of this Agreement; however, the terms and conditions of Sections 1, 4.1.2, 4.1.3 (with respect to Products marketed and sold using the Lulu Avenue Brand), 4.2.2, 4.3 (to the extent of expenses incurred prior to termination), 4.4, 5.3, 5.4, 6, 7, 8.2, 9-13 shall survive the expiration or termination of this Agreement for any reason whatsoever, and the terms and conditions of Section 3.1 shall survive the expiration or termination of this Agreement for any reason whatsoever for duration of the Tail Period, provided, however, that upon expiration of Section 13.4.1(b), the license in Section 3.1 shall automatically convert to a non-exclusive license.

## 6. INTELLECTUAL PROPERTY RIGHTS

6.1 JF Property. CCD acknowledges that JF possesses certain inventions, processes, know-how, trade secrets, designs, other intellectual properties, and other assets, which have been independently developed or obtained by JF and which relate to its business or operations, including without limitation the JF Name, the Bamboo Pink Molds, and all Intellectual Property Rights associated therewith (collectively, “JF Property”). Except as otherwise expressly set forth under this Agreement, as between the Parties, all right, title and interest in and to the JF Property, and all improvements and modifications thereof created, conceived or otherwise developed by JF in connection with its performance under this Agreement shall be and remain the exclusive property of JF. For clarity, any molds of designs that constitute JF Property shall themselves constitute JF Property.

6.2 CCD Property. JF acknowledges that CCD possesses certain inventions, processes, know-how, trade secrets, designs, other intellectual properties, and other assets, which have been independently developed or obtained by CCD and which relate to its business or operations, including without limitation the Love Knot Logo, and all Intellectual Property Rights associated therewith (collectively, “CCD Property”). Except as otherwise expressly set forth under this Agreement, as between the Parties, all right, title and interest in and to CCD Property, and all improvements and modifications thereof created, conceived or otherwise developed by CCD in connection with its performance under this Agreement shall be and remain the exclusive property of CCD. For clarity, any molds of designs that constitute CCD Property shall themselves constitute CCD Property. For the avoidance of doubt, CCD Property excludes the Bamboo Pink Molds.

6.3 Intellectual Property Developed in Connection with Agreement. All inventions, processes, know-how, trade secrets, designs, other intellectual properties, and other assets, developed, conceived, or prepared or created by a Party or its agents with respect to the Services, Deliverables, or Products, including all Intellectual Property Rights associated therewith or other Intellectual Property Rights, shall be owned by the preparing or creating Party as “JF Property” or “CCD Property,” as the case may be, to be set forth in an addendum executed by the Parties that incorporates this Agreement by reference with reasonably specific reference to such property and designating the preparing or creating Party thereof. For clarity, to the extent that CCD provides specifications for a Deliverable or Product or other creation hereunder, such specifications and all Deliverables, Products, molds, and other materials created therefrom and all Intellectual Property Rights therein, shall be CCD Property, except as otherwise expressly provided in such addendum. Notwithstanding anything herein to the contrary, all molds that incorporate the Love Knot Logo as an integral part thereof (and not just as a stamp or other ancillary component of the design) shall be CCD Property, except as otherwise expressly provided in such addendum.

Notwithstanding the foregoing, each Party agrees that advice, feedback, criticism or comment given by it to the other Party in connection with the other Party's Intellectual Property Rights are given to that Party without claim of intellectual property right, may be used by the receiving Party freely and without restriction, and will not enable the giving Party to claim any interest in or ownership of such other Party's Intellectual Property Rights. Each Party hereby irrevocably and unconditionally assigns to the other Party and forever waives and agrees never to assert against the other Party all right, title, and interest, including without limitation all Intellectual Property Rights, in and to such feedback.

6.4 Jointly Created Property. If the Parties intend the joint creation of any Property in the course of performance under this Agreement, they agree to set forth such Property in an addendum hereto in which they will each acknowledge that fact in writing with reasonably specific reference to the Property to be created and a written project plan therefor. All jointly created Property (including without limitation molds and designs) will be owned by CCD, except as otherwise expressly provided in an addendum. Advice, feedback, criticism or comment by one Party regarding the other Party's development of Property will not constitute joint production, except as otherwise expressly set forth hereunder.

6.5 Third Party Materials. JF shall not knowingly include in the Deliverables, and operation of the Deliverables in accordance with the specifications and documentation shall, to JF's knowledge, not require the use of, any materials owned or licensed by any third party (including Affiliates of JF) ("Third-Party Materials"), other than Third-Party Materials expressly approved by CCD and described in the applicable exhibit and licensed to CCD in accordance with this Section ("Approved Third-Party Materials"). Not later than the date specified on the applicable exhibit, JF shall secure for the benefit of CCD, at JF's sole cost and expense, all necessary, rights, licenses, consents and approvals necessary for CCD to use the Approved Third-Party Materials in connection with its business operations or any portion thereof or successor thereto, perpetually and worldwide, and to freely sublicense and assign such rights in connection with sublicensing or assigning, as the case may be, the Deliverables or any portion thereof or successor thereto. Promptly upon execution of such license agreements, JF shall provide CCD with copies thereof. All royalties, license fees or other consideration payable in respect of such licenses for Approved Third-Party Materials are included in the fees hereunder unless specifically stated otherwise in the exhibit, and any additional amounts shall be the sole responsibility of JF.

## 7. CONFIDENTIALITY

7.1 Confidential Information. "Confidential Information" of a Party, (the "Disclosing Party"), means any information or proprietary materials (in every form and media) of such Party, designated in writing as "Confidential," "Proprietary," or the like, or that a Party has a reasonable basis to believe is confidential or proprietary, made available to, disclosed to or otherwise obtained by another Party (the "Receiving Party") in connection with the Agreement, including, but not limited to, information relating to the Disclosing Party's products, services and/or service plans, trade secrets, inventions, data, designs, reports, analyses, costs, prices or discount structure, names, customer lists, finances, marketing plans, business plans, strategic plans or business opportunities.

7.2 Use of Confidential Information. The Disclosing Party retains all right, title and interest in, to and under its Confidential Information and grants only the rights expressly described in the Agreement. The Receiving Party agrees not to use any Confidential Information of the Disclosing Party for any purpose except for performing the Receiving Party's obligations pursuant to the Agreement. The Receiving Party shall promptly notify the Disclosing Party in the event of any unauthorized use or disclosure of the Disclosing Party's Confidential Information.

The Receiving Party: (i) may copy the Disclosing Party's Confidential Information only as required to perform its obligations hereunder and shall reproduce the Disclosing Party's proprietary rights notices on any such copies, in the same manner in which such notices were set forth in or on the original; (ii) must return or destroy the Disclosing Party's Confidential Information when no longer needed, upon request, or at termination or expiration of the Agreement; (iii) must use the same care it uses to protect, and avoid unauthorized disclosure, release, or use of its own Confidential Information of like importance, but not less than reasonable care; (iv) may disclose the Disclosing Party's Confidential Information only to those employees, affiliates and independent contractors who have a need to know and use the Confidential Information for purposes permitted or required by this Agreement, provided that the employees, affiliates and independent contractors have agreed in writing, prior to any disclosure of Confidential Information to any such employee, affiliate or independent contractor, to maintain the confidentiality of the information under terms no less stringent than those specified herein and are not competitors of the Disclosing Party; and (v) may use Confidential Information to perform its obligations under this Agreement, and its employees, affiliates and independent contractors with a need to know are authorized to do the same.

7.3 Exclusions from Confidential Information. Notwithstanding the provisions of Section 7.2, the following will not be considered Confidential Information under this Agreement: (a) information that is independently developed by the Receiving Party without use of, reference to or reliance on the Disclosing Party's Confidential Information; (b) information that is or has become publicly known through no fault or act of the Receiving Party; (c) information that is lawfully known by the Receiving Party at the time of disclosure and is not subject to restriction; and (d) information that is lawfully obtained, without a duty of confidentiality, from a third party that rightfully makes such disclosure without breach of a duty of confidentiality or other wrongful act by the Receiving Party. The Receiving Party may disclose Confidential Information of the Disclosing Party if required to do so by law; provided that the Receiving Party promptly furnishes the Disclosing Party with written notice of such legally required disclosure and cooperates with the Disclosing Party's reasonable efforts, at Disclosing Party's cost and expense, to obtain a protective order or other appropriate protection of the Disclosing Party's Confidential Information.

## 8. WARRANTIES

8.1 Mutual Representations and Warranties. Each Party represents and warrants to the other Parties that: (a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction in which it is organized; (b) the execution, delivery and performance of this Agreement has been duly and validly authorized by all necessary corporation action on the part of such Party; (c) it has all of the rights and licenses necessary to perform its obligations under this Agreement and to grant the other Parties the rights and licenses that are granted herein; and (d) this Agreement constitutes a valid and binding obligation of such Party, enforceable in accordance with its terms.

8.2 JF Representations and Warranties. JF represents and warrants to CCD that:

8.2.1 the Services shall function and perform in all material respects in accordance with the applicable Documentation, all express specifications, drawings, plans, instructions, samples and other descriptions, as well as any other criteria referred to in the applicable exhibit or mutually agreed by the Parties in writing;

8.2.2 JF shall perform all activities in a good, timely, efficient, professional and workmanlike manner using diligence, due care and skill and at a level at least equivalent to

industry standards and practices; provided, however, that where this Agreement specifies a particular standard or criteria for performance, this warranty is not intended to and does not diminish that standard or criteria for performance;

8.2.3 the provision of the Services hereunder will not violate any applicable laws, rules or regulations, and will not conflict with or result in any breach or default under any contracts or agreements to which JF is bound;

8.2.4 except as otherwise expressly provided hereunder, CCD will receive good and valid title to all Deliverables, free and clear of all encumbrances and liens of any kind;

8.2.5 to the best knowledge of JF, the Services (which, for clarity, include Deliverables) do not and will not violate or infringe upon the intellectual property right or any other right whatsoever of any person, firm, corporation or other entity; and

8.2.6 JF is the sole and exclusive owner of the JF Name and JF Property; (b) Love Knot Logo is valid, in existence and registered with the U.S. Patent and Trademark Office; (c) there are no claims and/or actions by any third party relating to the JF Name or and JF Property; and (d) JF has the right to grant CCD the license to use the JF Name and JF Property as described herein.

## 9. INSURANCE

During the Term, JF shall maintain in force adequate workman's compensation, commercial general liability, and other forms of insurance, in each case with insurers reasonably acceptable to CCD, with policy limits sufficient to protect and indemnify CCD and its Affiliates, and each of their officers, directors, agents, employees, subsidiaries, partners, members and controlling persons, from any losses resulting from JF's or JF's agents, servants or employees conduct, acts, or omissions. CCD shall be listed as additional insured under such policy, and JF shall forward a certificate of insurance verifying such insurance upon CCD's written request, which certificate will indicate that such insurance policies may not be cancelled before the expiration of a thirty (30) day notification period and that CCD will be immediately notified in writing of any such notice of termination.

## 10. INDEMNITY

10.1 Each Party shall indemnify, defend and hold harmless the other Party, its directors, officers and employees (each Party obligated to indemnify hereunder, an "Indemnitor" and each Party entitled to indemnification hereunder, an "Indemnitee") from and against any claims, demands, suits, actions, causes of action, costs, losses and expenses (including, without limitation, reasonable attorneys' fees and costs) brought by a third party (collectively, "Claims") suffered, assessed against or otherwise incurred by the Indemnitee as a result of Indemnitor's (a) breach of any covenant or agreement under the terms of this Agreement or (b) negligent act, omission or willful misconduct. Further, JF shall indemnify, defend and hold harmless CCD, its directors, officers and employees from and against any Claims suffered, assessed against or otherwise incurred by CCD arising out of or relating to any claim or allegation that the Deliverables infringe, misappropriate or otherwise violate any Intellectual Property Rights of any third party.

10.2 Without limiting JF's indemnification obligations pursuant to Section 10.1 or obligations elsewhere in this Agreement, if JF, based on advice of counsel obtained at JF's expense, believes that any of the Deliverables may violate a third party's Intellectual Property Rights, CCD will immediately cease its use of the Deliverables as reasonably requested in writing



by JF and will cooperate with JF in modifying the Deliverables to be non-infringing or, to obtain a license to allow for continued use, provided that JF shall not be responsible for the payment of any royalties or other amounts under any such license.

## 11. LIMITATION OF LIABILITY

IN NO EVENT A PARTY BE LIABLE TO ANOTHER PARTY FOR ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFITS AND LOST BUSINESS), WHETHER BASED ON BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY, OR OTHERWISE ARISING OUT OR RELATED TO THIS AGREEMENT, AND WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. Notwithstanding anything to the contrary contained herein, the limitations of liability contained in this Section shall not apply to the Parties' indemnification obligations under this Agreement, or any termination of this Agreement other than as expressly provided hereunder.

## 12. NOTICES

Except as specifically provided herein, all notices required hereunder shall be in writing and shall be given by personal delivery, international courier service of recognized reputation (e.g., DHL), or by airmail, certified or registered, postage prepaid, return receipt requested, to the Parties at their respective addresses as set forth below, or to any Party at such other addresses as shall be specified in writing by such Party to the other Party in accordance with the terms and conditions of this Section 12. Advance copy may be provided to the e-mail address below, followed by original document being provided as previously stated. All notices shall be deemed effective upon personal delivery, or one business day following receipt or seven days following deposit in the mail in accordance with this Section 12, or three business days following deposit with any international courier service of recognized reputation (e.g., DHL) in accordance with this Section 12.

### CCD:

Charles & Colvard Direct, LLC  
Attn: Randall N. McCullough  
Manager  
300 Perimeter Park Drive, Suite A  
Morrisville, NC 27560

### JF:

JudeFrances Jewelry, Inc.  
Attn: Frances Gadbois  
President  
2151 Michelson Drive, suite 170  
Irvine, CA 92612

With a copy to:

Bryan Friedman, Esq.  
Friedman, Stroffe and Gerard PC  
19800 MacArthur Boulevard, Suite 1100  
Irvine, California 92612

### 13. MISCELLANEOUS

13.1 Entire Agreement. This Agreement (including Exhibit A, incorporated herein by reference) constitutes the entire agreement among the Parties, and supersedes all prior oral and written understandings, among the Parties regarding the subject matter hereof. There are no agreements, understandings or promises, whether express or implied, that a Party has relied upon in signing this Agreement or that will be legally binding or enforceable against a Party other than this Agreement. Any modifications to this Agreement must be in writing and signed by authorized representatives of CCD and JF.

13.2 Press Release. CCD and JF agree to the mutual development and issuance within thirty (30) days of the Effective Date of a press release by CCD announcing the relationship contemplated by this Agreement.

13.3 Independent Parties. Nothing contained herein shall be deemed to create or be construed as creating a joint venture or partnership among the Parties. Neither Party is, by virtue of this Agreement or otherwise, authorized as an agent or legal representative of the other Party. Neither Party is granted any right or authority to assume or to create any obligation or responsibility, express or implied, on behalf of or in the name of the other Party or to bind such other Party in any manner. Further, it is not the intention of this Agreement or of the Parties hereto to confer a third party beneficiary right of action upon any third party or entity whatsoever, and nothing hereinbefore or hereinafter set forth shall be construed so as to confer upon any third party or entity other than the Parties hereto a right of action under this Agreement or in any manner whatsoever.

#### 13.4 Non-Solicitation and Non-Compete.

13.4.1 JF agrees that during the Term and (a) for a period of twelve (12) months thereafter, JF shall not make any solicitation to employ CCD's personnel without written consent of CCD, to be given or withheld in CCD's sole discretion; provided, however, that such restriction shall not apply with respect to any individual who prior to the date hereof was an employee or independent contractor of JF or Bamboo Pink, Inc.; and (b) for a period of twelve (12) months thereafter, or if a court finds twelve (12) months excessive, then six (6) months thereafter, JF agrees that it shall not, directly or indirectly through one (1) or more Affiliates or intermediaries, engage in the business of marketing, distribution or sale of jewelry in the direct-to-consumer home-based jewelry business opportunity channel. In addition, JF will not make any further use of the Love Knot Logo, other than in connection with its Services under this Agreement and the design of the Deliverables hereunder.

13.4.2 CCD agrees that during the Term and for a period of twelve (12) months thereafter, CCD shall not make any solicitation to employ JF's personnel without written consent of JF, to be given or withheld in JF's sole discretion.

13.5 Waiver. No waiver of any provision of this Agreement or any rights or obligations of a Party hereunder shall be effective, except pursuant to a written instrument signed by the Party or Parties waiving compliance, and any such waiver shall be effective only in the specific instance and for the specific purpose stated in such writing.

13.6 Amendments. All amendments or modifications of this Agreement shall be binding upon the Parties despite any lack of consideration so long as the same shall be in writing and executed by authorized representatives of both Parties in accordance with the other terms of this Agreement regarding modifications.

13.7 Severability of Provisions. In the event that any provision hereof is found invalid or unenforceable pursuant to judicial decree or decision, the remainder of this Agreement shall remain valid and enforceable according to its terms.

13.8 Assignment. Neither JF nor CCD shall assign any rights, or delegate or subcontract any obligations, under this Agreement without the other Party's prior written consent. Any assignment in violation of the foregoing shall be deemed null and void. For purposes of this Agreement, a change in ownership of less than fifty-one percent (51%) of the membership interests of CCD or shares of JF shall not be deemed an assignment or delegation of this Agreement, unless within six (6) months of such change in control two (2) or more named executive officers of the relevant company are changed. Subject to the limits on assignment stated above, this Agreement will inure to the benefit of, be binding upon, and be enforceable against, each of the Parties hereto and their respective successors and assigns.

13.9 Forum and Jurisdiction. This Agreement and its validity, construction, interpretation and legal effect shall be governed by the laws and judicial decisions of the State of North Carolina without regard to conflict of laws principles. The exclusive venue for any dispute relating to this Agreement shall be in the courts of New York, New York.

13.10 Further Assurances. The Parties shall execute and deliver such additional instruments and other documents reasonably requested by such other Party in connection with the transactions contemplated by this Agreement and consistent with the terms hereof to memorialize, perfect or otherwise give effect to the transactions contemplated hereby.

13.11 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

*[signature page follows]*

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first set forth above.

**CHARLES & COLVARD DIRECT, LLC**

**JUDEFRANCIS JEWELRY, INC.**

By: /s/ Randall N. McCullough

By: /s/ Frances Gadbois

Name: Randall N. McCullough

Name: Frances Gadbois

Title: President and CEO

Title: President

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## EXHIBIT A

### SERVICES

#### **Description of Deliverables:**

##### Product and Design Development

- Design of all fashion and moissanite jewelry from scratch and exclusive to CCD's Lulu Avenue™ line\* and related production of design art, support renderings, samples and sample review and approval for such designs.
- The Parties will collaborate to design and develop in a timely manner the Lulu Avenue Brand for use in connection with the products and designs created hereunder.
- Provide all design (including related production of drawings, design art, support renderings, molds, models, samples and sample review and approval for such designs) for 2 full lines each calendar year (Spring and Fall) with a minimum of at least [\*\*\*\*] unique jewelry items including products developed for interim holiday/seasonal campaigns, and related marketing materials.
- The first of such line for the Spring 2013 Lulu Avenue catalog will be designed, with all materials in place including samples for photography, product descriptions, estimated landed cost, and manufacturing lead times as soon as practical, with delivery to CCD no later than [\*\*\*\*] for jewelry designed to incorporate Charles & Colvard Created Moissanite® and [\*\*\*\*] for fashion jewelry, unless otherwise mutually agreed by the Parties in writing. Future line dates will be negotiated with JF with estimated due dates to be mutually agreed by the Parties in writing.
- At least [\*\*\*\*]% of each line shall be designed to incorporate Charles & Colvard Created Moissanite® products.
- A minimum of [\*\*\*\*]% of each full line shall be new, non-core product.
- A minimum of [\*\*\*\*]% of each interim holiday/seasonal campaign offering shall be new, non-core product.
- For clarity, the definition of "Deliverables" hereunder does not include the JF Name.

\*All references to CCD's Lulu Avenue™ line or similar references includes any such successor or re-branded lines.

[\*\*\*\*] Confidential treatment requested pursuant to a request for confidential treatment filed with the Securities and Exchange Commission. Omitted portions have been filed separately with the Commission.

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## Description of Services:

### Complete Re-Branding of CCD's Lulu Avenue™ jewelry line

- Consultive support with respect to the branding and re-branding for the CCD Lulu Avenue™ jewelry line collection, website, promotional materials and packaging, display elements including without limitation review of all colors, art elements, and all collateral materials and JF review and approval on the Lulu Avenue™ Style Guide. All graphic design work is to be paid for directly by CCD.

### Pre-Production Marketing & Branding Support

- All pre-production planning and implementation including but not limited to:
  - o Design and branding support for the collection, display and packaging for all Lulu Avenue™ jewelry items.
  - o Review of all colors, art elements, etc. for the Lulu Avenue™ Style Guide.
  - o Design art, supporting renderings, sampling, sample review and approval for the Lulu Avenue™ line.
  - o All demand planning is at the sole discretion of CCD, and CCD shall approve in writing in advance all pricing and order execution, including without limitation, all designs and related branding, quality and specification requirements, and purchase orders and pricing prior to the submission of any manufacturing orders for the Products by JF.
  - o JF shall provide all consultative support in connection with pre-production sourcing and manufacturing activities, including without limitation, liaising with mutually approved manufacturers and suppliers to submit and process Product orders approved in writing by CCD, and on any quality, delivery, acceptance and related matters.

### Production Management

- Oversee production of all Lulu Avenue™ jewelry items designed by JF to ensure CCD-approved quality and specification requirements are met.
- All quantity demand planning is at the sole discretion of CCD, and CCD shall approve in writing in advance all pricing and order execution, including without limitation, all designs and related branding, quality and specification requirements, and purchase orders and pricing prior to the submission of any manufacturing orders for the Products by JF.
- JF shall provide all consultative support in connection with pre-production sourcing and manufacturing activities, including without limitation, liaising with mutually approved manufacturers and suppliers to submit and process Product orders approved in writing by CCD, and on any quality, delivery, acceptance and related matters.
- All shipment and delivery of the Products shall be direct from the manufacturer or supplier to CCD or its designee to receive such orders, as provided to JF in writing by CCD. JF agrees that it will not take receipt of Products unless agreed by the Parties in writing in advance.

### Field Sales Support

- At least [\*\*\*\*] in-person appearances annually to promote field growth and brand of the Lulu Avenue™ jewelry line.
- Monthly short video appearances and blogs (social media to be managed, written and updated by CCD, JF to provide content topics) to promote the branding, style and use tips, etc. regarding the Lulu Avenue™ jewelry line to excite interest.

[\*\*\*\*] Confidential treatment requested pursuant to a request for confidential treatment filed with the Securities and Exchange Commission. Omitted portions have been filed separately with the Commission.

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CHARLES & COLVARD®

NEWS RELEASE

300 Perimeter Park Drive, Suite A  
Morrisville, North Carolina 27560  
919.468.0399

**Company Contact:**  
Timothy Krist  
*Chief Financial Officer*  
919.468.0399 x295  
tkrist@charlesandcolvard.com

**Investor Relations:**  
Christopher Schreiber  
Taglich Brothers, Inc.  
Investor Relations Counsel  
800.383.8464  
cs@taglichbrothers.com

FOR IMMEDIATE RELEASE

## Lulu Avenue and JudeFrances Jewelry Enter Into Exclusive Design Agreement

*Charles & Colvard, a Direct Seller of Moissanite Jewelry, Enlists Style-Defining, Internationally Acclaimed Design House to Expand Unique Branded Look*

**MORRISVILLE, N.C.** – October 22, 2012 – Lulu Avenue™, a brand of Charles & Colvard Direct, LLC, the wholly owned home party direct sales subsidiary of Charles & Colvard, Ltd. (NASDAQ Global Select Market: CTHR), today announced it has entered into an exclusive services and licensing agreement with JudeFrances Jewelry, Inc. Under the agreement, JudeFrances will custom design fashion and moissanite jewelry for Lulu Avenue. Known for their classic, sexy, elegant yet affordable designs, JudeFrances’ fashion jewelry and moissanite designs for Lulu Avenue are targeted to add a unique, trendsetting, and style-defining element differing from any other designs on the market today.

The collection will include fashion and moissanite jewelry designed by Frances Gadbois and will be produced in the same factories that make the JudeFrances Jewelry Collection. “I wanted to create something that all women could wear, while still delivering the finest quality at affordable prices,” commented Ms. Gadbois. “This classic, sexy, elegant, and affordable collection will be composed of a myriad of earring charms that can be worn on several different hoops; on-trend bangles and stackable rings for day into evening looks; and interchangeable pendants and chain necklaces that I believe will make the collection for Lulu Avenue the most versatile fashion jewelry collection around.”

“The agreement supports our commitment to women’s business ownership through direct selling,” commented Jude Steele, co-founder of JudeFrances. “With our JudeFrances business model we created a repeat customer business by offering different earring charms for different occasions, and we want to bring this same concept to the fashion jewelry world.”



The agreement leverages Frances Gadbois and Jude Steele's exuberant personalities and fashion world access, further enhancing Lulu Avenue Style Advisors' fashion credibility, opportunity, and community.

"This strategic agreement leverages both the design strengths of JudeFrances with the direct sales expertise of Lulu Avenue in the home party jewelry sales business," commented Randy N. McCullough, Chief Executive Officer of Charles & Colvard, Ltd. "It signifies our commitment to the direct selling channel and we believe it positions the company for sustained growth by expanding business-to-consumer opportunities for moissanite gemstones."

"Our Style Advisors will have the exclusive, trendy, and fun merchandise that is indicative of the best opportunities available in direct sales," stated Kevin S. Raulston, General Manager of Charles & Colvard Direct, LLC. "Now our Style Advisors have affordable designer products available nowhere else upon which to build their businesses."

Charles & Colvard, Ltd. will file a Current Report on Form 8-K with the Securities and Exchange Commission describing the material terms of the transaction.

JudeFrances' fashion and moissanite designs for Lulu Avenue are expected to debut in the Lulu Avenue Spring 2013 catalog.

***About Charles & Colvard, Ltd.***

Charles & Colvard, Ltd., based in the Research Triangle Park area of North Carolina, is the global sole source of moissanite, a unique, near-colorless created gemstone that is distinct from other gemstones and jewels based on its exceptional fire, brilliance, luster, durability, and rarity. *Charles & Colvard Created Moissanite*<sup>®</sup> and *Forever Brilliant*<sup>®</sup> are currently incorporated into fine jewelry sold through domestic and international retailers and other sales channels. Charles & Colvard, Ltd. is headquartered in Morrisville, North Carolina, and its common stock is listed on the NASDAQ Global Select Market under the symbol "CTHR." For more information, please visit [www.charlesandcolvard.com](http://www.charlesandcolvard.com).

***About JudeFrances Jewelry***

JudeFrances Jewelry, the designer jewelry brand, is known for stunning designs and high-quality pieces made with only the most luxurious materials. Entering its 11th year in business, JudeFrances continues to grow and develop into one of the most coveted fine jewelry lines available. Each stunning piece perfectly reflects what today's smart, luxe sophisticate seeks: a look that like

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JudeFrances is Classic, Sexy, & Elegant. The JudeFrances Jewelry collections are retailed in Neiman Marcus and luxury boutiques across the United States, and the company is headquartered in Orange County, California. For more information, please visit [www.judefrances.com](http://www.judefrances.com).

*This press release contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. Statements expressing expectations regarding our future and projections relating to products, sales, revenues, and earnings are typical of such statements and are made under the Private Securities Litigation Reform Act of 1995. These forward-looking statements include, but are not limited to, statements about our plans, objectives, representations, and contentions and are not historical facts and typically are identified by use of terms such as “may,” “will,” “should,” “could,” “expect,” “plan,” “anticipate,” “believe,” “estimate,” “predict,” “continue,” and similar words, although some forward-looking statements are expressed differently.*

*All forward-looking statements are subject to the risks and uncertainties inherent in predicting the future. You should be aware that although the forward-looking statements included herein represent management’s current judgment and expectations, our actual results may differ materially from those projected, stated, or implied in these forward-looking statements as a result of many factors including, but not limited to, our dependence on consumer acceptance and growth of sales of our products resulting from our strategic initiatives; dependence on a limited number of customers; our current wholesale customers’ potential perception of us as a competitor in the finished jewelry business; general economic and market conditions, including the current economic environment; dependence on Cree, Inc. as the current supplier of the raw material; intense competition in the worldwide jewelry industry; the financial condition of our major customers; risks of conducting business in foreign countries; the pricing of precious metals, which is beyond our control; the potential impact of seasonality on our business; our ability to protect our intellectual property; the risk of a failure of our information technology infrastructure to protect confidential information and prevent security breaches; and possible adverse effects of governmental regulation and oversight, in addition to the other risks and uncertainties described in our filings with the Securities and Exchange Commission, or the SEC, including our Annual Report on Form 10-K for the fiscal year ended December 31, 2011 and subsequent reports filed with the SEC. Forward-looking statements speak only as of the date they are made. We undertake no obligation to update or revise such statements to reflect new circumstances or unanticipated events as they occur except as required by the federal securities laws, and you are urged to review and consider disclosures that we make in the reports that we file with the SEC that discuss other factors relevant to our business.*

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