

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
 Stylesheet Version v1.2

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SUBMISSION TYPE:	RESUBMISSION		
NATURE OF CONVEYANCE:	SECURITY INTEREST		
RESUBMIT DOCUMENT ID:	900753715		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Athletes First, LLC		02/27/2023	Limited Liability Company: DELAWARE
RECEIVING PARTY DATA			
Name:	Silicon Valley Bank		
Street Address:	3003 Tasman Drive		
City:	Santa Clara		
State/Country:	CALIFORNIA		
Postal Code:	95054		
Entity Type:	Corporation: CALIFORNIA		
PROPERTY NUMBERS Total: 2			
Property Type	Number	Word Mark	
Registration Number:	5595688	ATHLETES FIRST	
Registration Number:	5594888	ATHLETES FIRST	
CORRESPONDENCE DATA			
Fax Number:			
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>			
Phone:	3125805053		
Email:	jgambulos@thompsoncoburn.com		
Correspondent Name:	James Gambulos		
Address Line 1:	55 East Monroe Street		
Address Line 4:	Chicago, ILLINOIS 60603		
NAME OF SUBMITTER:	James Gambulos		
SIGNATURE:	/James Gambulos/		
DATE SIGNED:	03/08/2023		
Total Attachments: 12			
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INTELLECTUAL PROPERTY SECURITY AGREEMENT

This Intellectual Property Security Agreement (this “Agreement”) is executed and delivered as of February 27, 2023, by Athletes First, LLC, a Delaware limited liability company (“Borrower”), to Silicon Valley Bank (“Lender”).

W I T N E S S E T H:

WHEREAS, contemporaneously herewith, Lender is providing certain extensions of credit, loans and other financial accommodations (the “Financial Accommodations”) to Borrower evidenced by, among other documents, that certain Loan and Security Agreement of even date herewith by and between Borrower and Lender (as amended, renewed, restated or modified from time to time, the “Loan Agreement”);

WHEREAS, pursuant to the Loan Agreement, Borrower granted to Lender a security interest and lien in and to substantially all of Borrower’s assets, including, without limitation, patents, trademarks, trademark registrations, trade names, copyrights, all applications therefor and other intellectual or proprietary rights or interests; and

WHEREAS, Lender is willing to provide the Financial Accommodations to Borrower, provided, among other things, Borrower executes and delivers this Agreement to Lender.

NOW, THEREFORE, in consideration of the Financial Accommodations, the mutual promises and understandings of Borrower and Lender set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower covenants unto and agrees with Lender as follows:

1. **Incorporation of Loan Agreement Definitions.** All terms in this Agreement, including the Exhibits, which have an initial capital letter where not required by the rules of grammar, and which are not otherwise defined herein, are used herein as defined in the Loan Agreement.

2. **Collateral Assignment of Intellectual Property.** To secure the full and timely payment and performance of the Liabilities, Borrower hereby grants and conveys to Lender a security interest and Lien in and to all of Borrower’s right, title and interest in and to all of its now owned or existing and hereafter acquired or arising (collectively the “Intellectual Property Collateral”):

A. (i) trademarks, trademark registrations and applications therefor, including, without limitation, the trademarks, trademark registrations and applications listed on Exhibit “A”, (ii) renewals thereof, (iii) all income, royalties, damages and payments now and hereafter due or payable under and with respect thereto, including, without limitation, damages and payments for past or future infringements thereof, (iv) the right to sue for past, present and future infringements thereof, and (v) all rights corresponding thereto throughout the world (collectively the “Trademarks”);

B. (i) patents, patent registrations and applications therefor, including, without limitation, the inventions and improvements claimed in connection therewith, and the patents, patent registrations and the applications listed on Exhibit “B”, (ii) renewals, reissues, divisions, continuations, extensions and continuations-in-part thereof, (iii) all income, royalties, damages and payments now or hereafter due or payable under or with respect thereto, including, without limitation, damages and payments for past or future infringements thereof, (iv) the right to sue for past, present and future infringements thereof; and (v) all rights corresponding thereto throughout the world (collectively the “Patents”);

C. (i) copyrights and applications for registration, including, without limitation, the copyrights and applications for registration listed on Exhibit “C”, (ii) renewals thereof, (iii) all income, royalties, damages and payments now and hereafter due or payable under or with respect thereto, including, without limitation, damages and payments for past or future infringements thereof, (iv) the right to sue for past, present and future infringements thereof, and (v) all rights corresponding thereto throughout the world (collectively the “*Copyrights*”);

D. license agreements for Trademarks, Patents and Copyrights, whether Borrower is a licensor or licensee under any such license agreement, including, without limitation, the licenses listed on Exhibit “D”, and the right to prepare for sale, sell and advertise for sale all “Inventory” as defined in the Loan Agreement now or hereafter owned by Borrower and now or hereafter covered by such licenses (collectively the “Licenses”); and

E. the goodwill of Borrower’s business connected with and symbolized by the Trademarks, Patents, Copyrights and Licenses;

provided that the Intellectual Property Collateral shall not include any Excluded Property.

This Agreement is made for collateral purposes only. Borrower acknowledges and agrees that upon the occurrence and continuance of an Event of Default, and upon written notice to Borrower, the Intellectual Property Collateral shall be immediately conveyed to Lender without any further action by any party, and Lender shall have the power to use and/or sell the Intellectual Property Collateral. Borrower covenants and agrees to execute and deliver to Lender all agreements, instruments, documents and other written matter that Lender may request, in form and substance acceptable to Lender, to perfect and maintain perfected Lender’s security interests and Lien in and to the Intellectual Property Collateral and to consummate the transactions contemplated by this Paragraph 2.

3. **Restrictions on Future Agreements.**

A. Borrower agrees that until the Liabilities shall have been paid and satisfied in full and the Loan Documents have been terminated, Borrower will not, without Lender’s prior written consent, enter into any document, instrument or agreement which is inconsistent with Borrower’s obligations under this Agreement or any other Loan Document. Borrower further agrees that it will not take any action, or permit any action to be taken by others subject to their control, including licensees, or fail to take any action, which would affect the validity or

enforcement of the rights transferred to Lender under this Agreement. Notwithstanding anything to the contrary in this Section 3.A., Borrower may take any action permitted by the Loan Agreement that results in the creation of Permitted Liens and the consummation of Permitted Asset Sales.

B. Other than Permitted Liens and Permitted Asset Sales, Borrower hereby represents and warrants to Lender that Borrower has not granted any license or security interest to any Person other than Lender in connection with any of the Intellectual Property Collateral. Borrower hereby covenants unto Lender that until the Liabilities shall have been indefeasibly paid and satisfied in full and the Loan Documents have been terminated, other than to the extent constituting a Permitted Lien or a Permitted Asset Sale, Borrower shall not grant any license or security interest to any third party in connection with the Intellectual Property Collateral without Lender's prior written consent.

4. **New Trademarks, Patents, Copyrights and Licenses.** Borrower represents and warrants as of the date hereof that the Trademarks, Patents, Copyrights and Licenses listed on Exhibits "A", "B", "C" and "D" respectively constitute all of the trademarks, trademark registrations, patents, patent registrations, copyrights, applications therefor and licenses now owned by Borrower. If, prior to payment of the Liabilities in full, Borrower shall (i) obtain rights to any new trademarks, trademark registrations, trademark applications, patents, patent registrations, patent applications, copyrights, application for copyright registration or licenses, or (ii) become entitled to the benefit of any trademark, trademark registration, trademark application, copyright, application for copyright registration or license renewal, the provisions of Paragraph 2 above shall automatically apply thereto and Borrower shall provide Lender with prompt notice (not to exceed thirty calendar days) thereof. Borrower hereby authorizes Lender to modify this Agreement by amending Exhibits "A", "B", "C" and "D" to include any future trademarks, trademark registrations, trademark applications, patents, patent registrations, patent applications, copyrights, applications for copyright registration and licenses indicated in any such notice from Borrower.

5. **Royalties; Terms.** Borrower hereby agrees that the use by Lender of all Intellectual Property Collateral after the occurrence and during the continuance of an Event of Default as described above shall be without any liability for royalties or other related charges from Lender to Borrower. The term of the assignments granted herein shall extend until the earlier of (i) the expiration of each of the respective Trademarks, Patents, Copyrights and Licenses assigned hereunder, or (ii) the payment to Lender of the Liabilities in full and the termination of the Loan Documents. This Agreement and the security interest granted hereunder shall terminate on the date on which all the Liabilities (other than contingent indemnification and expense reimbursement obligations for which no claim has been asserted) have been indefeasibly paid in full and all commitments of Lender to provide loans and other financial accommodations to Borrower under the Loan Documents have terminated.

6. **[Reserved]**

7. **Nature and Termination of Lender's Security Interest.** This Agreement is made for collateral purposes only. Except as otherwise provided in Paragraphs 3 and 13 hereof, nothing

contained herein shall be deemed to limit in any way Borrower's right to use the Trademarks, Patents, Copyrights or Licenses or to grant to Lender any right to use the Trademarks, Patents, Copyrights or Licenses at any time when an Event of Default is not continuing.

8. **Duties of Borrower.** Borrower shall have the duty (i) to prosecute diligently any trademark, patent and copyright registration pending as of the date hereof or at any time hereafter, until the Liabilities shall have been paid in full, (ii) to make applications for trademarks, patents and copyrights, as appropriate, and (iii) to preserve and maintain all Intellectual Property Collateral (except in connection with any action that results in the creation of Permitted Liens and the consummation of Permitted Asset Sales involving Intellectual Property Collateral). Any expenses incurred in connection with such applications shall be borne by Borrower. Borrower shall not abandon any Intellectual Property Collateral, without the consent of Lender (except in connection with any action that results in the creation of Permitted Liens and the consummation of Permitted Asset Sales involving Intellectual Property Collateral).

9. **Lender's Right to Sue.** Upon the occurrence and during the continuance of an Event of Default, Lender shall have the right, but shall in no way be obligated, to bring suit in its own name or in the name of Borrower to enforce the Trademarks, Patents, Copyrights and Licenses. If Lender shall commence any such suit, Borrower shall, at the request of Lender, do any and all acts and execute any and all instruments, documents and agreements required by Lender to enforce such Intellectual Property Collateral, and Borrower shall promptly, upon demand, reimburse and indemnify Lender for all reasonable out-of-pocket fees, costs and expenses incurred by Lender, and invoiced to Borrower, in the exercise of its rights hereunder.

10. **Waivers.** Lender's failure at any time or times hereafter to require strict performance by Borrower of any provision of this Agreement shall not waive, affect or diminish any right of Lender thereafter to demand strict compliance and performance therewith. Any suspension or waiver by Lender of an Event of Default shall not suspend, waive or affect any other Event of Default, whether same is prior or subsequent thereto and whether of the same or a different type. None of the undertakings, agreements, warranties, covenants and representations of Borrower contained in this Agreement and no Event of Default by Borrower shall be deemed to have been suspended or waived by Lender unless such suspension or waiver is in writing signed by an officer of Lender and directed to Borrower specifying such suspension or waiver.

11. **Governing Law; Severability.** Section 12.13 and Section 12.14 of the Loan Agreement each shall apply to this Agreement, *mutatis mutandis*, as if it had been fully set forth herein.

12. **Modification.** This Agreement cannot be altered, amended or modified in any way, except as specifically provided in Paragraph 4 hereof or by a writing signed by the parties hereto.

13. **Cumulative Remedies; Power of Attorney; Effect on Loan Agreement.** All of Lender's rights and remedies with respect to the Intellectual Property Collateral, whether established hereby, by the Loan Documents, by any other agreements or by law shall be cumulative and may be exercised singularly or concurrently. Borrower hereby authorizes Lender to make, constitute and appoint any officer or agent of Lender as Borrower's true and lawful attorney-in-

fact, with power, upon the occurrence and during the continuance of an Event of Default and commencement by Lender of any of its rights and remedies whatsoever, whether pursuant to this Agreement, the Loan Documents, at law, in equity or otherwise, to (a) endorse Borrower's name on all applications, documents, papers and instruments necessary or desirable for Lender in connection with selling the Intellectual Property Collateral, (b) take any other commercially reasonable actions with respect to the Intellectual Property Collateral as Lender decides in its sole and absolute discretion, (c) assign, pledge, sell, convey or otherwise transfer title in or dispose of the Intellectual Property Collateral to any person or entity as Lender may determine in its discretion, and (d) grant or issue any non-exclusive license under the Intellectual Property Collateral, to any person or entity. To the extent provided in the Loan Agreement, Borrower agrees to indemnify Lender for any infringement claims or other claims filed or asserted against Lender from the use of any of the Intellectual Property Collateral. Borrower hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. This power of attorney shall be irrevocable until the Liabilities shall have been paid in full. Borrower acknowledges and agrees that this Agreement is not intended to limit or restrict in any way the rights and remedies of Lender under the Loan Documents, at law or in equity, but rather is in addition to and intended to facilitate the exercise of such rights and remedies.

14. **Binding Effect; Benefits.** This Agreement shall be binding upon Borrower and its respective successors and permitted assigns, and shall inure to the benefit of Lender, its nominees, successors and assigns.

15. **Notice.** (a) All notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile transmission or email, as follows:

(i) if to Borrower, to:

Athletes First, LLC
23091 Mill Creek Drive
Laguna Hills, California 92653
Attention: Justin Schulman and Scott Gaffield
Email: jschulman@athletesfirst.net; sgaffield@athletesfirst.net

With a copy to:

Skadden, Arps, Slate, Meagher & Flom LLP
300 South Grand Avenue
Los Angeles, California 90071-3144
Attention: Glen G. Mastroberte
Facsimile: (213) 621-5699
Email: glen.mastroberte@skadden.com

(ii) if to the Lender, to:

Silicon Valley Bank

3003 Tasman Drive
Santa Clara, California 95054
Attention: Avir Fakir and Sean Morreale
Email: afakir@svb.com; smorreale@svb.com

With a copy to:

Thompson Coburn LLP
10100 Santa Monica Boulevard, Suite 500
Los Angeles, California 90067
Attention: Joshua Mogin, Esq.
Facsimile No.: (310) 282-2501
Email: jmogin@thompsoncoburn.com

(b) Lender may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications.

(c) Any party hereto may change its address, telecopy number or email address for notices and other communications hereunder by notice to the other parties hereto. All notices and other communications given to any party hereto in accordance with the provisions of this Agreement shall be deemed to have been given on the date of receipt.

[SIGNATURE PAGE FOLLOWS. REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, Borrower's duly authorized officer has executed this Agreement as of the date first set forth above.

ATHLETES FIRST, LLC,
a Delaware limited liability company

By: Justin Schulman
Name: Justin Schulman
Title: Chief Financial Officer

[Signature page to Intellectual Property Security Agreement]

ACCEPTANCE

The undersigned, Silicon Valley Bank, accepts the foregoing collateral assignment of Intellectual Property.

SILICON VALLEY BANK

By: 
Name: Avaiur Fakir
Title: VP

[Acceptance to Intellectual Property Security Agreement]

28669572

TRADEMARK
REEL: 007996 FRAME: 0486

SCHEDULE A

Trademarks and Trademark Registrations

<u>Grantor</u>	<u>Trademark</u>	<u>Country</u>	<u>Serial No.</u>	<u>Registration No.</u>	<u>Registration Date</u>
Athletes First, LLC	Athletes First (main logo, stylized word mark)	USA	87851582	5595688	10/30/2018
Athletes First, LLC	Athletes First (standard character mark)	USA	87822223	5594888	10/30/2018

SCHEDULE B

Patents and Patent Registrations

None.

SCHEDULE C

Copyrights and Copyright Applications

None.

SCHEDULE D

License Agreements

None.