

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): **March 8, 2021**

NEXGEL, INC.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction
of incorporation)

000-56066

(Commission File Number)

26-4042544

(IRS Employer
Identification No.)

**2150 Cabot Boulevard West, Suite B
Langhorne, Pennsylvania**

(Address of principal executive offices)

19067

(Zip Code)

Registrant's telephone number, including area code: **(215) 702-8550**

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

Not Applicable

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

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

Securities registered pursuant to Section 12(b) of the Act: None

Title of each class

**Trading
Symbol(s)**

Name of each exchange on which registered

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

Emerging growth company

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

Item 1.01 Entry Into a Material Definitive Agreement.

On March 8, 2021, NexGel, Inc. (the "**Company**") closed a private placement whereby it entered into a Securities Purchase Agreement (the "**Purchase Agreement**") with certain accredited investors (the "**Investors**"). Pursuant to the Purchase Agreements, the Company agreed to sell to the Investors, and the Investors agreed to purchase, an aggregate of 8,000,000 shares (the "**Shares**") of the Company's common stock, par value \$0.001 per share ("**Common Stock**") at a price per share equal to \$0.08 for an aggregate purchase price of \$640,000 (the "**Private Placement**").

The Purchase Agreement contains representations and warranties of the Company and the Investors that are typical for transactions of this type as well as a right of first refusal with respect to future equity offerings of the Company for the benefit of the Investors. The Company did not utilize a placement agent for the Private Placement.

Alere Financial, A Division of Cova Capital Partners, LLC ("**Alere**"), served as the placement agent for the Private Placement and is entitled to receive a total fee equal to \$41,200 (or 8% of the total gross proceeds raised from the Investors introduced by Alere to the Company) and warrants to purchase 515,000 shares of Common Stock (or 8% of the number of shares of Common Stock issued to the Investors introduced by Alere to the Company). Alere's warrants are to be in a customary form reasonably acceptable to Alere, exercisable for 3 years at an exercise price equal to \$0.08. Alere will be able to exercise the warrants in a cashless exercise in the event a registration statement registering the resale of the shares underlying Alere's warrants is not effective commencing 12 months from issuance. The shares underlying Alere's warrants will be subject to piggyback registration rights and be included in any registration statement covering the shares of Common Stock sold pursuant to the Purchase Agreement, subject to certain adjustments. Mr. Levy, the Company's Chief Executive Officer and Chief Financial Officer, is affiliated with Alere but has waived any portion of such fee received by Alere to which he is entitled as an affiliate of Alere.

The Shares issued and sold to the Investors were not registered under the Securities Act of 1933, as amended (the "**Securities Act**"), or the securities laws of any state, and were offered and sold in reliance on the exemption from registration under the Securities Act, provided by Section 4(a)(2) and Regulation D (Rule 506) under the Securities Act. Each Investor represented that it was an accredited investor (as defined by Rule 501 under the Securities Act).

The foregoing description of the Purchase Agreement is qualified in its entirety by reference to the Purchase Agreement, which is attached as Exhibit 10.1 hereto and incorporated by reference herein.

Item 3.02 Unregistered Sales of Equity Securities.

The information contained in “Item 1.01 – Entry Into a Material Definitive Agreement” is incorporated herein by reference.

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

Board of Director Appointment

On March 8, 2021, Steven Glassman was appointed to the board of directors of the Company to serve for a term expiring at the next annual meeting of stockholders or until his successor is duly elected and qualified. Mr. Glassman has not been appointed to any committees of the board of directors. Mr. Glassman participated in the Company’s Private Placement described above by purchasing 625,000 shares of the Company’s Common Stock at a price per share equal to \$0.08. On March 8, 2021 and in consideration for his appointment to the board of directors, the Company granted Mr. Glassman an option to purchase up to 500,000 shares of Common Stock at a per share exercise price of \$0.08 under the Company’s 2019 Long-Term Incentive Plan (the “*Plan*”). This option award is fully vested as of the date of grant. Except as described herein, (i) no compensation or other arrangements were entered into between the Company and Mr. Glassman in connection with his appointment as a director of the Company and (ii) there are no transactions between the Company and Mr. Glassman or his immediate family members requiring disclosure under Item 404(a) of Regulation S-K promulgated under the Securities Exchange Act of 1934, as amended.

Officer Compensation

On March 8, 2021, the Company granted Mr. Levy, the Company’s Chief Executive Officer and Chief Financial Officer, a restricted stock award of 1,383,333 shares of Common Stock under the Plan in consideration of his services to the Company from October 1, 2020 through September 30, 2021. This restricted stock award is fully vested as of the date of grant.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

<u>Exhibit No.</u>	<u>Description</u>
<u>10.1</u>	<u>Form of Securities Purchase Agreement</u>

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Date: March 12, 2021

NEXGEL, INC.

By: /s/ Adam Levy
Adam Levy
Chief Executive Officer

STOCK PURCHASE AGREEMENT

This STOCK PURCHASE AGREEMENT (the “*Agreement*”) is dated as of [_____] [], 2021, by and among NEXGEL, Inc., a Delaware corporation (the “*Company*”), and each of the purchasers identified on the signature pages hereto and such purchasers’ respective successors and assigns (individually, a “*Purchaser*” and collectively, the “*Purchasers*”).

The parties hereto agree as follows:

ARTICLE I. PURCHASE AND SALE OF COMMON STOCK

Section 1.01 Purchase and Sale of Stock. Upon the following terms and subject to the conditions set forth herein, the Company shall issue and sell to each Purchaser, and each Purchaser shall purchase from the Company, that number of shares of the Company’s common stock, par value \$0.001 per share (the “*Common Stock*”), as is set forth on each such Purchaser’s signature page hereto (collectively, the “*Shares*”), at a price per share equal to \$0.08 (the “*Per Share Purchase Price*,” and such amounts in the aggregate, the “*Purchase Price*”). In the event that this Agreement is amended between Initial Closing Date (as defined below) and a Subsequent Closing Date (as defined below) to reduce the Per Share Purchase Price, then the Purchasers in the Initial Closing Date shall be entitled to receive from the Company additional shares of Common Stock, for no additional consideration, in an amount sufficient that the pro rata portion of the Purchase Price paid by such Purchaser hereunder for the Shares then held, when divided by the total number of Shares then held by such Purchaser plus such additional shares of Common Stock issued will equal the reduced Purchase Price. The Company and the Purchasers are executing and delivering this Agreement in accordance with and in reliance upon the exemption from securities registration afforded by Rule 506 of Regulation D (“*Regulation D*”) as promulgated by the United States Securities and Exchange Commission (the “*Commission*”) under the Securities Act of 1933, as amended (the “*Securities Act*”).

Section 1.02 Closing.

(a) The Purchase of the Common Stock shall occur in two separate closings. On the initial closing date (the “*Initial Closing Date*”), upon the terms and subject to the conditions set forth herein, substantially concurrent with the execution and delivery of this Agreement by the parties hereto, the Company agrees to sell at the initial closing (the “*Initial Closing*”), and the Purchasers, severally and not jointly, agree to purchase at the Initial Closing, an aggregate number of Shares, not to exceed, for any individual Purchaser, the aggregate number of Shares agreed to be purchased by such Purchaser, to be determined by the mutual agreement of the Company and the respective such Purchasers. Thereafter, on a subsequent closing date (the “*Subsequent Closing Date*”, and the Initial Closing Date and any Subsequent Closing Date, each a “*Closing Date*”), upon the terms and subject to the conditions set forth herein, substantially concurrent with the execution and delivery of this Agreement by the Purchasers purchasing shares of Common Stock on such Subsequent Closing Date, the Company agrees to sell, and the Purchasers purchasing shares of Common Stock at such subsequent closing, severally and not jointly, agree to purchase, the remainder of the Shares, not to exceed, for any individual Purchaser, the aggregate number of shares agreed to be purchased by such Purchaser, less the number of Shares purchased by such Purchaser at the Initial Closing. Each Purchaser purchasing shares of Common Stock on a Closing Date shall deliver to the Company such Purchaser’s Purchase Price by wire transfer of immediately available funds in accordance with the Company’s written wire instructions, and the Company shall irrevocably instruct the Company’s transfer agent to deliver to each Purchaser a stock certificate representing such Purchaser’s respective shares of Common Stock. Notwithstanding anything herein to the contrary, each Closing Date shall occur on or before December 15, 2020; provided, however, that such date may be extended by the Company (the “*Termination Date*”).

(b) If a Closing is not held on or before the Termination Date, the Company shall cause all subscription documents and funds to be returned, without interest or deduction, to each prospective Purchaser. The Company shall also cause any subscription documents or funds received following the final Closing to be returned, without interest or deduction, to each applicable prospective Purchaser. Notwithstanding the foregoing, the Company in its sole discretion may elect not to sell to any Person any or all of the shares of Common Stock requested to be purchased hereunder, provided that the Company causes all corresponding subscription documents and funds received from such person to be promptly returned.

ARTICLE II. REPRESENTATIONS AND WARRANTIES

Section 2.01 Representations and Warranties of the Company. The Company hereby represents and warrants to the Purchasers, as of the date hereof, as follows:

(a) Organization, Good Standing and Qualification. The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has full corporate power and authority to own and use its properties and its assets and conduct its business as currently conducted. The Company has no subsidiary. The Company is not in violation of any of the provisions of its organizational or charter documents, including, but not limited to the Charter Documents (as defined below). The Company is duly qualified to conduct business and is in good standing as a foreign corporation in each jurisdiction in which the nature of the business conducted or property owned by it makes such qualification necessary, except where the failure to be so qualified or in good standing, as the case may be, would not result in a direct and/or indirect (i) material adverse effect on the legality, validity or enforceability of any of the Shares and/or this Agreement, (ii) material adverse effect on the results of operations, assets, business, condition (financial and other) or prospects of the Company, taken as a whole, or (iii) material adverse effect on the Company’s ability to perform in any material respect on a timely basis its obligations under the Transaction Documents (as defined below) (any of (i), (ii) or (iii), a “*Material Adverse Effect*”).

(b) Capitalization and Voting Rights. The authorized capital stock of the Company is as set forth in the SEC Reports (as defined below) and, as of the date hereof, the Company has, 94,894,079 shares of Common Stock issued and outstanding and no shares of preferred stock, par value \$0.001 per shares, issued and outstanding. All of the issued and outstanding shares of capital stock of the Company are validly issued, fully paid and nonassessable. There are no outstanding securities of the Company which contain any preemptive, redemption or similar provisions, nor is any holder of securities of the Company entitled to preemptive or similar rights arising out of any agreement or understanding with the Company by virtue of any of the Transaction Documents, and there are no contracts, commitments, understandings or arrangements by which the Company is or may become bound to redeem a security of the Company. The Company does not have any stock appreciation rights or “phantom stock” plans or agreements or any similar plan or agreement. Except grants made pursuant to the NEXGEL, Inc. 2019 Long-Term Incentive Plan or otherwise described in the SEC Reports, there are no outstanding options, warrants, agreements, convertible securities, preemptive rights or other rights to subscribe for or to purchase or acquire, any shares of capital stock of the Company or contracts, commitments, understandings, or arrangements by which the Company is or may become bound to issue any shares of capital stock of the Company, or securities or rights convertible or exchangeable into shares of capital stock of the Company. Except as otherwise required by law, there are no restrictions upon the voting or transfer of any of the shares of capital stock of the Company pursuant to the Company’s Charter Documents or other governing documents or any agreement or other instruments to which the Company is a party or by which the Company is bound. All of such outstanding capital stock has been issued in compliance in all material respects with applicable federal and state securities laws. The issuance and sale of the Shares and, upon issuance, the Shares, as contemplated hereby will not obligate the Company to issue shares of Common Stock or other securities to any other person (other than the Purchasers) and will not result in the adjustment of the exercise, conversion, exchange or reset price of any outstanding security. The Company does not have outstanding shareholder purchase rights or “poison pill” or any similar arrangement in effect giving any person the right to purchase any equity interest in the Company upon the occurrence of certain events.

(c) Authorization; Enforceability. The Company has the requisite corporate right, power and authority to enter into, execute and deliver this Agreement and each other agreement, document, instrument and certificate to be executed by the Company in connection with the consummation of the transactions contemplated hereby (collectively referred to as the "Transaction Documents"), and to perform fully its obligations hereunder and thereunder. All necessary corporate action on the part of the Company, its directors and shareholders necessary for the (a) authorization execution, delivery and performance of this Agreement and the other Transaction Documents by the Company; and (b) authorization, sale, issuance and delivery of the Shares contemplated hereby and the performance of the Company's obligations under this Agreement and the other Transaction Documents has been taken. This Agreement and the other Transaction Documents have been duly executed and delivered by the Company and each constitutes a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its respective terms, subject to laws of general application relating to bankruptcy, insolvency and the relief of debtors and rules of law governing specific performance, injunctive relief or other equitable remedies, and to limitations of public policy. The Shares are duly authorized and, when issued and paid for in accordance with the applicable Transaction Documents, will be duly and validly issued, fully paid and nonassessable, free and clear of all mortgages, pledges, liens, claims, charges, encumbrances or other restrictions (collectively, "Encumbrances") imposed by the Company other than restrictions on transfer pursuant to applicable law or otherwise provided for in the Transaction Documents.

(d) No Conflict; Governmental Consents.

(i) The execution and delivery by the Company of this Agreement and the other Transaction Documents, the issuance and sale of the Shares and the consummation of the other transactions contemplated hereby or thereby do not and will not (i) result in the violation of any law, statute, rule, regulation, order, writ, injunction, judgment or decree of any court or governmental authority to or by which the Company is bound including without limitation all foreign, federal, state and local laws applicable to its business and all such laws that affect the environment, (ii) conflict with or violate any provision of the Company's Amended and Restated Certificate of Incorporation (the "Articles") or the Amended and Restated Bylaws, (and collectively with the Articles, the "Charter Documents") of the Company, or (iii) conflict with, or result in a breach or violation of, any of the terms or provisions of, or constitute (with or without due notice or lapse of time or both) a default or give to others any rights of termination, amendment, acceleration or cancellation (with or without due notice, lapse of time or both) under any agreement, credit facility, lease, loan agreement, mortgage, security agreement, trust indenture or other agreement or instrument to which the Company is a party or by which any of them is bound or to which any of their respective properties or assets is subject, nor result in the creation or imposition of any Encumbrances upon any of the properties or assets of the Company.

(ii) No vote, approval or consent of any holder of capital stock of the Company or any other third parties is required to be obtained by the Company in connection with the authorization, execution, delivery and performance of this Agreement and the other Transaction Documents or in connection with the authorization, issue and sale of the Shares, except as has been previously obtained.

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(iii) No consent, approval, authorization or other order of any governmental authority or any other person is required to be obtained by the Company in connection with the authorization, execution, delivery and performance of this Agreement and the other Transaction Documents or in connection with the authorization, issue and sale of the Shares, except such post-sale filings as may be required to be made with the Commission, FINRA and with any state or foreign blue sky or securities regulatory authority, all of which shall be made when required.

(e) Shell Company Status; SEC Reports; Financial Statements. The Company has never been an issuer subject to Rule 144(i) under the Securities Act. The Company has filed all reports required to be filed by it under the Securities Act and Securities Exchange Act of 1934, as amended (the "Exchange Act"), including pursuant to Section 13(a) or 15(d) thereof, for the twenty-four (24) months preceding the date hereof (or such shorter period as the Company was required by law to file such reports) (the foregoing materials, together with the Company's Registration Statement on Form S-1 (File No. 333-229173), originally filed with the Commission on January 9, 2019, as amended, being collectively referred to herein as the "SEC Reports") on a timely basis or has timely filed a valid extension of such time of filing and has filed any such SEC Reports prior to the expiration of any such extension. As of their respective dates, the SEC Reports complied in all material respects with the requirements of the Securities Act and the Exchange Act and the rules and regulations of the Commission promulgated thereunder, and none of the SEC Reports, when filed, contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. The financial statements of the Company included in the SEC Reports comply in all material respects with applicable accounting requirements and the rules and regulations of the Commission with respect thereto as in effect at the time of filing. Such financial statements have been prepared in accordance with United States generally accepted accounting principles ("GAAP") applied on a consistent basis during the periods involved, except as may be otherwise specified in such financial statements or the footnotes thereto, and fairly present in all material respects the financial position of the Company as of and for the dates thereof and the results of operations and cash flows for the periods then ended, subject, in the case of unaudited statements, to normal, immaterial, year-end audit adjustments.

(f) Reserved.

(g) Litigation. There is no pending or, to the Company's knowledge, threatened legal or governmental proceedings against the Company. The Company is not a party or subject to the provisions of any order, writ, injunction, judgment or decree of any court or government agency or instrumentality which could reasonably be expected to have a Material Adverse Effect. There is no action, suit, proceeding or investigation by the Company currently pending in any court or before any arbitrator or that the Company intends to initiate. Neither the Company, nor any director or officer thereof, is subject of any action involving (i) a claim of violation of or liability under federal or state securities laws or (ii) a claim of breach of fiduciary duty. There is no pending or, to the Company's knowledge, contemplated investigation by the Commission involving the Company or any current or former director or officer of the Company. For purposes of this Agreement, the term "knowledge" when used with respect to the Company will mean the present, conscious awareness of a particular fact or matter by the Company's chief executive officer or interim chief financial officer.

(h) Compliance. The Company: (i) is not in default under or in violation of (and no event has occurred that has not been waived that, with notice or lapse of time or both, would result in a default by the Company), or has not received notice of a claim that it is in default under or that it is in violation of, any indenture, loan or credit agreement or any other agreement or instrument to which it is a party or by which it or any of its properties is bound (whether or not such default or violation has been waived), (ii) is not in violation of any material judgment, decree or order of any court, arbitrator or other governmental authority or (iii) is not or has not been in violation, in any material respect, of any statute, rule, ordinance or regulation of any governmental authority, including without limitation all foreign, federal, state and local laws relating to taxes, environmental protection, occupational health and safety, product quality and safety and employment and labor matters.

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(i) Regulatory Permits. The Company possess all certificates, authorizations and permits issued by the appropriate federal, state, local or foreign regulatory authorities necessary to conduct its business, except where the failure to possess such permits could not reasonably be expected to result in a Material Adverse Effect ("Material Permits"), and the Company has not received any notice of proceedings relating to the revocation or modification of any Material Permit.

(j) Brokers. Except for Alere Financial Partners, A Division of Cova Capital Partners, LLC, neither the Company nor any of the Company's officers, directors, employees or shareholders has employed or engaged any broker or finder in connection with the transactions contemplated by this Agreement and no fee or other compensation

is or will be due and owing to any broker, finder, underwriter, placement agent or similar person in connection with the transactions contemplated by this Agreement. The Company is not party to any agreement, arrangement or understanding whereby any person has an exclusive right to raise funds and/or place or purchase any debt or equity securities for or on behalf of the Company.

(k) No General Solicitation. None of the Company, any of their affiliates, and any person acting on the Company's behalf and its direction, has engaged in any form of general solicitation or general advertising (within the meaning of Regulation D under the Securities Act) in connection with the offer or sale of the Shares.

(l) Private Placement. Assuming the accuracy of the Purchasers' representations and warranties set forth in Section 2.02, no registration under the Securities Act is required for the offer and sale of the Shares by the Company to the Purchaser as contemplated hereby.

(y) Bad Actor. No "bad actor" disqualifying event described in Rule 506(d)(1)(i)-(viii) of the Securities Act (a "**Disqualification Event**") is applicable to the Company or, to the Company's knowledge, any Person listed in the first paragraph of Rule 506(d)(1) with respect to the Company as an "issuer" for purposes of Rule 506 promulgated under the Securities Act, except for a Disqualification Event as to which Rule 506(d)(2)(ii-iv) or (d)(3), is applicable.

Section 2.02 Representations and Warranties of the Purchasers. Each of the Purchasers hereby makes the following representations and warranties to the Company with respect solely to itself and not with respect to any other Purchaser:

(a) Organization and Standing of the Purchasers. If the Purchaser is an entity, such Purchaser is a corporation, limited liability company or partnership duly incorporated or organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization.

(b) Authorization and Power. Each Purchaser has the requisite power and authority to enter into and perform this Agreement and to purchase the Shares being sold to such Purchaser hereunder. This Agreement has been duly authorized, executed and delivered by such Purchaser and constitutes, or shall constitute when executed and delivered, a valid and binding obligation of such Purchaser enforceable against such Purchaser in accordance with the terms thereof, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, liquidation, conservatorship, receivership or similar laws relating to, or affecting generally the enforcement of, creditor's rights and remedies or by other equitable principles of general application.

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(c) Purchase For Own Account. Each Purchaser is acquiring the Shares solely for its own account and not with a view to or for sale in connection with distribution. Each Purchaser does not have a present intention to sell the Shares, nor a present arrangement (whether or not legally binding) or intention to effect any distribution of the Shares to or through any person or entity. Each Purchaser acknowledges that it is able to bear the financial risks associated with an investment in the Shares and that it has been given full access to such records of the Company and to the officers of the Company and received such information as it has deemed necessary or appropriate to conduct its due diligence investigation and has sufficient knowledge and experience in investing in companies similar to the Company in terms of the Company's stage of development so as to be able to evaluate the risks and merits of its investment in the Company.

(d) Status of Purchasers. Such Purchaser is an "accredited investor" as defined in Regulation D promulgated under the Securities Act. Such Purchaser is not required to be registered as a broker-dealer under Section 15 of the Exchange Act and such Purchaser is not a broker-dealer.

(e) Opportunities for Additional Information. Each Purchaser acknowledges that such Purchaser has had the opportunity to ask questions of and receive answers from, or obtain additional information from, the executive officers of the Company concerning the financial and other affairs of the Company, and to the extent deemed necessary in light of such Purchaser's personal knowledge of the Company's affairs, such Purchaser has asked such questions and received answers to the full satisfaction of such Purchaser, and such Purchaser desires to invest in the Company. Neither such inquiries nor any other investigation conducted by or on behalf of such Purchaser or its representatives or counsel shall modify, amend or affect such Purchaser's right to rely on the truth, accuracy and completeness of the Company's representations and warranties contained in the Transaction Documents.

(f) No General Solicitation. Each Purchaser acknowledges that the Shares were not offered to such Purchaser by means of any form of general or public solicitation or general advertising, or publicly disseminated advertisements or sales literature, including (i) any advertisement, article, notice or other communication published in any newspaper, magazine, or similar media, or broadcast over television or radio or (ii) any seminar or meeting to which such Purchaser was invited by any of the foregoing means of communications.

(g) Rule 144. Such Purchaser understands that the Shares must be held indefinitely unless they are registered under the Securities Act or an exemption from registration is available. Such Purchaser acknowledges that such Purchaser is familiar with Rule 144 of the rules and regulations of the Commission, as amended, promulgated pursuant to the Securities Act ("**Rule 144**"), and that such person has been advised that Rule 144 permits resales only under certain circumstances. Such Purchaser understands that to the extent that Rule 144 is not available, such Purchaser will be unable to sell any Shares without either registration under the Securities Act or the existence of another exemption from such registration requirement.

(h) General. Such Purchaser understands that the Shares are being offered and sold in reliance on a transactional exemption from the registration requirement of federal and state securities laws and the Company is relying upon the truth and accuracy of the representations, warranties, agreements, acknowledgments and understandings of such Purchaser set forth herein in order to determine the applicability of such exemptions and the suitability of such Purchaser to acquire the Shares.

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(i) Independent Investment. Except as may be disclosed in any filings with the Commission by the Purchasers under Section 13 and/or Section 16 of the Exchange Act, no Purchaser has agreed to act with any other Purchaser for the purpose of acquiring, holding, voting or disposing of the Shares purchased hereunder for purposes of Section 13(d) under the Exchange Act, and each Purchaser is acting independently with respect to its investment in the Shares.

ARTICLE III. OTHER AGREEMENTS OF THE PARTIES

Section 3.01 Transfer Restrictions.

(a) The Purchasers covenant that the Shares will only be disposed of pursuant to an effective registration statement under, and in compliance with the requirements of, the Securities Act or pursuant to an available exemption from the registration requirements of the Securities Act, and in compliance with any applicable state securities laws. In connection with any transfer of Shares other than pursuant to an effective registration statement or to the Company, or pursuant to Rule 144 at such time that the Company is not required to be in compliance with Rule 144(c) and any other limitations or requirements set forth in Rule 144, the Company may require the transferor to provide the Company with an opinion of counsel selected by the transferor, the form and substance of which opinion shall be reasonably satisfactory to the Company, to the effect that such transfer does not require registration under the Securities Act.

(b) The Purchasers agree to the imprinting of the following legend on any certificate evidencing any of the Shares (in addition to any legend required by applicable state securities or “blue sky” laws):

THESE SECURITIES REPRESENTED BY THIS CERTIFICATE (THE “SECURITIES”) HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”) OR ANY STATE SECURITIES LAWS AND MAY NOT BE SOLD, TRANSFERRED OR OTHERWISE DISPOSED OF UNLESS REGISTERED UNDER THE SECURITIES ACT AND UNDER APPLICABLE STATE SECURITIES LAWS OR THE COMPANY SHALL HAVE RECEIVED AN OPINION OF COUNSEL THAT REGISTRATION OF SUCH SECURITIES UNDER THE SECURITIES ACT AND UNDER THE PROVISIONS OF APPLICABLE STATE SECURITIES LAWS IS NOT REQUIRED.

Section 3.02 Integration. The Company shall not sell, offer for sale or solicit offers to buy or otherwise negotiate in respect of any security (as defined in Section 2 of the Securities Act) that would be integrated with the offer or sale of the Shares in a manner that would require the registration under the Securities Act of the sale of the Shares to the Purchasers.

Section 3.03 Securities Laws Disclosure: Publicity. The Company shall, at or before 5:30 p.m., New York time, on the fourth business day following execution of this Agreement, file a Current Report on Form 8-K with the Commission describing the terms of the transactions contemplated by the Transaction Documents and including as exhibits to such Current Report on Form 8-K the Transaction Documents, in the form required by the Exchange Act. Thereafter, the Company shall timely file any filings and notices required by the Commission or applicable state law with respect to the transactions contemplated hereby and provide copies thereof to the Purchasers upon request.

Section 3.04 Use of Proceeds. The Company shall use the net proceeds from the sale of the Shares hereunder for working capital purposes.

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Section 3.05 Equal Treatment of Purchasers. No consideration shall be offered or paid to any Person to amend or consent to a waiver or modification of any provision of any of the Transaction Documents unless the same consideration is also offered to all of the parties to the Transaction Documents. For clarification purposes, this provision constitutes a separate right granted to each Purchaser by the Company and negotiated separately by each Purchaser, and is intended for the Company to treat the Purchasers as a class and shall not in any way be construed as the Purchasers acting in concert or as a group with respect to the purchase, disposition or voting of the Shares or otherwise.

Section 3.06 Rights to Future Stock Issuances.

(a) Each Purchaser has the right of first refusal to purchase such Purchaser’s Pro Rata Share (as defined below) of all (or any part) of any New Securities (as defined in Section 3.06(b) below) that the Company may from time to time issue after the date of this Agreement, provided, however, such Purchaser shall have no right to purchase any such New Securities if such Purchaser cannot demonstrate to the Company’s reasonable satisfaction that such Purchaser is at the time of the proposed issuance of such New Securities an “accredited investor” as such term is defined in Regulation D under the Securities Act. A Purchaser’s “*Pro Rata Share*” for purposes of this right of first refusal is the ratio of (a) the number of shares of the Company’s Common Stock issued or issuable upon conversion of the shares of Series Seed Preferred Stock owned by such Purchaser, to (b) the Fully-Diluted Share Number. For the purposes of the Agreement, the “*Fully-Diluted Share Number*” shall mean that number of shares of the Company’s capital stock equal to the sum of (i) all shares of the Company’s capital stock (on an as-converted basis) issued and outstanding, assuming exercise or conversion of all options, warrants and other convertible securities and (ii) all shares of the Company’s capital stock reserved and available for future grant under any equity incentive or similar plan.

(b) “*New Securities*” shall mean any Common Stock or Preferred Stock of the Company, whether now authorized or not, and rights, options or warrants to purchase such Common Stock or Preferred Stock, and securities of any type whatsoever that are, or may become, convertible or exchangeable into such Common Stock or Preferred Stock; provided, however, that the term “New Securities” does not include: (a) shares of Common Stock issued or issuable upon conversion of the outstanding shares of all the series of the Preferred Stock; (b) shares of Common Stock or Preferred Stock issuable upon exercise of any options, warrants or rights to purchase any securities of the Company outstanding as of the Agreement Date and any securities issuable upon the conversion thereof; (c) shares of Common Stock or Preferred Stock issued in connection with any stock split or stock dividend or recapitalization; (d) shares of Common Stock (or options, warrants or rights therefor) granted or issued hereafter to employees, officers, directors, contractors, consultants or advisers to, the Company or any subsidiary of the Company pursuant to incentive agreements, stock purchase or stock option plans, stock bonuses or awards, warrants, contracts or other arrangements that are approved by the Board; (e) shares of the Company’s Series Seed Preferred Stock issued pursuant to this Agreement; (f) any other shares of Common Stock or Preferred Stock (and/or options or warrants therefor) issued or issuable primarily for other than equity financing purposes and approved by the Board of Directors; and (g) shares of Common Stock issued or issuable by the Company to the public pursuant to a registration statement filed under the Securities Act.

(c) In the event that the Company proposes to undertake an issuance of New Securities, it shall give to each Purchaser a written notice of its intention to issue New Securities (the “*Notice*”), describing the type of New Securities and the price and the general terms upon which the Company proposes to issue such New Securities given in accordance with Section 4.04. Each Purchaser shall have five (5) days from the date such Notice is effective, as determined pursuant to Section 4.04 based upon the manner or method of notice, to agree in writing to purchase such Purchaser’s Pro Rata Share of such New Securities for the price and upon the general terms specified in the Notice by giving written notice to the Company and stating therein the quantity of New Securities to be purchased (not to exceed such Purchaser’s Pro Rata Share).

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(d) In the event that the Purchasers fail to exercise in full the right of first refusal within such five (5) day period, then the Company shall have one hundred twenty (120) days thereafter to sell the New Securities with respect to which the Purchasers’ rights of first refusal hereunder were not exercised, at a price and upon general terms not materially more favorable to the purchasers thereof than specified in the Company’s Notice to the Purchasers. In the event that the Company has not issued and sold the New Securities within such one hundred twenty (120) day period, then the Company shall not thereafter issue or sell any New Securities without again first offering such New Securities to the Purchasers pursuant to this Section 3.06.

(e) The covenants set forth in this Section 3.06 shall terminate and be of no further force or effect immediately before the Company’s securities begin trading on a National Securities Exchange. For the purposes of this Agreement, “*National Securities Exchange*” shall mean an exchange registered with the Commission under Section 6(a) of the Exchange Act of 1934 or the Nasdaq Stock Market or any successor thereto.

Section 3.07 Form D; Blue Sky Filings. The Company agrees to timely file a Form D with respect to the Shares as required under Regulation D. The Company shall take such action as the Company shall reasonably determine is necessary in order to obtain an exemption for, or to qualify the Shares for, sale to the Purchasers at the Closing under applicable securities or “Blue Sky” laws of the states of the United States, and shall provide evidence of such actions upon request of any Purchaser.

Section 4.01 Fees and Expenses. Except as otherwise set forth in this Agreement and the other Transaction Documents, each party shall pay the fees and expenses of its advisors, counsel, accountants and other experts, if any, and all other expenses, incurred by such party incident to the negotiation, preparation, execution, delivery and performance of this Agreement. The Company shall pay all stamp or other similar taxes and duties levied in connection with issuance of the Shares pursuant hereto.

Section 4.02 Specific Enforcement, Consent to Jurisdiction.

(a) The Company and the Purchasers acknowledge and agree that irreparable damage would occur in the event that any of the provisions of this Agreement or the other Transaction Documents were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the parties shall be entitled to seek an injunction or injunctions to prevent or cure breaches of the provisions of this Agreement and to enforce specifically the terms and provisions hereof or thereof, this being in addition to any other remedy to which any of them may be entitled by law or equity.

(b) Each of the Company and the Purchasers (i) hereby irrevocably submits to the jurisdiction of the United States District Court sitting in the Southern District of New York and the courts of the State of New York located in New York County for the purposes of any suit, action or proceeding arising out of or relating to this Agreement or any of the other Transaction Documents or the transactions contemplated hereby or thereby and (ii) hereby waives, and agrees not to assert in any such suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of such court, that the suit, action or proceeding is brought in an inconvenient forum or that the venue of the suit, action or proceeding is improper. Each of the Company and the Purchasers consents to process being served in any such suit, action or proceeding by mailing a copy thereof to such party at the address in effect for notices to it under this Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing in this Section 4.02 shall affect or limit any right to serve process in any other manner permitted by law.

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Section 4.03 Entire Agreement; Amendment. This Agreement (including all exhibits and schedules hereto) and the Transaction Documents contain the entire understanding and agreement of the parties with respect to the matters covered hereby and, except as specifically set forth herein or in the Transaction Documents, neither the Company nor any of the Purchasers makes any representations, warranty, covenant or undertaking with respect to such matters and they supersede all prior understandings and agreements with respect to said subject matter, all of which are merged herein. No provision of this Agreement may be waived or amended other than by a written instrument signed by the Company and the Purchasers holding a majority of the Shares then outstanding and held by Purchasers.

Section 4.04 Notices. Any notice, demand, request, waiver or other communication required or permitted to be given hereunder shall be in writing and shall be effective (a) upon hand delivery by telex (with correct answer back received), telecopy, e-mail or facsimile at the address or number designated below (if delivered on a business day during normal business hours where such notice is to be received), or the first business day following such delivery (if delivered other than on a business day during normal business hours where such notice is to be received) or (b) on the second business day following the date of mailing by express courier service, fully prepaid, addressed to such address, or upon actual receipt of such mailing, whichever shall first occur. The addresses for such communications shall be:

(a) If to the Company:

NEXGEL, Inc.
2150 Cabot Boulevard, West
Suite B
Langhorne, PA 19067
Attention: Chief Executive Officer
Fax No.: () []

(b) If to any Purchaser at the address of such Purchaser set forth on the signature pages hereto.

Any party hereto may from time to time change its address for notices by giving at least ten (10) days written notice of such changed address to the other party hereto.

Section 4.05 Waivers. No waiver by either party of any default with respect to any provision, condition or requirement of this Agreement shall be deemed to be a continuing waiver in the future or a waiver of any other provisions, condition or requirement hereof, nor shall any delay or omission of any party to exercise any right hereunder in any manner impair the exercise of any such right accruing to it thereafter.

Section 4.06 Headings. The article, section and subsection headings in this Agreement are for convenience only and shall not constitute a part of this Agreement for any other purpose and shall not be deemed to limit or affect any of the provisions hereof.

Section 4.07 Successors and Assigns; Restrictions on Transfer. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns. The Company may not assign this Agreement or any rights or obligations hereunder without the prior written consent of the Purchasers.

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Section 4.08 No Third Party Beneficiaries. This Agreement is intended for the benefit of the parties hereto and their respective permitted successors and assigns and is not for the benefit of, nor may any provision hereof be enforced by, any other person.

Section 4.09 Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws of the State of New York, without giving effect to any of the conflicts of law principles which would result in the application of the substantive law of another jurisdiction. This Agreement shall not be interpreted or construed with any presumption against the party causing this Agreement to be drafted. Each party hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all rights to a trial by jury in any legal proceeding arising out of or relating to this Agreement or the transactions contemplated hereby.

Section 4.10 Survival. The representations and warranties of the Company and the Purchasers shall survive the execution and delivery hereof and the Closing hereunder for the applicable statute of limitations period.

Section 4.11 Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and, all of which taken together shall constitute one and the same Agreement and shall become effective when counterparts have been signed by each party and delivered to the other parties hereto, it being understood that all parties need not sign the same counterpart. In the event that any signature is delivered by facsimile transmission, such signature shall create a valid binding obligation of the party executing (or on whose behalf such signature is executed) the same with the same force and effect as if such facsimile signature were the original thereof.

Section 4.12 Severability. The provisions of this Agreement and the other Transaction Documents are severable and, in the event that any court of competent jurisdiction shall determine that any one or more of the provisions or part of the provisions contained in this Agreement or the other Transaction Documents shall, for any

reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision or part of a provision of this Agreement or the other Transaction Documents and such provision shall be reformed and construed as if such invalid or illegal or unenforceable provision, or part of such provision, had never been contained herein, so that such provisions would be valid, legal and enforceable to the maximum extent possible.

Section 4.13 Further Assurances. From and after the date of this Agreement, upon the request of any Purchaser or the Company, each of the Company and the Purchasers shall execute and deliver such instrument, documents and other writings as may be reasonably necessary or desirable to confirm and carry out and to effectuate fully the intent and purposes of this Agreement and the other Transaction Documents.

Section 4.14 Like Treatment of Purchasers. No consideration shall be offered or paid to any Purchaser to amend or consent to a waiver or modification of any provision of any of the Transaction Documents unless the same consideration is also offered to all of the Purchasers then holding Shares. Further, the Company shall not make any payments or issue any securities to the Purchasers in amounts which are disproportionate to the respective numbers of outstanding Shares held by any Purchasers at any applicable time. For clarification purposes, this provision constitutes a separate right granted to each Purchaser by the Company and negotiated separately by each Purchaser, and is intended for the Company to treat the Purchasers as a class and shall not in any way be construed as the Purchasers acting in concert or as a group with respect to the purchase, disposition or voting of the Shares or otherwise.

[SIGNATURE PAGES FOLLOWS]

Company Signature Page

IN WITNESS WHEREOF, the Company has caused this Agreement to be duly executed by an authorized signatory as of the date first above written.

NEXGEL, INC.

By: _____
Name: Adam Levy
Title: Chief Executive Officer

Purchaser Signature Page

By its execution and delivery of this signature page, the undersigned Purchaser hereby joins in and agrees to be bound by the terms and conditions of the Stock Purchase Agreement dated as of November __, 2020 (the "Purchase Agreement") by and among NEXGEL, Inc. and the Purchasers (as defined therein), as to the number of shares of Common Stock set forth below, and authorizes this signature page to be attached to the Purchase Agreement or counterparts thereof.

Name of Purchaser: _____

By: _____
Name: _____
Title: _____

Address: _____

Telephone No.: _____

Facsimile No.: _____

Email Address: _____

Number of Shares: _____

Aggregate Purchase Price: \$.08 cents per share

Tax ID No. _____

Delivery Instructions (if different than above):

c/o: _____

Address: _____

Telephone No.: _____

Facsimile No. : _____

Other Special Instructions: _____

