

REED'S, INC.
Form S-3/A
February 05, 2019

As filed with the Securities and Exchange Commission on February 5, 2019

Registration No. 333- 229105

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

PRE-EFFECTIVE AMENDMENT NO 1

TO

FORM S-3

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

REED'S, INC.

(Exact name of registrant as specified in its charter)

| | | |
|---|---|--|
| Delaware | 2086 | 35-2177773 |
| (State or jurisdiction of incorporation or organization) | (Primary Standard Industrial Classification Code Number) | (I.R.S. Employer Identification Number) |

**201 Merritt 7 Corporate Park
Norwalk, Connecticut 06851**

(203) 890-0557

(Address and telephone number of principal executive offices and principal place of business)

Valentin Stalowir

Chief Executive Officer

**201 Merritt 7 Corporate Park
Norwalk, Connecticut 06851**

(203) 890-0557

(Name, address and telephone number of agent for service)

With copy to:

Ruba Qashu

Libertas Law Group, Inc.

225 Santa Monica Boulevard, 5th Floor

Santa Monica, CA 90401

Telephone: (949) 355-5405

Fax: (310) 356-1922

Approximate date of commencement of proposed sale to the public: As soon as practicable after the effective date of this Registration Statement.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act, check the following box. []

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective Registration Statement for the same offering. []

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same

offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If delivery of the prospectus is expected to be made pursuant to Rule 434, please check the following box.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b2 of the Exchange Act.

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

(Do not check if a smaller reporting company)

The registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933, as amended, or until the registration statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.

Explanatory Note

This Pre-effective Amendment No. 1 to the Registration Statement (File No. 333- 229105) (“Amendment No. 1”) is being filed solely to file the Exhibits 5.1 (Opinion of Libertas Law Group, Inc.) and 10.26 (Form of Indenture). No changes are being made hereby to Items 14, 15 or 17 of Part II of the Registration Statement. This Amendment No. 1 does not modify any provision of the prospectus that forms a part of the Registration Statement. Accordingly, a preliminary prospectus has been omitted.

PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

Item 14. Other Expenses of Issuance and Distribution.

The expenses in connection with the issuance and distribution of the securities being registered are set forth in the following table (all amounts other than the registration fee are estimated):

| | |
|------------------------------|---------|
| SEC filing fee | \$6,060 |
| Stock Exchange Listing Fees | \$* |
| Accounting fees and expenses | \$* |
| Legal fees and expenses | \$* |
| Printing | \$* |
| Miscellaneous | \$* |
| Total | |

* These fees and expenses are calculated based on the securities offered and the number of issuances and, accordingly, cannot be estimated at this time. They will be provided as applicable by amendment or in a filing with the Securities and Exchange Commission (the SEC) pursuant to the Exchange Act of 1934, as amended, and incorporated herein by reference or reflected in the applicable prospectus supplement.

Item 15. Indemnification of Directors and Officers.

We are subject to the laws of Delaware on corporate matters, including their indemnification provisions. Section 102 of the General Corporation Law of Delaware (the "DGCL") permits a corporation to eliminate the personal liability of directors of a corporation to the corporation or its stockholders for monetary damages for a breach of fiduciary duty as a director, except where the director breached his duty of loyalty, failed to act in good faith, engaged in intentional misconduct or knowingly violated a law, authorized the payment of a dividend or approved a stock repurchase in violation of Delaware corporate law or obtained an improper personal benefit.

Section 145 of the Delaware General Corporation Law (the "DGCL"), as the same exists or may hereafter be amended, provides that a Delaware corporation may indemnify any persons who were, or are threatened to be made, parties to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or

investigative (other than an action by or in the right of such corporation), by reason of the fact that such person is or was an officer, director, employee or agent of such corporation, or is or was serving at the request of such corporation as a director, officer, employee or agent of another corporation or enterprise. The indemnity may include expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding, provided such person acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the corporation's best interests and, with respect to any criminal action or proceeding, had no reasonable cause to believe that his or her conduct was illegal. A Delaware corporation may indemnify any persons who are, were or are threatened to be made, a party to any threatened, pending or completed action or suit by or in the right of the corporation by reason of the fact that such person was a director, officer, employee or agent of such corporation, or is or was serving at the request of such corporation as a director, officer, employee or agent of another corporation or enterprise. The indemnity may include expenses (including attorneys' fees) actually and reasonably incurred by such person in connection with the defense or settlement of such action or suit, provided such person acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the corporation's best interests, provided that no indemnification is permitted without judicial approval if the officer, director, employee or agent is adjudged to be liable to the corporation. Where an officer, director, employee, or agent is successful on the merits or otherwise in the defense of any action referred to above, the corporation must indemnify him or her against the expenses which such officer or director has actually and reasonably incurred.

Section 145 of the DGCL further authorizes a corporation to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation or enterprise, against any liability asserted against him or her and incurred by him or her in any such capacity, arising out of his or her status as such, whether or not the corporation would otherwise have the power to indemnify him or her under Section 145 of the DGCL.

Our amended certificate of incorporation provides that, to the fullest extent permitted by Delaware law, as it may be amended from time to time, none of our directors will be personally liable to us or our stockholders for monetary damages resulting from a breach of fiduciary duty as a director. Our amended certificate of incorporation also provides discretionary indemnification for the benefit of our directors, officers and employees, to the fullest extent permitted by Delaware law, as it may be amended from time to time. Pursuant to our bylaws, we are required to indemnify our directors, officers, employees and agents, and we have the discretion to advance his or her related expenses, to the fullest extent permitted by law.

We do currently provide liability insurance coverage for our directors and officers.

The Company may enter into indemnification agreements with directors, which provide that the Company shall, subject to certain exceptions, indemnify and pay, advance or reimburse the costs of defense of such person who is made party to a proceeding by reason of their indemnified capacities. Each indemnified party agrees to repay any payment, advance or reimbursement of expenses made by the Company to such person if it is determined, following the final disposition of the claim, that the person is not entitled to indemnification by the Company with respect to a claim for which indemnification was obtained.

Any underwriting agreement that has been or will be filed as an exhibit hereto or incorporated by reference herein may contain provisions whereby the underwriter or underwriters may agree to indemnify us, our directors and certain officers and other persons.

Reference is made to Item 17 for our undertakings with respect to indemnification for liabilities under the Securities Act of 1933, as amended (the "Securities Act").

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to our directors, officers and controlling persons pursuant to the foregoing provisions, or otherwise, we have been advised that in the opinion of the SEC such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable.

Item 16. Exhibits

See Exhibit Index attached hereto and incorporated herein by reference.

Item 17. Undertakings

(a) The undersigned registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act.

(ii) To reflect in the prospectus any facts or events arising after the effective date of this registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the SEC pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20% change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement; and

(iii) To include any material information with respect to the plan of distribution not previously disclosed in this registration statement or any material change to such information in this registration statement.

provided, however, that paragraphs (i), (ii) and (iii) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the Registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement, or is contained in a form of prospectus filed pursuant to Rule 424(b) that is part of the registration statement.

(2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(4) That, for the purpose of determining liability under the Securities Act to any purchaser, each prospectus required to be filed pursuant to Rule 424(b)(2), (b)(5) or (b)(7) as part of a registration statement in reliance on Rule 430B relating to an offering made pursuant to Rule 415(a)(1)(i), (vii) or (x) for the purpose of providing the information required by Section 10(a) of the Securities Act of 1933 shall be deemed to be part of and included in the registration statement as of the earlier of the date such form of prospectus is first used after effectiveness or the date of the first contract of sale of securities in the offering described in the prospectus. As provided in Rule 430B, for liability purposes of the issuer and any person that is at that date an underwriter, such date shall be deemed to be a new effective date of the registration statement relating to the securities in the registration statement to which the prospectus relates, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof, provided, however, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such effective date, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such effective date.

(5) That, for the purpose of determining liability of the registrant under the Securities Act to any purchaser in the initial distribution of the securities, the undersigned registrant undertakes that in a primary offering of securities of the undersigned registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:

(i) Any preliminary prospectus or prospectus of an undersigned registrant relating to this offering required to be filed pursuant to Rule 424;

(ii) Any free writing prospectus relating to this offering prepared by, or on behalf of, the undersigned registrant or used or referred to by the undersigned registrant;

(iii) The portion of any other free writing prospectus relating to this offering containing material information about an undersigned registrant or its securities provided by or on behalf of the undersigned registrant; and

(iv) Any other communication that is an offer in this offering made by the undersigned registrant to the purchaser.

(6) That, for purposes of determining any liability under the Securities Act of 1933, each filing of the Registrant's annual report pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(7) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act of 1933 and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act of 1933 and will be governed by the final adjudication of such issue.

SIGNATURES

In accordance with the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and authorized this Pre-Effective Amendment No. 1 to Registration Statement on Form S-3 to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Norwalk, State of Connecticut, on February 5, 2019.

REED'S, INC.

By: */s/ Valentin Stalowir*
 Valentin Stalowir
 Chief Executive Officer

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities indicated and on the dates indicated.

| Signature | Title | Date |
|---|---|------------------|
| <i>/s/ Valentin Stalowir</i> Valentin Stalowir | Chief Executive Officer, Director, President (Principal Executive Officer) | February 5, 2019 |
| <i>/s/ Iris Snyder</i> Iris Snyder | Chief Financial Officer, Secretary (Principal Accounting Officer) | February 5, 2019 |
| ** Daniel J. Doherty III | Director | February 5, 2019 |
| ** John Bello | Director | February 5, 2019 |
| ** Scott R. Grossman | Director | February 5, 2019 |
| ** James C. Bass | Director | February 5, 2019 |

/s/ Valentin Stalowir
 By: Valentin Stalowir

Attorney in Fact

EXHIBIT INDEX

Exhibit Description

- 3.1 Certificate of Incorporation of Reed's, Inc. as filed September 7, 2001 (Incorporated by reference to Exhibit 3.1 to Reed's, Inc.'s Registration Statement on Form SB-2 (File No. 333-120451))
- 3.2 Certificate of Amendment of Certificate of Incorporation of Reed's, Inc. as filed September 27, 2004 (Incorporated by reference to Exhibit 3.2 to Reed's, Inc.'s Registration Statement on Form SB-2 (File No. 333-120451))
- 3.3 Certificate of Amendment of Certificate of Incorporation of Reed's, Inc. as filed December 18, 2007 (Incorporated by reference to Exhibit 3.3 to Reed's, Inc.'s Registration Statement on Form S-1 (File No. 333-156908))
- 3.4 Certificate of Designations, Preferences and Rights of Series A Preferred Stock of Reed's, Inc. as filed October 12, 2004 (Incorporated by reference to Exhibit 3.3 to Reed's, Inc.'s Registration Statement on Form SB-2 (File No. 333-120451))
- 3.5 Certificate of Correction to Certificate of Designations as filed November 10, 2004 (Incorporated by reference to Exhibit 3.4 to Reed's, Inc.'s Registration Statement on Form SB-2 (File No. 333-120451))
- 3.6 Certificate of Amendment of Certificate of Incorporation of Reed's, Inc., as filed October 10, 2017 (Incorporated by reference to Exhibit 3.6 to Reed's, Inc.'s Registration Statement on Form S-1 (File No. 333-221059))
- 3.7 Bylaws of Reed's Inc., as amended (Incorporated by reference to Exhibit 3.6 to Reed's, Inc.'s Registration Statement on Form S-1 (File No. 333-220184))
- 4.1 Form of common stock certificate (Incorporated by reference to Exhibit 4.1 to Reed's, Inc.'s Registration Statement on Form SB-2 (File No. 333-120451))
- 4.2 Form of Series A preferred stock certificate (Incorporated by reference to Exhibit 4.2 to Reed's, Inc.'s Registration Statement on Form SB-2 (File No. 333-120451))
- 4.3 Form of Warrant issued to investors dated June 2, 2016 (Incorporated by reference to exhibit 4.1 to Reed's Inc.'s Current Report on Form 8-K as filed June 3, 2016)
- 4.4 Placement Agent Warrant issued to Maxim Group LLC dated June 2, 2016 (Incorporated by reference to exhibit 4.2 to Reed's Inc.'s Current Report on Form 8-K as filed June 3, 2016)
- 4.5 Form of Common Stock Purchase Warrant issued November 9, 2015 (Incorporated by reference to exhibit 10.1 to Reed's Inc.'s Quarterly Report on Form 10Q for the period ended March 31, 2016, as filed May 11, 2016)

Edgar Filing: REED'S, INC. - Form S-3/A

- 4.6 Form of Common Stock Purchase Warrant issued October 1, 2014 (Incorporated by reference to exhibit 10.4 to Reed's Inc.'s Quarterly Report on Form 10Q for the period ended March 31, 2016, as filed May 11, 2016)
- 4.7 Form of 2017-1 Warrant (Incorporated by reference to exhibit 4.1 to Reed's Inc.'s Current Report on Form 8-K as filed April 24, 2017)

- 4.8 Form of 2017-2 Warrant (Incorporated by reference to exhibit 4.2 to Reed's Inc.'s Current Report on Form 8-K as filed April 24, 2017)
- 4.9 Form of Subordinated Convertible Non-Redeemable Secured Promissory Note dated April 21, 2017 (Incorporated by reference to exhibit 4.3 to Reed's Inc.'s Current Report on Form 8-K as filed April 24, 2017)
- 4.10 Form of 2017-3 Warrant (Incorporated by reference to Exhibit 4.1 to Current Report on Form 8-K, filed July 14, 2017)
- 4.11 Form of 2017-4 Warrant (Incorporated by reference to Exhibit 4.2 to Current Report on Form 8-K, filed July 14, 2017)
- 4.12 Form of Warrant Certificate issued in 2018 rights offering (Incorporated by reference to Exhibit 4.12 to Reed's, Inc.'s Registration Statement on Form S-1 (File No. 333-221059)
- 4.13 Form of Warrant Agreement (Incorporated by reference to Exhibit 3.6 to Reed's, Inc.'s Registration Statement on Form S-1 (File No. 333-221059)
- 4.14 Form of Form of Warrant issuable to Raptor/ Harbor Reeds SPV, LLC pursuant to Backstop Agreement (Incorporated by reference to Exhibit 4.14 to Reed's, Inc.'s Registration Statement on Form S-1 (File No. 333-221059)
- 4.15 Amendment to Warrant Agreement by and between Reed's, Inc. and Raptor/Harbor Reeds SPV LLC dated October 4, 2018 (Incorporated by reference to Exhibit 4.1 to Reed's Inc. Quarterly Report on Form 10Q for the period ended September 30, 2018, as filed November 14, 2018)
- 4.16 Amended and Restated Subordinated Convertible Non-Redeemable Secured Note issued October 4, 2018 by Reed's Inc. in favor of Raptor/Harbor Reeds SPV LLC (Incorporated by reference to Exhibit 4.2 to Reed's Inc. Quarterly Report on Form 10Q for the period ended September 30, 2018, as filed November 14, 2018)
- 5.1 Opinion of Libertas Law Group Inc., filed herewith.
- 10.1 Placement Agent Agreement by and between Maxim Group LLC and Reed's Inc. dated May 26, 2016 (Incorporated by reference to exhibit 10.1 to Reed's Inc.'s Current Report on Form 8-K as filed June 3, 2016)
- 10.2 Securities Purchase Agreement by and between Reed's Inc. and purchasers signatory thereto dated May 26, 2016 (Incorporated by reference to exhibit 10.2 to Reed's Inc.'s Current Report on Form 8-K as filed June 3, 2016)
- 10.3 Registration Rights Agreement by and between Reed's Inc. and purchasers signatory thereto dated May 26, 2016 (Incorporated by reference to exhibit 10.3 to Reed's Inc.'s Current Report on Form 8-K as filed June 3, 2016)
- 10.4* 2007 Stock Option Plan (Incorporated by reference to Exhibit 10.22 to Reed's, Inc.'s Form 10-K filed March 27, 2009)
- 10.5*

2015 Incentive and Nonstatutory Stock Option Plan (Incorporated by reference to Exhibit 4.2 to Reed's Inc.'s Registration Statement on Form S-8 (File No. 333-203469), as filed April 17, 2015)

- 10.6 Amended and Restated Loan and Security Agreement by and between Reed's Inc. and PMC Financial Services, LLC dated December 5, 2014 (Incorporated by reference to exhibit 10.3 to Reed's Inc.'s Quarterly Report on Form 10Q for the period ended March 31, 2016, as filed May 11, 2016)

- 10.7 Amendment Number One Standard Industrial Commercial Single Tenant Lease-Net by and between Reed's Inc. and 525 South Douglas Street, LLC dated May 7, 2009 (Incorporated by reference to exhibit 10.4 to Reed's Inc.'s Quarterly Report on Form 10Q for the period ended March 31, 2016, as filed May 11, 2016)
- 10.8 Securities Purchase Agreement by and between Reed's Inc. and Raptor/Harbor Reeds SPV LLC dated April 21, 2017 (Incorporated by reference to exhibit 10.1 to Reed's Inc.'s Current Report on Form 8-K as filed April 24, 2017)
- 10.9 Second Lien Security Agreement by and between Reed's Inc. and Raptor/Harbor Reeds SPV LLC dated April 21, 2017 (Incorporated by reference to exhibit 10.2 to Reed's Inc.'s Current Report on Form 8-K as filed April 24, 2017)
- 10.10 Form of Registration Rights Agreement by and between Reed's Inc. and Raptor/Harbor Reeds SPV LLC dated April 21, 2017 (Incorporated by reference to exhibit 10.3 to Reed's Inc.'s Current Report on Form 8-K as filed April 24, 2017)
- 10.11 Amendment Number Fifteen to Amended and Restated Loan and Security Agreement between Reed's Inc. and PMC Financial Services Group, LLC dated April 21, 2017 (Incorporated by reference to exhibit 10.4 to Reed's Inc.'s Current Report on Form 8-K as filed April 24, 2017)
- 10.12 Warrant Exercise Agreement by and between Reed's Inc. and Raptor/Harbor Reeds SPV LLC dated July 13, 2017 (Incorporated by reference to Exhibit 10.1 to Current Report on Form 8-K, filed July 14, 2017)
- 10.13 Form of Warrant Exercise Agreement by and between Reed's Inc. and three investors dated July 13, 2017 (Incorporated by reference to Exhibit 10.2 to Current Report on Form 8-K, filed July 14, 2017)
- 10.14* Executive Employment Agreement effective as of June 28, 2017 by and between Reed's Inc. and Valentin Stalowir (Incorporated by reference to Exhibit 10.1 to Current Report on Form 8-K, filed July 13, 2017)
- 10.15* 2017 Incentive Compensation Plan (Incorporated by reference to Exhibit 4.2 to Reed's, Inc.'s Registration Statement on Form S-8 (File No. 333-222741))
- 10.16 Form of Backstop Agreement by and between Reed's Inc. and Raptor/ Harbor Reeds SPV, LLC (Incorporated by reference to Exhibit 10.16 to Reed's, Inc.'s Registration Statement on Form S-1 (File No. 333-220184))
- 10.17 Financing Agreement by and between Reed's Inc. and Rosenthal & Rosenthal Inc. dated October 4, 2018 (Incorporated by reference to Exhibit 10.1 to Reed's Inc. Quarterly Report on Form 10Q for the period ended September 30, 2018, as filed November 14, 2018)
- 10.18 Inventory Security Agreement by and between Reed's Inc. and Rosenthal & Rosenthal Inc. dated October 4, 2018 (Incorporated by reference to Exhibit 10.2 to Reed's Inc. Quarterly Report on Form 10Q for the period ended September 30, 2018, as filed November 14, 2018)
- 10.19 Intellectual Property Security Agreement by and between Reed's Inc. and Rosenthal & Rosenthal Inc. dated October 4, 2018 (Incorporated by reference to Exhibit 10.3 to Reed's Inc. Quarterly Report on Form 10Q for the period ended September 30, 2018, as filed November 14, 2018)

- 10.20 Security Interest (short form) by Reed's Inc. in favor of Rosenthal & Rosenthal Inc. dated October 4, 2018 (Incorporated by reference to Exhibit 10.4 to Reed's Inc. Quarterly Report on Form 10Q for the period ended September 30, 2018, as filed November 14, 2018)
- 10.21 Subordination Agreement by and among Rosenthal & Rosenthal Inc., Raptor/Harbor Reeds SPV LLC and Reed's Inc. dated October 4, 2018 (Incorporated by reference to Exhibit 10.5 to Reed's Inc. Quarterly Report on Form 10Q for the period ended September 30, 2018, as filed November 14, 2018)

- 10.22 First Amendment to Securities Purchase Agreement and Transaction Documents by and between Raptor/Harbor Reeds SPV LLC and Reed's Inc. dated October 4, 2018 (Incorporated by reference to Exhibit 10.6 to Reed's Inc. Quarterly Report on Form 10Q for the period ended September 30, 2018, as filed November 14, 2018)
- 10.23 Sublease Agreement by and between Reed's Inc., Merritt 7 Venture L.L.C., and GE Capital US Holdings, Inc., dated September 1, 2018 (Incorporated by reference to Exhibit 10.7 to Reed's Inc. Quarterly Report on Form 10Q for the period ended September 30, 2018, as filed November 14, 2018)
- 10.24* Separation, Settlement and Release of Claims Agreement by and between Reed's Inc. and Daniel V. Miles dated August 15, 2018 (Incorporated by reference to Exhibit 10.8 to Reed's Inc. Quarterly Report on Form 10Q for the period ended September 30, 2018, as filed November 14, 2018)
- 10.25 Amendment to Transaction Documents dated December 18, 2018 by and between Reed's Inc. and Raptor Harbor Reed's SPV LLC, previously filed with this registration statement on Form S-3.
- 10.26 Form of Indenture, filed herewith.
- 14.1 Code of Ethics (Incorporated by reference to Exhibit 14.1 to Reed's, Inc.'s Registration Statement on Form SB-2 (File No. 333-157359))
- 23.1 Consent of Weinberg & Company, PA, Independent Registered Public Accounting Firm, previously filed with this Registration Statement on Form S-3.
- 23.2 Consent of Libertas Law Group Inc. (included in Exhibit 5.1)

* Compensatory plan or arrangement.

