



**II.**  
**AFFIRMATIVE DEFENSES**

2. In addition to and without waiving the foregoing, pursuant to Rule 94 of the Texas Rules of Civil Procedure, Defendant asserts the following affirmative defenses:

3. In addition to and/or alternatively, without waiving the foregoing, Defendant pleads that Plaintiff's damages, if any, which Defendant does not admit, were caused in whole or in part by Plaintiff's own acts or omissions, negligent or otherwise.

4. In addition to and/or alternatively, without waiving the foregoing, Defendant pleads that Plaintiff wholly failed to make any demand.

5. In addition to and/or alternatively, without waiving the foregoing, Defendant pleads that Plaintiff suffered no compensable damage or injury.

6. In addition to and/or alternatively, without waiving the foregoing, Defendant pleads that Plaintiff's claims are barred by the doctrine of consent.

7. In addition to and/or alternatively, without waiving the foregoing, Defendant pleads that Plaintiff's failed to mitigate its damages, if any.

8. In addition to and/or alternatively, without waiving the foregoing, Defendant pleads that Plaintiff at all times could have taken action to avoid any damages alleged, which Defendant does not admit.

9. Defendant reserves the right to plead any additional defenses or affirmative defenses that may be applicable based upon evidence revealed during discovery of this matter.

10. In addition to, or in the alternative, by way of further answer, if such be necessary, and without waiving any of the foregoing. Defendant asserts, pursuant to Rule 94 of the

Texas Rules of Civil Procedure, that the actions complained of were proximately caused solely, in whole, or in part, by the acts, omissions, or conduct of persons, companies, entities, and/or instrumentalities beyond the control of Defendant, including without limitation, the Plaintiff over whom Defendant possessed no right of control and for whose acts Defendant is not legally responsible.

11. Defendant denies that all conditions precedent have occurred or been waived.

**PRAYER**

WHEREFORE, Defendant M.P. Seago Enterprises, Inc. respectfully request that on final trial, they be awarded the following:

1. Judgment that Plaintiff takes nothing;
2. Reasonable and necessary attorneys' fees incurred for defending this case to trial and judgment as well as a conditional award in the event of any and all appeals;
3. Costs of suit; and
4. Such further relief at law or in equity, to which Defendant may be by this pleading or proper amendment, thereto, show herself justly entitled.

Respectfully submitted,

**MAI & NA PLLC**

By: /s/ John Na

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**ATTORNEYS FOR DEFENDANT  
M.P. SEAGO ENTERPRISES, INC.**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing was served in accordance with the Texas Rules of Civil Procedure on all counsel of record on this the 3rd day of November 2023.

/s/ John Na  
JOHN NA

Unofficial Copy Office of Marilyn Burgess District Clerk

### Automated Certificate of eService

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John Na

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Envelope ID: 81286389

Filing Code Description: Answer/ Response / Waiver

Filing Description: Defendant M.P. Seago Enterprises, Inc.'s Original Answer

Status as of 11/3/2023 1:54 PM CST

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