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**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): **July 13, 2025**

**Datavault AI Inc.**

(Exact Name of Registrant as Specified in its Charter)

**Delaware**  
(State of  
incorporation)

**001-38608**  
(Commission  
File Number)

**30-1135279**  
(IRS Employer  
Identification No.)

**15268 NW Greenbrier Pkwy,  
Beaverton, OR**  
(Address of Principal Executive Offices)

**97006**  
(Zip Code)

**(408)-627-4716**  
(Registrant's telephone number, including area code)

**Not Applicable**  
(Former Name or former address if changed from last report.)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- ☐ 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:

<b>Title of each class</b>	<b>Trading Symbol(s)</b>	<b>Name of each exchange on which registered</b>
Common Stock, par value \$0.0001 per share	DVLT	The Nasdaq Capital Market

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. ☐

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### **Item 1.01 Entry Into a Material Definitive Agreement.**

#### *Stock Purchase Agreement*

On July 13, 2025, Datavault AI Inc., a Delaware corporation (the “Company”), entered into a Stock Purchase Agreement (the “Purchase Agreement”) with API Media Innovations Inc., a New Jersey corporation (“API Media”), David Reese and Frank Tomaino (Mr. Tomaino together with Mr. Reese, the “Sellers” and each a “Seller”), pursuant to which the Company agreed to purchase from the Sellers all of the outstanding shares of common stock of API Media (the “API Shares”) for an aggregate purchase price of (i) an amount in cash equal to \$6,000,000, (ii) 5,117,188 shares of common stock of the Company, par value \$0.001 per share (the “Common Stock”), and (iii) \$2,000,000 payable in the aggregate in the form of convertible promissory notes by the Company to the Sellers (the “Notes”).

The Notes shall be in a form agreed to among the Company and the Sellers and will payable in eight equal quarterly installments at the end of every three months following the closing of the purchase and sale of the API Shares (the “Closing”), with the final payment due on the second anniversary of the Closing. The Company has agreed to pay interest at the rate of ten percent (10%) per annum. At any time and at the Sellers’ option, the unpaid balance of the Notes shall be convertible to Common Stock, in increments of \$250,000, at a price of \$1.14 per share. Any unconverted balance of the Notes shall be paid in cash on the second anniversary of the Closing.

The Purchase Agreement includes customary representations and warranties and various customary covenants and closing conditions that are subject to certain limitations. If required by the applicable rules and regulations of the Nasdaq Capital Market, the Company will obtain a written consent of the Company’s stockholders to issue the shares of Common Stock to the Sellers and inform the stockholders of the Company of the receipt of the stockholder consent by preparing and filing with the U.S. Securities and Exchange Commission an information statement with respect thereto; provided, however, that in the event the Company is unable to obtain such prior written consent, then the Company shall organize a stockholders meeting and obtain such stockholders’ approval in a duly convened stockholders’ meeting.

The Closing is conditioned on Mr. Reese and Mr. Tomaino entering into and delivering to the Company a consulting agreement, the form of which shall be mutually agreed upon. Additionally, the Closing is conditioned on the Company completing one or more financings totaling a minimum of \$10,000,000 in net proceeds.

Pursuant to the Purchase Agreement, the Purchase Agreement can be terminated by mutual written consent of the parties, and also by either party after August 12, 2025 (the “Outside Date”), if the closing shall have not been consummated by the Outside Date. Additionally the Purchase Agreement can be terminated by either party if a final, non-appealable order, decree or ruling enjoining or otherwise prohibiting consummation of the purchase has been issued by any governmental authority or if the other party is in breach of the Purchase Agreement which has not been cured within ten (10) days of written notice of such breach (provided that such terminating party has not committed a material breach which is the principal cause of the failure to close). In the event that the Purchase Agreement is terminated by the Company for a reason other than as permitted by the Purchase Agreement, the Company shall pay to the Sellers an irrevocable and non-refundable breakup fee, in cash equal to \$1,000,000, pursuant to the terms provided for in the Purchase Agreement.

The foregoing summary of the Purchase Agreement does not purport to be complete and is qualified in its entirety by reference to the full text of the Purchase Agreement, a copy of which is attached hereto as Exhibit 10.1 and incorporated herein by reference.

### **Item 2.03 Creation of Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.**

The information set forth in Item 1.01 of this Current Report on Form 8-K (this “Form 8-K”) is incorporated by reference in this Item 2.03.

### **Item 3.02 Unregistered Sale of Equity Securities.**

The information set forth in Item 1.01 of this Form 8-K is incorporated by reference into this Item 3.02. The shares of Common Stock to be issued pursuant to the Purchase Agreement will be issued in reliance upon exemptions from registration under Section 4(a)(2) of the Securities Act of 1933, as amended (the “Securities Act”) and Rule 506 of Regulation D of the Securities Act.

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### ***Additional Information and Where to Find It***

THIS FORM 8-K IS ONLY A BRIEF DESCRIPTION OF THE TRANSACTION. IT IS NOT A REQUEST FOR OR SOLICITATION OF A PROXY OR AN OFFER TO ACQUIRE OR SELL ANY SHARES OF COMMON STOCK. THE COMPANY MAY FILE A PROXY STATEMENT AND OTHER REQUIRED MATERIALS WITH THE SEC CONCERNING THE TRANSACTION. IF THE COMPANY FILES A PROXY STATEMENT, A COPY OF ALL FINAL PROXY MATERIALS WILL BE SENT TO STOCKHOLDERS PRIOR TO THE 2025 ANNUAL MEETING OF STOCKHOLDERS OR A SPECIAL MEETING OF STOCKHOLDERS AT WHICH THE COMPANY'S STOCKHOLDERS WILL BE ASKED TO VOTE ON THE PROPOSALS DESCRIBED IN THE MATERIALS PROVIDED BY THE COMPANY. THE COMPANY URGES ALL STOCKHOLDERS TO READ THE PROXY STATEMENT WHEN IT BECOMES AVAILABLE, AS WELL AS ALL OTHER RELEVANT DOCUMENTS FILED WITH THE SEC, BECAUSE THOSE DOCUMENTS WILL INCLUDE IMPORTANT INFORMATION. A FREE COPY OF ALL MATERIALS THE COMPANY FILES WITH THE SEC AND PROXY STATEMENT, WILL BE AVAILABLE AT NO COST ON THE SEC'S WEBSITE AT WWW.SEC.GOV. WHEN THOSE DOCUMENTS BECOME AVAILABLE, THE PROXY STATEMENT AND OTHER DOCUMENTS FILED BY THE COMPANY MAY ALSO BE OBTAINED WITHOUT CHARGE BY DIRECTING A REQUEST TO DATAVAULT AI, INC., 15268 NW Greenbrier Pkwy, Beaverton, OR 97006, ATTENTION: SECRETARY.

The Company and its directors and executive officers may be deemed to be participants in the solicitation of proxies in connection with the transactions set forth herein. Information concerning such participants will be set forth in the proxy statement for the Company's 2025 Annual Meeting of Stockholders or a special meeting of stockholders, which will be filed with the SEC on Schedule 14A. To the extent that holdings of the Company's securities change since the amounts printed in the Company's proxy statement, such changes will be reflected on Statements of Change in Ownership on Form 4 or other filings filed with the SEC. Additional information regarding the interests of such participants in the solicitation of proxies in connection with the transactions set forth herein will be included in the proxy statement.

This Form 8-K shall not constitute a solicitation of a proxy, consent or authorization with respect to any securities or in respect of the proposed transactions described herein. This Form 8-K shall not constitute an offer to sell, or the solicitation of an offer to buy, nor will there be any sale of these securities in any state or other jurisdiction in which such offer, solicitation or sale would be unlawful prior to the registration or qualification under the securities laws of such state or jurisdiction. No offering of securities shall be made except by means of a prospectus meeting the requirements of Section 10 of the Securities Act, or an exemption therefrom.

### ***Cautionary Statement Regarding Forward-Looking Statements***

This Form 8-K contains forward-looking statements. Such forward-looking statements include, but are not limited to, statements that express the Company's intentions, beliefs, expectations, strategies, predictions or any other statements related to the Company's future activities, or future events or conditions, including those related to the Company's expectations with respect to the stock purchase, including statements regarding the benefits of the transaction, the anticipated timing of the transaction, the implied valuation of API Media, the services offered by API Media and the markets in which API Media operates, and the Company's projected future results, which can be identified by terminology such as "may," "will," "expects," "anticipates," "aims," "potential," "future," "intends," "plans," "believes," "estimates," "continue," "likely to" and other similar expressions intended to identify forward-looking statements, although not all forward-looking statements contain these identifying words. These statements are not historical facts and are based on current expectations, estimates and projections about the Company's business based, in part, on assumptions made by its management. These statements are not guarantees of future performance and involve risks, uncertainties and assumptions that are difficult to predict, many of which are beyond the Company's control, including risks related to (i) the timing of the transaction, (ii) the conditions required to consummate the transaction, (iii) the occurrence of any event, change or other circumstance that could give rise to the termination of the Purchase Agreement, (iv) the effect of the announcement or pendency of the transaction on the Company's business relationships, performance, and business generally, (v) the inability to recognize the anticipated benefits of the transaction, which may be affected by, among other things, competition and the ability of the post-combination company to grow and manage growth profitability and retain its key employees, (vi) costs related to the stock purchase, (vii) the ability to implement business plans, forecasts, and other expectations after the completion of the proposed stock purchase, and identify and realize additional opportunities, (viii) the risk of downturns and the possibility of rapid change in the highly competitive industries in which the Company and API Media operate, (ix) the risk that any adverse changes in API Media's relationships with buyer, sellers and partners may adversely affect the predicted business, financial condition and results of operations, (x) the risk that periods of rapid growth and expansion could place a significant strain on the Company's resources, including its employee base, which could negatively impact the Company's operating results, (xi) the risk that the Company may need to raise additional capital to execute its business plan, which may not be available on acceptable terms or at all, and (xii) other risks that may be included in the periodic reports and other filings that the Company files from time to time with the U.S. Securities and Exchange Commission. Therefore, actual outcomes and results may differ materially from what is expressed or forecasted in the forward-looking statements. Any forward-looking statements speak only as of the date on which they are made, and the Company undertakes no obligation to update any forward-looking statement to reflect events or circumstances after the date of this Form 8-K, except as required by applicable law.

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**Item 9.01 Financial Statements and Exhibits.**

**(d) Exhibits.**

<b>Exhibit No.</b>	<b>Description</b>
<a href="#"><u>10.1</u></a>	<a href="#"><u>Stock Purchase Agreement, by and between the Company and the Sellers, dated July 13, 2025</u></a>
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

\* Filed herewith

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## 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.

### DATAVAULT AI INC.

Date: July 17, 2025

By: /s/ Nathaniel Bradley  
Name: Nathaniel Bradley  
Title: Chief Executive Officer

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STOCK PURCHASE AGREEMENT

among

API MEDIA INNOVATIONS INC.,

a New Jersey corporation,

DAVID REESE,

FRANK TOMAINO,

and

DATAVAULT AI INC.,

a Delaware corporation,

dated as of

July 13, 2025

*THIS DOCUMENT IS INTENDED SOLELY TO FACILITATE DISCUSSIONS AMONG THE PARTIES IDENTIFIED HEREIN. IT IS NOT INTENDED TO CREATE, AND SHALL NOT BE DEEMED TO CREATE, A LEGALLY BINDING OR ENFORCEABLE OFFER OR AGREEMENT OF ANY TYPE OR NATURE PRIOR TO THE DULY AUTHORIZED AND APPROVED EXECUTION OF THIS DOCUMENT BY ALL SUCH PARTIES AND THE DELIVERY OF AN EXECUTED COPY HEREOF BY ALL SUCH PARTIES TO ALL OTHER PARTIES.*

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## STOCK PURCHASE AGREEMENT

This Stock Purchase Agreement (this “**Agreement**”), dated as of July 13, 2025, is entered into by and among API Media Innovations Inc., a New Jersey corporation (the “**Company**”), David Reese (“**Reese**”), Frank Tomaino (“**Tomaino**”; together with Reese, the “**Sellers**” and each a “**Seller**”), and Datavault AI Inc., Inc., a Delaware corporation (“**Buyer**”).

### RECITALS

WHEREAS, Sellers own all of the issued and outstanding shares of common stock, no par value (the “**Shares**”), of the Company;

WHEREAS, Sellers wish to sell to Buyer, and Buyer wishes to purchase from Sellers, the Shares, subject to the terms and conditions set forth herein;

WHEREAS, the respective board of directors of Buyer and the Company have each approved, adopted, and ratified the Proposed Transaction upon the terms and subject to the conditions set forth herein;

WHEREAS, Sellers have, in accordance with the Company’s charter documents and applicable Law, obtained the written consents of the stockholders of the Company in favor of the adoption of this Agreement and the approval of the Proposed Transaction; and

WHEREAS, Buyer has obtained an opinion (delivered orally prior to signing and to be confirmed in writing promptly following the date of this Agreement) from its financial advisor to the effect that, based upon and subject to the various assumptions made, procedures followed, matters considered, and qualifications and limitations set forth therein, the transactions contemplated hereby are fair to the Buyer and its stockholders from a financial point of view and, as of the date of this Agreement, such opinion has not been withdrawn, revoked, or modified.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

### ARTICLE I DEFINITIONS

The following terms have the meanings specified or referred to in this ARTICLE I:

“**Acquisition Proposal**” has the meaning set forth in Section 6.03(a).

“**Action**” means any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena or investigation of any nature, civil, criminal, administrative, regulatory or otherwise, whether at law or in equity.

“**Affiliate**” of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. The term “control” (including the terms “controlled by” and “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

“**Agreement**” has the meaning set forth in the preamble.

“**Ancillary Documents**” means this Agreement and the Convertible Notes.

“**Balance Sheet**” has the meaning set forth in Section 3.06.

“**Balance Sheet Date**” has the meaning set forth in Section 3.06.

“**Benefit Plan**” has the meaning set forth in Section 3.20(a).

“**Breakup Fee**” shall mean an amount in cash equal to \$1,000,000.

“**Business Day**” means any day except Saturday, Sunday or any other day on which commercial banks located in New York, New York are authorized or required by Law to be closed for business.

“**Buyer**” has the meaning set forth in the preamble.

“**Buyer Indemnitees**” has the meaning set forth in Section 9.02.

“**CERCLA**” means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. §§ 9601 et seq.

“**Closing**” has the meaning set forth in Section 2.06.

“**Closing Cash Consideration**” has the meaning set forth in Section 2.02.

“**Closing Date**” has the meaning set forth in Section 2.06.

“**Closing Date Payment**” has the meaning set forth in Section 2.04(a)(i).

“**Closing Stock Consideration**” has the meaning set forth in Section 2.02.

“**Closing Transaction Expenses Certificate**” means a certificate executed by the Chief Executive Officer of the Company, certifying on behalf of the Company the amount of Transaction Expenses remaining unpaid as of the open of business on the Closing Date (including an itemized list of each such unpaid Transaction Expense with a description of the nature of such expense and the Person to whom such expense is owed).

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

“**Common Stock**” has the meaning set forth in Section 2.02.

“**Company**” has the meaning set forth in the preamble.

**“Company Intellectual Property”** means all Intellectual Property that is owned or purported to be owned by the Company.

**“Company IP Agreements”** means all licenses, sublicenses, consent to use agreements, settlements, coexistence agreements, covenants not to sue, waivers, releases, permissions and other Contracts, including all modifications, amendments and supplements thereto, whether written or oral, relating to Intellectual Property to which the Company is a party, beneficiary or otherwise bound.

**“Company IP Registrations”** means all Company Intellectual Property that is subject to any issuance, registration or application by or with any Governmental Authority or authorized private registrar in any jurisdiction, including issued patents, registered trademarks, domain names and copyrights, and pending applications for any of the foregoing.

**“Company IT Systems”** means all Software, computer hardware, servers, networks, platforms, peripherals, and similar or related items of automated, computerized, or other information technology (IT) networks and systems (including telecommunications networks and systems for voice, data and video) owned, leased, licensed, or used (including through cloud-based or other third-party service providers) by the Company.

**“Consideration Spreadsheet”** has the meaning set forth in Section 2.05.

**“Contracts”** means all contracts, leases, deeds, mortgages, licenses, instruments, notes, commitments, undertakings, indentures, purchase orders, joint ventures and all other agreements, commitments and legally binding arrangements, which are in writing.

**“Convertible Notes”** shall mean the convertible promissory notes in a form agreed to among the Sellers and the Buyer, and with an aggregate principal balance of Two Million and 00/100 Dollars (\$2,000,000.00) and payable in eight (8) equal quarterly installments at the end of every three (3) months following the Closing with the final payment due on the second anniversary of the Closing. The Convertible Notes will accrue interest at the rate of ten percent (10%) per annum. At any time and at Sellers’ option, the unpaid balance of the Convertible Note shall be convertible to Common Stock, in increments of \$250,000, at a price of \$1.14 per share. Any unconverted balance of the Convertible Note shall be paid in cash on the second anniversary of the Closing.

**“Current Assets”** means cash and cash equivalents, accounts receivable, inventory and prepaid expenses, but excluding (a) the portion of any prepaid expense of which Buyer will not receive the benefit following the Closing, (b) deferred Tax assets, and (c) receivables from any of the Company’s Affiliates, directors, employees, officers or stockholders and any of their respective Affiliates, determined in accordance with GAAP applied using the same accounting methods, practices, principles, policies and procedures, with consistent classifications, judgments and valuation and estimation methodologies that were used in the preparation of the Financial Statements for the most recent fiscal year end as if such accounts were being prepared and audited as of a fiscal year end.

**“Current Liabilities”** means accounts payable, accrued Taxes and accrued expenses, but excluding (a) deferred Tax liabilities, (b) Transaction Expenses, (c) the current portion of any Indebtedness of the Company, and (d) payables to any of the Company’s Affiliates, directors, employees, officers or stockholders and any of their respective Affiliates, determined in accordance with GAAP applied using the same accounting methods, practices, principles, policies and procedures, with consistent classifications, judgments and valuation and estimation methodologies that were used in the preparation of the Financial Statements for the most recent fiscal year end as if such accounts were being prepared and audited as of a fiscal year end.

“**Designated Parties**” has the meaning set forth in Section 3.24(b).

“**Digital Assets**” has the meaning set forth in the definition of Intellectual Property.

“**Disclosure Schedules**” means the Disclosure Schedules delivered by the Company and each Seller concurrently with the execution and delivery of this Agreement.

“**Dollars**” or “**\$**” means the lawful currency of the United States.

“**Drop Dead Date**” has the meaning set forth in Section 10.01(b).

“**Encumbrance**” means any charge, claim, community property interest, pledge, condition, equitable interest, lien (statutory or other), option, security interest, mortgage, easement, encroachment, right of way, right of first refusal, or restriction of any kind, including any restriction on use, voting, transfer, receipt of income or exercise of any other attribute of ownership.

“**Environmental Claim**” means any Action, Governmental Order, lien, fine, penalty, or, as to each, any settlement or judgment arising therefrom, by or from any Person alleging liability of whatever kind or nature (including liability or responsibility for the costs of enforcement proceedings, investigations, cleanup, governmental response, removal or remediation, natural resources damages, property damages, personal injuries, medical monitoring, penalties, contribution, indemnification and injunctive relief) arising out of, based on or resulting from: (a) the presence of, Release of, or exposure to, any Hazardous Materials; or (b) any actual or alleged non-compliance with any Environmental Law or term or condition of any Environmental Permit.

“**Environmental Law**” means any applicable Law, and any Governmental Order or binding agreement with any Governmental Authority with respect to the Company: (a) relating to pollution (or the cleanup thereof) or the protection of natural resources, endangered or threatened species, human health or safety, or the environment (including ambient or indoor air, soil, surface water or groundwater, or subsurface strata); or (b) concerning the presence of, exposure to, or the management, manufacture, use, containment, storage, recycling, reclamation, reuse, treatment, generation, discharge, transportation, processing, production, disposal or remediation of any Hazardous Materials. The term “Environmental Law” includes, without limitation, the following (including their implementing regulations and any state analogs): the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. §§ 9601 et seq.; the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. §§ 6901 et seq.; the Federal Water Pollution Control Act of 1972, as amended by the Clean Water Act of 1977, 33 U.S.C. §§ 1251 et seq.; the Toxic Substances Control Act of 1976, as amended, 15 U.S.C. §§ 2601 et seq.; the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. §§ 11001 et seq.; the Clean Air Act of 1966, as amended by the Clean Air Act Amendments of 1990, 42 U.S.C. §§ 7401 et seq.; the Federal Insecticide, Fungicide and Rodenticide Act of 1910, as amended, 7 U.S.C. §§ 136 et seq.; the Oil Pollution Act of 1990, as amended, 33 U.S.C. §§ 2701 et. seq.; and the Occupational Safety and Health Act of 1970, as amended, 29 U.S.C. §§ 651 et seq.

**“Environmental Notice”** means any written directive, notice of violation or infraction, or notice respecting any Environmental Claim relating to actual or alleged non-compliance with any Environmental Law or any term or condition of any Environmental Permit.

**“Environmental Permit”** means any Permit, letter, clearance, consent, waiver, closure, exemption, decision or other action required under or issued, granted, given, authorized by or made pursuant to Environmental Law.

**“Environmental Professional”** means an individual licensed by a Governmental Authority to act on behalf of such Governmental Authority to oversee environmental site investigation and remediation.

**“ERISA”** means the Employee Retirement Income Security Act of 1974, as amended, and the rules and regulations promulgated thereunder, all as from time to time in effect, and any successor Laws thereto.

**“ERISA Affiliate”** means all Persons (whether or not incorporated) that is or has been treated as a single employer with the Company the Company or any of its Affiliates under Section 414 of the Code or Section 4001 of ERISA, in each case whether or not such Person is engaged in a trade or business.

**“Estimated Closing Statement”** has the meaning set forth in Section 2.04(a)(ii).

**“Financial Statements”** has the meaning set forth in Section 3.06.

**“FIRPTA Certificate”** has the meaning set forth in Section 7.09.

**“GAAP”** means United States generally accepted accounting principles in effect from time to time.

**“Government Contracts”** has the meaning set forth in Section 3.09(a)(xv).

**“Governmental Authority”** means any United States federal, state, local or foreign government or political subdivision thereof, or any agency or instrumentality of such government or political subdivision, or any self-regulated organization or other non-governmental regulatory authority or quasi-governmental authority, including Environmental Professionals (to the extent that the rules, regulations or orders of such organization or authority have the force of Law), or any arbitrator, court or tribunal of competent jurisdiction.

**“Governmental Order”** means any order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Authority.

**“Hazardous Materials”** means: (a) any material, substance, chemical, waste, product, derivative, compound, mixture, solid, liquid, mineral or gas, in each case, whether naturally occurring or manmade, that is hazardous, acutely hazardous, toxic, or words of similar import or regulatory effect under Environmental Laws; and (b) any petroleum or petroleum-derived products, radon, radioactive materials or wastes, asbestos in any form, lead or lead-containing materials, urea formaldehyde foam insulation, and polychlorinated biphenyls and per- and poly-fluoroalkyl substances (PFAS) and other emerging contaminants.

**“Indebtedness”** means, without duplication and with respect to the Company, all (a) indebtedness for borrowed money; (b) obligations for the deferred purchase price of property or services, (c) long or short-term obligations evidenced by notes, bonds, debentures or other similar instruments; (d) obligations under any interest rate, currency swap or other hedging agreement or arrangement; (e) capital lease obligations; (f) reimbursement obligations under any letter of credit, banker’s acceptance or similar credit transactions; (g) guarantees made by the Company on behalf of any third party in respect of obligations of the kind referred to in the foregoing clauses (a) through (f); and (h) any unpaid interest, prepayment penalties, premiums, costs and fees that would arise or become due as a result of the prepayment of any of the obligations referred to in the foregoing clauses (a) through (g).

**“Independent Accountant”** means such firm of independent accountants of national standing to which Sellers and Buyer mutually agree in writing.

**“Insurance Policies”** has the meaning set forth in [Section 3.16](#).

**“Intellectual Property”** means any and all rights in, arising out of, or associated with any of the following in any jurisdiction throughout the world: (a) issued patents and patent applications (whether provisional or non-provisional), including divisionals, continuations, continuations-in-part, substitutions, reissues, reexaminations, extensions, or restorations of any of the foregoing, and other Governmental Authority-issued indicia of invention ownership (including certificates of invention, petty patents, and patent utility models); (b) trademarks, service marks, brands, certification marks, logos, trade dress, trade names, and other similar indicia of source or origin, together with the goodwill connected with the use of and symbolized by, and all registrations, applications for registration, and renewals of, any of the foregoing (**“Trademarks”**); (c) copyrights and works of authorship, whether or not copyrightable, and all registrations, applications for registration, and renewals of any of the foregoing; (d) internet domain names and social media account or user names (including “handles”), all associated web addresses, URLs, websites and web pages, social media sites and pages, and all content and data thereon or relating thereto (**“Digital Assets”**); (e) mask works, and all registrations, applications for registration, and renewals thereof; (f) industrial designs, and all registrations, applications for registration, and renewals thereof; (g) trade secrets, know-how, inventions (whether or not patentable), discoveries, improvements, technology, business and technical information, databases, data compilations and collections, tools, methods, processes, techniques, and other confidential and proprietary information and all rights therein (**“Trade Secrets”**); (h) computer programs, operating systems, applications, firmware, and other code, including all source code, object code, application programming interfaces, data files, databases, protocols, specifications, and other documentation thereof (**“Software”**); (i) rights of publicity; and (j) all other intellectual or industrial property and proprietary rights.

“**Interim Balance Sheet**” has the meaning set forth in [Section 3.06](#).

“**Interim Balance Sheet Date**” has the meaning set forth in [Section 3.06](#).

“**Interim Financial Statements**” has the meaning set forth in [Section 3.06](#).

“**Knowledge of the Company**” or “**Company’s Knowledge**” or any other similar knowledge qualification means the actual or constructive knowledge of Reese or Tomaino, after reasonable inquiry.

“**Law**” means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree, other requirement or rule of law of any Governmental Authority.

“**Liabilities**” has the meaning set forth in [Section 3.07](#).

“**Licensed Intellectual Property**” means all Intellectual Property in which the Company holds any rights or interests granted by other Persons, including any of its Affiliates.

“**Losses**” means material losses, damages, Liabilities, deficiencies, Actions, judgments, interest, awards, penalties, fines, costs or expenses of whatever kind, including reasonable attorneys’ fees and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers; provided, however, that “Losses” shall not include punitive damages, except to the extent actually awarded to a Governmental Authority or other third party.

“**Material Adverse Effect**” means any event, occurrence, fact, condition or change that is, or could reasonably be expected to become, individually or in the aggregate, materially adverse to (a) the business, results of operations, condition (financial or otherwise) or assets of the Company, or (b) the ability of Sellers or the Company to consummate the Proposed Transaction on a timely basis; provided, however, that “Material Adverse Effect” shall not include any event, occurrence, fact, condition or change, directly or indirectly, arising out of or attributable to: (i) general economic or political conditions; (ii) any action required or permitted by this Agreement or any action taken (or omitted to be taken) with the written consent of or at the written request of Buyer; (iii) any changes in applicable Laws or accounting rules, including GAAP; (iv) any natural or man-made disasters or acts of God; (v) any epidemics, pandemics, or disease outbreaks or any worsening thereof; provided further, however, that any event, occurrence, fact, condition or change referred to in clause (i) above shall be taken into account in determining whether a Material Adverse Effect has occurred or could reasonably be expected to occur to the extent that such event, occurrence, fact, condition or change has a disproportionate effect on the Company compared to other participants in the industries in which the Company conducts its businesses.

“**Material Contracts**” has the meaning set forth in [Section 3.09\(a\)](#).

“**Material Customers**” has the meaning set forth in [Section 3.15\(a\)](#).

“**Material Suppliers**” has the meaning set forth in [Section 3.15\(b\)](#).

“**Open Source Software**” means any Software that is (i) distributed as free software or as open source software (e.g., Linux), or (ii) subject to any licensing or distribution model that includes as a term thereof any requirement for distribution of source code to licensees or third-parties, patent license requirements on distribution, restrictions on future patent licensing terms, or other abridgement or restriction of the exercise or enforcement of any Intellectual Property through any means, or (iii) derived from in any manner (in whole or in part), links to, relies on, is distributed with, incorporates or contains any Software described in (i) or (ii) above.



“**Payoff Letters**” has the meaning set forth in Section 2.03(b)(ii).

“**Permits**” means all permits, licenses, franchises, approvals, authorizations, registrations, certificates, variances and similar rights obtained, or required to be obtained, from Governmental Authorities, including, without limitation, women owned small business qualifications or certifications.

“**Permitted Encumbrances**” has the meaning set forth Section 3.10(a).

“**Person**” means an individual, corporation, partnership, joint venture, limited liability company, Governmental Authority, unincorporated organization, trust, association or other entity.

“**Post-Closing Tax Period**” means any taxable period beginning after the Closing Date and, with respect to any taxable period beginning before and ending after the Closing Date, the portion of such taxable period beginning after the Closing Date.

“**Pre-Closing Tax Period**” means any taxable period ending on or before the Closing Date and, with respect to any taxable period beginning before and ending after the Closing Date, the portion of such taxable period ending on and including the Closing Date.

“**Pre-Closing Taxes**” has the meaning set forth in Section 7.03.

“**Professional Employer Organization**” or “**PEO**” means any staffing company, temporary employee agency, professional employer organization, or similar company or service provider that provides services or acts as co-employer with respect to an employee.

“**Pro Rata Share**” means, with respect to any Seller, such Person’s ownership interest in the Company as of immediately prior to the Closing Date, determined by dividing (a) the number of Shares owned of record by such Person as of immediately prior to the Closing Date, by (b) the aggregate number of Shares held by all Sellers.

“**Proposed Transaction**” means the transactions contemplated by this Agreement.

“**Proprietary Software**” has the meaning set forth in Section 3.12(a).

“**Purchase Price**” has the meaning set forth in Section 2.02.

“**Qualified Benefit Plan**” has the meaning set forth in Section 3.20(c).

“**Real Property**” means any right, title and interest in and to the real property owned by, or leased or subleased to, the Company, together with all buildings, structures and facilities, located thereon, and including any improvements and fixtures thereon.

“**Release**” means any actual or threatened release, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, abandonment, disposing or allowing to escape or migrate into or through the environment (including, without limitation, ambient or indoor air, surface water, groundwater, land surface or subsurface strata or within any building, structure, facility or fixture).

“**Representative**” means, with respect to any Person, any and all directors, officers, employees, consultants, financial advisors, counsel, accountants and other agents of such Person.

“**Restricted Business**” means audiovisual and information technology services with an emphasis on installed and managed media distribution systems.

“**Restricted Countries**” has the meaning set forth in [Section 3.24\(b\)](#).

“**Restricted Period**” has the meaning set forth in [Section 6.07\(a\)](#).

“**Sanctioned Parties**” has the meaning set forth in [Section 3.24\(b\)](#).

“**Sanctions**” has the meaning set forth in [Section 3.24\(a\)](#).

“**Seller Indemnitees**” has the meaning set forth in [Section 9.03](#).

“**Sellers**” has the meaning set forth in the preamble.

“**Shares**” has the meaning set forth in the recitals.

“**Single Employer Plan**” has the meaning set forth in [Section 3.20\(c\)](#).

“**Software**” has the meaning set forth in the definition of Intellectual Property.

“**Straddle Period**” has the meaning set forth in [Section 7.04](#).

“**Taxes**” means all United States federal, state, local, or foreign taxes on income, capital gains, gross receipts, sales, use, production, ad valorem, transfer, franchise, registration, profits, license, lease, service, service use, withholding, payroll, employment, unemployment, social security (including FICA), disability, value added, estimated, excise, severance, environmental, stamp, occupation, premium, property (real or personal), real property gains, windfall profits, customs, duties or other taxes, fees, assessments or charges of any kind whatsoever, together with any interest, additions or penalties with respect thereto and any interest in respect of such additions or penalties.

“**Tax Claim**” has the meaning set forth in [Section 7.05](#).

“**Tax Return**” means any return, form, declaration, report, claim for refund, information return, election, disclosure, estimate or statement or other document relating to Taxes filed or required to be filed with any Governmental Authority, including any schedule or attachment thereto, and including any amendment thereof.

“**Territory**” means North America.

“**Trade Secrets**” has the meaning set forth in the definition of Intellectual Property.

“**Trademarks**” has the meaning set forth in the definition of Intellectual Property.

“**Transaction Expenses**” means all fees and expenses incurred by the Company at or prior to the Closing in connection with the preparation, negotiation and execution of this Agreement and the Ancillary Documents, and the performance and consummation of the Proposed Transaction and thereby.

“**Unaudited Financial Statements**” has the meaning set forth in Section 3.06.

“**Union**” has the meaning set forth in Section 3.21(b).

“**WARN Act**” means the federal Worker Adjustment and Retraining Notification Act of 1988, and similar state, local and foreign laws related to plant closings, relocations, mass layoffs and employment losses.

## **ARTICLE II PURCHASE AND SALE**

**Section 2.01 Purchase and Sale.** On the terms and subject to the conditions set forth herein, at the Closing, Sellers shall sell to Buyer, and Buyer shall purchase from Sellers, the Shares, free and clear of all Encumbrances, for the consideration specified in Section 2.02.

**Section 2.02 Purchase Price.** The consideration payable in respect of the sale, assignment and delivery of the Shares shall consist of: (i) an amount in cash equal to \$6,000,000 (the “**Closing Cash Consideration**”), subject to adjustment pursuant to Section 2.04 hereof, (ii) 5,117,188 validly issued, fully paid and nonassessable shares of common stock of Buyer, par value \$0.001 per share (the “**Common Stock**”) (collectively, the “**Closing Stock Consideration**”), and (iii) \$2,000,000 payable in the aggregate in the form of the Convertible Notes by Buyer to the Sellers (collectively, the “**Purchase Price**”).

### **Section 2.03 Transactions to Be Effected at the Closing.**

(a) At the Closing, Buyer shall:

(i) deliver to Sellers:

(A) the Closing Cash Consideration by wire transfer of immediately available funds to the accounts designated for each Seller on the Consideration Spreadsheet, with each Seller receiving such Seller’s Pro Rata Share of such amount;

(B) issue to Sellers the Convertible Notes, with each Seller receiving such Seller’s Pro Rata Share of such Convertible Notes;

(C) issue to Sellers the Closing Stock Consideration, with each Seller receiving such Seller's Pro Rata Share thereof; and

(D) the Ancillary Documents and all other agreements, documents, instruments or certificates required to be delivered by Buyer at or prior to the Closing pursuant to Section 8.03 of this Agreement.

(ii) pay, on behalf of the Company, the following amounts:

(A) any Transaction Expenses unpaid at Closing, by wire transfer of immediately available funds to the accounts and in the amounts specified on the Closing Transaction Expenses Certificate.

(b) At the Closing, Sellers shall deliver to Buyer:

(i) Certificates or book entry statements evidencing the Shares, free and clear of all Encumbrances, duly endorsed in blank or accompanied by stock powers or other instruments of transfer duly executed in blank, with all required stock transfer tax stamps affixed thereto;

(ii) executed payoff letters (the "**Payoff Letters**") in respect of all Company Indebtedness; and

(iii) The Ancillary Documents, duly executed by Sellers, and all other agreements, documents, instruments or certificates required to be delivered by Sellers at or prior to the Closing pursuant to Section 8.02 of this Agreement.

#### **Section 2.04 Purchase Price Adjustment.**

(a) Closing Adjustment.

(i) At the Closing, the Purchase Price shall be adjusted in the following manner:

(A) [Reserved]; and

(B) a decrease by the amount of unpaid Transaction Expenses of the Company.

The net amount after giving effect to the adjustments listed above shall be the "**Closing Date Payment**."

(ii) At least five (5) Business Days before the Closing, Sellers shall prepare and deliver to Buyer a statement setting forth their good faith estimate of the closing statement (the "**Estimated Closing Statement**"), which is subject to Buyer's reasonable approval, and a certificate of the Chief Executive Officer of the Company certifying that the Estimated Closing Statement was prepared in accordance with this Agreement and GAAP applied using the same accounting methods, practices, principles, policies and procedures, with consistent classifications, judgments and valuation and estimation methodologies that were used in the preparation of the Unaudited Financial Statements for the most recent fiscal year end as if such Estimated Closing Statement was being prepared as of a fiscal year end.

#### **Section 2.05 Consideration Spreadsheet.**

(a) At least five Business Days before the Closing and concurrently with the delivery of the Estimated Closing Statement, the Company shall prepare and deliver to Buyer a spreadsheet (the “**Consideration Spreadsheet**”), certified by the Chief Executive Officer of the Company, which shall set forth, as of the Closing Date, the following:

- (i) the name and address of each Seller, and the number of Shares held by such Seller, and such Seller’s Pro Rata Share;
- (ii) the aggregate consideration to be paid to each Seller for such Seller’s Shares;
- (iii) Reserved; and
- (iv) wire instructions and bank account information for each Seller.

(b) The parties agree that Buyer shall be entitled to rely on the Consideration Spreadsheet in making payments under ARTICLE II and Buyer shall not be responsible for calculations or determination regarding such calculation in such Consideration Spreadsheet.

**Section 2.06 Closing.** Subject to the terms and conditions of this Agreement, the purchase and sale of the Shares contemplated hereby shall take place at a closing (the “**Closing**”) to be held at 10:00 a.m. Eastern Time, no later than two Business Days after the last of the conditions to Closing set forth in ARTICLE VIII have been satisfied or waived (other than conditions which, by their nature, are to be satisfied on the Closing Date), which Closing shall be held remotely by electronic exchange of documents and signatures, or at such other time or on such other date or at such other place as the Seller’s Representative and Buyer may mutually agree upon in writing (the day on which the Closing takes place being the “**Closing Date**”).

**Section 2.07 Withholding Tax.** Buyer and the Company shall be entitled to deduct and withhold from the Purchase Price all Taxes that Buyer and the Company may be required to deduct and withhold under any provision of Tax Law. All such withheld amounts shall be treated as delivered to Sellers hereunder.

### **ARTICLE III REPRESENTATIONS AND WARRANTIES RELATING TO THE COMPANY**

Except as set forth in the correspondingly numbered Section of the Disclosure Schedules, the Company represents and warrants to Buyer that the statements contained in this ARTICLE III are true and correct as of the date hereof and as of the Closing.

**Section 3.01 Organization, Authority and Qualification of the Company.** The Company is a corporation duly organized, validly existing and in good standing under the Laws of the State of New Jersey and has full corporate power and authority to own, operate or lease the properties and assets now owned, operated or leased by it and to carry on its business as it has been and is currently conducted. Section 3.01 of the Disclosure Schedules sets forth each jurisdiction in which the Company is licensed or qualified to do business, and the Company is duly licensed or qualified to do business and is in good standing in each jurisdiction in which the properties owned or leased by it or the operation of its business as currently conducted makes such licensing or qualification necessary. The Company has full corporate power and authority to enter into this Agreement and any Ancillary Documents to which the Company is or will be a party, to carry out its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby.

**Section 3.02 Enforceability and Authority of the Company.** The execution and delivery by the Company of this Agreement and any Ancillary Document to which the Company is or will be a party, the performance by the Company of its obligations hereunder and thereunder, and the consummation by the Company of the transactions contemplated hereby and thereby have been duly authorized by all requisite corporate action on the part of the Company. This Agreement has been duly executed and delivered by the Company, and (assuming due authorization, execution and delivery by Buyer) this Agreement constitutes a legal, valid and binding obligation of the Company enforceable against the Company in accordance with its terms. When each Ancillary Document to which the Company is or will be a party has been duly executed and delivered by the Company (assuming due authorization, execution and delivery by each other party thereto), such Ancillary Document will constitute a legal and binding obligation of the Company enforceable against it in accordance with its terms.

**Section 3.03 Capitalization.**

(a) The authorized capital stock of the Company consists of One Million (1,000,000) shares of Common Stock, no par value, of which One Thousand (1,000) shares are issued and outstanding as of the close of business on the date hereof and constitute the Shares.

(b) Section 3.03(b) of the Disclosure Schedules sets forth the name of each Person that is the registered owner of any Shares and the number of Shares owned by such Person.

(c) No subscription, warrant, option, convertible or exchangeable security, or other right (contingent or otherwise) to purchase or otherwise acquire equity securities of the Company is authorized or outstanding, and there is no commitment by the Company to issue shares, subscriptions, warrants, options, convertible or exchangeable securities, or other such rights or to distribute to holders of any of its equity securities any evidence of indebtedness or asset, to repurchase or redeem any securities of the Company or to grant, extend, accelerate the vesting of, change the price of, or otherwise amend any warrant, option, convertible or exchangeable security or other such right. There are no declared or accrued unpaid dividends with respect to any Shares.

(d) All issued and outstanding Shares are (i) duly authorized and validly issued; (ii) not subject to any preemptive rights created by statute, the charter, by-laws, or other organizational documents of the Company, or any agreement to which the Company is a party; and (iii) free of any Encumbrances created by the Company in respect thereof. All issued and outstanding Shares were issued in compliance with applicable Law.

(e) No outstanding Shares are subject to vesting or forfeiture rights or repurchase by the Company. There are no outstanding or authorized stock appreciation, dividend equivalent, phantom stock, profit participation or other similar rights with respect to the Company or any of its securities.

(f) All distributions, dividends, repurchases and redemptions of the capital stock (or other equity interests) of the Company were undertaken in compliance with the charter, by-laws or other organizational documents of the Company then in effect, any agreement to which the Company then was a party and in compliance with applicable Law.

**Section 3.04 No Subsidiaries.** The Company does not own or have any capital stock or other equity, ownership or profit-sharing interests in any other Person, or the right or obligation to acquire any capital stock or other equity, ownership or profit sharing interests in any other Person.

**Section 3.05 No Conflicts; Consents.** The execution, delivery and performance by the Company of this Agreement and the Ancillary Documents to which it is or will be a party, and the consummation of the transactions contemplated hereby and thereby, do not and will not: (a) conflict with or result in a violation or breach of, or default under, any provision of the organizational documents of the Company; (b) conflict with or result in a violation or breach of any provision of any Law or Governmental Order applicable to the Company; (c) except as set forth in Section 3.05 of the Disclosure Schedules, require the consent, notice or other action by any Person under, conflict with, result in a violation or breach of, constitute a default or an event that, with or without notice or lapse of time or both, would constitute a default under, result in the acceleration of or create in any party the right to accelerate, terminate, modify or cancel any Contract to which the Company is a party or by which the Company is bound or to which any of its properties and assets are subject (including any Material Contract) or any Permit affecting the properties, assets or business of the Company; or (d) result in the creation or imposition of any Encumbrance other than Permitted Encumbrances on any properties or assets of the Company. No consent, approval, Permit, Governmental Order, declaration or filing with, or notice to, any Governmental Authority is required by or with respect to the Company in connection with the execution and delivery of this Agreement and the Ancillary Documents to which it is or will be a party and the consummation of the transactions contemplated hereby and thereby.

**Section 3.06 Financial Statements.** Complete copies of the Company's unaudited financial statements consisting of the balance sheet of the Company as at December 31, 2024 and the related statements of income and retained earnings, stockholders' equity and cash flow for the years then ended (the "**Unaudited Financial Statements**"), and unaudited financial statements consisting of the balance sheet of the Company as at June 30, 2025 and the related statements of income and retained earnings, members' equity and cash flow for the six-month period then ended (the "**Interim Financial Statements**" and together with the Unaudited Financial Statements, the "**Financial Statements**") have been delivered to Buyer. The Financial Statements have been prepared in accordance with GAAP applied on a consistent basis throughout the period involved, subject, in the case of the Interim Financial Statements, to normal and recurring year-end adjustments (the effect of which will not be material to the Company) and the absence of notes (that, if presented, would not differ materially from those presented in the Unaudited Financial Statements). The Financial Statements are based on the books and records of the Company, and fairly present the financial condition of the Company as of the respective dates they were prepared and the results of the operations of the Company for the periods indicated. The balance sheet of the Company as of December 31, 2024, is referred to herein as the "**Balance Sheet**" and the date thereof as the "**Balance Sheet Date**" and the balance sheet of the Company as of June 30, 2025 is referred to herein as the "**Interim Balance Sheet**" and the date thereof as the "**Interim Balance Sheet Date**." The Company maintains a standard system of accounting established and administered in accordance with GAAP.

**Section 3.07 Undisclosed Liabilities; Indebtedness.**

(a) The Company has no liabilities, obligations or commitments of any nature whatsoever, asserted or unasserted, known or unknown, absolute or contingent, accrued or unaccrued, matured or unmatured or otherwise (“**Liabilities**”), except (a) those which are adequately reflected or reserved against in the Balance Sheet as of the Balance Sheet Date, and (b) those which have been incurred in the ordinary course of business consistent with past practice since the Balance Sheet Date and which are not, individually or in the aggregate, material in amount.

(b) All Company Indebtedness shall be discharged effective immediately prior to the Closing in accordance with the Payoff Letters.

**Section 3.08 Absence of Certain Changes, Events and Conditions.** Since the Balance Sheet Date, the business of the Company has been conducted in the ordinary course of business consistent with past practice, and there has not been, with respect to the Company, any:

- (a) event, occurrence or development that has had, or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect;
- (b) amendment of the charter, by-laws or other organizational documents of the Company;
- (c) split, combination or reclassification of any shares of its capital stock;
- (d) issuance, sale or other disposition of any of its capital stock, or grant of any options, warrants or other rights to purchase or obtain (including upon conversion, exchange or exercise) any of its capital stock;
- (e) declaration or payment of any dividends or distributions on or in respect of any of its capital stock or redemption, purchase or acquisition of its capital stock;



(f) material change in any method of accounting or accounting practice of the Company, except as required by GAAP or as disclosed in the notes to the Financial Statements;

(g) material change in the Company's cash management practices and its policies, practices and procedures with respect to collection of accounts receivable, establishment of reserves for uncollectible accounts, accrual of accounts receivable, inventory control, prepayment of expenses, payment of trade accounts payable, accrual of other expenses, deferral of revenue and acceptance of customer deposits;

(h) entry into any Contract that would constitute a Material Contract, with the exception of inventory purchases that may be required to satisfy the needs of an existing customer or Material Contract;

(i) incurrence, assumption or guarantee of any indebtedness for borrowed money except unsecured current obligations and Liabilities incurred in the ordinary course of business consistent with past practice;

(j) transfer, assignment, sale or other disposition of any of the assets shown or reflected in the Balance Sheet or cancellation of any debts or entitlements;

(k) transfer or assignment of or grant of any license or sublicense under or with respect to any Company Intellectual Property or Company IP Agreements;

(l) abandonment or lapse of or failure to maintain in full force and effect any Company IP Registration, or failure to take or maintain reasonable measures to protect the confidentiality of any Trade Secrets included in the Company Intellectual Property;

(m) material damage, destruction or loss (whether or not covered by insurance) to its property;

(n) capital investment in, or loan to, any other Person;

(o) acceleration, termination, material modification to or cancellation of any material Contract (including, but not limited to, any Material Contract) to which the Company is a party or by which it is bound;

(p) material capital expenditures with the exception of inventory purchases that may be required to satisfy the needs of an existing customer or Material Contract;

(q) imposition of any Encumbrance (other than Permitted Encumbrances) upon any of the Company properties, capital stock or assets, tangible or intangible;

(r) (i) grant of any bonuses, whether monetary or otherwise, or increase in any wages, salary, severance, pension or other compensation or benefits in respect of its current or former employees, officers, directors, independent contractors or consultants, other than as provided for in any written agreements or required by applicable Law, (ii) change in the terms of employment for any employee or any termination of any employees for which the aggregate costs and expenses exceed \$50,000, or (iii) action to accelerate the vesting or payment of any compensation or benefit for any current or former employee, officer, director, independent contractor or consultant;

(s) Except as set forth on Section 3.08(s) of the Disclosure Schedules, hiring or promoting of any person as or to (as the case may be) an officer or hiring or promoting of any employee below officer except to fill a vacancy in the ordinary course of business or to meet a significant need relating to the execution of or related to the needs of an existing client or Material Contract;

(t) adoption, modification or termination of any: (i) employment, severance, retention or other agreement with any current or former employee, officer, director, independent contractor or consultant, (ii) Benefit Plan or (iii) collective bargaining or other agreement with a Union, in each case whether written or oral;

(u) loan to (or forgiveness of any loan to), or entry into any other transaction with, any of its members or current or former directors, officers and employees;

(v) entry into a new line of business or abandonment or discontinuance of existing lines of business;

(w) adoption of any plan of merger, consolidation, reorganization, liquidation or dissolution or filing of a petition in bankruptcy under any provisions of federal or state bankruptcy Law or consent to the filing of any bankruptcy petition against it under any similar Law;

(x) purchase, lease or other acquisition of the right to own, use or lease any property or assets for an amount in excess of \$200,000 in the aggregate, except for purchases of inventory or supplies in the ordinary course of business consistent with past practice;

(y) acquisition by merger or consolidation with, or by purchase of a substantial portion of the assets or stock of, or by any other manner, any business or any Person or any division thereof;

(z) action by the Company to make, change or rescind any Tax election, amend any Tax Return or take any position on any Tax Return, take any action, omit to take any action or enter into any other transaction that would have the effect of increasing the Tax liability or reducing any Tax asset of Buyer in respect of any Post-Closing Tax Period; or

(aa) Contract to do any of the foregoing, or any action or omission that would result in any of the foregoing.

#### **Section 3.09 Material Contracts.**

(a) Section 3.09(a) of the Disclosure Schedules lists each of the following Contracts of the Company (such Contracts, together with all Contracts concerning the occupancy, management or operation of any Real Property (including without limitation, brokerage contracts) listed or otherwise disclosed in Section 3.10(b) of the Disclosure Schedules and all Company IP Agreements set forth in Section 3.12(b) of the Disclosure Schedules, being “**Material Contracts**”):

- (i) each Contract of the Company involving aggregate consideration in excess of \$100,000 and which, in each case, cannot be cancelled by the Company without penalty or without more than 90 days' notice;
- (ii) all Contracts with the Material Customers;
- (iii) all Contracts that require the Company to purchase its total requirements of any product or service from a third party or that contain "take or pay" provisions;
- (iv) all Contracts that provide for the indemnification by the Company of any Person or the assumption of any Tax, environmental or other Liability of any Person;
- (v) all Contracts that relate to the acquisition or disposition of any business, a material amount of stock or assets of any other Person or any real property (whether by merger, sale of stock, sale of assets or otherwise);
- (vi) all broker, distributor, dealer, manufacturer's representative, franchise, agency, sales promotion, market research, marketing consulting and advertising Contracts to which the Company is a party;
- (vii) all employment agreements and Contracts with independent contractors or consultants (or similar arrangements) to which the Company is a party and which are not cancellable without material penalty or without more than 90 days' notice;
- (viii) except for Contracts relating to trade payables, all Contracts relating to Indebtedness (including, without limitation, guarantees) of the Company;
- (ix) all Contracts with any Governmental Authority to which the Company is a party ("**Government Contracts**");
- (x) all Contracts that limit or purport to limit the ability of the Company to compete in any line of business or with any Person or in any geographic area or during any period of time;
- (xi) any Contracts to which the Company is a party that provide for any joint venture, partnership or similar arrangement by the Company;
- (xii) all Contracts between or among the Company on the one hand and a Seller or any Affiliate of a Seller (other than the Company) on the other hand;
- (xiii) all collective bargaining agreements or Contracts with any Union to which the Company is a party;

(xiv) all Contracts with any Person that are subcontractors under a Government Contract; and

(xv) any other Contract that is material to the Company and not previously disclosed pursuant to this Section 3.09.

(b) Each Material Contract is in full force and effect and is a valid and binding agreement enforceable against the Company and the other party or parties thereto, in accordance with its terms. None of the Company or, to the Company's Knowledge, any other party thereto is in breach of or default under (or is alleged to be in breach of or default under) or has provided or received any notice of any intention to terminate, any Material Contract. No event or circumstance has occurred that, with notice or lapse of time or both, would constitute an event of default under any Material Contract or result in a termination thereof or would cause or permit the acceleration or other changes of any right or obligation or the loss of any benefit thereunder. Complete and correct copies of each Material Contract (including all modifications, amendments and supplements thereto and waivers thereunder) have been made available to Buyer.

#### **Section 3.10 Title to Assets; Real Property.**

(a) The Company has good and valid (and, in the case of owned Real Property, good and marketable fee simple) title to, or a valid leasehold interest in, all Real Property and personal property and other assets reflected in the Unaudited Financial Statements or acquired after the Balance Sheet Date, other than properties and assets sold or otherwise disposed of in the ordinary course of business consistent with past practice since the Balance Sheet Date. All such properties and assets (including leasehold interests) are free and clear of Encumbrances except for the following (collectively referred to as "**Permitted Encumbrances**"):

(i) liens for Taxes not yet due and payable;

(ii) mechanics, carriers', workmen's, repairmen's or other like liens arising or incurred in the ordinary course of business consistent with past practice or amounts that are not delinquent and which are not, individually or in the aggregate, material to the business of the Company;

(iii) easements, rights of way, zoning ordinances and other similar encumbrances affecting Real Property which are not, individually or in the aggregate, material to the business of the Company; or

(iv) other than with respect to owned Real Property, liens arising under original purchase price conditional sales contracts and equipment leases with third parties entered into in the ordinary course of business consistent with past practice which are not, individually or in the aggregate, material to the business of the Company.

(b) Section 3.10(b) of the Disclosure Schedules lists (i) the street address of each parcel of Real Property; (ii) if such property is leased or subleased by the Company, the landlord under the lease, the rental amount currently being paid, and the expiration of the term of such lease or sublease for each leased or subleased property; and (iii) the current use of such property. With respect to owned Real Property, Seller has delivered or made available to Buyer true, complete and correct copies of the deeds and other instruments (as recorded) by which the Company acquired such Real Property, and copies of all title insurance policies, opinions, abstracts and surveys in the possession of Seller or the Company and relating to the Real Property. With respect to leased Real Property, Seller has delivered or made available to Buyer true, complete and correct copies of any leases affecting the Real Property. The Company is not a sublessor or grantor under any sublease or other instrument granting to any other Person any right to the possession, lease, occupancy or enjoyment of any leased Real Property. The use and operation of the Real Property in the conduct of the Company's business do not violate in any material respect any Law, covenant, condition, restriction, easement, license, permit or agreement. No material improvements constituting a part of the Real Property encroach on real property owned or leased by a Person other than the Company. There are no Actions pending nor, to the Company's Knowledge, threatened against or affecting the Real Property or any portion thereof or interest therein in the nature or in lieu of condemnation or eminent domain proceedings.

**Section 3.11 Condition and Sufficiency of Assets.** The buildings, plants, structures, furniture, fixtures, machinery, equipment, vehicles and other items of tangible personal property of the Company are (i) to the Company's Knowledge, structurally sound, (ii) in good operating condition and repair, and (iii) are adequate for the uses to which they are being put, and, to the Company's Knowledge, none of such buildings, plants, structures, furniture, fixtures, machinery, equipment, vehicles and other items of tangible personal property are in need of maintenance or repairs except for ordinary, routine maintenance and repairs that are not material in nature or cost. The buildings, plants, structures, furniture, fixtures, machinery, equipment, vehicles and other items of tangible personal property currently owned or leased by the Company, together with all other properties and assets of the Company, are sufficient for the continued conduct of the Company's business after the Closing in substantially the same manner as conducted prior to the Closing and constitute all of the rights, property and assets necessary to conduct the business of the Company as currently conducted.

**Section 3.12 Intellectual Property; Data Privacy and Security.**

(a) Section 3.12(a) of the Disclosure Schedules contains a correct, current, and complete list of: (i) all Company IP Registrations, specifying as to each, as applicable: the title, mark, or design; the record owner and inventor(s), if any; the jurisdiction by or in which it has been issued, registered, or filed; the patent, registration, or application serial number; the issue, registration, or filing date; and the current status; (ii) all unregistered Trademarks included in the Company Intellectual Property; (iii) all proprietary Software of the Company (the "**Proprietary Software**"); (iv) all Digital Assets owned or used by the Company in the Company's business; and (v) all other Company Intellectual Property used or held for use in, and all other Licensed Intellectual Property that is material to, the Company's business as currently conducted and currently proposed to be conducted.

(b) Section 3.12(b) of the Disclosure Schedules contains a correct, current, and complete list of all Company IP Agreements. Seller has provided Buyer with true and complete copies of all Company IP Agreements. Each Company IP Agreement is valid and binding on the Company in accordance with its terms and is in full force and effect. Neither the Company nor any other party thereto is, or is alleged to be, in breach of or default under, or has provided or received any notice of breach of, default under, or intention to terminate (including by non-renewal), any Company IP Agreement.

(c) The Company is the sole and exclusive legal and beneficial, and with respect to the Company IP Registrations, record, owner of all right, title, and interest in and to the Company Intellectual Property, and has the valid and enforceable right to use all other Intellectual Property used or held for use in or necessary for the conduct of the Company's business as currently conducted and currently proposed to be conducted, in each case, free and clear of Encumbrances other than Permitted Encumbrances. No current or former employee and independent contractor of the Company has entered into a binding, valid and enforceable written Contract with the Company granting to the Company a present, irrevocable assignment of any ownership interest such employee or independent contractor may have in or to all Intellectual Property invented, created, or developed by such employee or independent contractor within the scope of his or her employment or engagement with the Company. All assignments and other instruments necessary to establish, record, and perfect the Company's ownership interest in the Company IP Registrations have been validly executed, delivered, and filed with the relevant Governmental Authorities and authorized registrars. No funding, facilities or personnel of any Governmental Authority, any educational institution or any other Person (other than the Company, its employees and independent contractors) were used, directly or indirectly, to develop or create, in whole or in part, any owned Company Intellectual Property.

(d) To the Company's Knowledge, all Proprietary Software is free of "viruses," "worms," "trojan horses," "time bombs," "back doors" (as these terms are commonly used in the computer software field), and other infections or harmful routines designed to disrupt, disable, harm, distort or otherwise impede in any manner the legitimate operation of such software, or any other associated software, firmware, hardware, computer system or network, except for those safety measures which may intentionally be used by the Company for compliance with license terms. The Company has not disclosed, and is not under an obligation (contingent or otherwise) to disclose the source code of any Proprietary Software to any other Person. To the Company's Knowledge, no Open Source Software has been included in, linked to, or used in the development of any Proprietary Software or other product or service of the Company.

(e) Neither the execution, delivery or performance of this Agreement, nor the consummation of the transactions contemplated hereunder, will result in the loss or impairment of, or require the consent of any other Person in respect of, the Company's right to own or use any Company Intellectual Property or Licensed Intellectual Property.

(f) All of the Company Intellectual Property and Licensed Intellectual Property is valid and enforceable, and all Company IP Registrations are subsisting and in full force and effect. The Company has taken all reasonably necessary steps to maintain and enforce the Company Intellectual Property and Licensed Intellectual Property and to preserve the confidentiality of all Trade Secrets included in the Company Intellectual Property and Licensed Intellectual Property, including by requiring all Persons having access thereto to execute binding, written non-disclosure agreements, and no Person is in material breach or default under such agreement. To the Company's Knowledge, all required filings and fees related to the Company IP Registrations have been timely submitted with and paid to the relevant Governmental Authorities and authorized registrars.

(g) The conduct of the Company's business as currently and formerly conducted and currently propose to be conducted, including the use of the Company Intellectual Property and Licensed Intellectual Property in connection therewith, and the products, processes and services of the Company have not, to the Company's Knowledge, infringed, misappropriated or otherwise violated, and, to the Company's Knowledge, will not infringe, misappropriate or otherwise violate, the Intellectual Property or other rights of any Person. To the Company's Knowledge, no Person has infringed, misappropriated or otherwise violated any Company Intellectual Property or Licensed Intellectual Property.

(h) There are no Actions (including any opposition, cancellation, revocation, review, or other proceeding), whether settled, pending, or threatened (including in the form of offers to obtain a license): (i) alleging any infringement, misappropriation, or other violation by the Company of the Intellectual Property of any Person; (ii) challenging the validity, enforceability, registrability, patentability, or ownership of any Company Intellectual Property or Licensed Intellectual Property or the Company's right, title, or interest in or to any Company Intellectual Property or Licensed Intellectual Property; or (iii) by the Company or by the owner of any Licensed Intellectual Property alleging any infringement, misappropriation, or other violation by any Person of the Company Intellectual Property or such Licensed Intellectual Property. The Company is not aware of any facts or circumstances that could reasonably be expected to give rise to any such Action. The Company is not subject to any outstanding or prospective Governmental Order that does or could reasonably be expected to restrict or impair the use of any Company Intellectual Property or Licensed Intellectual Property.

(i) The Company (i) lawfully owns, leases or licenses all Company IT Systems that are used in, or necessary for, the operation of the Company's business as currently conducted and currently proposed to be conducted, and such Company IT Systems are sufficient for the immediate and anticipated needs of the Company, including as to capacity, scalability, and ability to process current and anticipated peak volumes in a timely manner, and (ii) will continue to have such rights immediately after the Closing. All Company IT Systems are in good working condition. To the Company's Knowledge, there has been no malfunction, failure, continued substandard performance, denial-of-service, or other cyber incident, including any cyberattack, or other impairment of the Company IT Systems. To the Company's Knowledge, the Company IT Systems do not contain any viruses, bugs, vulnerabilities, faults or other disabling code that could (a) significantly disrupt or adversely affect the functionality or integrity of the Company IT Systems, or (b) enable or assist any Person to access, without authorization, the Company IT Systems or to maliciously disable, maliciously encrypt, or erase any Software, hardware or data. The Company has taken commercially reasonable steps to safeguard the confidentiality, availability, security, and integrity of the Company IT Systems, including implementing and maintaining appropriate backup, disaster recovery, and business continuity plans, procedures and facilities and Software and hardware support arrangements.

(j) The Company has complied with all applicable Laws, contractual obligations, terms of use, policies, notices, and statements concerning the collection, use, processing, storage, transfer, security, data breach notification, or data integrity of personal information in the conduct of the Company's business. To the Company's Knowledge, the Company has not (i) experienced any actual, alleged, or suspected data breach or other security incident involving personal information in its possession or control or (ii) been subject to or received any notice of any audit, investigation, complaint, or other Action by any Governmental Authority or other Person concerning the Company's collection, use, processing, storage, transfer, or protection of personal information or actual, alleged, or suspected violation of any applicable Law concerning privacy, data security, or data breach notification, and there are no facts or circumstances that could reasonably be expected to give rise to any such Action. The Company does not engage in the sale, as defined by applicable Law, of personal information. The Company has posted a Company privacy policy to its website. No disclosure or representation made or contained in the Company privacy policy has been in material violation of any Laws applicable to the Company's processing of personal information (including by containing any material omission). All personal information used in the operation of the Company's business shall be owned or available for use by the Company on identical terms and conditions immediately after the consummation of the transactions contemplated by this Agreement.

**Section 3.13 Inventory.** All inventory of the Company, whether or not reflected in the Balance Sheet, consists of a quality and quantity usable and salable in the ordinary course of business consistent with past practice, except for obsolete, damaged, defective or slow-moving items that have been written off or written down to fair market value or for which adequate reserves have been established. All such inventory is owned by the Company free and clear of all Encumbrances, and no inventory is held on a consignment basis. The quantities of each item of inventory (whether raw materials, work-in-process or finished goods) are not excessive, but are reasonable in the present circumstances of the Company.

**Section 3.14 Accounts Receivable.** The accounts receivable reflected on the Interim Balance Sheet and the accounts receivable arising after the Interim Balance Sheet Date (a) have arisen from bona fide transactions entered into by the Company involving the sale of goods or the rendering of services in the ordinary course of business consistent with past practice; (b) constitute only valid, undisputed claims of the Company not subject to claims of set-off or other defenses or counterclaims other than normal cash discounts accrued in the ordinary course of business consistent with past practice; and (c) subject to a reserve for bad debts shown on the Interim Balance Sheet or, with respect to accounts receivable arising after the Interim Balance Sheet Date, on the accounting records of the Company, are collectible in full within 90 days after billing. The reserve for bad debts shown on the Interim Balance Sheet or, with respect to accounts receivable arising after the Interim Balance Sheet Date, on the accounting records of the Company have been determined in accordance with GAAP, consistently applied, subject to normal year-end adjustments and the absence of disclosures normally made in footnotes. Notwithstanding anything to the contrary contained in this Section 3.14, Sellers do not warrant or guaranty the collectability of the Company's accounts receivable.



### Section 3.15 Customers and Suppliers.

(a) Section 3.15(a) of the Disclosure Schedules sets forth a list of the Company's current customers (collectively, the "**Material Customers**").

(b) Section 3.15(b) of the Disclosure Schedules sets forth a list of the Company's current suppliers and service providers (collectively, the "**Material Suppliers**").

**Section 3.16 Insurance.** Section 3.16 of the Disclosure Schedules sets forth a true and complete list of all current policies or binders of fire, liability, product liability, umbrella liability, real and personal property, workers' compensation, vehicular, directors' and officers' liability, fiduciary liability and other casualty and property insurance maintained by the Company and relating to the assets, business, operations, employees, officers and directors of the Company (collectively, the "**Insurance Policies**") and true and complete copies of the Insurance Policies have been made available to Buyer. The Insurance Policies are in full force and effect and shall remain in full force and effect following the consummation of the transactions contemplated by this Agreement. The Company has not received any written notice of cancellation of, premium increase with respect to, or alteration of coverage under, any of the Insurance Policies. All premiums due on the Insurance Policies have either been paid or, if due and payable prior to Closing, will be paid prior to Closing in accordance with the payment terms of each Insurance Policy. The Insurance Policies do not provide for any retrospective premium adjustment or other experience-based liability on the part of the Company. All Insurance Policies (a) are valid and binding in accordance with their terms; (b) to the Company's Knowledge, are provided by carriers who are financially solvent; and (c) have not been subject to any lapse in coverage. There are no claims related to the business of the Company pending under any Insurance Policies as to which coverage has been questioned, denied or disputed or in respect of which there is an outstanding reservation of rights. To the Company's Knowledge, the Company is not in default under, and has not otherwise failed to comply with, in any material respect, any provision contained in any Insurance Policy. The Insurance Policies are of the type and in the amounts customarily carried by Persons conducting a business similar to the Company and are sufficient for compliance with all applicable Laws and Contracts to which the Company is a party or by which it is bound.

### Section 3.17 Legal Proceedings; Governmental Orders.

(a) There are no Actions pending or, to the Company's Knowledge, threatened (a) against or by the Company affecting any of its properties or assets; or (b) against or by the Company that challenges or seeks to prevent, enjoin or otherwise delay the transactions contemplated by this Agreement. No event has occurred or circumstances exist that may give rise to, or serve as a basis for, any such Action.

(b) There are no outstanding Governmental Orders and no unsatisfied judgments, penalties or awards against or affecting the Company or any of its properties or assets.

### **Section 3.18 Compliance With Laws; Permits.**

(a) The Company has complied, and is now complying, in all material respects with all Laws applicable to it or its business, properties or assets.

(b) All Permits required for the Company to conduct its business have been obtained by it and are valid and in full force and effect. All fees and charges with respect to such Permits as of the date hereof have been paid in full. Section 3.18(b) of the Disclosure Schedules lists all current Permits issued to the Company, including the names of the Permits and their respective dates of issuance and expiration. The Company has complied and is now complying with the terms of all Permits listed on Section 3.18(b) of the Disclosure Schedules. No event has occurred that, with or without notice or lapse of time or both, would reasonably be expected to result in the revocation, suspension, lapse or limitation of any Permit set forth in Section 3.18(b) of the Disclosure Schedules.

### **Section 3.19 Environmental Matters.**

(a) The Company is currently and has been in compliance with all Environmental Laws and has not received from any Person any: (i) Environmental Notice or Environmental Claim; or (ii) written request for information pursuant to Environmental Law, which, in each case, either remains pending or unresolved, or is the source of ongoing obligations or requirements as of the Closing Date.

(b) The Company has obtained and is in material compliance with all Environmental Permits (each of which is disclosed in Section 3.19(b) of the Disclosure Schedules) necessary for the ownership, lease, operation or use of the business or assets of the Company and all such Environmental Permits are in full force and effect and shall be maintained in full force and effect by the Company through the Closing Date in accordance with Environmental Law, and the Company is not aware of any condition, event or circumstance that might prevent or impede, after the Closing Date, the ownership, lease, operation or use of the business or assets of the Company as currently carried out.

(c) No real property currently or formerly owned, operated or leased by the Company is listed on, or has been proposed for listing on, the National Priorities List (or CERCLIS) under CERCLA, or any similar state list.

(d) There has been no Release of Hazardous Materials in contravention of Environmental Law with respect to the business or assets of the Company or any real property currently or formerly owned, operated or leased by the Company, and the Company has not received an Environmental Notice that any real property currently or formerly owned, operated or leased in connection with the business of the Company (including soils, groundwater, surface water, buildings and other structure located on any such real property) has been contaminated with any Hazardous Material which could reasonably be expected to result in an Environmental Claim against, or a violation of Environmental Law or term of any Environmental Permit by, the Company.

(e) The Company has not retained or assumed, by contract or operation of Law, any liabilities or obligations of third parties under Environmental Law.

(f) The Company has provided or otherwise made available to Buyer and listed in Section 3.19(f) of the Disclosure Schedules: (i) any and all environmental reports, studies, audits, records, sampling data, site assessments, risk assessments, economic models and other similar documents with respect to the business or assets of the Company or any currently or formerly owned, operated or leased real property which are in the possession or control of the Company related to compliance with Environmental Laws, Environmental Claims or an Environmental Notice or the Release of Hazardous Materials; and (ii) any and all material documents concerning planned or anticipated capital expenditures required to reduce, offset, limit or otherwise control pollution and/or emissions, manage waste or otherwise ensure compliance with current or future Environmental Laws (including, without limitation, costs of remediation, pollution control equipment and operational changes).

(g) The Company is not aware of and does not reasonably anticipate, as of the Closing Date, any condition, event or circumstance concerning the Release or regulation of Hazardous Materials that might, after the Closing Date, prevent, impede or materially increase the costs associated with the ownership, lease, operation, performance or use of the business or assets of the Company as currently carried out.

**Section 3.20 Employee Benefit Matters.**

(a) Section 3.20(a) of the Disclosure Schedules contains a true and complete list of each pension, benefit, retirement, compensation, employment, consulting, profit-sharing, deferred compensation, incentive, bonus, performance award, phantom equity, stock or stock-based, change in control, retention, severance, salary continuation, termination allowance, supplemental unemployment benefit, any compensation policy or practice (including, without limitation, sick and vacation policies or practices), paid time off (PTO), medical, vision, dental, disability, welfare, Code Section 125 cafeteria, fringe benefit (including, without limitation, company cars), educational allowance, any arrangement providing for insurance coverage or workers' compensation and other similar agreement, plan, policy or practice, program or arrangement (and any amendments thereto), including any plan, program or arrangement provided to employees through a Professional Employer Organization including any multiple employer plan, in each case whether or not reduced to writing and whether funded or unfunded, including each "employee benefit plan" within the meaning of Section 3(3) of ERISA, whether or not tax-qualified and whether or not subject to ERISA, which is or has been maintained, sponsored, contributed to, or required to be contributed to for the benefit of any current or former employee, officer, director, retiree, independent contractor or consultant of the Company or as ERISA Affiliate or any spouse or dependent of such individual, or under which the Company or any of its ERISA Affiliates has or may have any Liability, or with respect to which Buyer or any of its Affiliates would reasonably be expected to have any Liability, contingent or otherwise (as listed on Section 3.20(a) of the Disclosure Schedules, each, a "**Benefit Plan**"). The Company has separately identified in Section 3.20(a) of the Disclosure Schedules each Benefit Plan that contains a change in control provision.

(b) With respect to each Benefit Plan, the Company has made available to Buyer accurate and complete copies of each of the following: (i) where the Benefit Plan has been reduced to writing, the plan document together with all amendments and restatements (including without limitation complete copies of any plans that may have merged into such plan); (ii) where the Benefit Plan has not been reduced to writing, a written summary of all material plan terms; (iii) where applicable, copies of any trust agreements or other funding arrangements, custodial agreements, insurance policies and contracts, administration or service agreements and similar agreements, and investment management or investment advisory agreements, annuity contracts and documents relating to fees incurred by the sponsor or participants and beneficiaries; (iv) any service contracts; (v) any documents governing the investment and management of the Benefit Plan, or the assets thereof, including, without limitation, any investment management agreements, annuity contracts and documents relating to fees incurred by the sponsor or participants and beneficiaries; (vi) copies of any summary plan descriptions, summaries of material modifications, summaries of benefits and coverage, COBRA communications, employee handbooks and any other written communications (or a description of any oral communications) relating to any Benefit Plan; (vii) in the case of any Benefit Plan that is intended to be qualified under Section 401(a) of the Code, a copy of the most recent determination, opinion or advisory letter from the Internal Revenue Service and any legal opinions issued thereafter with respect to such Benefit Plan's continued qualification, with all follow-up correspondence and documentation; (viii) in the case of any Benefit Plan for which a Form 5500 must be filed, a copy of the two most recently filed Forms 5500, with all corresponding schedules and financial statements attached; (ix) actuarial valuations and reports related to any Benefit Plans with respect to the two most recently completed plan years; (x) the most recent nondiscrimination tests performed under the Code; and (xi) copies of material notices, letters or other correspondence from the Internal Revenue Service, U.S. Department of Labor, U.S. Department of Health and Human Services, Pension Benefit Guaranty Corporation or other Governmental Authority relating to the Benefit Plan.

(c) Each Benefit Plan and any related trust has been established, administered and maintained in accordance with its terms and in compliance with all applicable Laws (including ERISA, the Code and any applicable local Laws), all required returns (including without limitation information returns) have been prepared in accordance with all applicable Laws and have been timely filed in accordance with applicable Laws with respect to such Benefit Plan, and neither the Company nor any ERISA Affiliate has received any outstanding written notice from any governmental or quasi-governmental authority questioning or challenging such compliance.

(d) Each Benefit Plan that is intended to be qualified within the meaning of Section 401(a) of the Code (a "**Qualified Benefit Plan**") is so qualified and received a favorable and current determination letter from the Internal Revenue Service with respect to the most recent five year filing cycle, or with respect to a prototype or volume submitter plan, can rely on an opinion letter from the Internal Revenue Service to the prototype plan or volume submitter plan sponsor, to the effect that such Qualified Benefit Plan is so qualified and that the plan and the trust related thereto are exempt from federal income taxes under Sections 401(a) and 501(a), respectively, of the Code, and nothing has occurred that could reasonably be expected to adversely affect the qualified status of any Qualified Benefit Plan. Nothing has occurred with respect to any Benefit Plan that has subjected or could reasonably be expected to subject the Company or any of its ERISA Affiliates or, with respect to any period on or after the Closing Date, Buyer or any of its Affiliates, to a penalty under Section 502 of ERISA or to tax or penalty under Chapter 43 of the Code.

(e) Each asset held under any Qualified Benefit Plan may be liquidated or terminated without the imposition of any redemption or surrender charge or comparable liability.

(f) All benefits, contributions and premiums relating to each Benefit Plan have been timely paid in accordance with the terms of such Benefit Plan and all applicable Laws and accounting principles, and all benefits accrued under any unfunded Benefit Plan have been paid, accrued or otherwise adequately reserved to the extent required by, and in accordance with, GAAP. No Qualified Benefit Plan is subject to Title IV of ERISA or Section 412 of the Code. Neither the Company nor any ERISA Affiliate is or ever has been party to any multiemployer plan, within the meaning of Section 4001(a)(3) of ERISA, or a “multiple employer plan” within the meaning of Section 413(c) of the Code or made contributions to any such plan.

(g) Neither the Company nor any of its ERISA Affiliates has (i) incurred or reasonably expects to incur, either directly or indirectly, any material Liability under Title I of ERISA or related provisions of the Code (including Section 4975 of the Code) or applicable local Law relating to employee benefit plans; (ii) incurred or reasonably expects to incur any material liability under Chapter 43 of the Code; or (iii) participated in a multiple employer welfare arrangement (MEWA).

(h) Neither the Company nor any Affiliate is or ever has been a party to any multiemployer plan, within the meaning of Section 4001(a)(3) of ERISA, or made contributions to any such plan.

(i) Neither the Company nor any Affiliate nor any of their respective directors, officers, employees or any other fiduciary has committed any breach of fiduciary responsibility imposed by ERISA that would subject the Company or any Affiliate or any of their respective directors, officers or employees to liability under ERISA.

(j) Each Benefit Plan can be amended, terminated or otherwise discontinued after the Closing in accordance with its terms, without material liabilities to Buyer, the Company or any of their Affiliates other than ordinary administrative expenses typically incurred in a termination event. The Company has no commitment or obligation and has not made any representations to any employee, officer, director, independent contractor or consultant, whether or not legally binding, to adopt, amend, modify or terminate any Benefit Plan or any collective bargaining agreement, in connection with the consummation of the transactions contemplated by this Agreement or otherwise.

(k) Other than as required under Sections 601 to 608 of ERISA or other applicable Law, no Benefit Plan provides post-termination or retiree health benefits to any individual for any reason, and neither the Company nor any of its ERISA Affiliates has any Liability to provide post-termination or retiree health benefits to any individual or ever represented, promised or contracted to any individual that such individual would be provided with post-termination or retiree health benefits.

(l) There is no pending or, to the Company's Knowledge, threatened Action or claim relating to a Benefit Plan or assets of any Benefit Plan (other than routine claims for benefits), and no Benefit Plan is or has been the subject of an examination or audit by a Governmental Authority or the subject of an application or filing under or is a participant in, an amnesty, voluntary compliance, self-correction or similar program sponsored by any Governmental Authority.

(m) There has been no amendment to, announcement by Seller, the Company or any of their Affiliates relating to, or change in employee participation or coverage under, any Benefit Plan or collective bargaining agreement that would increase the annual expense of maintaining such plan above the level of the expense incurred for the most recently completed fiscal year (other than on a de minimis basis) with respect to any director, officer, employee, independent contractor or consultant, as applicable. None of the Company nor any of its Affiliates has any commitment or obligation or has made any representations to any director, officer, employee, independent contractor or consultant, whether or not legally binding, to adopt, amend, modify or terminate any Benefit Plan or any collective bargaining agreement.

(n) Each Benefit Plan that is subject to Section 409A of the Code has been administered in compliance with its terms and the operational and documentary requirements of Section 409A of the Code and all applicable regulatory guidance (including notices, rulings and proposed and final regulations) thereunder. The Company does not have any obligation to gross up, indemnify or otherwise reimburse any individual for any excise taxes, interest or penalties incurred pursuant to Section 409A of the Code.

(o) Each individual who is classified by the Company as an independent contractor has been properly classified for purposes of participation and benefit accrual under each Benefit Plan.

(p) Neither the execution of this Agreement nor any of the transactions contemplated by this Agreement will (either alone or upon the occurrence of any additional or subsequent events): (i) entitle any current or former director, officer, employee, independent contractor or consultant of the Company to severance pay or any other payment; (ii) accelerate the time of payment, funding or vesting, or increase the amount of compensation (including stock-based compensation) due to any such individual; (iii) limit or restrict the right of the Company to merge, amend, or terminate any Benefit Plan; (iv) increase the amount payable under or result in any other material obligation pursuant to any Benefit Plan; (v) result in "excess parachute payments" within the meaning of Section 280G(b) of the Code; or (vi) require a "gross-up" or other payment to any "disqualified individual" within the meaning of Section 280G(c) of the Code. The Company has made available to Buyer true and complete copies of any Section 280G calculations prepared (whether or not final) with respect to any disqualified individual in connection with the transactions.

(q) All options that have been granted by the Company to employees that purport to be “incentive stock options” under the Code comply with all applicable requirements necessary to qualify for such tax status, and no option is subject to the provisions of Section 409A of the Code.

### **Section 3.21 Employment Matters.**

(a) Section 3.21(a) of the Disclosure Schedules contains a list of all persons who are employees, independent contractors or consultants of the Company as of the date hereof, including any employee who is on a leave of absence of any nature, paid or unpaid, authorized or unauthorized, and sets forth for each such individual the following: (i) name; (ii) title or position (including whether full-time or part-time); (iii) hire or retention date; (iv) current annual base compensation rate or contract fee; (v) commission, bonus or other incentive-based compensation; and (vi) a description of the fringe benefits provided to each such individual as of the date hereof. As of the date hereof, all compensation, including wages, commissions, bonuses, fees and other compensation, payable to all employees, independent contractors or consultants of the Company for services performed on or prior to the date hereof have been paid in full (or accrued in full on the audited balance sheet contained in the Closing Statement) and there are no outstanding agreements, understandings or commitments of the Company with respect to any compensation, commissions, bonuses or fees.

(b) The Company is not, and has not been for the past three years, a party to, bound by, or negotiating any collective bargaining agreement or other Contract with a union, works council or labor organization (collectively, “**Union**”), and there is not, and has not been for the past three years, any Union representing or purporting to represent any employee of the Company, and no Union or group of employees is seeking or has sought to organize employees for the purpose of collective bargaining. There has never been, nor has there been any threat of, any strike, slowdown, work stoppage, lockout, concerted refusal to work overtime or other similar labor disruption or dispute affecting the Company or any of its employees. The Company has no duty to bargain with any Union.

(c) The Company is and has been in compliance with all applicable Laws pertaining to employment and employment practices, including all Laws relating to labor relations, equal employment opportunities, fair employment practices, employment discrimination, harassment, retaliation, reasonable accommodation, disability rights or benefits, immigration, wages, hours, overtime compensation, child labor, hiring, promotion and termination of employees, working conditions, meal and break periods, privacy, health and safety, workers’ compensation, leaves of absence, paid sick leave and unemployment insurance. All individuals characterized and treated by the Company as independent contractors or consultants are properly treated as independent contractors under all applicable Laws. All employees of the Company classified as exempt under the Fair Labor Standards Act and state and local wage and hour laws are properly classified. There are no Actions against the Company pending, or to the Company’s Knowledge, threatened to be brought or filed, by or with any Governmental Authority or arbitrator in connection with the employment of any current or former applicant, employee, consultant, volunteer, intern or independent contractor of the Company, including, without limitation, any charge, investigation or claim relating to unfair labor practices, equal employment opportunities, fair employment practices, employment discrimination, harassment, retaliation, reasonable accommodation, disability rights or benefits, immigration, wages, hours, overtime compensation, employee classification, child labor, hiring, promotion and termination of employees, working conditions, meal and break periods, privacy, health and safety, workers’ compensation, leaves of absence, paid sick leave, unemployment insurance or any other employment related matter arising under applicable Laws.

(d) The Company has complied with the WARN Act, and it has no plans to undertake any action that would trigger the WARN Act.

(e) The Company has no Government Contracts.

**Section 3.22 Taxes.**

(a) All Tax Returns required to be filed on or before the Closing Date by the Company have been, or will be, timely filed. Such Tax Returns are, or will be, true, complete and correct in all respects. All Taxes due and owing by the Company (whether or not shown on any Tax Return) have been, or will be, timely paid.

(b) The Company has withheld and paid each Tax required to have been withheld and paid in connection with amounts paid or owing to any employee, independent contractor, creditor, customer, shareholder or other party, and complied with all information reporting and backup withholding provisions of applicable Law.

(c) No claim has been made by any taxing authority in any jurisdiction where the Company does not file Tax Returns that it is, or may be, subject to Tax by that jurisdiction.

(d) No extensions or waivers of statutes of limitations have been given or requested with respect to any Taxes of the Company. None of the Companies have executed any powers of attorney with respect to any Tax or Tax Return, other than powers of attorney that are no longer in force.

(e) The amount of the Company's Liability for unpaid Taxes for all periods ending on or before the Balance Sheet Date does not, in the aggregate, exceed the amount of accruals for Taxes (excluding reserves for deferred Taxes) reflected on the Financial Statements. The amount of the Company's Liability for unpaid Taxes for all periods following the end of the recent period covered by the Financial Statements shall not, in the aggregate, exceed the amount of accruals for Taxes (excluding reserves for deferred Taxes) as adjusted for the passage of time in accordance with the past custom and practice of the Company (and which accruals shall not exceed comparable amounts incurred in similar periods in prior years).

(f) Reserved.

(g) All deficiencies asserted, or assessments made, against the Company as a result of any examinations by any taxing authority have been fully paid.



(h) The Company is not a party to any Action by any taxing authority. There are no pending or threatened Actions by any taxing authority.

(i) The Company has delivered to Buyer copies of all federal, state, local and foreign income, franchise and similar Tax Returns, examination reports, and statements of deficiencies assessed against, or agreed to by, the Company for all Tax periods ending after December 31, 2021.

(j) There are no Encumbrances for Taxes upon the assets of the Company (except where such Encumbrance arises as a matter of law prior to the due date for paying the related Taxes).

(k) The Company is not a party to, or bound by, any Tax indemnity, Tax sharing or Tax allocation agreement.

(l) No private letter rulings, technical advice memoranda or similar agreement or rulings have been requested, entered into or issued by any taxing authority with respect to the Company.

(m) The Company has not been a member of an affiliated, combined, consolidated or unitary Tax group for Tax purposes. The Company has no Liability for Taxes of any Person (other than the Company) under Treasury Regulations Section 1.1502-6 (or any corresponding provision of state, local or foreign Law), as transferee or successor, by contract or otherwise.

(n) The Company will not be required to include any item of income in, or exclude any item or deduction from, taxable income for any taxable period or portion thereof ending after the Closing Date as a result of:

(i) any change in a method of accounting under Section 481 of the Code (or any comparable provision of state, local or foreign Tax Laws), or use of an improper method of accounting, for a taxable period ending on or prior to the Closing Date;

(ii) an installment sale or open transaction occurring on or prior to the Closing Date;

(iii) a prepaid amount received on or before the Closing Date; or

(iv) any closing agreement under Section 7121 of the Code, or similar provision of state, local or foreign Law.

(o) The Company is not, nor has it been, a United States real property holding corporation (as defined in Section 897(c)(2) of the Code) during the applicable period in Section 897(c)(1)(a) of the Code.

(p) The Company has not been a “distributing corporation” or a “controlled corporation” in connection with a distribution described in Section 355 of the Code.

(q) The Company is not, and has not been, a party to, or a promoter of, a “reportable transaction” within the meaning of Section 6707A(c)(1) of the Code and Treasury Regulations Section 1.6011-4(b).

(r) There is currently no limitation on the utilization of net operating losses, capital losses, built-in losses, tax credits or similar items of the Company under Sections 269, 382, 383, 384 or 1502 of the Code and the Treasury Regulations thereunder (and comparable provisions of state, local or foreign Law).

(s) No property owned by the Company is (i) required to be treated as being owned by another person pursuant to the so-called “safe harbor lease” provisions of former Section 168(f)(8) of the Internal Revenue Code of 1954, as amended, (ii) subject to Section 168(g)(1)(A) of the Code, or (iii) subject to a disqualified leaseback or long-term agreement as defined in Section 467 of the Code.

(t) The Company has appropriately classified depreciable assets and claimed appropriate tax depreciation thereon in accordance with applicable Law.

**Section 3.23 Books and Records.** The minute books and stock record books of the Company, all of which have been made available to Buyer, are accurate with respect to written consents and minutes contained therein. The minute books of the Company contain accurate and complete records of certain (but not necessarily all) meetings of shareholders and directors of the Company. At the Closing, all of such books and records will be in the possession of the Company.

#### **Section 3.24 Sanctions.**

(a) During the past five years the Company has complied with applicable Laws and regulations pertaining to trade and economic sanctions administered by the United States, European Union, or United Kingdom (collectively, “**Sanctions**”).

(b) None of the Company, its subsidiaries, or their respective directors, officers, employees, or, to the Company’s knowledge, the Company’s or subsidiaries’ agents is: (i) organized under the laws of, ordinarily resident in, or located in a country or territory that is the subject of comprehensive Sanctions (“**Restricted Countries**”); (ii) 50% or more owned or controlled by the government of a Restricted Country; or (iii) (A) designated on a sanctioned parties list administered by the United States, European Union, or United Kingdom, including, without limitation, the U.S. Department of the Treasury’s Office of Foreign Assets Control’s Specially Designated Nationals and Blocked Persons List, Foreign Sanctions Evaders List, and Sectoral Sanctions Identification List, the Consolidated List of Persons, Groups, and Entities Subject to EU Financial Sanctions, and the UK’s Consolidated Sanctions List (collectively, “**Designated Parties**”); or (B) 50% or more owned or, where relevant under applicable Sanctions, controlled, individually or in the aggregate, by one or more Designated Party, in each case only to the extent that dealings with such persons are prohibited pursuant to applicable Sanctions (collectively, “**Sanctioned Parties**”).

(c) During the past five years, none of the Company, its subsidiaries, or any of their respective officers, directors, or employees: (i) has been the subject or target of any investigation, prosecution, other enforcement action, or government inquiry related to Sanctions violations; or (ii) submitted a voluntary self-disclosure to any U.S. or other relevant government agency regarding actual or potential Sanctions violations.

(d) The Company maintains policies and procedures reasonably designed to promote compliance with applicable Sanctions.

**Section 3.25 Full Disclosure.** No representation or warranty by Company in this Agreement and no statement contained in the Disclosure Schedules to this Agreement or any certificate or other document furnished or to be furnished to Buyer pursuant to this Agreement contains any untrue statement of a material fact, or omits to state a material fact necessary to make such statements not misleading. The Company is not aware of any fact, condition or circumstance that may adversely affect the assets, liabilities, business, prospects, condition or results of operations of the Company or its business that has not been previously disclosed to the Buyer in writing.

**Section 3.26 No Other Representations and Warranties.** Except for the representations and warranties contained in this ARTICLE III (including the related portions of the Disclosure Schedules attached hereto), neither the Company nor any other Person has made or makes any other express or implied representation or warranty, either written or oral, on behalf of the Company, including any representation or warranty as to the accuracy or completeness of any information regarding the Company or its business and any information, documents or material (whether delivered to Buyer or made available to Buyer in a due diligence data room, management presentations or in any other form in anticipation of the Proposed Transaction) or as to the future revenue, profitability or success of the Company, or any representation or warranty arising from statute or otherwise in Law.

#### **ARTICLE IV REPRESENTATIONS AND WARRANTIES OF SELLERS**

Except as set forth in the correspondingly numbered Section of the Disclosure Schedules, each Seller, severally and not jointly, represents and warrants to Buyer that the statements contained in this ARTICLE IV are true and correct as of the date hereof and as of the Closing.

**Section 4.01 Enforceability.** This Agreement has been duly executed and delivered by such Seller, and (assuming due authorization, execution and delivery by Buyer) this Agreement constitutes a legal, valid and binding obligation of such Seller enforceable against such Seller in accordance with its terms. When each Ancillary Document to which such Seller is or will be a party has been duly executed and delivered by such Seller (assuming due authorization, execution and delivery by each other party thereto), such Ancillary Document will constitute a legal and binding obligation of such Seller enforceable against it in accordance with its terms.

**Section 4.02 No Conflicts; Consents.** The execution, delivery and performance by such Seller of this Agreement and the Ancillary Documents to which it is or will be a party, and the consummation of the transactions contemplated hereby and thereby, do not and will not: (a) conflict with or result in a violation or breach of any provision of any Law or Governmental Order applicable to such Seller; or (b) require the consent, notice or other action by any Person under, conflict with, result in a violation or breach of, constitute a default or an event that, with or without notice or lapse of time or both, would constitute a default under, result in the acceleration of or create in any party the right to accelerate, terminate, modify or cancel any Contract to which such Seller is a party or by which such Seller is bound or to which any of such Seller's properties and assets are subject. No consent, approval, Permit, Governmental Order, declaration or filing with, or notice to, any Governmental Authority is required by or with respect to such Seller in connection with the execution and delivery of this Agreement and the Ancillary Documents to which it is or will be a party and the consummation of the transactions contemplated hereby and thereby.

**Section 4.03 Title to Shares.** Such Seller is the record and beneficial owner of the Shares set forth opposite such Seller's name on Section 4.03 of the Disclosure Schedules, free and clear of all Encumbrances, and such Shares represent all of the issued and outstanding Shares. Such Seller is not a party to any voting trust, proxy or other agreement or understanding with respect to the voting or transfer of any Shares. Upon consummation of the transactions contemplated by this Agreement, Buyer shall acquire from such Seller good, valid and marketable title to all Shares set forth opposite such Seller's name on Section 4.03 of the Disclosure Schedules, free and clear of any Encumbrance.

**Section 4.04 Legal Proceedings.** There are no Actions pending or, to such Seller's knowledge, threatened against or by such Seller or any Affiliate of such Seller relating to the Company or that challenge or seek to prevent, enjoin or otherwise delay the transactions contemplated by this Agreement. No event has occurred or circumstances exist that may give rise or serve as a basis for any such Action.

**Section 4.05 Brokers.** No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement or any Ancillary Document based upon arrangements made by or on behalf of such Seller or the Company.

**Section 4.06 Full Disclosure.** No representation or warranty by Sellers in this Agreement and no statement contained in the Disclosure Schedules to this Agreement or any certificate or other document furnished or to be furnished to Buyer pursuant to this Agreement contains any untrue statement of a material fact, or omits to state a material fact necessary to make such statements not misleading. Sellers are not aware of any fact, condition or circumstance that may adversely affect the assets, liabilities, business, prospects, condition or results of operations of the Company or its business that has not been previously disclosed to the Buyer in writing.

**Section 4.07 No Other Representations and Warranties.** Except for the representations and warranties contained in this ARTICLE IV (including the related portions of the Disclosure Schedules attached hereto), neither the Sellers nor any other Person has made or makes any other express or implied representation or warranty, either written or oral, on behalf of the Sellers, including any representation or warranty as to the accuracy or completeness of any information regarding the Sellers or their Shares, and any information, documents or material (whether delivered to Buyer or made available to Buyer in a due diligence data room, management presentations or in any other form in anticipation of the Proposed Transaction) with respect thereto or as to the future dividends, distributions, profitability or success of the Sellers in connection with such Shares, or any representation or warranty arising from statute or otherwise in Law.

**ARTICLE V**  
**REPRESENTATIONS AND WARRANTIES OF BUYER**

Buyer represents and warrants to Sellers that the statements contained in this ARTICLE V are true and correct as of the date hereof and as of the Closing.

**Section 5.01 Organization and Authority of Buyer.** Buyer is a corporation duly organized, validly existing and in good standing under Laws of the state of Delaware. Buyer has full corporate power and authority to enter into this Agreement and the Ancillary Documents to which Buyer is or will be a party, to carry out its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery by Buyer of this Agreement and any Ancillary Document to which Buyer is or will be a party, the performance by Buyer of its obligations hereunder and thereunder and the consummation by Buyer of the transactions contemplated hereby and thereby have been duly authorized by all requisite corporate action on the part of Buyer. This Agreement has been duly executed and delivered by Buyer, and (assuming due authorization, execution and delivery by Seller) this Agreement constitutes a legal, valid and binding obligation of Buyer enforceable against Buyer in accordance with its terms. When each Ancillary Document to which Buyer is or will be a party has been duly executed and delivered by Buyer (assuming due authorization, execution and delivery by each other party thereto), such Ancillary Document will constitute a legal and binding obligation of Buyer enforceable against it in accordance with its terms.

**Section 5.02 No Conflicts; Consents.** The execution, delivery and performance by Buyer of this Agreement and the Ancillary Documents to which it is or will be a party, and the consummation of the transactions contemplated hereby and thereby, do not and will not: (a) conflict with or result in a violation or breach of, or default under, any provision of the organizational documents of Buyer; (b) conflict with or result in a violation or breach of any provision of any Law or Governmental Order applicable to Buyer; or (c) require the consent, notice or other action by any Person under any Contract to which Buyer is a party. No consent, approval, Permit, Governmental Order, declaration or filing with, or notice to, any Governmental Authority is required by or with respect to Buyer in connection with the execution and delivery of this Agreement and the Ancillary Documents to which Buyer is or will be a party and the consummation of the transactions contemplated hereby and thereby, other than any consent, approval, filing, or notice required by applicable rules and regulations of the Nasdaq Capital Market, and except for such consents, approvals, Permits, Governmental Orders, declarations, filings or notices which, in the aggregate, would not have a material adverse effect on the ability of Buyer to consummate the transactions contemplated hereby on a timely basis.

**Section 5.03 Investment Purpose.** Buyer is acquiring the Shares solely for its own account for investment purposes and not with a view to, or for offer or sale in connection with, any distribution thereof. Buyer acknowledges that the Shares are not registered under the Securities Act of 1933, as amended, or any state securities laws, and that the Shares may not be transferred or sold except pursuant to the registration provisions of the Securities Act of 1933, as amended or pursuant to an applicable exemption therefrom and subject to state securities laws and regulations, as applicable.

**Section 5.04 Brokers.** No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement or any Ancillary Document based upon arrangements made by or on behalf of Buyer.

## **ARTICLE VI COVENANTS**

**Section 6.01 Conduct of Business Prior to the Closing.** From the date hereof until the Closing, except as otherwise provided in this Agreement or consented to in writing by Buyer (which consent shall not be unreasonably withheld, conditioned or delayed), Sellers and the Company agree that the Company shall (x) conduct its business in the ordinary course of business consistent with past practice; and (y) use reasonable best efforts to maintain and preserve intact the current organization, business and franchise of the Company and to preserve the rights, franchises, goodwill and relationships of its employees, customers, lenders, suppliers, regulators and others having business relationships with the Company. Without limiting the foregoing, from the date hereof until the Closing Date, the Company shall:

- (a) preserve and maintain all of its Permits;
- (b) pay its debts, Taxes and other obligations when due;
- (c) maintain the properties and assets owned, operated or used by the Company in the same condition as they were on the date of this Agreement, subject to reasonable wear and tear;
- (d) continue in full force and effect without modification all Insurance Policies, except as required by applicable Law;
- (e) defend and protect its properties and assets from infringement or usurpation;
- (f) perform all of its obligations under all Contracts relating to or affecting its properties, assets or business;
- (g) maintain its books and records in accordance with past practice;
- (h) comply in all material respects with all applicable Laws;
- (i) not terminate (other than by expiration) or amend or modify (other than by automatic extension or renewal if deemed an amendment or modification of any such contract) in any material respect any Contract;
- (j) not enter into any transaction outside the ordinary course of business including any agreement that could result in the payment by the Company or Buyer of a finder's fee, success fee or other similar fee in connection with the transactions contemplated in this Agreement;

(k) except for sales or transfers of the Company's products or services in the ordinary course of business, not sell or otherwise transfer, or agree, commit or offer (in writing or otherwise) to sell or otherwise transfer any interest in its assets or business;

(l) not enter into any transaction or take any other action that might cause or constitute a material breach of any representation or warranty made by the Company or Sellers in this Agreement if (A) such representation or warranty had been made as of the time of such transaction or action, (B) such transaction had been entered into, or such action had occurred, on or prior to the date of this Agreement or (C) such representation or warranty had been made as of the Closing Date;

(m) not (A) incur any Indebtedness, other than loans from a Seller, (B) enter into any Material Contracts, or (C) issue any equity securities, including without limitation, any Shares; and

(n) not take or permit any action that would cause any of the changes, events or conditions described in Section 3.08 to occur.

**Section 6.02 Access to Information.** From the date hereof until the Closing, the Company shall (a) afford Buyer and its Representatives full and free access to and the right to inspect all of the Real Property, properties, assets, premises, books and records, Contracts and other documents and data related to the Company; (b) furnish Buyer and its Representatives with such financial, operating and other data and information related to the Company as Buyer or any of its Representatives may reasonably request; and (c) instruct the Representatives of the Company to cooperate with Buyer in its due diligence of the Company. Any diligence investigation pursuant to this Section 6.02 shall be conducted in such manner as not to interfere unreasonably with the conduct of the business of the Company. No investigation by Buyer or other information received by Buyer shall operate as a waiver or otherwise affect any representation, warranty or agreement given or made by the Company or Sellers in this Agreement.

**Section 6.03 No Solicitation of Other Bids.**

(a) The Company and each Seller shall not, and shall not authorize or permit any of their Affiliates or any of their Representatives to, directly or indirectly, (i) encourage, solicit, initiate, facilitate or continue inquiries regarding an Acquisition Proposal; (ii) enter into discussions or negotiations with, or provide any information to, any Person concerning a possible Acquisition Proposal; or (iii) enter into any agreements or other instruments (whether or not binding) regarding an Acquisition Proposal. The Company and each Seller shall immediately cease and cause to be terminated, and shall cause their Affiliates and all of their Representatives to immediately cease and cause to be terminated, all existing discussions or negotiations with any Persons conducted heretofore with respect to, or that could lead to, an Acquisition Proposal. For purposes hereof, "**Acquisition Proposal**" shall mean any inquiry, proposal or offer from any Person (other than Buyer or any of its Affiliates) concerning (i) a merger, consolidation, liquidation, recapitalization, share exchange or other business combination transaction involving the Company; (ii) the issuance or acquisition of shares of capital stock or other equity securities of the Company; or (iii) the sale, lease, exchange or other disposition of any significant portion of the Company's properties or assets.

(b) In addition to the other obligations under this Section 6.03, the Company and each Seller shall promptly (and in any event within two Business Days after receipt thereof by the Company, a Seller or any of their Representatives) advise Buyer orally and in writing of any Acquisition Proposal, any request for information with respect to any Acquisition Proposal, or any inquiry with respect to or which could reasonably be expected to result in an Acquisition Proposal, the material terms and conditions of such request, Acquisition Proposal or inquiry, and the identity of the Person making the same.

(c) The Company and each Seller agree that the rights and remedies for noncompliance with this Section 6.03 shall include having such provision specifically enforced by any court having equity jurisdiction, it being acknowledged and agreed that any such breach or threatened breach shall cause irreparable injury to Buyer and that money damages would not provide an adequate remedy to Buyer.

#### **Section 6.04 Notice of Certain Events.**

(a) From the date hereof until the Closing, the Company and each Seller shall promptly notify Buyer in writing of:

(i) any fact, circumstance, event or action the existence, occurrence or taking of which (A) has had, or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, (B) has resulted in, or could reasonably be expected to result in, any representation or warranty made by the Company or a Seller hereunder not being true and correct or (C) has resulted in, or could reasonably be expected to result in, the failure of any of the conditions set forth in Section 8.02 to be satisfied;

(ii) any notice or other communication from any Person alleging that the consent of such Person is or may be required in connection with the transactions contemplated by this Agreement;

(iii) any notice or other communication from any Governmental Authority in connection with the transactions contemplated by this Agreement; and

(iv) any Actions commenced or, to the Company's Knowledge or a Seller's knowledge, threatened against, relating to or involving or otherwise affecting a Seller or the Company that, if pending on the date of this Agreement, would have been required to have been disclosed pursuant to Section 3.17 or Section 4.04 or that relates to the consummation of the transactions contemplated by this Agreement.

(b) Buyer's receipt of information pursuant to this Section 6.04 shall not operate as a waiver or otherwise affect any representation, warranty or agreement given or made by the Company or a Seller in this Agreement (including Section 9.02 and Section 10.01) and shall not be deemed to amend or supplement the Disclosure Schedules.



**Section 6.05 Resignations.** The Company shall deliver to Buyer written resignations, effective as of the Closing Date, of the following officers and directors of the Company requested by Buyer at least five Business Days prior to the Closing:

(a) **Reserved**

(b) **Reserved**

**Section 6.06 Confidentiality.** From and after the Closing, each Seller shall, and shall cause any of its Affiliates to, hold, and shall use its reasonable best efforts to cause its or their respective Representatives to hold, in confidence any and all information, whether written or oral, concerning the Company, except to the extent that such Seller can show that such information (a) is generally available to and known by the public through no fault of such Seller, any of its Affiliates or their respective Representatives; or (b) is lawfully acquired by such Seller, any of its Affiliates or their respective Representatives from and after the Closing from sources which are not prohibited from disclosing such information by a legal, contractual or fiduciary obligation. If such Seller or any of its Affiliates or their respective Representatives are compelled to disclose any information by judicial or administrative process or by other requirements of Law, such Seller shall promptly notify Buyer in writing and shall disclose only that portion of such information which such Seller is advised by its counsel in writing is legally required to be disclosed, *provided that* such Seller shall use reasonable best efforts to obtain an appropriate protective order or other reasonable assurance that confidential treatment will be accorded such information.

**Section 6.07 Non-Competition; Non-Solicitation.**

(a) For a period of two (2) years commencing on the Closing Date (the “**Restricted Period**”), each Seller shall not, and shall not permit any of its Affiliates to, directly or indirectly, (i) engage in or assist others in engaging in the Restricted Business in the Territory; (ii) have an interest in any Person that engages directly or indirectly in the Restricted Business in the Territory in any capacity, including as a partner, shareholder, member, employee, principal, agent, trustee or consultant; or (iii) intentionally interfere in any material respect with the business relationships (whether formed prior to or after the date of this Agreement) between the Company and customers or suppliers of the Company. Notwithstanding the foregoing, (i) each Seller may own, directly or indirectly, solely as an investment, securities of any Person traded on any national securities exchange if such Seller is not a controlling Person of, or a member of a group which controls, such Person and does not, directly or indirectly, own 5% or more of any class of securities of such Person and (ii) the restrictions in this Section 6.07 shall not apply if the Sellers are employed, advising, consulting or otherwise engaged in some capacity by the Buyer.

(b) During the Restricted Period, each Seller shall not, and shall not permit any of its Affiliates to, directly or indirectly, hire or solicit any employee of the Company or encourage any such employee to leave such employment or hire any such employee who has left such employment, except pursuant to a general solicitation which is not directed specifically to any such employees; *provided, that* nothing in this Section 6.07(b) shall prevent such Seller or any of its Affiliates from hiring (i) any employee whose employment has been terminated by the Company or Buyer without a cause, or (ii) after 270 days from the date of termination of employment, any employee whose employment has been terminated by the employee.

(c) During the Restricted Period, each Seller shall not, and shall not permit any of its Affiliates to, directly or indirectly, solicit or entice, or attempt to solicit or entice, any clients or customers of the Company or potential clients or customers of the Company for purposes of diverting their business or services from the Company.

(d) Each Seller acknowledges that a breach or threatened breach of this Section 6.07 would give rise to irreparable harm to Buyer, for which monetary damages would not be an adequate remedy, and hereby agrees that in the event of a breach or a threatened breach by such Seller of any such obligations, Buyer shall, in addition to any and all other rights and remedies that may be available to it in respect of such breach, be entitled to seek equitable relief, including a temporary restraining order, an injunction, specific performance and any other relief that may be available from a court of competent jurisdiction (without any requirement to post bond).

(e) Each Seller acknowledges that the restrictions contained in this Section 6.07 are reasonable and necessary to protect the legitimate interests of Buyer and constitute a material inducement to Buyer to enter into this Agreement and consummate the transactions contemplated by this Agreement. In the event that any covenant contained in this Section 6.07 should ever be adjudicated to exceed the time, geographic, product or service, or other limitations permitted by applicable Law in any jurisdiction, then any court is expressly empowered to reform such covenant, and such covenant shall be deemed reformed, in such jurisdiction to the maximum time, geographic, product or service, or other limitations permitted by applicable Law. The covenants contained in this Section 6.07 and each provision hereof are severable and distinct covenants and provisions. The invalidity or unenforceability of any such covenant or provision as written shall not invalidate or render unenforceable the remaining covenants or provisions hereof, and any such invalidity or unenforceability in any jurisdiction shall not invalidate or render unenforceable such covenant or provision in any other jurisdiction.

#### **Section 6.08 Governmental Approvals and Consents.**

(a) Each of Buyer and the Company shall, as promptly as possible, (i) make, or cause or be made, all filings and submissions required under any Law applicable to such party or any of its Affiliates; and (ii) use reasonable best efforts to obtain, or cause to be obtained, all consents, authorizations, orders and approvals from all Governmental Authorities that may be or become necessary for its execution and delivery of this Agreement and the performance of its obligations pursuant to this Agreement and the Ancillary Documents. Each party shall cooperate fully with the other parties and their Affiliates in promptly seeking to obtain all such consents, authorizations, orders and approvals. None of the parties shall willfully take any action that will have the effect of delaying, impairing or impeding the receipt of any required consents, authorizations, orders and approvals.

(b) The parties hereto shall use reasonable best efforts to give all notices to, and obtain all consents from, all third parties that are described in Section 3.05 of the Disclosure Schedules.

(c) Without limiting the generality of the parties' undertakings pursuant to subsections (a) and (b) above, each of the parties hereto shall use all reasonable best efforts to:

(i) respond to any inquiries by any Governmental Authority regarding antitrust or other matters with respect to the transactions contemplated by this Agreement or any Ancillary Document;

(ii) avoid the imposition of any order or the taking of any action that would restrain, alter or enjoin the transactions contemplated by this Agreement or any Ancillary Document; and

(iii) in the event any Governmental Order adversely affecting the ability of the parties to consummate the transactions contemplated by this Agreement or any Ancillary Document has been issued, to have such Governmental Order vacated or lifted.

(d) If any consent, approval or authorization necessary to preserve any right or benefit under any Contract to which the Company is a party is not obtained prior to the Closing, Sellers shall, subsequent to the Closing, cooperate with Buyer and the Company in attempting to obtain such consent, approval or authorization as promptly thereafter as practicable. If such consent, approval or authorization cannot be obtained, each of the Sellers shall use its reasonable best efforts to provide the Company with the rights and benefits of the affected Contract for the term thereof, and, if Sellers provide such rights and benefits, the Company shall assume all obligations and burdens thereunder.

(e) All analyses, appearances, meetings, discussions, presentations, memoranda, briefs, filings, arguments, and proposals made by or on behalf of any party before any Governmental Authority or the staff or regulators of any Governmental Authority, in connection with the transactions contemplated hereunder (but, for the avoidance of doubt, not including any interactions between a Seller or the Company with Governmental Authorities in the ordinary course of business, any disclosure which is not permitted by Law or any disclosure containing confidential information) shall be disclosed to the other party hereunder in advance of any filing, submission or attendance, it being the intent that the parties will consult and cooperate with one another, and consider in good faith the views of one another, in connection with any such analyses, appearances, meetings, discussions, presentations, memoranda, briefs, filings, arguments, and proposals. Each party shall give notice to the other parties with respect to any meeting, discussion, appearance or contact with any Governmental Authority or the staff or regulators of any Governmental Authority, with such notice being sufficient to provide the other parties with the opportunity to attend and participate in such meeting, discussion, appearance or contact.

(f) Notwithstanding the foregoing, nothing in this Section 6.08 shall require, or be construed to require, Buyer or any of its Affiliates to agree to (i) sell, hold, divest, discontinue or limit, before or after the Closing Date, any assets, businesses or interests of Buyer, the Company or any of their respective Affiliates; (ii) any conditions relating to, or changes or restrictions in, the operations of any such assets, businesses or interests which adversely impact the economic or business benefits to Buyer of the transactions contemplated by this Agreement; or (iii) any material modification or waiver of the terms and conditions of this Agreement.

**Section 6.09 Closing Conditions.** From the date hereof until the Closing, each party hereto shall use reasonable best efforts to take such actions as are necessary to expeditiously satisfy the closing conditions set forth in ARTICLE VIII hereof.

**Section 6.10 Public Announcements.** Prior to the Closing, unless otherwise required by applicable Law or stock exchange requirements, neither the Company, Sellers nor Buyer shall issue a press releases or make any other public statements with respect to the transactions contemplated hereby without the written consent (which may be via email) of the Company and Buyer; provided, however, that a mutually agreed joint press release describing the terms of this Agreement shall be released promptly after execution of this Agreement and Buyer shall file a Current Report on Form 8-K with the U.S. Securities and Exchange Commission, which shall include that press release and this Agreement as exhibits. After the Closing, unless otherwise required by applicable Law or stock exchange requirements, Sellers shall not make any public announcements in respect of this Agreement, or the transactions contemplated hereby or otherwise communicate with any news media without the prior written consent of Buyer. Following the signing of this Agreement and the Closing, Buyer may issue a press releases and make public announcements disclosing the material terms of the transactions contemplated hereby, and file this Agreement and any Ancillary Documents with the principal trading market.

**Section 6.11 Further Assurances.** Following the Closing, each of the parties hereto shall, and shall cause their respective Affiliates to, execute and deliver such additional documents, instruments, conveyances and assurances and take such further actions as may be reasonably required to carry out the provisions hereof and give effect to the transactions contemplated by this Agreement.

**Section 6.12 Employee Benefits; Severance Policy.**

(a) For a period of one (1) year from the Closing Date, the Buyer will not, other than in connection with a violation of the Buyer's employment policies or a violation of law, terminate any employee of the Company on the date of this Agreement, or make material changes to the Company's employee compensation, benefit or severance plans or programs that have an adverse effect on any such employee. After the first anniversary of the Closing Date, provided that it complies in all material respects with applicable law and the terms of any employment arrangements identified in Section 3.20, Buyer may, in its sole discretion, substitute employee compensation, benefit and severance programs for those of the Company and any Affiliate as are comparable with the programs provided from time to time to Buyer's employees and the employees of Buyer's Affiliates. Subject to the limitations contained in this Section 6.12(a), the Buyer shall have no obligation to continue the existence of any Benefit Plan maintained by the Company or any Affiliate.

(b) Intentionally Omitted.

(c) With respect to each Company Benefit Plan that is a “group health plan” as defined in Section 5000(b)(1) of the Code, an ERISA Affiliate of Company shall have sole responsibility on and after the Closing Date for any liability under Section 4980B of the Code with respect to each person who is an “M & A qualified beneficiary,” as defined in Treas. Reg. § 54.4980B-9 in connection with the transactions contemplated by this Agreement. In the event that an ERISA Affiliate of Company shall, after the Closing, cease to maintain all such plans, Company shall obtain the agreement of ERISA Affiliate to promptly notify Buyer.

(d) With respect to any payments and/or benefits that may constitute “parachute payments” under Section 280G of the Code with respect to any employees, the Company shall have submitted such parachute payments to the Company shareholders for approval and such shareholders shall, in accordance with Treasury Regulation Section 1.280G-1, have (i) approved, pursuant to the method provided for in the regulations promulgated under Section 280G of the Code, any such “parachute payments” or (ii) shall have voted upon and disapproved such “parachute payments,” and, as a consequence, such “parachute payments” shall not be paid or provided for in accordance with applicable Law. Any submission for shareholder approval shall be subject to the Buyer’s prior review and approval, which shall not be unreasonably withheld or delayed.

## **ARTICLE VII TAX MATTERS**

### **Section 7.01 Tax Covenants.**

(a) Without the prior written consent of Buyer, prior to the Closing, for tax periods ending on or before December 31, 2024, the Company, its Representatives and Sellers shall not make, change or rescind any Tax election, amend any Tax Return or take any position on any Tax Return, take any action, omit to take any action or enter into any other transaction that would have the effect of increasing the Tax liability or reducing any Tax asset of Buyer or the Company in respect of any Post-Closing Tax Period. Sellers agree that for tax periods ending on or before December 31, 2024, Buyer is to have no liability for any Tax resulting from any action of the Company, any of its Representatives or Sellers. Sellers shall, jointly and severally, indemnify and hold harmless Buyer against any such Tax or reduction of any Tax asset.

(b) All transfer, documentary, sales, use, stamp, registration, value added and other such Taxes and fees (including any penalties and interest) incurred in connection with this Agreement and the Ancillary Documents (including any real property transfer Tax and any other similar Tax) shall be borne and paid by Sellers when due. Sellers shall timely file any Tax Return or other document with respect to such Taxes or fees (and Buyer shall cooperate with respect thereto as necessary).

(c) Buyer shall prepare, or cause to be prepared, all Tax Returns required to be filed by the Company after the Closing Date with respect to a Pre-Closing Tax Period. Any such Tax Return shall be prepared in a manner consistent with past practice (unless otherwise required by Law) and without a change of any election or any accounting method and shall be submitted by Buyer to Sellers (together with schedules, statements and, to the extent requested by Sellers, supporting documentation) at least 45 days prior to the due date (including extensions) of such Tax Return. If Sellers object to any item on any such Tax Return, it shall, within ten (10) days after delivery of such Tax Return, notify Buyer in writing that it so objects, specifying with particularity any such item and stating the specific factual or legal basis for any such objection. If a notice of objection shall be duly delivered, Buyer and Sellers shall negotiate in good faith and use their reasonable best efforts to resolve such items. If Buyer and Sellers are unable to reach such agreement within ten (10) days after receipt by Buyer of such notice, the disputed items shall be resolved by the Independent Accountant and any determination by the Independent Accountant shall be final. The Independent Accountant shall resolve any disputed items within twenty (20) days of having the item referred to it pursuant to such procedures as it may require. If the Independent Accountant is unable to resolve any disputed items before the due date for such Tax Return, the Tax Return shall be filed as prepared by Buyer and then amended to reflect the Independent Accountant's resolution. The costs, fees and expenses of the Independent Accountant shall be borne equally by Buyer and Sellers. The preparation and filing of any Tax Return of the Company that does not relate to a Pre-Closing Tax Period shall be exclusively within the control of Buyer.

**Section 7.02 Termination of Existing Tax Sharing Agreements.** Any and all existing Tax sharing agreements (whether written or not) binding upon the Company shall be terminated as of the Closing Date. After Closing, neither the Company nor any of its Representatives shall have any further rights or liabilities thereunder.

**Section 7.03 Tax Indemnification.** Sellers shall, jointly and severally, indemnify the Company, Buyer, and each Buyer Indemnitee and hold them harmless from and against (a) any Loss attributable to any material breach of or inaccuracy in any representation or warranty made in Section 3.22; (b) any Loss attributable to any material breach or violation of, or failure to fully perform, any covenant, agreement, undertaking or obligation in ARTICLE VII; (c) all Taxes of the Company or relating to the business of the Company for all Pre-Closing Tax Periods ("**Pre-Closing Taxes**"); (d) all Taxes of any member of an affiliated, consolidated, combined or unitary group of which the Company (or any predecessor of the Company) is or was a member on or prior to the Closing Date by reason of a liability under Treasury Regulation Section 1.1502-6 or any comparable provisions of foreign, state or local Law; and (e) any and all Taxes of any person imposed on the Company arising under the principles of transferee or successor liability or by contract, relating to an event or transaction occurring before the Closing Date. In each of the above cases, together with any out-of-pocket fees and expenses (including attorneys' and accountants' fees) incurred in connection therewith, Sellers shall, jointly and severally, pay Buyer for any Taxes of the Company that are the responsibility of Sellers pursuant to this Section 7.03 upon a determination that a Tax is payable or on written demand, whichever is later.

**Section 7.04 Straddle Period.** In the case of Taxes that are payable with respect to a taxable period that begins before and ends after the Closing Date (each such period, a "**Straddle Period**"), the portion of any such Taxes that are treated as Pre-Closing Taxes for purposes of this Agreement shall be:

(a) in the case of Taxes (i) based upon, or related to, income, receipts, profits, wages, capital or net worth, (ii) imposed in connection with the sale, transfer or assignment of property, or (iii) required to be withheld, deemed equal to the amount which would be payable if the taxable year ended with the Closing Date; and

(b) in the case of other Taxes, deemed to be the amount of such Taxes for the entire period multiplied by a fraction the numerator of which is the number of days in the period ending on the Closing Date and the denominator of which is the number of days in the entire period.

The remainder of the Taxes for the Straddle Period shall be allocated to the Post-Closing Tax Period.

**Section 7.05 Contests.** Buyer agrees to give written notice to Sellers of the receipt of any written notice by the Company, Buyer or any of Buyer's Affiliates which involves the assertion of any claim, or the commencement of any Action, in respect of which an indemnity may be sought by Buyer pursuant to this ARTICLE VII (a "**Tax Claim**"); *provided, that* failure to comply with this provision shall not affect Buyer's right to indemnification hereunder. Buyer shall control the contest or resolution of any Tax Claim; *provided, however,* that Buyer shall obtain the prior written consent of Sellers (which consent shall not be unreasonably withheld, conditioned or delayed) before entering into any settlement of a claim or ceasing to defend such claim; and, *provided further,* that Sellers shall be entitled to participate in the defense of such claim and to employ counsel of its choice for such purpose, the fees and expenses of which separate counsel shall be borne solely by Sellers. Notwithstanding anything to in this Agreement to the contrary, in the case of a Tax Claim, an election under Section 6226(a) of the Code (and any analogous or similar election under state or local Law) shall be made when available, except to the extent the Buyer and the Seller agree in writing for any such election not to be made, and each party hereto shall take all actions necessary to effectuate such an election.

**Section 7.06 Cooperation and Exchange of Information.** Sellers, the Company and Buyer shall provide each other with such cooperation and information as any of them reasonably may request of the other in filing any Tax Return pursuant to this ARTICLE VII or in connection with any audit or other proceeding in respect of Taxes of the Company. Such cooperation and information shall include providing copies of relevant Tax Returns or portions thereof, together with accompanying schedules, related work papers and documents relating to rulings or other determinations by tax authorities. Each of Sellers, the Company and Buyer shall retain all Tax Returns, schedules and work papers, records and other documents in its possession relating to Tax matters of the Company for any taxable period beginning before the Closing Date until the expiration of the statute of limitations of the taxable periods to which such Tax Returns and other documents relate, without regard to extensions except to the extent notified by the other party in writing of such extensions for the respective Tax periods. Prior to transferring, destroying or discarding any Tax Returns, schedules and work papers, records and other documents in its possession relating to Tax matters of the Company for any taxable period beginning before the Closing Date, Sellers, the Company or Buyer (as the case may be) shall provide the other party with reasonable written notice and offer the other party the opportunity to take custody of such materials.

**Section 7.07 Tax Treatment of Indemnification Payments.** Any indemnification payments pursuant to this ARTICLE VII shall be treated as an adjustment to the Purchase Price by the parties for Tax purposes, unless otherwise required by Law.

**Section 7.08 Payments to Buyer.** Any amounts payable to Buyer pursuant to this ARTICLE VII shall be satisfied by Sellers, jointly and severally.

**Section 7.09 FIRPTA Certificate or Form W-9.** On the Closing Date, each Seller shall deliver to Buyer either (a) a certificate pursuant to Treasury Regulations Section 1.1445-2(b) that the Seller is not a foreign person with the meaning of Section 1445 of the Code (a “FIRPTA Certificate”); or (b) a valid IRS Form W-9, Request for Taxpayer Identification Number and Certificate, duly executed by an officer of Seller.

**Section 7.10 Survival.** Notwithstanding anything in this Agreement to the contrary, the provisions of Section 3.22 and this ARTICLE VII shall survive for the full period of all applicable statutes of limitations (giving effect to any waiver, mitigation or extension thereof) plus 60 days.

**Section 7.11 Overlap.** To the extent that any obligation or responsibility pursuant to ARTICLE IX may overlap with an obligation or responsibility pursuant to this ARTICLE VII, the provisions of this ARTICLE VII shall govern.

## **ARTICLE VIII CONDITIONS TO CLOSING**

**Section 8.01 Conditions to Obligations of All Parties.** The obligations of each party to consummate the Proposed Transaction shall be subject to the fulfillment, at or prior to the Closing, of each of the following conditions:

(a) No Governmental Authority shall have enacted, issued, promulgated, enforced or entered any Governmental Order which is in effect and has the effect of making the Proposed Transaction illegal, otherwise restraining or prohibiting consummation of the Proposed Transaction or causing any of the transactions contemplated hereunder to be rescinded following completion thereof.

(b) The Company and Sellers shall have received all consents, authorizations, orders and approvals referred to in Section 3.05 of the Disclosure Schedules.

(c) Buyer shall have filed an application for listing of additional shares with Nasdaq Capital Market and Nasdaq Capital Market shall have approved such listing of Buyer’s Common Stock on or prior to the Closing Date.

**Section 8.02 Conditions to Obligations of Buyer.** The obligations of Buyer to consummate the Proposed Transaction shall be subject to the fulfillment or Buyer’s waiver, at or prior to the Closing, of each of the following conditions:



(a) Other than the representations and warranties contained in Section 3.01, Section 3.02, Section 3.03, Section 3.04, Section 3.05, Section 4.01, Section 4.02, Section 4.03, Section 4.04, Section 4.05, and Section 4.06, the representations and warranties of the Company and Sellers contained in this Agreement and the Ancillary Documents shall be true and correct in all respects (without giving effect to any limitation indicated by the words “Material Adverse Effect,” “in all material respects,” “in any material respect,” “material,” or “materially”) on and as of the Closing Date with the same effect as though made at and as of such date (except those representations and warranties that address matters only as of a specified date, the accuracy of which shall be determined as of that specified date in all respects), except where the failure of such representations and warranties to be true and correct would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. The representations and warranties of the Company and Sellers contained in Section 3.01, Section 3.02, Section 3.03, Section 3.04, Section 3.05, Section 4.01, Section 4.02, Section 4.03, Section 4.04, Section 4.05, and Section 4.06 shall be true and correct in all respects on and as of the Closing Date with the same effect as though made at and as of such date (except those representations and warranties that address matters only as of a specified date, the accuracy of which shall be determined as of that specified date in all respects).

(b) The Company and each Seller shall have duly performed and complied in all material respects with all agreements and covenants required by this Agreement and each of the Ancillary Documents to be performed or complied with by them prior to or on the Closing Date.

(c) No Action shall have been commenced against Buyer, any Seller or the Company, which would prevent the Closing.

(d) From the date of this Agreement, there shall not have occurred any Material Adverse Effect, nor shall any event or events have occurred that, individually or in the aggregate, with or without the lapse of time, could reasonably be expected to result in a Material Adverse Effect.

(e) The Ancillary Documents shall have been executed and delivered by the parties thereto and true and complete copies thereof shall have been delivered to Buyer.

(f) Buyer shall have received resignations of the directors and officers of the Company pursuant to Section 6.05.

(g) At least three Business Days before Closing, the Company shall have delivered to Buyer the Closing Transaction Expenses Certificate and the Consideration Spreadsheet.

(h) The Company shall have delivered to Buyer the Estimated Closing Statement contemplated in Section 2.04(a)(ii).

(i) The Company shall have delivered to Buyer the executed Payoff Letters.

(j) The Company shall have delivered to Buyer a good standing certificate (or its equivalent) for the Company from the secretary of state or similar Governmental Authority of the jurisdiction under the Laws in which the Company is organized.

(k) Each Seller shall have delivered a FIRPTA Certificate or an IRS Form W-9 to Buyer.

(l) Sellers shall have delivered, or caused to be delivered, to Buyer certificates or book entry statements evidencing the Shares, free and clear of Encumbrances, duly endorsed in blank or accompanied by stock powers or other instruments of transfer duly executed in blank and with all required shares transfer tax stamps affixed.

(m) Buyer shall have received a certificate, dated the Closing Date and signed by a duly authorized officer of the Company and each Seller, that each of the conditions set forth in Section 8.02(a) and Section 8.02(b) have been satisfied.

(n) Buyer shall have received a certificate of the Secretary or an Assistant Secretary (or equivalent officer) of the Company certifying that attached thereto are true and complete copies of all resolutions adopted by the board of directors of the Company authorizing the execution, delivery and performance of this Agreement and the Ancillary Documents to which it is a party and the consummation of the Proposed Transaction contemplated hereby and thereby, and that all such resolutions are in full force and effect and are all the resolutions adopted in connection with the Proposed Transaction contemplated hereby and thereby.

(o) Buyer shall have closed one or more financing(s), in the aggregate amount of net proceeds to Buyer of at least \$10,000,000, from one or more investors and or financial institutions.

(p) If required by the applicable rules and regulations of the Nasdaq Capital Market, Buyer shall have obtained written consent of the Buyer's stockholders to issue the Closing Stock Consideration and informed the stockholders of the Company of the receipt of the stockholder consent by preparing and filing with the U.S. Securities and Exchange Commission an information statement with respect thereto, and all time periods during which the U.S. Securities and Exchange Commission could make any inquiries or investigations regarding the terms of the transaction contemplated by this Agreement pursuant to the applicable rules and regulations of the U.S. Securities and Exchange Commission shall have expired; provided, however, that in the event Buyer is unable to obtain such prior written consent, then Buyer shall have held a stockholders meeting and obtained such stockholders' approval.

(q) The Buyer shall have received the Company's Tax Returns for the years 2022, 2023, and 2024, or evidence of extending the relevant filing deadline, if not yet filed.

(r) Buyer shall have completed all its business and legal due diligence with respect to the Company and Sellers and shall, in its sole judgment, be satisfied with the results thereof.

(s) Mr. Reese and Mr. Tomaino shall have executed and delivered to Buyer a consulting agreement, in a form to be mutually agreed, and the consulting agreement shall be in full force and effect.

(t) The Company and Sellers shall have delivered to Buyer such other documents or instruments as Buyer reasonably requests and are reasonably necessary to consummate the Proposed Transaction.

**Section 8.03 Conditions to Obligations of Sellers.** The obligations of Sellers to consummate the Proposed Transaction shall be subject to the fulfillment or the Company's waiver (on behalf of Sellers), at or prior to the Closing, of each of the following conditions:

(a) Other than the representations and warranties of Buyer contained in Section 5.01, Section 5.02 and Section 5.04, the representations and warranties of Buyer contained in this Agreement and the Ancillary Documents shall be true and correct in all respects (without giving effect to any limitation indicated by the words "Material Adverse Effect," "in all material respects," "in any material respect," "material," or "materially") on and as of the Closing Date with the same effect as though made at and as of such date (except those representations and warranties that address matters only as of a specified date, the accuracy of which shall be determined as of that specified date in all respects), except where the failure of such representations and warranties to be so true and correct would not reasonably be expected to have, individually or in the aggregate, a material adverse effect on Buyer's ability to consummate the Proposed Transaction. The representations and warranties of Buyer contained in Section 5.01, Section 5.02 and Section 5.04 shall be true and correct in all respects on and as of the Closing Date with the same effect as though made at and as of such date (except those representations and warranties that address matters only as of a specified date, the accuracy of which shall be determined as of that specified date in all respects).

(b) Buyer shall have duly performed and complied in all material respects with all agreements and covenants required by this Agreement and each of the Ancillary Documents to be performed or complied with by it prior to or on the Closing Date.

(c) The Ancillary Documents shall have been executed and delivered by the parties thereto and complete copies thereof shall have been delivered to the Company.

(d) Buyer shall have delivered to Sellers the Closing Date Payment.

(e) Reserved.

(f) Buyer shall have delivered to third parties by wire transfer of immediately available funds that amount of money due and owing from the Company to such third parties as Transaction Expenses as set forth on the Closing Transaction Expenses Certificate.

(g) The Company shall have received a certificate, dated the Closing Date and signed by a duly authorized officer of Buyer, that each of the conditions set forth in Section 8.03(a) and Section 8.03(b) have been satisfied.

(h) Buyer shall have caused the nomination and election to its board of directors of David Reese, whom shall have also been appointed as the chairman of the board of directors.

(i) Buyer shall have delivered to the Company such other documents or instruments as the Company reasonably requests and are reasonably necessary to consummate the Proposed Transaction.

## **ARTICLE IX INDEMNIFICATION**

**Section 9.01 Survival.** Subject to the limitations and other provisions of this Agreement, the representations and warranties contained herein (other than any representations or warranties contained in Section 3.22 which are subject to ARTICLE VII) shall survive the Closing and shall remain in full force and effect until the date that is two (2) years from the Closing Date; *provided, that* the representations and warranties in Section 3.01, Section 3.02, Section 3.03, Section 3.04, Section 3.05, Section 4.01, Section 4.02, Section 4.03, Section 4.04, Section 4.05, Section 4.06, Section 5.01, Section 5.02 and Section 5.04 shall survive indefinitely. All covenants and agreements of the parties contained herein (other than any covenants or agreements contained in ARTICLE VI which are subject to ARTICLE VII) shall survive the Closing indefinitely or for the period explicitly specified therein. Notwithstanding the foregoing, any claims asserted in good faith with reasonable specificity (to the extent known at such time) and in writing by notice from the non-breaching party to the breaching party prior to the expiration date of the applicable survival period shall not thereafter be barred by the expiration of the relevant representation or warranty and such claims shall survive until finally resolved.

## **ARTICLE X TERMINATION**

**Section 10.01 Termination.** This Agreement may be terminated at any time prior to the Closing:

(a) by the mutual written consent of the Company, the Sellers, and Buyer;

(b) by either the Company or Buyer, upon written notice to the other party, if the Proposed Transaction has not been consummated on or before August 12, 2025 (the “**Drop Dead Date**”); *provided, however*, that the right to terminate this Agreement pursuant to this Section 10.01(b) shall not be available to any party whose material breach of any representation, warranty, covenant, or agreement set forth in this Agreement has been the principal cause of, or primarily resulted in, the failure of the Proposed Transaction to be consummated on or before the Drop Dead Date;

(c) by Buyer by written notice to the Company if Buyer is not then in material breach of any provision of this Agreement and there has been a breach, inaccuracy in or failure to perform any representation, warranty, covenant or agreement made by the Company or Sellers pursuant to this Agreement that would give rise to the failure of any of the conditions specified in ARTICLE VIII and such breach, inaccuracy or failure has not been cured by the Company or Sellers within ten (10) days of the Company’s or Sellers’ receipt of written notice of such breach from Buyer;

(d) by the Company by written notice to Buyer if the Company and Sellers are not then in material breach of any provision of this Agreement and there has been a breach, inaccuracy in or failure to perform any representation, warranty, covenant or agreement made by Buyer pursuant to this Agreement that would give rise to the failure of any of the conditions specified in ARTICLE VIII and such breach, inaccuracy or failure has not been cured by Buyer within ten (10) days of Buyer's receipt of written notice of such breach from the Company; or

(e) by Buyer or the Company if (i) there shall be any Law that makes consummation of the Proposed Transaction illegal or otherwise prohibited; or (ii) any Governmental Authority shall have issued a Governmental Order restraining or enjoining the Proposed Transaction, and such Governmental Order shall have become final and non-appealable.

**Section 10.02 Effect of Termination.** In the event of the termination of this Agreement in accordance with this Article, this Agreement shall forthwith become void and there shall be no liability on the part of any party hereto except:

- (a) that the obligations set forth in this ARTICLE X and ARTICLE XI hereof shall survive termination; and
- (b) that nothing herein shall relieve any party hereto from liability for any willful breach of any provision hereof.

**Section 10.03 Breakup Fee.**

(a) If this Agreement is terminated by Buyer other than pursuant to Section 10.1, then in such event Buyer shall pay to Sellers the Breakup Fee. The Breakup Fee shall be irrevocable and non-refundable, due and payable on August 13, 2025. If the Buyer fails to pay the Breakup Fee on August 13, 2025, the Breakup Fee shall bear interest at a rate of 10% per annum. In the event the Buyer fails to pay the Breakup Fee when due, the Buyer shall be responsible for all of Sellers' collection costs and expenses, including without limitation, all legal fees of the Sellers.

(b) Notwithstanding anything to the contrary in this Agreement, if the Breakup Fee shall become due and payable in accordance with this Section 10.3, then except in the case of a termination arising from Buyer's fraud, the Breakup Fee shall be the sole and exclusive remedy of Sellers against Buyer from and after such termination and upon payment of the Breakup Fee in full pursuant to and in accordance with this Section 10.3, Buyer shall have no further Liability of any kind for any reason in connection with this Agreement or the termination contemplated hereby other than as set forth in this Section 10.3. Each of the parties acknowledges that the Breakup Fee is not intended to be a penalty but rather is liquidated damages in a reasonable amount that will compensate Sellers in the circumstances in which such Breakup Fee is due and payable, for the efforts and resources expended and opportunities foregone while negotiating this Agreement and in reliance on this Agreement and on the expectation of the consummation of the transactions contemplated hereby, which amount would otherwise be impossible to calculate with precision. In no event shall Sellers be entitled to payment of the Breakup Fee on more than one occasion.

(c) Each of Buyer and Sellers acknowledges that the agreements contained in this Section are an integral part of the transactions contemplated hereby, and that, without these agreements, Buyer and Sellers would not enter into this Agreement.

## **ARTICLE XI MISCELLANEOUS**

**Section 11.01 Expenses.** Except as otherwise expressly provided herein, all costs and expenses, including, without limitation, fees and disbursements of counsel, financial advisors and accountants, incurred in connection with this Agreement and the Proposed Transaction incurred by Buyer shall be paid by Buyer and those incurred by the Company or Sellers shall be paid by Sellers, whether or not the Closing shall have occurred.

**Section 11.02 Notices.** All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by e-mail of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient; or (d) on the third day after the date mailed, by certified mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section 11.02):

If to the Company or Sellers (prior to Closing):

API Media Innovations Inc.  
Attn: David Reese, CEO  
1248 Sussex Turnpike  
Suite C-3  
Randolph, New Jersey 07869  
E-mail:

If to the Company or Sellers (after the Closing):

Mr. David Reese  
E-mail:

And

Mr. Frank Tomaino

Email:

with a copy to:

Mandelbaum Barrett PC  
3 Becker Farm Road  
Suite 105  
Roseland, New Jersey 07068  
E-mail:  
Attention: Jeffrey M. Rosenthal, Esq.

If to Buyer:

Datavault AI Inc.  
15268 NW Greenbrier Pkwy  
Beaverton, OR  
E-mail:  
Attention: Nathaniel Bradley

with a copy to:

Sullivan & Worcester LLP  
1251 Avenue of the Americas  
New York, NY 10020  
E-mail:  
Attention: David Danovitch, Esq.  
Attention: Joseph Segilia, Esq.

**Section 11.03 Interpretation.** For purposes of this Agreement, unless otherwise expressly provided, (a) the words “include,” “includes” and “including” shall be deemed to be followed by the words “without limitation;” (b) the word “or” is not exclusive; (c) the words “herein,” “hereof,” “hereby,” “hereto” and “hereunder” refer to this Agreement as a whole; and (d) references herein: (i) to Articles, Sections, Disclosure Schedules and Exhibits mean the Articles and Sections of, and Disclosure Schedules and Exhibits attached to, this Agreement; (ii) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof and (iii) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The Disclosure Schedules and Exhibits referred to herein shall be construed with, and as an integral part of, this Agreement to the same extent as if they were set forth verbatim herein.

**Section 11.04 Headings.** The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

**Section 11.05 Severability.** If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Except as provided in Section 6.07(e), upon such determination that any term or other provision is invalid, illegal or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the Proposed Transaction be consummated as originally contemplated to the greatest extent possible.

**Section 11.06 Entire Agreement.** This Agreement and the Ancillary Documents constitute the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein and therein, and supersede all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. In the event of any inconsistency between the statements in the body of this Agreement and those in the Ancillary Documents, the Exhibits and Disclosure Schedules (other than an exception expressly set forth as such in the Disclosure Schedules), the statements in the body of this Agreement will control.

**Section 11.07 Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns. Neither party may assign its rights or obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld, conditioned or delayed; *provided, however*, that prior to the Closing Date, Buyer may, without the prior written consent of the Company, assign all or any portion of its rights under this Agreement to one or more of its direct or indirect wholly owned subsidiaries. No assignment shall relieve the assigning party of any of its obligations hereunder.

**Section 11.08 No Third-party Beneficiaries.** Except as provided in ARTICLE IX, this Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other Person any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

**Section 11.09 Amendment and Modification; Waiver.** This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each party hereto. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

**Section 11.10 Governing Law; Submission to Jurisdiction; Waiver of Jury Trial.**

(a) This Agreement shall be governed by and construed in accordance with the internal laws of the State of New Jersey without giving effect to any choice or conflict of law provision or rule (whether of the State of New Jersey or any other jurisdiction).

(b) ANY LEGAL SUIT, ACTION OR PROCEEDING ARISING OUT OF OR BASED UPON THIS AGREEMENT, THE ANCILLARY DOCUMENTS OR THE PROPOSED TRANSACTION OR THEREBY MAY BE INSTITUTED IN THE FEDERAL COURTS OF THE UNITED STATES OF AMERICA OR THE COURTS OF THE STATE OF NEW JERSEY IN EACH CASE LOCATED IN NEW JERSEY AND MORRIS COUNTY, AND EACH PARTY IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF SUCH COURTS IN ANY SUCH SUIT, ACTION OR PROCEEDING. SERVICE OF PROCESS, SUMMONS, NOTICE OR OTHER DOCUMENT BY MAIL TO SUCH PARTY'S ADDRESS SET FORTH HEREIN SHALL BE EFFECTIVE SERVICE OF PROCESS FOR ANY SUIT, ACTION OR OTHER PROCEEDING BROUGHT IN ANY SUCH COURT. THE PARTIES IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY OBJECTION TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR PROCEEDING IN SUCH COURTS AND IRREVOCABLY WAIVE AND AGREE NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.



(c) EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT OR THE ANCILLARY DOCUMENTS IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE ANCILLARY DOCUMENTS OR THE PROPOSED TRANSACTION CONTEMPLATED HEREBY OR THEREBY. EACH PARTY TO THIS AGREEMENT CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF A LEGAL ACTION, (B) SUCH PARTY HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (C) SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (D) SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS Section 11.10(c).

**Section 11.11 Specific Performance.** The parties agree that irreparable damage would occur if any provision of this Agreement were not performed in accordance with the terms hereof and that the parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy to which they are entitled at law or in equity.

**Section 11.12 Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above by their duly authorized representatives.

**COMPANY:**

API MEDIA INNOVATIONS INC.

By /s/ David Reese

Name: David Reese

Title: Chief Executive Officer

**SELLERS:**

/s/ David Reese

DAVID REESE

/s/ Frank Tomaino

FRANK TOMAINO

**BUYER:**

DATAVAULT AI INC.

By /s/ Nate Bradley

Name: Nate Bradley

Title: CEO

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[Signature Page to Stock Purchase Agreement]