P15000040184

Florida Department of State
Division of Corporations
Electronic Filing Cover Sheet

Note: Please print this page and use it as a cover sheet. Type the fax audit number (shown below) on the top and bottom of all pages of the document.

(((H15000161960 3)))

H15000161960 3ABC$

Note: DO NOT hit the REFRESH/RELOAD button on your browser from this page. Doing so will generate another cover sheet.

RE-SUBMIT

Please retain original filing date of submission 7/1

To:
Division of Corporations
Fax Number : (850)617-6380

From:
Account Name : C T CORPORATION SYSTEM
Account Number : FCA000000023
Phone : (850)205-8842
Fax Number : (850)878-5368

Enter the email address for this business entity to be used for future annual report mailings. Enter only one email address please.

Email Address: _____

FILED
15 JUL -1 AM 11:27
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

MERGER OR SHARE EXCHANGE
DRAWLOOP TECHNOLOGIES, INC.

Certificate of Status	0
Certified Copy	0
Page Count	87
Estimated Charge	$70.00

JUL - 8 2015

D CONNELL

Merger

Electronic Filing Menu Corporate Filing Menu Help

July 6, 2015

FLORIDA DEPARTMENT OF STATE
Division of Corporations

RE-SUBMIT

Please retain original filing date of submission 7/1

DRAWLOOP TECHNOLOGIES, INC.
4199 CAMPUS DRIVE
SUITE 710
IRVINE, CA 92612

SUBJECT: DRAWLOOP TECHNOLOGIES, INC.
REF: P00000040184

We received your electronically transmitted document. However, the document has not been filed. Please make the following corrections and refax the complete document, including the electronic filing cover sheet.

The articles of merger must contain the provisions of the plan of merger or the plan of merger must be attached.

The document must contain written acceptance by the registered agent, (i.e. "I hereby am familiar with and accept the duties and responsibilities as registered agent for said corporation").

This is a profit corporation and the amended and restated articles of incorporation must be filed pursuant to Chapter 607.1007, F.S.

Please correct your document to reflect that it is filed pursuant to the correct statute number.

Please return your document, along with a copy of this letter, within 60 days or your filing will be considered abandoned.

If you have any questions concerning the filing of your document, please call (850) 245-6050.

Darlene Connell
Regulatory Specialist III

FAX Aud. #: H15000161960
Letter Number: 115A00013983

ARTICLES OF MERGER

MERGING

SEAHAWK ACQUISITION SUB, INC.,
A FLORIDA CORPORATION

WITH AND INTO

DRAWLOOP TECHNOLOGIES, INC.,
A FLORIDA CORPORATION

FILED
15 JUL -1 AM 11:27
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

Pursuant to Section 607.1105 of the Florida Business Corporation Act

---

Drawloop Technologies, Inc., a Florida corporation (the "**Company**"), does hereby certify as follows:

FIRST: Each of the constituent corporations, the Company and Seahawk Acquisition Sub, Inc., a Florida corporation ("**Merger Sub**"), is a corporation duly organized and existing under the laws of the State of Florida.

SECOND: Agreement and Plan of Merger, dated as of July 1, 2015, by and among Nintex USA, LLC, a Delaware limited liability company ("**Acquiror**"), Company, Nintex Global Limited, a company incorporated in England and Wales with registered number 09261790 whose registered office is at 20-22 Bedford Row, London WiCR4JS, United Kingdom and the ultimate parent company of Aquiror, solely for the purposes of Section 2.3(b)(ii)-(iv), and Merger Sub (the "**Merger Agreement**"), setting forth the terms and conditions of the merger of Merger Sub with and into Company (the "**Merger**"), has been approved by (i) the shareholders of Company on July 1, 2015 and (ii) the sole shareholder of Merger Sub on July 1, 2015 in accordance with Section 607.0704 of the Florida Business Corporation Act.

THIRD: The name of the surviving corporation in the Merger (the "**Surviving Corporation**") shall be Drawloop Technologies, Inc.

FOURTH: The Articles of Incorporation of the Surviving Corporation, and shall be amended in their entirety to read as attached hereto as Exhibit A.

FIFTH: An executed copy of the Merger Agreement attached hereto as Exhibit B.

SIXTH: A copy of the Merger Agreement will be furnished by the Surviving Corporation, on request and without cost, to any shareholder of either constituent corporation.

SEVENTH: The Merger shall become effective upon the filing of these Articles of Merger with the Secretary of State of the State of Florida.

[signature page follows]

IN WITNESS WHEREOF, Drawloop Technologies, Inc. has caused these Articles of Merger to be executed in its corporate name as of the 1st day of July, 2015.

DRAWLOOP TECHNOLOGIES, INC.

By: _____

James Roberson
President

IN WITNESS WHEREOF, Seahawk Acquisition Sub, Inc. has caused these Articles of Merger to be executed in its corporate name as of the 1st day of July, 2015.

SEAHAWK ACQUISITION SUB, INC.

By: _____
John Burton
President

Exhibit A

Restated Articles of Incorporation

AMENDED AND RESTATED ARTICLES OF INCORPORATION

OF

DRAWLOOP TECHNOLOGIES, INC.

Pursuant to Section 607.1007 of the Florida Business Corporation Act (the "**Act**"), the undersigned, being the sole Director of Drawloop Technologies, Inc. (the "**Corporation**"), a Florida corporation, and desiring to amend and restated its Articles of Incorporation, do hereby certify:

FIRST: The Articles of Incorporation of the Corporation were filed with the Secretary of Florida on April 21, 2000, Document No. P00000040184.

SECOND: These Amended and Restated Articles of Incorporation, which supersede the original Articles of Incorporation and all amendments to them, were adopted by sole director of the Corporation on July 1, 2015. To effect the foregoing, the text of the Articles of Incorporation is hereby restated and amended as herein set forth in full:

ARTICLE I
NAME

The name of the corporation is Drawloop Technologies, Inc.

ARTICLE II
DURATION

The term of existence of the Corporation is perpetual.

ARTICLE III
NATURE OF BUSINESS

The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the Act, as the same exists or as may hereafter be amended from time to time.

ARTICLE IV
PRINCIPAL OFFICE

The principal place and the mailing address of the Corporation in the State of Florida is as follows:

5350 West Kennedy Blvd.
Tampa, Florida 33609-2410

ARTICLE V
CAPITAL STOCK

The Corporation is authorized to issue one class of shares to be designated Common Stock. The total number of shares of Common Stock the Corporation has authority to issue is one thousand (1,000) shares with par value of $0.001 per share.

ARTICLE VI
REGISTERED AGENT

The address of the Corporation's registered office in the State of Florida is 1200 South Pine Island Road, Plantation, Florida 33324. The name of its registered agent at such address is Business Filings Incorporated.

ARTICLE VII
INITIAL DIRECTOR

The director of the Corporation shall be Eric Johnson.

ARTICLE VIII
INDEMNIFICATION

The Corporation shall indemnify any present or former officer or director, or person exercising powers and duties of an officer or a director, to the full extent now or hereafter permitted by law.

IN WITNESS WHEREOF, the undersigned has executed these Amended and Restated Articles of Incorporation this 1st day of July, 2015

Eric Johnson, Director

[Signature Page to Amended and Restated Articles of Incorporation]

ACCEPTANCE BY REGISTERED AGENT

Having been named as registered agent to accept service of process for Drawloop Technologies, Inc. at the place designated in this certificate, I am familiar with and accept the appointment as registered agent and agree to act in this capacity:

Business Filings Incorporated

By: _____

Francis P. Regan, Assistant Secretary

Date: 7/1/2015

Exhibit B

Agreement and Plan of Merger

EXECUTION COPY

AGREEMENT AND PLAN OF MERGER

by and among

NINTEX USA, LLC

NINTEX GLOBAL LIMITED
(solely for the purposes of Sections 2.3(b)(ii)-(iv)

SEAHAWK ACQUISITION SUB, INC.

DRAWLOOP TECHNOLOGIES, INC.

AND

TODD MEZRAH
As Shareholders' Representative

July 1, 2015

TABLE OF CONTENTS

INDEX OF ANNEXES, EXHIBITS AND SCHEDULES

AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT AND PLAN OF MERGER (this "Agreement") is made and entered into as of July 1, 2015, by and among Nintex USA, LLC, a Delaware limited liability company ("Acquiror"), Seahawk Acquisition Sub, Inc., a Florida corporation and a wholly owned subsidiary of Acquiror ("Merger Sub"), Drawloop Technologies, Inc., a Florida corporation (the "Company"), Nintex Global Limited, a company incorporated in England and Wales with registered number 09261790 whose registered office is at 20-22 Bedford Row, London W1CR 4JS, United Kingdom and the ultimate parent company of the Acquiror ("Parent"), solely for the purposes of Sections 2.3(b)(ii)-(iv), and Todd Mezrah as the shareholders' representative (the "Shareholders' Representative"). All capitalized terms that are used but not defined herein shall have the respective meanings ascribed thereto in Annex A.

WITNESSETH

WHEREAS, the respective boards of directors of each of Acquiror, Merger Sub and the Company believe it is advisable and in the best interests of each corporation and its respective shareholders that Acquiror acquire the Company through the statutory merger of Merger Sub with and into the Company (the "Merger") and, in furtherance thereof, have approved, in accordance with applicable provisions of the laws of the state of Florida, this Agreement, the Merger and the other transactions contemplated hereby.

WHEREAS, a portion of the consideration otherwise payable by Acquiror in connection with the Merger shall be deposited by Acquiror into an escrow account as partial security of certain obligations set forth in this Agreement.

WHEREAS, as a condition and inducement to Acquiror and Merger Sub to enter into this Agreement, concurrently with the execution hereof, each of the Key Employees are executing and delivering to Acquiror (i) an offer letter and/or a consulting agreement (collectively, the "Key Employee Agreements"), and (ii) a Proprietary Information and Invention Assignment Agreement with Acquiror in the form attached hereto as Exhibit A (each, a "PIIA"), each of which will be effective only upon the Closing.

WHEREAS, concurrently with or immediately following the execution and delivery of this Agreement, the Company shall seek to obtain and deliver to Acquiror a written consent in substantially the form attached hereto as Exhibit B (a "Shareholder Written Consent") executed by a sufficient number of Shareholders necessary to obtain the Requisite Shareholder Approval, and the Company shall obtain and deliver to Acquiror concurrently with the execution of this Agreement a support agreement in substantially the form attached hereto as Exhibit C (the "Support Agreement") executed by each of the Specified Key Employees.

WHEREAS, based on investor suitability questionnaires delivered prior to the Closing (each, an "Accredited Investor Questionnaire") and such other information as may be requested by Acquiror, the issuance of all shares of Parent Preferred Stock in the Transaction will validly qualify for an exemption from the registration and prospectus delivery requirements of the Securities Act and the equivalent state "blue-sky" laws.

WHEREAS, Acquiror, Merger Sub and the Company desire to make certain representations, warranties, covenants and agreements, as more fully set forth herein, in connection with the Merger and the other transactions contemplated hereby.

NOW, THEREFORE, in consideration of the mutual agreements, covenants and other premises set forth herein, the mutual benefits to be gained by the performance thereof, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and accepted, the parties hereby agree as follows:

ARTICLE I
THE MERGER

1.1 The Merger.

(a) The Merger. Upon the terms and subject to the conditions set forth in this Agreement and subject to the applicable provisions of Florida Law, at the Closing, Acquiror and the Company shall cause Merger Sub to be merged with and into the Company, whereupon the separate corporate existence of Merger Sub shall cease and the Company shall continue as the surviving corporation of the Merger as a wholly owned subsidiary of Acquiror. Acquiror and the Company shall cause the Merger to be consummated and become effective under Florida Law by filing a Certificate of Merger, in customary form, with the Secretary of State of the State of Florida (the "Certificate of Merger") in accordance with the applicable provisions of Florida. The time of such filing and acceptance by the Secretary of State of the State of Florida, or such other later time as may be agreed in writing by Acquiror and the Company and specified in the Certificate of Merger, is referred to herein as the "Effective Time." The Company, as the surviving corporation of the Merger, is sometimes referred to herein as the "Surviving Corporation."

(b) The Surviving Corporation of the Merger.

(i) Certificate of Incorporation and Bylaws.

(A) Certificate of Incorporation. Unless otherwise determined by Acquiror prior to the Effective Time, the certificate of incorporation of the Surviving Corporation shall be amended and restated as of the Effective Time to be identical to the certificate of incorporation of Merger Sub as in effect immediately prior to the Effective Time, until thereafter amended in accordance with Florida Law and as provided in such certificate of incorporation; *provided, however*, that at the Effective Time, Article I of the certificate of incorporation of the Surviving Corporation shall be amended and restated in its entirety to read as follows: "The name of the corporation is Drawloop Technologies, Inc."

(B) Bylaws. Unless otherwise determined by Acquiror prior to the Effective Time, the bylaws of Merger Sub as in effect immediately prior to the Effective Time shall be the bylaws of the Surviving Corporation as of the Effective Time until thereafter amended in accordance with Florida Law and as provided in the certificate of incorporation of the Surviving Corporation and such bylaws.

(ii) Directors and Officers.

(A) Directors. Unless otherwise determined by Acquiror prior to the Effective Time, the directors of Merger Sub immediately prior to the Effective Time shall be the directors of the Surviving Corporation immediately after the Effective Time, each to hold the office of a director of the Surviving Corporation in accordance with the provisions of Florida Law and the certificate of incorporation and bylaws of the Surviving Corporation until his or her successors is duly elected and qualified.

(B) Officers. Unless otherwise determined by Acquiror prior to the Effective Time, the officers of Merger Sub immediately prior to the Effective Time shall be the officers of the Surviving Corporation immediately after the Effective Time, each to hold office in accordance with the provisions of the bylaws of the Surviving Corporation.

1.2 General Effects of the Merger. At the Effective Time, the effects of the Merger shall be as provided in the applicable provisions of Florida Law. Without limiting the generality of the foregoing, and subject thereto, at the Effective Time, except as otherwise agreed to pursuant to the terms of this Agreement, all of the property, rights, privileges, powers and franchises of the Company and Merger Sub shall vest in the Surviving Corporation, and all debts, liabilities and duties of the Company and Merger Sub shall become the debts, liabilities and duties of the Surviving Corporation.

1.3 Effects of the Merger on Securities of Merging Corporations.

(a) Merger Sub Capital Stock. At the Effective Time, by virtue of the Merger and without any action on the part of Merger Sub, the Company, the Shareholders or any other Person, each share of common stock, par value $.001 per share, of Merger Sub issued and outstanding immediately prior to the Effective Time shall be cancelled and converted into one validly issued, fully paid and nonassessable share of common stock, par value $.001 per share, of the Surviving Corporation. Each stock certificate of Merger Sub evidencing ownership of any such shares shall thereupon evidence ownership only of such shares of capital stock of the Surviving Corporation.

(b) Company Capital Stock.

(i) Generally. At the Effective Time, by virtue of the Merger and without any action on the part of Acquiror, Merger Sub, the Company, the Shareholders or any other Person, each share of Company Capital Stock (other than (A) Dissenting Shares, which shall be treated in the manner set forth in Section 1.3(b)(ii)) and (B) Cancelled Shares, which shall be treated in the manner set forth in Section 1.3(b)(iii)) that is issued and outstanding as of immediately prior to the Effective Time shall be cancelled and converted automatically into (x) the right to receive the Per Share Closing Consideration, and (y) the right to receive any cash disbursements to be made from the Indemnity Escrow Fund with respect to such share of Company Capital Stock to the former holder thereof, as and when such disbursements are required to be made pursuant to this Agreement and the Escrow Agreement, each upon the terms set forth in this Section 1.3 and throughout this Agreement and, except as otherwise set forth herein, subject to the surrender of the Company Stock Certificate in respect thereof and the Exchange Documents all in the manner provided in Section 2.3(b); *provided* that the Escrow Consideration shall become payable subject to the terms and conditions set forth in Article IX of this Agreement; *provided, further*, that, notwithstanding anything to the contrary herein, Acquiror, in its sole discretion, may pay in cash any consideration payable hereunder that would otherwise be paid in shares of Parent Preferred Stock if Acquiror reasonably believes that the intended recipient of such consideration is not an "accredited investor" as defined in Rule 501 promulgated under Regulation D of the Securities Act (it being understood that under no circumstances shall Acquiror be prohibited from paying consideration in Parent Preferred Stock as otherwise provided hereunder). Until so surrendered, each Company Stock Certificate that is outstanding after the Effective Time shall be deemed, for all purposes after the Effective Time, to evidence only (1) the right to receive the Per Share Closing Consideration, and (2) the right to receive any cash disbursements to be made from the Indemnity Escrow Fund with respect to such share of Company Capital Stock to the former holder thereof, as and when such disbursements are required to be made pursuant to this Agreement and the Escrow Agreement. For purposes of calculating the aggregate amount of Per Share Closing Consideration and any cash disbursements to be made from the Indemnity Escrow Fund with respect to such share to the former holder thereof, as and when such disbursements are required to be made pursuant to this Agreement and the Escrow Agreement payable to each Shareholder

pursuant to this Section 1.3(b)(i), (A) all shares of the Company Capital Stock held by each such Shareholder shall be aggregated on a certificate-by-certificate basis and (B) the aggregate number of shares of Parent Preferred Stock to be paid to each Shareholder for shares of Company Capital Stock held by such Shareholder shall be rounded down to the nearest whole share. No fraction of a share of Parent Preferred Stock will be issued by virtue of the Merger. Notwithstanding anything set forth in this Section 1.3(b)(i), any Dissenting Shares will be treated as set forth in Section 1.3(b)(ii).

(ii) Dissenting Shares. Notwithstanding any other provisions of this Agreement to the contrary, any shares of Company Capital Stock outstanding immediately prior to the Effective Time and with respect to which the holder thereof has properly demanded appraisal or dissenters' rights in accordance with applicable Law and who has not effectively withdrawn or lost such holder's appraisal rights or dissenters' rights under applicable Law (collectively, the "Dissenting Shares"), shall not be converted into or represent a right to receive the applicable consideration for Company Capital Stock set forth in Section 1.3(b)(i), but the holder thereof shall only be entitled to such rights as are provided by applicable Law. Notwithstanding the provisions of this Section 1.3(b)(ii), if any holder of Dissenting Shares shall effectively withdraw or lose (through failure to perfect or otherwise) such holder's appraisal or dissenters' rights under applicable Law, then, as of the later of the Effective Time and the occurrence of such event, such holder's shares shall automatically be converted into and represent only the right to receive the consideration for Company Capital Stock, as applicable, set forth in Section 1.3(b)(i), without interest thereon, and subject to the indemnification provisions set forth in Article IX, upon surrender of the Company Stock Certificate representing such shares. The Company shall give Acquiror prompt notice of any written demand for appraisal received by the Company pursuant to applicable Law. The Company shall not, except with the prior written consent of Acquiror, make any payment with respect to any such demands or offer to settle or settle any such demands, unless each of the following requirements are satisfied: (A) such payment is paid and satisfied in full with cash-on-hand by the Company prior to the Closing Date (and, therefore, fully reflected in the calculation of Merger Cash Consideration hereunder), (B) such settlement does not include any obligations other than the payment of cash in accordance with clause (A) and does not provide for any non-monetary consideration, acknowledgments by the Company or other obligations on the Company, and (C) such settlement contains a full release of any and all appraisal, dissenters' or other similar claims, causes of action and rights (and all related matters) under applicable Law against the Company and Acquiror (a settlement satisfying requirements (A)-(C), a "Permitted Settlement"). Any communication to be made by the Company to any Shareholder with respect to such demands shall be submitted to Acquiror in advance and shall not be presented to any Shareholder prior to the Company receiving Acquiror's prior written consent (not to be unreasonably withheld, delayed or conditioned).

(iii) Cancelled Shares. At the Effective Time, by virtue of the Merger and without any action on the part of Merger Sub, the Company, the Shareholders or any other Person, each share of Company Capital Stock that is issued and outstanding and held by the Company as of immediately prior to the Effective Time ("Cancelled Shares") shall be cancelled without any consideration paid therefor.

(c) Treatment of Company Options. Acquiror shall not assume any Company Options in connection with the Merger. At the Effective Time, each Company Option outstanding immediately prior to the Effective Time (whether vested or unvested) shall, without any action on the part of Acquiror, Merger Sub, the Company or the holder thereof, be cancelled and converted into, and shall become a right to receive, an amount in cash, equal to the Per Option Consideration; provided that, if the exercise price per share of any such Company Option is equal to or greater than the Per Share Consideration, such Company Option shall be cancelled without any cash payment or other consideration being made in respect thereof. The payment of the Per Option Consideration will be subject to withholding for all required Taxes. Prior to the Effective Time, and subject to the review and approval of

Acquiror, the Company shall take all actions necessary to effect the transactions anticipated by this Section 1.3(c) under all Company Option agreements, all agreements related to Company Common Stock and any other plan or arrangement of the Company (whether written or oral, formal or informal), and taking any other actions that are necessary or appropriate to effectuate this Section 1.3(c).

1.4 Withholding Taxes. The Company, Acquiror, the Surviving Corporation, the Paying Agent and the Escrow Agent shall be entitled to deduct and withhold from any consideration payable or otherwise deliverable pursuant to this Agreement to any Person such amounts as may be required to be deducted or withheld therefrom under any provision of federal, state, local or foreign Tax Law or under any applicable Law, and to request and be provided any necessary Tax forms, including a valid IRS Form W-9 or the appropriate version of IRS Form W-8, as applicable, and any similar information, including any information for U.S. state or local or non-U.S. purposes. To the extent that such amounts are so deducted or withheld, such amounts shall be treated for all purposes under this Agreement as having been paid to the Person to whom such amounts would otherwise have been paid. To the extent that any payment to any Person is not reduced by such deductions or withholdings, such Person shall indemnify Acquiror and its Affiliates (including, after the Effective Time, the Surviving Corporation) for any amounts imposed by and any Governmental Entity with respect to any such Taxes, together with any costs and expenses relating thereto (including reasonable attorneys' fees and costs of investigation).

1.5 Further Action. If at any time from and after the Effective Time, any further action is necessary or desirable to carry out the purposes of this Agreement and to vest the Surviving Corporation with full right, title and possession to all assets, property, rights, privileges, powers and franchises of the Company, Acquiror, Merger Sub, and the officers and directors of the Company, Acquiror and Merger Sub, are fully authorized in the name of their respective corporations or otherwise to take, and shall take, all such lawful and necessary action.

ARTICLE II
CLOSING AND CLOSING PAYMENTS

2.1 The Closing. Unless this Agreement is validly terminated pursuant to Section 8.1, Acquiror, Merger Sub and the Company shall consummate the Merger at a closing (the "Closing") as soon as practicable, but no later than two (2) Business Days, following satisfaction or waiver (if permissible hereunder) of the conditions set forth in Section 2.2 (other than those conditions that by their nature are to be satisfied at the Closing, but subject to satisfaction or waiver (if permissible hereunder) of those conditions at the Closing) at the offices of Wilson Sonsini Goodrich & Rosati, 701 Fifth Avenue, Suite 5100, Seattle, Washington, unless another time or place is mutually agreed upon in writing by Acquiror and the Company. The date upon which the Closing occurs hereunder shall be referred to herein as the "Closing Date."

2.2 Closing Conditions.

(a) Mutual Conditions. The respective obligations of Acquiror, Merger Sub and the Company to effect the Merger shall be subject to the satisfaction, at or prior to the Effective Time, of the following conditions:

(i) Shareholder Approval. The Requisite Shareholder Approval shall have been obtained.

(ii) Regulatory Approvals. All approvals of Governmental Entities required to be obtained prior to the Effective Time in connection with the Merger and the other transactions contemplated hereby shall have been obtained without any conditions thereto.

(iii) No Legal Restraints. No Law or Order (whether temporary, preliminary or permanent) shall be in effect which has the effect of making the Merger or any other transaction contemplated hereby illegal or otherwise prohibiting or preventing consummation of the Merger or any other transaction contemplated hereby in accordance with the terms hereof.

(b) Additional Acquiror and Merger Sub Conditions. The obligations of Acquiror and Merger Sub to effect the Merger shall be subject to the satisfaction at or prior to the Effective Time of each of the following additional conditions, any of which may be waived in writing exclusively by Acquiror:

(i) Company Representations and Warranties.

(A) The representations and warranties of the Company that are not qualified by materiality shall have been true and correct in all material respects on the date they were made and shall be true and correct in all material respects on and as of the Closing Date as though such representations and warranties were made on and as of such date (other than the representations and warranties of the Company made only as of a specified date, which shall be true and correct in all material respects as of such date).

(B) The representations and warranties of the Company that are qualified by materiality shall have been true and correct in all respects on the date they were made and shall be true and correct in all respects on and as of the Closing Date as though such representations and warranties were made on and as of such date (other than any such representations and warranties of the Company made only as of a specified date, which shall be true and correct in all respects as of such date).

(ii) Company Covenants. The Company shall have performed and complied in all material respects with all covenants and obligations under this Agreement required to be performed and complied with by the Company prior to the Closing. The Company shall have delivered to Acquiror all certificates and other documents that it is required to deliver to Acquiror pursuant to this Agreement prior to the Closing, including the Payment Spreadsheet and the Statement of Expenses.

(iii) No Company Material Adverse Effect. There shall not have occurred any change, event, violation, inaccuracy or effect of any character that has had a Company Material Adverse Effect that is continuing.

(iv) No Actions. There shall be no Action of any kind or nature pending or threatened against Acquiror or any of its Affiliates, or against the Company or any of its Affiliates, arising out of, or in any way connected with, this Agreement, the Merger or any other transactions contemplated hereby.

(v) Appraisal Claims and Rights. Other than Permitted Settlements that have been fully settled in accordance with Section 1.3(b)(ii), no Shareholders shall have exercised (or have a continuing right to exercise) appraisal or dissenters' rights under applicable Law, with respect to the transactions contemplated by this Agreement.

(vi) Joinder Agreements, Support Agreements and Shareholder Written Consents. Each Shareholder (other than the Specified Key Employees) shall have executed and delivered to Acquiror a Joinder Agreement in the form attached hereto as Exhibit D, and all such Joinder Agreements shall be in full force and effect. The Support Agreements executed and delivered to Acquiror by the Specified Key Employees concurrently with this Agreement shall be in full force and effect. Each

Shareholder shall have executed and delivered to Acquiror a Shareholder Written Consent, and all such Shareholder Written Consents shall be in full force and effect.

(vii) Share Registration Exemption. Each Person entitled to receive any shares of Parent Preferred Stock pursuant to Section 1.3(b) (each, a "Stock Consideration Recipient" and, collectively, the "Stock Consideration Recipients") shall have delivered to the Company an Accredited Investor Questionnaire in customary form and substance and based on the foregoing Accredited Investor Questionnaires and other information provided to Acquiror by the Company, Acquiror shall be reasonably satisfied that none of the potential recipients of Parent Preferred Stock or rights to acquire Parent Preferred Stock in connection with the Merger will fail to be, at the Closing, Accredited Investors, and the issuance of all shares of Parent Preferred Stock in the Merger shall validly qualify for an exemption from the registration and prospectus delivery requirements of the Securities Act and the equivalent state "blue-sky" Laws.

(viii) Proprietary Information and Invention Assignment Agreements and Key Employment Arrangements.

(A) Each of the PIIAs shall be in full force and effect shall not have been revoked, rescinded, or otherwise repudiated by the respective signatories thereto.

(B) Each of the Key Employee Agreements shall be in full force and effect and shall not have been revoked, rescinded or otherwise repudiated by the respective signatories thereto, and no Key Employee shall have terminated his or her employment with the Company or taken formal action toward terminating his or her employment with the Company at or prior to the Closing, or with the Surviving Corporation or Acquiror following the Closing. All of the Key Employees shall be eligible under applicable immigration Laws to work in the United States for Acquiror.

(ix) Termination of Option Plan. Acquiror shall have received the evidence of the termination of the Company Option Plan contemplated by Section 7.6(b).

(x) Resignation of Officers and Directors. Unless otherwise directed by Acquiror in writing prior to the Closing, each officer and director of the Company shall have delivered to Acquiror a duly executed resignation and release letter in form and substance reasonably acceptable to Acquiror, effective as of the Effective Time.

(xi) Company Closing Certificates.

(A) Officer's Certificate. Acquiror shall have received a certificate from the Company (the "Officer's Certificate"), validly executed by the Chief Executive Officer of the Company for and on the Company's behalf, to the effect that, as of the Closing the conditions set forth in Sections 2.2(b)(i), 2.2(b)(ii), 2.2(b)(iii), 2.2(b)(iv) and 2.2(b)(v) have been satisfied.

(B) Secretary's Certificate. Acquiror shall have received a certificate from the Company, validly executed by the Secretary of the Company for and on the Company's behalf, certifying as to (i) the terms and effectiveness of the Charter Documents, (ii) the valid adoption of resolutions of the Board of Directors of the Company (whereby the Merger, this Agreement and the transactions contemplated hereunder were unanimously approved by the Company's Board of Directors), (iii) the valid adoption of this Agreement and approval of the Merger by the Requisite Shareholder Approval, and (iv) the results of any vote of the Shareholders pursuant to Section 2.2(b)(viii).

(C) FIRPTA Certificate. Acquiror shall have received a copy of a FIRPTA Compliance Certificate in a form reasonably acceptable to Acquiror for purposes of satisfying Acquiror's obligations under Treasury Regulation Section 1.1445-2(c)(3), validly executed by a duly authorized officer of the Company.

(D) Company Net Working Capital Certificate. Acquiror shall have received the final Company Net Working Capital Certificate, which shall be complete and correct as of the Closing Date.

(xii) D&O Insurance. The Company shall have delivered to Acquiror evidence reasonably satisfactory to Acquiror of the purchase of the Company D&O Policy and the Company D&O Tail Policy.

(xiii) Litigation. There shall be no action, suit, claim, investigation or proceeding of any nature pending, or threatened, against Acquiror or the Company, their respective properties or any of their respective officers, directors or Subsidiaries by any Person (other than Acquiror, Merger Sub or an Affiliate thereof) challenging the validity or legality of the Merger or the transactions contemplated by the terms of this Agreement where such action, suit claim, investigation or proceeding would reasonably be expected to result in a material impact on the Merger and the ability to consummate the Merger on the terms contemplated hereby.

(c) Additional Company Conditions. The obligations of the Company to effect the Merger shall be subject to the satisfaction at or prior to the Effective Time of the following conditions, any of which may be waived in writing exclusively by the Company:

(i) Acquiror Representations and Warranties.

(A) The representations and warranties of Acquiror that are not qualified by materiality shall have been true and correct in all material respects on the date they were made and shall be true and correct in all material respects on and as of the Closing Date as though such representations and warranties were made on and as of such date (other than the representations and warranties of Acquiror made only as of a specified date, which shall be true and correct in all material respects as of such date).

(B) The representations and warranties of Acquiror that are qualified by materiality shall have been true and correct in all respects on the date they were made and shall be true and correct in all respects on and as of the Closing Date as though such representations and warranties were made on and as of such date (other than any such representations and warranties of Acquiror made only as of a specified date, which shall be true and correct in all respects as of such date).

(ii) Acquiror Covenants. Acquiror and Merger Sub shall have performed and complied in all material respects with all covenants and obligations under this Agreement required to be performed and complied with by them prior to the Closing.

(iii) Key Employee Agreements. Each of the Key Employee Agreements shall not have been revoked, rescinded or otherwise repudiated by the Acquiror.

2.3 Payment of Merger Consideration.

(a) Payment Spreadsheet. At least three (3) Business Days prior to the Closing, the Company shall deliver to Acquiror a spreadsheet (the "Payment Spreadsheet") setting forth the following

information, in form and substance reasonably satisfactory to Acquiror and accompanied by documentation reasonably satisfactory to Acquiror in support of the information set forth therein:

(i) calculation of the Aggregate Consideration and all components thereof;

(ii) calculation of the Per Share Closing Consideration, Per Share Debt Consideration and the Per Option Closing Consideration, each in cash and/or number of shares of Parent Preferred Stock, as applicable, and as percentages and all components thereof (including the portions of the Aggregate Consideration as a percentage);

(iii) with respect to each Shareholder (with the information below provided on a certificate-by-certificate basis, wherever applicable): (A) the name and address of such Shareholder and indicating whether such holder is an "accredited" investor, (B) whether such Shareholder is a current or former employee of the Company and whether such Shareholder is a Key Employee, (C) the number, class and series of all shares of Company Capital Stock held by such Shareholder and the respective certificate numbers of all certificates evidencing all such shares, (D) the date of acquisition of all shares of Company Capital Stock held by such Shareholder and, with respect to any shares of Company Capital Stock issued on or after January 1, 2011 and any other securities that are "covered securities" within the meaning of Treasury Regulations §1.6045-1(a)(15), the consideration paid to the Company for such shares, (E) any Taxes that are required to be withheld in accordance with Section 1.4 from the consideration that such Shareholder is entitled to receive pursuant to Section 1.3(b)(i), (F) the aggregate Per Share Closing Consideration that such Shareholder is entitled to receive pursuant to Section 1.3(b)(i), specifying the amount of cash to be paid and amount of Parent Preferred Stock, if any, to be issued, (G) the aggregate Per Share Debt Consideration that such Shareholder is entitled to receive pursuant to Section 2.3(b), (H) such Shareholder's Pro Rata Portion of the Escrow Consideration, and (I) such other information as may reasonably necessary in order for Acquiror to make the payments such Shareholder is entitled to receive pursuant to Section 1.3(b)(i).

(iv) with respect to each Company Optionholder (with the information below provided on a grant-by-grant basis, wherever applicable): (A) the name and address of such Company Optionholder, (B) whether such Company Optionholder is a current or former employee of the Company and whether such Company Optionholder is a Key Employee, (C) the number of Company Common Stock underlying each such Company Option, (D) the vesting commencement dates and exercise prices of such Company Options and the vesting arrangement with respect to such Company Options, (E) the aggregate Per Option Closing Consideration that such Company Optionholder is entitled to receive pursuant to Section 1.3(c), (F) such other information as may reasonably necessary in order for Acquiror to make the payments such Shareholder is entitled to receive pursuant to Section 1.3(c).

(b) Payment Procedures.

(i) Within three (3) Business Days after the Closing Date, Acquiror or the Paying Agent shall cause to be delivered a letter of transmittal in customary form and substance to each Shareholder at the address set forth opposite each such Shareholder's name on the Payment Spreadsheet. The Shareholders will surrender (or cause the Company to surrender) original certificates representing their shares of Company Capital Stock (each such certificate a "Company Stock Certificate" and collectively, the "Company Stock Certificates") to the Paying Agent for cancellation, together with duly completed and validly executed Exchange Documents.

(ii) After receipt by Acquiror or its designated agent of a letter of transmittal and any other documents (including applicable tax forms) that Acquiror or Parent may reasonably require in connection therewith and Acquiror's receipt of a validly executed and delivered Joinder Agreement and

its form of Accredited Investor Questionnaire (with such supporting documentation as Acquiror may reasonably require in connection therewith) (collectively, the "Exchange Documents"), duly completed and validly executed in accordance with the instructions thereto and, excluding such Company Common Stock recorded in the books and records of the Company as book entry shares ("Company Book Entry Shares"), the Company Stock Certificate representing shares of Company Capital Stock, (i) the holder of such Company Certificate (each such holder, an "Eligible Shareholder") shall be entitled to receive from the Paying Agent the aggregate Per Share Cash Consideration payable in respect thereto pursuant to Section 1.3(b)(i) and this Section 2.3(b)(ii), without interest, and (ii) such Eligible Holder shall be entitled to receive the aggregate Per Share Debt Consideration Amount in accordance with the provisions of Section 2.3(b)(ii), Section 2.3(b)(iii) and Section 2.3(b)(iv), in each case as set forth in the Payment Spreadsheet, and the Company Stock Certificate so surrendered shall be cancelled.

(iii) The Company directs and Parent hereby unconditionally and irrevocably undertakes and agrees to perform all of the obligations of the Acquiror to pay to each Eligible Shareholder the aggregate Per Share Debt Consideration Amount pursuant to the provisions of Section 2.3(b)(ii). On the Closing Date, immediately following the Closing, the aggregate Per Share Debt Consideration Amount owed to each Eligible Shareholder shall automatically convert into, without any further action whatsoever, the aggregate amount of Per Share Closing Stock Consideration owed to such Eligible Shareholder. Parent further agrees to allot and issue to each Eligible Shareholder an amount of Parent Preferred Stock calculated in accordance with and issued pursuant to the terms of Section 2.3b(iv), in consideration for the full release and satisfaction of Parent's obligations under this Section 2.3(b)(iii) to pay the Per Share Debt Consideration Amount.

(iv) Parent shall issue to the holder of such Company Stock Certificate the aggregate Per Share Closing Stock Consideration issuable in respect thereto pursuant to Section 1.3(b)(i) and this Section 2.3(b)(ii), in each case as set forth in the Payment Spreadsheet, and the Certificate so surrendered shall be cancelled; *provided, however*, that notwithstanding anything to the contrary herein, Acquiror, in its sole discretion, may pay in cash any part of the Per Share Debt Consideration Amount payable hereunder that would otherwise be satisfied by the issue of shares of Parent Preferred Stock if Acquiror reasonably believes that the intended recipient of such consideration is not an "accredited investor" as defined in Rule 501 promulgated under Regulation D of the Securities Act (it being understood that under no circumstances shall Parent be prohibited from satisfying the Per Share Debt Consideration Amount in Parent Preferred Stock as otherwise provided hereunder) and Parent shall be released from its obligations to satisfy the Per Share Debt Consideration Amount in respect of that amount.

(v) Until so surrendered, each Company Stock Certificate outstanding after the Effective Time will be deemed, for all corporate purposes thereafter, to evidence only the right to receive the Merger Consideration into which such shares of Company Capital Stock shall have been so converted (as well as the right to receive any cash disbursements to be made from the Indemnity Escrow Fund with respect to such share of Company Capital Stock to the former holder thereof, as and when such disbursements are required to be made pursuant to this Agreement and the Escrow Agreement). No portion of the Merger Consideration will be paid to the holder of any unsurrendered Company Stock Certificate with respect to shares of Company Capital Stock formerly represented thereby until the holder of record of such Company Stock Certificate shall surrender such Company Stock Certificate and the Exchange Documents pursuant hereto.

(vi) Promptly following the Closing Date each holder of Company Options shall be entitled to receive from the Paying Agent or Acquiror, directly or indirectly, as applicable (including by means of a payroll processor), the cash payment, without interest, to which such holder is entitled pursuant to Section 1.3, in each case, less any applicable Tax withholding.

(c) Lost, Stolen or Destroyed Certificates. In the event any Company Stock Certificate shall have been lost, stolen or destroyed, Acquiror shall cause to be issued in exchange for such lost, stolen or destroyed certificates, upon the making of an affidavit of that fact by the holder thereof, such amount, if any, as may be required pursuant to Section 1.3(b)(i); *provided, however*, that Acquiror may, in its reasonable discretion, or as required by its stock transfer agent, and as a condition precedent to the issuance thereof, require the Person who is the owner of such lost, stolen or destroyed certificates deliver a bond in such amount as it may reasonably direct and provide an indemnification agreement in a form and substance acceptable to Acquiror, against any claim that may be made against Acquiror or its agents with respect to the certificates alleged to have been lost, stolen or destroyed.

(d) Transfers of Ownership. If any cash amount or stock is to be disbursed pursuant to Section 1.3 to a Person other than the Person whose name is reflected on the Company Stock Certificate surrendered in exchange therefor, it will be a condition of the issuance or delivery thereof that the certificate so surrendered will be properly endorsed and otherwise in proper form for transfer and that the Person requesting such exchange will have paid to Acquiror or any agent designated by it any transfer or other taxes required by reason of the payment of any portion of the Aggregate Consideration in any name other than that of the registered holder of the certificate surrendered, or established to the satisfaction of Acquiror or any agent designated by it that such tax has been paid or is not payable.

(e) Transfer Restrictions. The shares of Parent Preferred Stock to which the Stock Consideration Recipients are entitled to receive in the Merger shall be subject to certain restrictions on transfer as set forth in this Agreement, the Joinder Agreement and the Parent Articles.

(f) Legends. The shares of Parent Preferred Stock to be issued pursuant to this Agreement and the Related Agreements shall be placed in a restrictive class bearing the following legend (in addition to any other legend required by law):

> THE SHARES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR ANY STATE SECURITIES LAWS. SUCH SHARES MAY NOT BE SOLD, TRANSFERRED OR OTHERWISE DISPOSED OF EXCEPT (I) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT RELATING THERETO, (II) IN COMPLIANCE WITH RULE 144, OR (III) PURSUANT TO AN OPINION OF COUNSEL SATISFACTORY TO THE ISSUER THAT EXEMPTION FROM SUCH REGISTRATION IS NOT REQUIRED UNDER THE SECURITIES ACT OF 1933, AS AMENDED.
>
> or such other restrictive legend(s) as may be required or appropriate under applicable Law.

(g) No Further Ownership Rights in Company Capital Stock. The consideration exchanged or paid in respect of the surrender for exchange of shares of Company Capital Stock in accordance with the terms of this Agreement shall be deemed to be full satisfaction of all rights pertaining to such shares of Company Capital Stock, and there shall be no further registration of transfers on the records of the Surviving Corporation of shares of Company Capital Stock which were outstanding immediately prior to the Effective Time. If, after the Effective Time, Company Stock Certificates are presented to the Surviving Corporation for any reason, they shall be canceled and exchanged as provided in this Article I.

(h) No Liability. Notwithstanding anything to the contrary in this Section 2.3, none of Acquiror, its agents (including its stock transfer agent), the Surviving Corporation, nor any party hereto

shall be liable to any Person for any amount paid to a public official pursuant to any applicable abandoned property, escheat or similar law.

(i) Escrow Consideration. The Escrow Consideration shall be available to compensate the Indemnified Parties for any Losses suffered or incurred by them to the extent they are entitled to any indemnification therefor in accordance with Article IX. The Escrow Consideration shall be administered in accordance with Section 9.5 and the terms of the Escrow Agreement.

ARTICLE III
REPRESENTATIONS AND WARRANTIES OF THE COMPANY

Subject to exceptions disclosed in the disclosure supplied by the Company to Acquiror on the date of this Agreement (the "Disclosure Schedule"), the Company hereby represents and warrants to Acquiror and Merger Sub as set forth below in this Article III. Solely if and to the extent that an item has been disclosed in a section of the Disclosure Schedule with sufficient specificity so that it is apparent on the face of such Disclosure Schedule that such disclosure is also applicable to one or more other sections of the Disclosure Schedule, such item shall also be deemed disclosed for purposes of such other sections of the Disclosure Schedule to which such disclosure is applicable.

3.1 Organization and Good Standing.

(a) The Company is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Florida. The Company has the requisite corporate power to own, lease and operate its assets and properties and to carry on its business as currently conducted. The Company is duly qualified or licensed to do business and is in good standing as a foreign corporation in each jurisdiction in which the character or location of its assets or properties (whether owned, leased or licensed) or the nature of its business make such qualification or license material to the Company's business as currently conducted. The operations now being conducted by the Company are not now and have never been conducted by the Company under any other name.

(b) The Company has Made Available true, correct and complete copies of its certificate of incorporation, as amended to date (the "Certificate of Incorporation") and bylaws (the "Bylaws"), as amended to date, each in full force and effect on the date of this Agreement (collectively, the "Charter Documents"). Other than prior amendments already effectuated and reflected in the Charter Documents, the Board of Directors of the Company has not approved or proposed, nor has any Person proposed, any amendment to any of the Charter Documents.

(c) Section 3.1(c) of the Disclosure Schedules sets forth a true, complete and accurate list of the directors and officers of the Company.

(d) Section 3.1(d) of the Disclosure Schedules sets forth a true, complete and accurate list of every jurisdiction in which the Company has Employees or facilities as of the date of this Agreement.

3.2 Authority and Enforceability.

(a) The Company has all requisite corporate power and authority to enter into this Agreement and any Related Agreements to which it is a party and, subject to the receipt of the Requisite Shareholder Approval, to consummate the Merger and the other transactions contemplated hereby and thereby. The execution and delivery of this Agreement and any Related Agreements to which the Company is a party and the consummation of the Merger and the other transactions contemplated hereby

and thereby have been duly authorized by all necessary corporate action on the part of the Company (including the unanimous approval of the Board of Directors of the Company) and no further corporate or other action is required on the part of the Company to authorize this Agreement and any Related Agreements to which the Company is a party or to consummate the Merger or any other transactions contemplated hereby and thereby, other than the adoption of this Agreement and the Requisite Shareholder Approval.

(b) The Requisite Shareholder Approval is the only vote of the Shareholders required under applicable Law, the Charter Documents and all Contracts to which the Company is a party to legally adopt this Agreement and approve the Merger and the other transactions contemplated hereby.

(c) This Agreement and each of the Related Agreements to which the Company is a party have been duly executed and delivered by the Company and, assuming the due authorization, execution and delivery by the other parties hereto and thereto, constitute the valid and binding obligations of the Company enforceable against it in accordance with their respective terms, subject to (x) Laws of general application relating to bankruptcy, insolvency, reorganization, moratorium, the relief of debtors and enforcement of creditors' rights in general, and (y) rules of law governing specific performance, injunctive relief, other equitable remedies and other general principles of equity.

3.3 Governmental Approvals. No consent, notice, waiver, approval, Order or authorization of, or registration, declaration or filing with any Governmental Entity, is required by, or with respect to, the Company in connection with the execution and delivery of this Agreement and any Related Agreement to which the Company is a party or the consummation of the Merger or any other transactions contemplated hereby and thereby, except for (a) such consents, notices, waivers, approvals, orders, authorizations, registrations, declarations and filings as may be required under applicable securities laws and state "blue sky" laws and (b) the filing of the Certificate of Merger with the Secretary of State of the State of Florida.

3.4 Conflicts. The execution and delivery by the Company of this Agreement and any Related Agreement to which the Company is a party, and the consummation of the transactions contemplated hereby and thereby, will not conflict with or result in any violation of or default under (with or without notice or lapse of time, or both) or give rise to a right of termination, cancellation, modification or acceleration of any obligation or loss of any benefit under (any such event, a "Conflict") (a) any provision of the Charter Documents, as amended, (b) any material Contract, other than a Contract for Shrink-Wrap Code, to which the Company is a party or by which any of its properties or assets (whether tangible or intangible) are bound, or (c) any Law or Order applicable to the Company or any of its properties or assets (whether tangible or intangible). Except for any Contract for Shrink-Wrap Code, Section 3.4 of the Disclosure Schedule sets forth all necessary consents, waivers and approvals of parties to any material Contracts as are required thereunder in connection with the Merger, or for any such material Contract to remain in full force and effect without limitation, modification or alteration after the Effective Time so as to preserve all rights of, and benefits to, the Company under such Contracts from and after the Effective Time. Following the Effective Time, the Surviving Corporation will be permitted to exercise all of its rights under all Contracts to which the Company is a party or by which any of its properties or assets (whether tangible or intangible) are bound. No Contract contains a provision causing the payment of any additional amounts or consideration by virtue of the consummation of the Merger and the other transactions contemplated hereby (other than ongoing fees, royalties or payments which the Company would otherwise be required to pay pursuant to the terms of such Contracts had the transactions contemplated by this Agreement not occurred).

3.5 Company Capital Structure.

(a) The authorized capital stock of the Company consists of 50,000,000 shares of Company Common Stock of which 13,095,241 shares are issued and outstanding. The Company Capital Stock is held by the Persons and in the amounts set forth in Section 3.5(a) of the Disclosure Schedule, which further sets forth for each such Person the number of shares held, class and/or series of such shares, the number of the applicable stock certificates representing such shares and the domicile addresses of record of such Persons. All outstanding shares of Company Capital Stock are duly authorized, validly issued, fully paid and non-assessable and are not subject to preemptive rights created by statute, the Charter Documents, or any Contract to which the Company is a party or by which it is bound.

(b) All outstanding shares of Company Capital Stock have been issued or repurchased (in the case of shares that were outstanding and repurchased by the Company or any shareholder of the Company) in compliance with all applicable Laws, and were issued, transferred and repurchased (in the case of shares that were outstanding and repurchased by the Company or any shareholder of the Company) in accordance with any right of first refusal or similar right or limitation Known to the Company. There are no declared or accrued but unpaid dividends with respect to any shares of Company Capital Stock. Other than the Company Capital Stock set forth in Section 3.5(a) of the Disclosure Schedule, the Company has no other capital stock authorized, issued or outstanding.

(c) There are no outstanding loans or Indebtedness involving, on the one hand, the Company and on the other hand, any of the Shareholders.

(d) No bonds, debentures, notes or other indebtedness of the Company (i) having the right to vote on any matters on which Shareholders may vote (or which is convertible into, or exchangeable for, securities having such right) or (ii) the value of which is in any way based upon or derived from capital or voting stock of the Company, are issued or outstanding as of the date of this Agreement.

(e) Except for the Equity Incentive Plan, the Company has never adopted, sponsored or maintained any stock option plan or any other plan or agreement providing for equity compensation to any Person. The Company has reserved 2,000,000 shares of Company Common Stock for issuance to Employees upon the issuance of stock or the exercise of Company Options granted pursuant to the Equity Incentive Plan, of which (i) 515,000 shares are issuable, as of the date of this Agreement, upon the exercise of outstanding, unexercised Company Options granted pursuant to the Equity Incentive Plan; (ii) no shares have been issued upon the exercise of Company Options granted under the Equity Incentive Plan and remain outstanding as of the date of this Agreement; and (iii) 1,485,000 shares remain available for future grant pursuant to the Equity Incentive Plan. Section 3.5(e) of the Disclosure Schedules sets forth, for each outstanding Company Option, (A) the name and address of the Company Optionholder; (B) the exercise price of such Company Option; (C) the date of grant of such Company Option; (D) the vesting schedule for such Company Option, including the extent vested as of the date of this Agreement; and (E) whether such Company Option was issued pursuant to the Equity Incentive Plan and whether such option is a nonstatutory option or qualifies as an incentive stock option as defined in Section 422 of the Code. True, correct and complete copies of all agreements and instruments relating to or issued pursuant to the Equity Incentive Plan have been made available to Acquiror and such agreements and instruments have not been amended, modified or supplemented, except to the extent agreed by Acquiror in writing, and there are no agreements to amend, modify or supplement such agreements or instruments from the forms thereof made available to Acquiror.

(f) Except for the Company Options, there are no options, warrants, calls, rights, convertible securities, commitments or agreements of any character, written or oral, to which the

Company is a party or by which the Company is bound that obligate the Company to issue, deliver, sell, repurchase or redeem, or cause to be issued, delivered, sold, repurchased or redeemed, any shares of Company Capital Stock or obligating the Company to grant, extend, accelerate the vesting of, change the price of, otherwise amend or enter into any such option, warrant, call, right, commitment or agreement (except to the extent that waivers of accelerated vesting are required by the terms of this Agreement). There are no outstanding or authorized stock appreciation, phantom stock, profit participation, or other similar rights with respect to the equity of the Company (whether payable in equity, cash or otherwise). Except as contemplated hereby, there are no voting trusts, proxies, or other agreements or understandings with respect to the voting stock of the Company. There are no agreements to which the Company is a party relating to the registration, sale or transfer (including agreements relating to rights of first refusal, co-sale rights or "drag-along" rights) of any Company Capital Stock. As a result of the Merger, Acquiror will be the sole record and beneficial holder of all issued and outstanding Company Capital Stock and all rights to acquire or receive any shares of Company Capital Stock, whether or not such shares of Company Capital Stock are outstanding.

(g) No event has occurred, and no circumstance or condition exists, that has resulted in, or, to the Company's Knowledge, that will or would reasonably be expected to result in, and, to the Company's Knowledge, there is no basis for, any liability of the Company to any current, former or alleged holder of securities of the Company in such Person's capacity (or alleged capacity) as a holder of such securities, whether related to the Merger or otherwise.

(h) The allocation of the Aggregate Consideration set forth in Article I does not violate the certificate of incorporation of the Company as of immediately prior to the Effective Time.

3.6 Subsidiaries. The Company does not have any Subsidiaries and does not own, and has never owned, any shares of capital stock or any interest in, or control, and has never controlled, directly or indirectly, any other corporation, limited liability company, partnership, association, joint venture or other business entity. The Company has neither agreed nor is obligated to make any future investment in or capital contribution to any other Person.

3.7 Company Financial Statements.

(a) Section 3.7(a) of the Disclosure Schedule sets forth the Company's unaudited internal December 31, 2014 balance sheet and profit & loss statement for the twelve (12) month period ended December 31, 2014 (the "Year-End Financials"), and (ii) unaudited internal April 30, 2015 balance sheet (the date of such balance sheet, the "Balance Sheet Date") and profit & loss statement for the four (4) month period ended April 30, 2015 (the "Interim Financials"). The Year-End Financials and the Interim Financials (collectively referred to as the "Financials") are true and correct in all material respects and have been prepared in accordance with GAAP consistently applied on a consistent basis throughout the periods indicated and consistent with each other (except that the Financials do not contain footnotes and other presentation items that may be required by GAAP). The Financials present fairly the Company's financial condition, operating results and profits & losses as of the dates and during the periods indicated therein, subject in the case of the Interim Financials to normal year-end adjustments, which are not material in amount in any individual case or in the aggregate. The Company's unaudited internal balance sheet as of the Balance Sheet Date is referred to hereinafter as the "Current Balance Sheet." The books and records of the Company have been, and are being, maintained in all material respects in accordance with applicable legal and accounting requirements and the Financials are consistent with such books and records.

(b) The Company has Made Available an aging schedule with respect to the billed accounts receivable of the Company as of the Balance Sheet Date indicating a range of days elapsed since

invoice. All of the accounts receivable, whether billed or unbilled, of the Company arose in the ordinary course of business, are carried at values determined in accordance with GAAP consistently applied, and, to the Knowledge of the Company, are not (i) subject to any set-off or counterclaim, (ii) do not represent obligations for goods sold on consignment, (iii) on approval or on a sale-or-return basis and (iv) subject to any other repurchase or return arrangement. No Person has any Lien (other than Permitted Liens) on any accounts receivable of the Company and no request or agreement for deduction or discount has been made with respect to any accounts receivable of the Company.

(c) The Company (including any Employee thereof) has not identified or been made aware of (i) any fraud, whether or not material, that involves the Company's management or other Employees who have a role in the preparation of financial statements or the internal accounting controls utilized by the Company or (ii) any claim or allegation regarding any of the foregoing.

3.8 No Undisclosed Liabilities. The Company has no liability, indebtedness, obligation, expense, claim, deficiency, guaranty or endorsement of any type, whether accrued, absolute, matured, unmatured or other (whether or not required to be reflected in financial statements in accordance with GAAP), or to the Knowledge of the Company, any contingent liabilities, except for those which (a) have been reflected in the Current Balance Sheet or (b) have arisen in the ordinary course of business consistent with past practices since the Balance Sheet Date and prior to the Closing Date.

3.9 No Changes. Since the Balance Sheet Date through the date of this Agreement, (a) no Company Material Adverse Effect has occurred or arisen, and (b) the Company has not taken any action that would be prohibited by Section 5.2 if proposed to be taken after the date of this Agreement.

3.10 Tax Matters.

(a) Tax Returns and Payments. Each Tax Return relating to any and all Taxes concerning or attributable to the Company or its operations (the "Company Returns"): (i) has been filed on or before the applicable due date (including any extensions of such due date); and (ii) has been prepared in compliance with applicable Laws. All Taxes required to be paid by the Company have been timely paid. The Company has not been and is not liable to pay any penalty, fine, surcharge, interest or similar amount in relation to Taxes. The Company has delivered or made available to Acquiror accurate and complete copies of all income and other material Company Returns filed since fiscal year 2012.

(b) Reserves for Payment of Taxes. The Financials fully accrue all actual and contingent liabilities for Taxes with respect to all periods through the dates thereof in accordance with GAAP. The Company will establish, in the ordinary course of business and consistent with its past practices, adequate reserves in accordance with GAAP for the payment of all Taxes for the period from the date of the Balance Sheet Date through the Closing Date, and the Company will disclose the dollar amount of such reserves to Acquiror on or prior to the Closing Date. The Company has no liability for any Taxes that are (i) not adequately provided for in the Financials and (ii) not included in the calculation of Company Net Working Capital. The Company has not incurred any liability for Taxes since the Balance Sheet Date outside of the ordinary course of business.

(c) Audits; Claims. No Company Return has ever been examined or audited by any Governmental Entity. Neither the Company nor any representative thereof has received from any Governmental Entity any: (i) written notice indicating an intent to open an audit or other review; (ii) request for information related to Tax matters; or (iii) notice of deficiency or proposed Tax adjustment. No extension or waiver of the limitation period applicable to any Company Returns has been granted by or requested from the Company. No audit, examination, claim or administrative or legal proceeding is pending or threatened against the Company in respect of any Tax. There are (and

immediately following the Effective Time there will be) no liens for Taxes upon any of the assets of the Company except liens for current Taxes not yet due and payable (and for which there are adequate accruals, in accordance with GAAP).

(d) Legal Proceedings; Etc. The Company has not been delinquent in the payment of any Tax, and there are no unsatisfied liabilities for Taxes with respect to any notice of deficiency or similar document received by the Company with respect to any Tax.

(e) Distributed Stock. The Company has not constituted either a "distributing corporation" or a "controlled corporation" in a distribution of stock intended to qualify for tax-free treatment under Section 355 of the Code.

(f) Compensation Matters. There is no agreement, plan, arrangement or other Contract with any Employee or covering any Employee, considered individually or considered collectively with any other such Contracts, that will, or could reasonably be expected to, give rise directly or indirectly to the payment of any amount that would not be deductible pursuant to Section 162, Section 280G or Section 404 of the Code or any similar provision of state, local or foreign Tax Law or that would be characterized as a "parachute payment" within the meaning of Section 280G(b)(2) of the Code. Section 3.10(f) of the Disclosure Schedule lists all persons who are "disqualified individuals" (within the meaning of Section 280G of the Code and the regulations promulgated thereunder) as determined as of the date of this Agreement.

(g) Tax Indemnity Agreements. The Company has not: (i) ever been a member of an affiliated combined, consolidated or unifying group (within the meaning of Code §1504(a)) filing a consolidated federal income Tax Return (other than a group, the common parent of which was the Company), (ii) ever been a party to any Tax sharing, indemnification, allocation or similar agreement or arrangement nor does the Company owe any amount under such an agreement or arrangement, (iii) incurred any liability for the Taxes of any Person under Section 1.1502-6 of the Treasury Regulations (or any similar provision of state, local or foreign law (including any arrangement for group or consortium relief or similar arrangement)) as a transferee or successor, by Contract, by operation of law or otherwise, (iv) incurred a dual consolidated loss within the meaning of Section 1503 of the Code (or any similar provision of state, local or foreign Tax law), or (v) ever been a party to any joint venture, partnership or other arrangement that is treated as a partnership for Tax purposes.

(h) FIRPTA. The Company is not and has never been a "United States real property holding corporation" within the meaning of Section 897(c)(2) of the Code during the applicable period specified in Section 897(c)(1)(A)(ii) of the Code.

(i) No Other Jurisdictions for Filing Tax Returns. There are no jurisdictions in which the Company is required to file a Tax Return other than the jurisdictions in which the Company has filed Tax Returns. The Company is not subject to income Tax in any country other than its country of incorporation or formation by virtue of having a permanent establishment or other place of business in that country. No claim has ever been made by a Governmental Entity in a jurisdiction where the Company does not file Tax Returns that the Company is or may be subject to taxation by that jurisdiction.

(j) Tax Rulings and Incentives. The Company has not entered into any arrangement (including "rulings") with any Tax authority. The Company has not made any material U.S. Tax election except as disclosed in the Tax Returns filed. Section 3.10(j) of the Disclosure Schedule describes the terms and conditions of any Tax exemption, Tax holiday or other Tax reduction agreement or order of other special regime with regard to the payment of Taxes applicable to the Company, if any ("Tax

Incentive"). The Company is in compliance in all material respects with the terms and conditions of any such Tax Incentive.

(k) Tax Shelters; Listed Transactions. The Company has not consummated or participated in, nor is the Company currently participating in, any transaction that was or is a "tax shelter" transaction as defined in Sections 6662 or 6111 of the Code or the Treasury Regulations promulgated thereunder. The Company has never participated in, nor is currently participating in, a "Listed Transaction" or a "Reportable Transaction" within the meaning of Section 6707A(c) of the Code or Treasury Regulation Section 1.6011-4(b), or any transaction requiring disclosure under a corresponding or similar provision of state, local, or foreign Laws. The Company has disclosed on its Tax Returns any Tax reporting position taken in any Tax Return that could result in the imposition of penalties under Section 6662 of the Code (or any comparable provisions of state, local or foreign law).

(l) Section 83(b) Matters. The Company has delivered to Acquiror correct and complete copies of all election statements under Section 83(b) of the Code, if any, together with evidence of timely filing of such election statements with the appropriate Internal Revenue Service center with respect to any restricted stock or other property issued by the Company to any of its employees, non-employee directors, consultants or other service providers. To the Company's Knowledge, a valid election under Section 83(b) of the Code was timely made in connection with any issuance of any shares of Company Capital Stock that were eligible for such an election.

(m) Withholding. The Company: (i) has complied with all applicable Laws relating to the payment, reporting and withholding of Taxes (including withholding of Taxes pursuant to Sections 1441, 1442, 1445 and 1446 of the Code or similar provisions under any foreign Law); (ii) has, within the time and in the manner prescribed by applicable Laws, withheld from employee wages or consulting compensation and timely paid over to the proper Governmental Entities (or is properly holding for such timely payment) all amounts required to be so withheld and paid over under all applicable Laws, including federal and state income and employment Taxes, Federal Insurance Contribution Act, Medicare, Federal Unemployment Tax Act, and relevant non-U.S. income and employment Tax withholding Laws; and (iii) has timely filed all withholding Tax Returns, for all periods.

(n) Change in Accounting Methods; Closing Agreements. The Company will not be required to include any item of income in, or exclude any item of deduction from, taxable income for any taxable period (or portion thereof) ending after the Effective Time as a result of any: (i) change in method of accounting made prior to the Effective Time, including under Section 481 or Section 263A of the Code (or any similar provision of applicable Tax law); (ii) closing agreement as described in Section 7121 (or any similar provision of state, local, or foreign Tax law) executed prior to the Effective Time; (iii) intercompany transactions or excess loss accounts described in Treasury regulations under Section 1502 of the Code (or any similar provision of applicable Tax Law); (iv) installment sale or open transaction disposition made on or prior to the Effective Time; (v) prepaid amount received on or prior to the Effective Time; or (vi) election under Section 108(i) of the Code (or any similar provision of applicable Law).

(o) Tax Accounting. The Company uses the accrual method of accounting for Tax purposes.

(p) Section 409A Matters.

(i) Section 3.10(p)(i) of the Disclosure Schedules sets forth a true, complete and accurate list of each Contract, agreement or arrangement between the Company or any ERISA Affiliate and any Employee that is a "nonqualified deferred compensation plan" (as such term is defined

in Section 409A(d)(1) of the Code) subject to Section 409A of the Code (or any state law equivalent) and the regulations and guidance thereunder ("Section 409A"). Each such nonqualified deferred compensation plan, if any, has been documented, maintained and operated in compliance with Section 409A. No nonqualified deferred compensation plan that was originally exempt from application of Section 409A has been "materially modified" at any time after October 3, 2004. No compensation shall be includable in the gross income of any Employee as of any date on or prior to the Effective Time as a result of the operation of Section 409A of the Code with respect to any arrangements or agreements in effect prior to the Effective Time. To the extent required, the Company has properly reported and/or withheld and remitted on amounts deferred under any Company nonqualified deferred compensation plan subject to Section 409A of the Code. There is no Contract to which the Company is a party covering any Employee of the Company, which individually or collectively could require the Company or any of its Affiliates to pay a Tax gross up payment to, or otherwise indemnify or reimburse, any Employee for Tax-related payments under Section 409A. There is no Contract to which the Company is a party which, individually or collectively, could give rise to an Acquiror or Company Tax under Section 409A of the Code or that could give rise to an Employee Tax and/or Company reporting obligation under Section 409A of the Code.

(ii) No Company Option or other stock right (as defined in U.S. Treasury Department regulation 1.409A-1(l)) (A) has an exercise price that has been or may be less than the fair market value of the underlying equity as of the date such Company Option or right was granted, (B) has any feature for the deferral of compensation other than the deferral of recognition of income until the later of exercise or disposition of such Company Option or rights, (C) has been granted after January 1, 2005, with respect to any class of stock of the Company that is not "service recipient stock" (within the meaning of applicable regulations under Section 409A), or (D) has ever been accounted for other than fully in accordance with GAAP in the Company's audited financial statements provided to Acquiror.

3.11 Tangible Property. The Company has good and valid title to, or, in the case of leased properties and assets, valid leasehold interests in, all of its tangible properties and assets, real, personal and mixed, used or held for use in its business, free and clear of any Liens (other than Permitted Liens), except (a) as reflected in the Current Balance Sheet, (b) Liens for Taxes not yet due and payable, and (c) such imperfections of title and encumbrances, if any, which do not detract from the value or interfere with the present use of the property subject thereto or affected thereby. The material items of equipment owned or leased by the Company (i) are adequate for the conduct of the business of the Company as currently conducted and (ii) in good operating condition subject to normal wear and tear.

3.12 Intellectual Property.

(a) Company Products. Section 3.12(a) of the Disclosure Schedule contains a true, correct and complete list of all Company Products by name and version number (if any) (except to the extent such Company Products are legacy products or discontinued, in which case such Company Products are identified by name but not all version numbers are included).

(b) Registered IP. Section 3.12(b) of the Disclosure Schedule contains a true, correct and complete list of (i) all Registered IP owned by, filed in the name of, applied for by, or subject to a valid obligation of assignment to the Company ("Company Registered IP"), indicating for each item the registered owner, filing date, expiration date, registration or application number and the applicable filing jurisdiction; (ii) all Domain Names registered in the name of or transferred to the Company, indicating for each item the applicable registrar and the registration renewal date ("Company Domain Names"); and (iii) any proceedings or actions before any court or tribunal (including the PTO or similar authority anywhere in the world) to which the Company is a party or in which claims are raised relating to the validity, enforceability, scope, ownership or infringement of any Company Registered IP or Company Domain

Names, other than ordinary course proceedings related to the prosecution, registration, renewal or maintenance thereof. To the Knowledge of the Company, there are no facts or circumstances relating to any Company Registered IP that would constitute fraud with respect thereto. All necessary registration, maintenance and renewal fees and documents in connection with Company Registered IP have been timely paid and filed with the relevant Governmental Entity for maintaining the Company Registered IP. The Company has not claimed any status in the application for or registration of any Company Registered IP, including "small business status," that would not be applicable to Acquiror. Company has recorded each assignment of Registered IP to the Company by a third Person that is Company Registered IP with each relevant Governmental Entity.

(c) Transferability of Company IP. All Company IP is and after the Closing Date will be fully transferable and licensable by the Company or Acquiror without restriction and without payment of any kind to any third party and without approval of any third party, including any Governmental Entity.

(d) Title to and Enforceability of Company IP. The Company is, and at the Closing Date will be, the sole and exclusive owner of each item of Company IP and Company Technology, free and clear of any Liens (except for Permitted Liens), except for nonexclusive licenses to Intellectual Property Rights granted by the Company pursuant to a Standard Form Agreement or a Contract that does not materially differ in substance from the Standard Form Agreement entered into in the ordinary course of business. All Company Registered IP is subsisting and, to the Company's Knowledge, valid and enforceable, and there are no facts or circumstances that would render any Company IP invalid or unenforceable. The Company has the sole and exclusive right to bring a claim or suit against a third party for infringement or misappropriation of Intellectual Property Rights owned or purported to be owned by the Company. Except for trade secrets that (i) lost their status as trade secrets upon the release of a new Company Product or upon the issuance of a patent or publication of a patent application or (ii) the Company intentionally elected to relinquish their status and which were not Company Source Code or otherwise material to the Company at such time, and except for Trademarks that the Company made a reasonable business decision to stop using, the Company has not (A) transferred full or partial ownership of, or granted any exclusive license with respect to, any Technology or Intellectual Property Rights to any other Person or (B) authorized the rights of the Company in any Intellectual Property Rights that are or at the time were Company IP, and are or at the time were material to the Company, to enter into the public domain.

(e) In-Licenses. Section 3.12(e) of the Disclosure Schedule contains a true, correct and complete list of all Contracts pursuant to which a third party has licensed or granted any right to the Company in any Intellectual Property Rights other than Intellectual Property Rights licensed to the Company pursuant to (i) licenses for the Open Source Material listed in Section 3.12(m)(i) of the Disclosure Schedule; (ii) licenses for Shrink-Wrap Code; (iii) Contracts with current and former Employees that do not materially differ in substance from the Employee Proprietary Information Agreement or the Consultant Proprietary Information Agreement; and (iv) nondisclosure agreements that do not materially differ in substance from the applicable Standard Form Agreement ("In-Licenses").

(f) Standard Form Agreements; Out-Licenses. Copies of the Company's standard form(s) of nondisclosure agreement and non-exclusive agreements to provide the Company Products to end-users (collectively, the "Standard Form Agreements") have been made available to Acquiror. Other than (i) nondisclosure agreements, (ii) non-exclusive licenses of the Company Products and non-exclusive agreements to provide the Company Products (in each case of (i) and (ii), pursuant to Standard Form Agreements or agreements that do not materially differ in substance from the Standard Form Agreements), and (iii) Contracts under which the only Company IP or Company Technology granted, licensed or provided by the Company is to contractors or vendors, in the ordinary course of business, for

the sole benefit of the Company, Section 3.12(f) of the Disclosure Schedule contains a true, correct and complete list of all material Contracts, licenses and agreements to which the Company is a party and pursuant to which the Company has granted, licensed or provided any Company IP or Company Technology to third parties, as a service or otherwise, including any Contracts containing a covenant not to sue or a non-assertion provision relating to any Company IP ("Out-Licenses", and collectively with the In-Licenses, the "IP Licenses").

(g) No IP-Related Disputes. To the Knowledge of the Company, there are no Contracts between the Company and any other Person with respect to Intellectual Property Rights under which there is a pending dispute.

(h) Infringement by the Company. The operation of the business of the Company, including the design, development, use, import, marketing, manufacture, sale and distribution of any Company Product, has not, in the past seven (7) years, infringed or misappropriated and does not infringe or misappropriate any Intellectual Property Rights of any Person, violated (or currently violates) any right of any Person (including rights to privacy or publicity) or constituted (or currently constitutes) unfair competition or trade practices pursuant to the Laws of any jurisdiction, in the past seven (7) years. No Action has been brought or asserted against Company by, and the Company has not received written notice from, any Person claiming that any of the foregoing has occurred nor, to the Knowledge of the Company, is there any basis therefor. The Company has not received any invitation from any Person to obtain a license to any Intellectual Property Rights. No Company Product or Company IP is subject to any proceeding or outstanding decree, order, judgment or settlement agreement or stipulation that restricts in any manner the use, provision, transfer, assignment or licensing thereof by the Company or may affect the use of, or the ability to use, any such Company Product or the validity, use or enforceability of such Company IP.

(i) Effect of Transactions and Restrictions on Business. Neither the execution of this Agreement or the Related Agreements nor the consummation of the transactions contemplated by this Agreement or the Related Agreements will cause or result in Acquiror, the Company, the Surviving Corporation or any of their respective Subsidiaries or Affiliates (i) granting to any third party any right to or with respect to any Intellectual Property Rights (other than rights granted by the Company prior to the Closing Date to Intellectual Property Rights owned by the Company prior to the Closing Date); (ii) being bound by, or subject to, any covenant not to compete or other material restriction on the operation or scope of their respective businesses (excluding any covenant not to compete or other material restriction that arises from any agreement to which the Company is not a party); or (iii) the disclosure or release of any Company Source Code to any Person. No Contract contains a provision causing an obligation to pay any royalties or other fees or consideration with respect to Intellectual Property Rights of any third party in excess of those payable by the Company by virtue of the consummation of the Merger and the other transactions contemplated by this Agreement or the Related Agreements.

(j) No Third Party Infringement. To the Knowledge of the Company, no Person is infringing or misappropriating any Company IP. The Company has the exclusive right to bring actions against any Person that is infringing or misappropriating any Company IP and to retain for itself any damages recovered in any such action. The Company has not brought any claims, suits, arbitrations or other adversarial proceedings before any Governmental Entity or arbitral tribunal against any Person with respect to any Company IP.

(k) Proprietary Information Agreements. Copies of the Company's standard form of proprietary information, confidentiality and assignment agreement for employees (the "Employee Proprietary Information Agreement") and the Company's standard form of consulting agreement containing proprietary information, confidentiality and assignment provisions (the "Consultant

Proprietary Information Agreement") have been made available to Acquiror. All Employees of the Company, and all current and former consultants of the Company who have been involved in any manner in the creation or development of Company IP, or who have had access to or received Company's Confidential Information, have executed the applicable form of such agreement and each such agreement effectively assigned all Intellectual Property Rights created or developed by the Employee or consultant thereunder to the Company. The Company has taken all reasonable steps required or necessary to protect the confidentiality of its Confidential Information and trade secrets and those of any third party that has provided any Confidential Information or trade secrets to the Company. No Employee has excluded any Intellectual Property Right from any assignment of to the Company.

(l) No Government Funding. No government funding, facilities or resources of a university, college, other educational institution, multi-national, bi-national or international organization or research center was used in the development of any Company IP or the Company Technology. No Employee who was involved in, or contributed to, the creation or development of any Company IP has performed services for any Governmental Entity, for a university, college or other educational institution, or for a research center immediately prior to or during a period of time during which such Employee was also performing services for the Company. No Governmental Entity, university, college, other educational institution or research center has any claim or right in or to the Company IP or Company Technology.

(m) Open Source Material.

(i) Section 3.12(m)(i) of the Disclosure Schedule contains a true, correct and complete list of each item of Open Source Materials that is contained in, distributed with or used in the delivery of any Company Product or from which any part of any Company Product is derived and identifies the applicable Open Source License for each such item of Open Source Material.

(ii) The Company has not incorporated, distributed, or otherwise used Open Source Material in or with any Company Product in a manner that has resulted in or could result in any requirement under the applicable Open Source License to: (A) disclose or distribute any Company Source Code in source code form, whether in response to the request of a third party or otherwise; (B) license Company Source Code for the purpose of making modifications or derivative works; or (C) distribute any Company Product (in whole or in part) at no charge. With respect to any Open Source Material used or distributed by the Company, the Company is in compliance with all applicable Open Source Licenses.

(iii) The Company has delivered to the third party source code auditor identified by Acquiror ("Source Code Auditor") all software source code required for or embodied in any Company Product, and all information provided by Company in response to inquiries of the Source Code Auditor is complete and accurate. The Company, after review of those certain reports prepared by the Source Code Auditor titled (A) BlackDuck Audit Services, Open Source Risk Assessment for Project "Orange" – Distributed; Project Size 5.71 MiB; Completed on 5/26/2015 (B) BlackDuck Audit Services, Open Source Risk Assessment for Project "Orange" – Internal; Project Size 45.99 MiB; Completed on 5/26/2015 and (C) BlackDuck Audit Services, Open Source Risk Assessment for Project "Orange" – SaaS; Project Size 234.69 MiB; Completed on 5/26/2015 ((A)-(C), collectively the "Source Code Audit Report"), is not aware of any inaccuracies in such Source Code Audit Report.

(n) Company Source Code. The Company owns and possesses all source code for all software owned or purported to be owned by the Company and owns or has valid licenses and possess source code for all Company Products and any other software or products distributed and presently supported by the Company. The Company has taken all actions customary in the software industry to document the Company Source Code and its operation. Neither the Company nor any Person acting on its behalf has (i) disclosed, delivered or licensed to any escrow agent or other Person, or agreed to

disclose, deliver or license to any escrow agent or other Person, any Company Source Code, except for disclosures to Employees pursuant to agreements that prohibit use and disclosure except in the performances of services to the Company; (ii) rendered any Company Source Code subject to any Open Source License; or (iii) distributed any Company Product or Company Technology pursuant to the terms of an Open Source License. No event has occurred, and no circumstance or conditions exists, that (with or without notice or lapse of time or both) will, or could reasonably be expected to, result in the delivery, license or disclosure of any Company Source Code to any third party.

(o) Bugs. Section 3.12(o) of the Disclosure Schedule sets forth the Company's current (as of the date hereof) list of known bugs maintained by its development or quality control groups with respect to the Company Products and Company Technology. The Company has Made Available to Acquiror all information relating to any current problem or issue with respect to any of the Company Products and other Company Technology which adversely affects, or may reasonably be expected to adversely affect, the value, functionality, or fitness for the intended purpose of such Company Products or Company Technology. Without limiting the generality of the foregoing, (i) there have been, and are, no material defects, malfunctions or nonconformities in any of the Company Products or Company Technology; (ii) there have been, and are, no claims asserted against the Company or any of its customers or distributors related to the Company Products or Company Technology; and (iii) the Company has not been nor is required to recall any Company Products or Company Technology.

(p) Contaminants. The Company has implemented practices consistent with industry standards to ensure that Company Products are free from Contaminants, which practices are described in Section 3.12(p) of the Disclosure Schedule. All Company Products (and all parts thereof) and the Technology used to deliver Company Products are free of Contaminants.

(q) Privacy and Customer Data. The Company, the Company Products and all third parties who have performed services for the Company and have had access to Private Information or Customer Data in connection with the performance of such services comply, and have always complied, with all Privacy Legal Requirements relating to (i) the privacy of users of (including visitors to, and consumer end users of) all Company Products; (ii) consumer protection, marketing, promotion, and text messaging, email, and other communications; and (iii) the aggregation, use, collection, interception, retention, storage, security, disclosure, transfer, disposal, and other processing of any Private Information or Customer Data. The Company has at all times provided accurate notice of its privacy practices on all Company Products, which notices have not contained any material omissions and have not been misleading or deceptive. The execution, delivery, and performance of this Agreement and the transactions contemplated hereby will not result in a breach or violation of any Privacy Legal Requirements. The Company has full rights to transfer to Parent all Private Information and Customer Data collected or otherwise maintained by or for the Company without violating any Privacy Legal Requirement. The Company has obtained written agreements from each Person performing services for the Company that the Company has permitted to access or process Private Information or Customer Data that bind such Person to at least the same restrictions and conditions that apply to the Company with respect to such Private Information and Customer Data and to implement reasonable and appropriate means for protecting such Private Information and Customer Data from unauthorized access, use, and disclosure. There is not and has not been any complaint to, or any audit, proceeding, investigation (formal or informal) or claim against, the Company or any of its customers (in the case of customers, to the extent relating to the Company Products or the Company's practices) by any private party, data protection authority, state attorney general, or any other Governmental Entity, foreign or domestic, with respect to the collection, interception, use, retention, disclosure, transfer, storage, security, disposal, or other processing of Private Information or Customer Data.

(r) Security Measures. The Company has appropriate disaster recovery and security plans, procedures and facilities for its business. With respect to the Company Products (including their underlying systems, networks, and technology) and all Private Information and Customer Data collected, intercepted, stored, used or maintained by or for the Company, the Company has at all times taken all steps reasonably necessary (including implementing and monitoring compliance with adequate measures with respect to technical and physical security) to ensure the availability, security, and integrity of the Company Products and such Private Information and Customer Data, and to ensure that the Company Products and such Private Information and Customer Data are protected against unauthorized access, use, modification, disclosure or other misuse. No unauthorized access to or unauthorized use, modification, disclosure, or other misuse of such Company Products, Private Information, or Customer Data has occurred.

3.13 Material Contracts.

(a) Section 3.13(a) of the Disclosure Schedule identifies, in each subpart that corresponds to the subsection listed below, any Contract, (x) to which the Company is a party, (y) by which the Company or any of its assets is bound or under which the Company has any obligation, or (z) under which the Company has any right or interest (the "Material Contracts"):

(i) with a Top Customer or Top Supplier;

(ii) pursuant to which the Company has been appointed a partner, reseller or distributor;

(iii) pursuant to which the Company has appointed another party as a partner, reseller, or distributor;

(iv) pursuant to which the Company is bound to or has committed to provide any Company Product to any third party on a most favored nation basis or similar terms restricting affecting pricing;

(v) pursuant to which the Company is bound to, or has committed to provide or license, any Company Product to any third party on an exclusive basis or to acquire or license any product or service on an exclusive basis from a third party;

(vi) imposing any restriction on the right or ability of the Company (or that would purport to limit the freedom of Acquiror or any of its Affiliates): (A) to engage in any of their business practices, (B) to compete with any other Person or to engage in any line of business, market or geographic area, or to sell, license, manufacture or otherwise distribute any of its technology or products, or from providing services, to customers or potential customers or any class of customers, in any geographic area, during any period of time, or in any segment of the market; (C) to solicit the employment of, or hire, any potential employees, consultants or independent contractors; (D) to acquire any product, property or other asset (tangible or intangible), or any services, from any other Person, to sell any product or other asset to or perform any services for any other Person or to transact business or deal in any other manner with any other Person; or (E) to develop or distribute any software or technology;

(vii) set forth or required to be set forth in Sections 3.12(e) or 3.12(f) of the Disclosure Schedule;

(viii) providing for the development of any Technology, independently or jointly, by or for the Company, other than any contracts with Employees in the form of the Employee Proprietary Information Agreement or the Consultant Proprietary Information Agreement;

(ix) relating to any facility where the computer equipment used to operate or provide Company Products is located;

(x) any Contract for the purchase, lease, license or rental of equipment in excess of $10,000 individually or $25,000 in the aggregate;

(xi) that is a collectively bargained agreement, side letter or similar Contract, including any Contract with any union, works council or similar labor entity;

(xii) that is an Employee Agreement, other than any at-will employment or services agreement providing no requirement for a termination notice period, severance or other post-termination benefits (other than benefits continuation coverage required by law);

(xiii) that grants any change of control, retention, severance or termination pay or benefits (in cash, equity or otherwise) to any Employee;

(xiv) that is a consulting or sales agreement;

(xv) relating to the lease of any real property;

(xvi) relating to capital expenditures and involving future payments in excess of $10,000 individually or $25,000 in the aggregate;

(xvii) relating to the settlement of any Action;

(xviii) relating to (A) the disposition or acquisition of material assets or any interest in any Person or business enterprise or (B) the acquisition, issuance or transfer of any securities;

(xix) relating to any mortgages, indentures, guarantees, loans or credit agreements, security agreements or other Contracts or instruments relating to Indebtedness or extension of credit or the creation of any Lien, except for nonexclusive licenses to Intellectual Property Rights granted by the Company pursuant to a Standard Form Agreement, with respect to any asset of the Company;

(xx) involving or incorporating any guaranty, pledge, performance or completion bond, indemnity or surety arrangement (other than indemnity provisions contained in an agreement the principal purpose of which is not the indemnification covenant);

(xxi) creating or relating to any partnership or joint venture or any sharing of revenues, profits, losses, costs or liabilities;

(xxii) relating to the purchase or sale of any product or other asset by or to, or the performance of any services by or for, any Interested Party;

(xxiii) constituting or relating to any (A) prime contract, subcontract, letter contract, purchase order or delivery order executed or submitted to or on behalf of any Governmental Entity or any prime contractor or higher-tier subcontractor, or under which any Governmental Entity or any such prime contractor or subcontractor otherwise has or may acquire any right or interest, or

(B) quotation, bid or proposal submitted to any Governmental Entity or any proposed prime contractor or higher-tier subcontractor of any Governmental Entity;

(xxiv) that was entered into outside the ordinary course of business and not otherwise listed on Section 3.13 of the Disclosure Schedule;

(xxv) that is a hedging, futures, options or other derivative Contract;

(xxvi) that is with any investment banker, broker, advisor or similar party, or accountant, legal counsel or other Person retained by the Company in connection with this Agreement and the transactions contemplated hereby;

(xxvii) that is a confidentiality, secrecy or non-disclosure Contract, other than (A) those entered into in the ordinary course of business, and (B) the Company's Standard Form Agreements; and

(xxviii) that contemplates or involves (A) the payment or delivery of cash or other consideration by the Company in an amount or having a value in excess of $25,000 in the aggregate, or (B) the performance of services having a value in excess of $25,000 in the aggregate.

(b) The Company has Made Available true, correct and complete copies of all written Material Contracts, including all amendments thereto. Section 3.13(b) of the Disclosure Schedule provides an accurate description of the material terms of each Material Contract that is not in written form.

(i) Each Material Contract is valid and in full force and effect and is enforceable by the Company in accordance with its terms, subject to Laws of general application relating to bankruptcy, moratorium, reorganization, insolvency and the relief of debtors; and rules of law governing specific performance, injunctive relief and other equitable remedies. The Company is in material compliance with and is not in default under, any Material Contract, and, to the Knowledge of the Company, no other Person has violated or breached, or committed any default under, any such Contract.

(ii) No event has occurred, and no circumstance or condition exists, that (with or without notice or lapse of time), to the Knowledge of the Company, will, or could reasonably be expected to: (A) result in a violation or breach of any of the provisions of any Material Contract; (B) give any Person the right to declare a default or exercise any remedy under any Material Contract; (C) give any Person the right to accelerate the maturity or performance of any Material Contract; or (D) give any Person the right to cancel, terminate or modify any Material Contract

(iii) The Company has not received any written notice or, to the Knowledge of the Company, other communication regarding any actual or possible violation or breach of, or default under, any Material Contract. The Company has not waived any of its material rights under any Material Contract.

(iv) No Person is renegotiating, or has a right pursuant to the terms of any Material Contract to renegotiate, any amount paid or payable to the Company under any Material Contract or any other material term or provision of any Material Contract.

(v) To the Company's Knowledge, no Person has threatened to terminate or refuse to perform its obligations under any Material Contract (regardless of whether such Person has the right to do so under such Contract).

(c) Section 3.13(c) of the Disclosure Schedule identifies and provides a brief description of each currently proposed Contract that would constitute a Material Contract hereunder if in effect on the date of this Agreement and as to which any bid, offer, award, written proposal, term sheet or similar document has been submitted or received by the Company.

3.14 Employee Benefit Plans.

(a) Company Employee Plans.

(i) Section 3.14(a) of the Disclosure Schedule lists each material Company Employee Plan and each material Employee Agreement. No Person, other than an Employee or a current or former shareholder of the Company, is or was a participant or former participant of any Company Employee Plan. The Company has not made any plan or commitment to establish any new Company Employee Plan or Employee Agreement, to modify any Company Employee Plan or Employee Agreement (except to the extent to conform any such Company Employee Plan or Employee Agreement to the requirements of any applicable law, in each case as previously disclosed to Acquiror in writing, or as required by this Agreement), or to enter into any Company Employee Plan or Employee Agreement.

(ii) The Company has Made Available to Acquiror a table setting forth the name, hiring date, title, annual salary or base wages, commissions, bonus (target, maximum and any amounts paid for the current year) and accrued but unpaid vacation balances of each current employee of the Company as of the date of this Agreement, including with respect to any Employees on a leave of absence, the date the leave commenced, the reason for the leave and the expected date of return to work of such Employee. To the Knowledge of the Company, no current employee intends to terminate his or her employment for any reason.

(iii) Section 3.14(a)(iii) of the Disclosure Schedules sets forth a true, complete and accurate list of all natural Persons that have a consulting or advisory relationship with the Company.

(b) Documents. The Company has Made Available (i) correct and complete copies of all documents embodying each Company Employee Plan and each Employee Agreement including all amendments thereto and all related trust documents, (ii) the three most recent annual reports (Form Series 5500 and all schedules, audit reports or financial statements related thereto), if any, required under ERISA or the Code in connection with each Company Employee Plan, (iii) the most recent summary plan description together with the summary(ies) of material modifications thereto, if any, required under ERISA with respect to each Company Employee Plan, and (iv) all communications by the Company material to any Employee or Employees relating to any Company Employee Plan and any proposed Company Employee Plan, in each case, relating to any amendments, terminations, establishments, increases or decreases in compensation, benefits, acceleration of payments or vesting schedules or other events which would result in any liability to the Company.

(c) Employee Plan Compliance. The Company and each of its ERISA Affiliates has, in all material respects, performed all obligations required to be performed by them under, is not in material default or violation of, and the Company has no Knowledge of any default or violation by any other party to, any Company Employee Plan, and each Company Employee Plan has been established and maintained in accordance with its terms and in material compliance with all applicable laws, statutes, orders, rules and regulations, including ERISA or the Code. The Company does not sponsor or maintain any retirement plan or any plan intended to be qualified under Section 401(a) of the Code. No "prohibited transaction," within the meaning of Section 4975 of the Code or Sections 406 and 407 of ERISA, and not otherwise exempt under Section 408 of ERISA, has occurred with respect to any

Company Employee Plan. There are no actions, suits or claims pending or, to the Knowledge of the Company, threatened or reasonably anticipated (other than routine claims for benefits) against any Company Employee Plan or against the assets of any Company Employee Plan. Each Company Employee Plan can be amended, terminated or otherwise discontinued after the Effective Time in accordance with its terms, without liability to Acquiror, the Company or any ERISA Affiliate (other than ordinary administration expenses or with respect to benefits, other than bonuses, commissions or amounts under other compensation plans, that were previously earned, vested or accrued under Company Employee Plans prior to the Effective Time). There are no audits, inquiries or proceedings pending or, to the Company's Knowledge, threatened by the IRS, DOL, or any other Governmental Entity with respect to any Company Employee Plan. Neither the Company nor any ERISA Affiliate is subject to any penalty or Tax with respect to any Company Employee Plan under Section 502(i) of ERISA or Sections 4975 through 4980 of the Code. The Company has timely made all contributions and other payments required by and due under the terms of each Company Employee Plan. There does not now exist, nor, to the Knowledge of the Company, do any circumstances exist that would reasonably be expected to result in, any Controlled Group Liability that would be a liability (contingent or otherwise) of the Company or any or ERISA Affiliate at the Effective Time.

(d) No Pension or Funded Welfare Plan, MEWA and Certain Other Company Employee Plans. Neither the Company nor any ERISA Affiliate has ever maintained, established, sponsored, participated in, contributed to, or agreed to contribute to, or otherwise be part of (i) an International Employee Plan, (ii) Pension Plan subject to Part 3 of Subtitle B of Title I of ERISA, Title IV of ERISA or Section 412 of the Code; (iii) any "funded welfare plan" within the meaning of Section 419 of the Code; (iv) any multiple employer welfare arrangement, as defined under Section 3(40)(A) of ERISA (without regard to Section 514(b)(6)(B) of ERISA); (v) any multiemployer plan (as defined in Sections 3(37) and 4001(a)(3) of ERISA); (vi) any multiple employer plan or plan described in Section 413 of the Code; (vii) any self-funded plan that provides group health benefits to Employees (including any such plan pursuant to which a stop-loss policy or contract applies), but excluding any Code Section 125, 127 or 129 plan; or (viii) any "split-dollar" life insurance arrangement.

(e) No Post-Employment Obligations. No Company Employee Plan or Employee Agreement provides, or reflects or represents any liability to provide, post-termination or retiree or post-employment life insurance, health or other employee welfare benefits to any person for any reason, except as may be required by COBRA, and the Company has never represented, promised or contracted (whether in oral or written form) to any Employee (either individually or to Employees as a group) or any other person that such Employee(s) or other person would be provided with life insurance, health or other employee welfare benefits following termination of employment with the Company, except to the extent required by statute. Section 3.14(e) of the Disclosure Schedule accurately: (i) identifies each former Employee who is receiving or is scheduled to receive (or whose spouse or other dependent is receiving or is scheduled to receive) any compensation or benefits (whether from the Company or otherwise) relating to such former Employee's service with the Company; and (ii) briefly describes such benefits.

(f) Effect of Transaction. Neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby (alone or in connection with additional or subsequent events) or any termination of employment or service in connection therewith will (i) result in any payment (including severance, golden parachute, bonus or otherwise) becoming due to any Employee other than as set forth in this Agreement, (ii) result in any forgiveness of indebtedness, (iii) increase any benefits otherwise payable by the Company or (iv) result in the acceleration of the time of payment or vesting of any such benefits except as required under Section 411(d)(3) of the Code.

3.15 Employment Matters.

(a) Compliance with Employment Laws. There are no actions, suits, claims or administrative matters pending, or, to the Knowledge of the Company, threatened against the Company or any ERISA Affiliate relating to any Employee Agreement or Company Employee Plan. There are no pending or, to the Knowledge of the Company, threatened, claims or actions against the Company, or any Company trustee under any worker's compensation policy or long-term disability policy. The Company is not party to a conciliation agreement, consent decree or other agreement or order with any Governmental Entity with respect to employment practices. The services provided by each of the Employees are terminable at the will of the Company and any such termination would result in no liability to the Company (other than ordinary administration expenses or with respect to benefits, other than bonuses, commissions or amounts under other compensation plans, that were previously earned, vested or accrued under Company Employee Plans prior to the Effective Time). Section 3.15(a) of the Disclosure Schedule lists all liabilities of the Company to any Employee that result from the termination by the Company of such Employee's employment or provision of services, other than those disclosed in Section 3.14(e). The Company has no direct or indirect liability with respect to any misclassification of (i) any person as an independent contractor rather than as an employee, (ii) any employee leased from another employer or (iii) any employee currently or formerly classified as exempt from overtime wages.

(b) No Interference or Conflict. To the Knowledge of the Company, no Shareholder, director, officer, Employee or consultant of the Company is obligated under any Contract, subject to any judgment, decree, or order of any court or administrative agency that would interfere with such person's efforts to promote the interests of the Company or that would interfere with the Company's business. Neither the execution nor delivery of this Agreement, nor the carrying on of the Company's business as presently conducted nor any activity of such officers, directors, Employees or consultants in connection with the carrying on of the Company's business as presently conducted will, to the Knowledge of the Company, conflict with or result in a breach of the terms, conditions, or provisions of, or constitute a default under, any Contract under which any of such officers, directors, Employees, or consultants is now bound.

3.16 Governmental Authorizations. Each consent, license, permit, grant or other authorization (a) pursuant to which the Company currently operates or holds any interest in any of its properties, or (b) which is required for the operation of the Company's business as currently conducted or currently contemplated to be conducted or the holding of any such interest (collectively, "Company Authorizations") has been issued or granted to the Company. The Company Authorizations are in full force and effect and constitute all Company Authorizations required to permit the Company to operate or conduct its businesses or hold any interest in its properties or assets and none of the Company Authorizations is subject to any term, provision, condition or limitation which may adversely change or terminate such Company Authorizations by virtue of the completion of the transaction contemplated by this Agreement or any Related Agreements. The Company has been and is in material compliance with the terms and conditions of the Company Authorizations.

3.17 Litigation. There is no Action of any nature pending, or to the Knowledge of the Company, threatened, against the Company, its respective properties and assets (tangible or intangible) or any of its respective officers or directors (in their capacities as such), nor, to the Knowledge of the Company is there any reasonable basis therefor. To the Company's Knowledge, no Governmental Entity has at any time challenged or questioned the legal right of the Company to conduct its operations as presently or previously conducted. There is no Action of any nature pending or, to the Knowledge of the Company, threatened, against any Person who has a contractual right to indemnification from the Company related to facts and circumstances existing prior to the Effective Time, nor, to the Knowledge of the Company, is there any reasonable basis therefor.

3.18 Insurance. The Company has Made Available a true, complete and accurate copy of all insurance policies and fidelity bonds covering the assets, business, equipment, properties, operations, employees, officers and directors of the Company or any ERISA Affiliate, including the type of coverage, the carrier, the amount of coverage, the term and the annual premiums of such policies. There is no claim by the Company or any ERISA Affiliate pending under any of such policies or bonds as to which coverage has been questioned, denied or disputed or that the Company or any ERISA Affiliate has a reason to believe will be denied or disputed by the underwriters of such policies or bonds. In addition, there is no pending claim of which its total value (inclusive of defense expenses) would reasonably be expected to exceed the policy limits. All premiums due and payable under all such policies and bonds have been paid, (or if installment payments are due, will be paid if incurred prior to the Closing Date) and the Company and its ERISA Affiliates are otherwise in material compliance with the terms of such policies and bonds (or other policies and bonds providing substantially similar insurance coverage). Such policies and bonds (or other policies and bonds providing substantially similar coverage) have been in effect since its inception and remain in full force and effect. The Company does not have any Knowledge of threatened termination of, or premium increase with respect to, any of such policies. None of the Company nor any Affiliate of either has ever maintained, established, sponsored, participated in or contributed to any self-insurance plan.

3.19 Export Control Laws. The Company has complied with all applicable export and reexport control laws and regulations, including the Export Administration Regulations maintained by the U.S. Department of Commerce, trade and economic sanctions maintained by the Treasury Department's Office of Foreign Assets Control (specifically, the Company has not provided any services to any entity or person that would be prohibited by the laws or regulations of the United States or to any sanctioned country, including Cuba, Iran, North Korea, Sudan, or Syria); there are no pending or, to the Company's Knowledge, threatened claims against the Company with respect to such releases of technologies and software to foreign nationals located in the United States and abroad ("Export Approvals") or export or re-export transactions; no Export Approvals for the transfer of export licenses to Acquiror or the Surviving Corporation are required, or if required, such Export Approvals can be obtained expeditiously without material cost.

3.20 Compliance with Laws. The Company has complied in all material respects with applicable Law, including, without limitation, environmental, real property, export control, anti-corruption, employment and labor Laws. The Company has not received any written notices, or, to the Knowledge of the Company, any other communication, of suspected, potential or actual violation with respect to, any applicable Law.

3.21 Top Customers and Suppliers.

(a) Section 3.21(a) of the Disclosure Schedule contains a true and correct list of the top twenty (20) currently active customers, whether direct or wholesale, distributors, or licensees of Company Products by revenues generated in connection with such customers for the calendar year ending December 31, 2014 (each such customer, a "Top Customer"). The Company has not received written notice, nor does the Company have any Knowledge, that any Top Customer (i) intends to cancel, or otherwise materially and adversely modify its relationship with the Company or (whether related to payment, price or otherwise) on account of the transactions contemplated by this Agreement or otherwise, or (ii) is threatened with bankruptcy or insolvency or is, or is reasonably likely to become, otherwise unable to purchase goods or services from the Company consistent with past custom and practice.

(b) Section 3.21(b) of the Disclosure Schedule contains a true and correct list of the top five (5) currently active suppliers of the Company, whether of products, services, or otherwise, by dollar volume of sales and purchases, respectively (such determination to include the dollar value of any

credits used by the Company), for the calendar year ending December 31, 2014 (each such supplier, a "Top Supplier"). The Company has not received written notice, nor does the Company have Knowledge, that any Top Supplier (i) intends to cancel, or otherwise materially and adversely modify its relationship with the Company (whether related to payment, price or otherwise) on account of the transactions contemplated by this Agreement or otherwise, or (ii) is threatened with bankruptcy or insolvency or is, or is reasonably likely to become, otherwise unable to supply goods or services to the Company consistent with past custom and practice.

3.22 Interested Party Transactions. No officer, director or, to the Knowledge of the Company, any other shareholder of the Company (nor any immediate family member of any of such Persons, or any trust, partnership or corporation in which any of such Persons has or has had an interest) (each, an "Interested Party"), has or has had, directly or indirectly, (i) any interest in any Person which furnished or sold, or furnishes or sells, services, products, technology or Intellectual Property Rights that the Company furnishes or sells, or proposes to furnish or sell, or (ii) any interest in any Person that purchases from or sells or furnishes to the Company, any goods or services, or (iii) any interest in, or is a party to, any Contract to which the Company is a party; *provided, however*, that ownership of no more than one percent (1%) of the outstanding voting stock of a publicly traded corporation shall not be deemed to be an "interest in any Person" for purposes of this Section 3.22. To the Company's Knowledge, there are no Contracts with regard to contribution or indemnification between or among any of the Shareholders. All transactions pursuant to which any Interested Party has purchased any services, products, technology or Intellectual Property Rights from, or sold or furnished any services, products, technology or Intellectual Property Rights to, the Company have been on an arms-length basis on terms no less favorable to the Company than would be available from an unaffiliated party.

3.23 Books and Records. The minute book of the Company (or written consents) has been Made Available and are complete and up-to-date. The minutes of the Company contain true, correct and complete records of all actions taken by the respective shareholders and the Board of Directors of the Company (and any committees thereof) since the time of incorporation of the Company. The Company has made and kept financial books and records, personnel records, and tax records (collectively, the "Books and Records") that fairly reflect, in all material respects, the business activities of the Company. The Company has not engaged in any material transaction, maintained any bank account or used any corporate funds except as reflected in its normally maintained Books and Records. At the Closing, the minute books and other Books and Records will be in the possession of the Company.

3.24 Third Party Expenses. The Company has not incurred, nor will it incur, directly or indirectly, any liability for brokerage or finders' fees or agents' commissions, fees related to investment banking or similar advisory services in connection with the Agreement or any transaction contemplated hereby, nor will Acquiror or the Surviving Corporation incur, directly or indirectly, any such liability based on arrangements made by or on behalf of the Company.

3.25 Banking Relationships. Section 3.25 of the Disclosure Schedules sets forth a true, complete and accurate list of the name and location of each bank, brokerage or investment firm, savings and loan or similar financial institution in which the Company has an account, safe deposit box or other arrangement, the account numbers and the names of all Persons authorized to draw on or who have access to such accounts, safe deposit boxes or other arrangements. There are no outstanding powers of attorney executed by or on behalf of the Company.

3.26 Representations Complete. None of the representations or warranties made by the Company (as modified by the Disclosure Schedule) in this Agreement, and none of the statements made in any exhibit, schedule or certificate furnished by the Company pursuant to this Agreement contains, or will contain at the Effective Time, any untrue statement of a material fact, or omits or will omit at the

Effective Time to state any material fact necessary in order to make the statements contained herein or therein, in the light of the circumstances under which made, not misleading.

ARTICLE IV
REPRESENTATIONS AND WARRANTIES OF ACQUIROR AND SUB

Each of Acquiror and Merger Sub hereby represents and warrants to the Company as follows:

4.1 Organization and Standing. Acquiror is a corporation duly organized, validly existing and in good standing under the laws of Delaware. Merger Sub is a corporation duly organized, validly existing and in good standing under the laws of Florida.

4.2 Capitalization of Parent.

(a) The issued and outstanding share capital of Parent comprises (i) 135,758,460 shares of Parent Preferred Stock, (ii) 4,931,830 shares of Parent Performance Stock, and (iii) 2 shares of Parent Common Stock. All outstanding shares of Parent Capital Stock are duly authorized, validly issued, fully paid and non-assessable.

(b) All outstanding shares of Parent Capital Stock have been issued or repurchased (in the case of shares that were outstanding and repurchased by the Parent or any stockholder of the Parent) in compliance with all applicable Laws, and were issued, transferred and repurchased (in the case of shares that were outstanding and repurchased by Parent or any stockholder of Parent) in accordance with any right of first refusal or similar right or limitation known to Parent. There are no declared or accrued but unpaid dividends with respect to any shares of Parent Capital Stock.

(c) No bonds, debentures, notes or other indebtedness of Parent (i) having the right to vote on any matters on which holders of Parent Capital Stock may vote (or which is convertible into, or exchangeable for, securities having such right) or (ii) the value of which is in any way based upon or derived from capital or voting stock of Parent, are issued or outstanding as of the date of this Agreement.

(d) In the aggregate, there are currently issued and outstanding 23,109,609 Parent Options granted pursuant to the terms of Parent Option Plan. The board of directors of Parent has the power to grant, issue and allot options, and/or shares resulting from options, representing up to (but not exceeding) 32,461,742 shares in the capital of Parent, subject to an overall limitation that be no more than 60 million shares in the capital of Parent (in the aggregate, taking into account all classes of Parent Capital Stock).

(e) Except for the options described in Section 4.2(d), there are no options, warrants, calls, rights, convertible securities, commitments or agreements of any character, written or oral, to which Parent is a party or by which Parent is bound that obligate the Company to issue, deliver, sell, repurchase or redeem, or cause to be issued, delivered, sold, repurchased or redeemed, any shares of Parent Capital Stock or obligating Parent to grant, extend, accelerate the vesting of, change the price of, otherwise amend or enter into any such option, warrant, call, right, commitment or agreement (except to the extent that waivers of accelerated vesting are required by the terms of this Agreement).

4.3 Authority and Enforceability.

(a) Each of Acquiror and Merger Sub has all requisite corporate power and authority to enter into this Agreement and any Related Agreements to which it is a party and to consummate the Merger and the other transactions contemplated hereby and thereby. The execution and delivery by each

of Acquiror and Merger Sub of this Agreement and any Related Agreements to which it is a party and the consummation of the Merger and the other transactions contemplated hereby and thereby have been duly authorized by all necessary corporate and other action on the part of Acquiror and Merger Sub.

(b) This Agreement and any Related Agreements to which Acquiror and Merger Sub are parties have been duly executed and delivered by Acquiror and Merger Sub and constitute the valid and binding obligations of Acquiror and Merger Sub, enforceable against each of Acquiror and Merger Sub in accordance with their terms, subject to (a) Laws of general application relating to bankruptcy, insolvency, moratorium, the relief of debtors and enforcement of creditors' rights in general, and (b) rules of law governing specific performance, injunctive relief, other equitable remedies and other general principles of equity.

4.4 Governmental Approvals. No consent, waiver, approval, order or authorization of, or registration, declaration or filing with, any Governmental Entity is required by or with respect to Acquiror or Merger Sub in connection with the execution and delivery of this Agreement and any Related Agreements to which Acquiror or Merger Sub is a party or the consummation of the Merger and the other transactions contemplated hereby and thereby, except for (a) such consents, waivers, approvals, orders, authorizations, registrations, declarations and filings as may be required under applicable securities laws and state "blue sky" laws, (b) the filing of the Certificate of Merger with the Secretary of State of the State of Florida, and (c) such other consents, waivers, approvals, orders, authorizations, registrations, declarations and filings which, if not obtained or made, would not materially impair Acquiror's ability to consummate the Merger.

4.5 Prior Merger Sub Operations. Merger Sub is wholly owned directly by Acquiror, was formed solely for the purpose of effecting the Merger and has not engaged in any business activities or conducted any operations other than in connection with the transactions contemplated hereby.

4.6 Merger Consideration. When issued, the shares of Parent Preferred Stock that constitute the Merger Stock Consideration shall have been duly authorized and upon the issuance of such shares pursuant to and in accordance with the terms hereof, shall be validly issued, fully paid and non-assessable and assuming the accuracy of the information in the Accredited Investor Questionnaires delivered to Acquiror and Merger Sub and the availability of a valid exemption for the issuance thereof from the registration and prospectus delivery requirements of the Securities Act and the equivalent state "blue-sky" Laws, such shares shall be issued in compliance with all applicable Laws, including United States federal and state securities laws.

4.7 No Conflict. The execution and delivery by Acquiror and Merger Sub of this Agreement and any Related Agreements to which Acquiror or Merger Sub are a party, and the consummation of the transactions contemplated hereby and thereby, will not conflict with, violate or breach (a) any provision of the organizational documents of Acquiror and Merger Sub, each as amended, or (b) any judgment, order, decree, statute, Law, ordinance, rule or regulation applicable to Acquiror or Merger Sub or any of their respective properties or assets (whether tangible or intangible), or (c) any Contract to which Acquiror or Merger Sub is a party or by which its properties or assets (whether tangible or intangible) are bound.

4.8 Sufficient Funds. Acquiror shall have sufficient cash to fund the cash portions of the Aggregate Consideration at Closing.

4.9 Litigation. There is no Action pending or, to Acquiror and Merger Sub's knowledge, threatened against Acquiror or Merger Sub, which, if adversely determined, (a) would delay, hinder or prevent the consummation of the Merger by Acquiror or Merger Sub or (b) would have, individually or in

the aggregate with all other such Actions, a material adverse effect on the ability of Acquiror or Merger Sub to perform its obligations under this Agreement and the Related Agreements.

4.10 Brokers' and Finders' Fees. Acquiror and Merger Sub have not incurred, nor will they incur, directly or indirectly, any Liability for brokerage or finders' fees or agents' commissions, fees related to investment banking or similar advisory services or any similar charges in connection with this Agreement or any transaction contemplated hereby, nor will the Company incur, directly or indirectly, any such Liability based on arrangements made by or on behalf of Acquiror or Merger Sub.

4.11 Financial Statements. Parent is the successor to TAU Holdco Pty Ltd., an Australian company majority owned by funds managed by US private equity firms TA Associates and Updata Partners (via a special purpose company TAU NX Ltd.) ("TAU"). Acquiror has made available to the Company a copy of TAU's audited June, 2014 balance sheet, income statement and statement of cash flows for the twelve (12) month period ended June 30, 2014 (the "Parent Financials"). The Parent Financials are true and correct in all material respects. The Parent Financials present fairly TAU's financial condition and operating results as of the dates and during the periods indicated therein.

4.12 Additional Representations. Acquiror acknowledges that none of the Company or any other Person has made any representation or warranty, express or implied, as to the business of the Company except as expressly set forth in this Agreement.

ARTICLE V
CONDUCT OF COMPANY BUSINESS

5.1 Conduct of Company Business. During the period from the date of this Agreement and continuing until the earlier of the termination of this Agreement or the Effective Time, except to the extent that Acquiror shall otherwise consent in writing, the Company shall conduct the business of Company in the usual, regular and ordinary course and in substantially the same manner as heretofore conducted, pay all Taxes of the Company when due (subject to Acquiror's review of all related Tax Returns, as set forth in Section 5.2(m)), pay or perform all other obligations of the Company when due (including the timely withholding, collecting, remitting and payment of all Taxes required under Law), and, to the extent consistent with such business, use commercially reasonable efforts to preserve intact the present business organizations of the Company, keep available the services of the present officers and Employees of the Company, preserve the assets (including intangible assets) and properties of the Company and preserve the relationships of the Company with customers, suppliers, distributors, licensors, licensees, and others having business dealings with them, all with the goal of preserving unimpaired the goodwill and ongoing businesses of the Company at the Effective Time.

5.2 Restrictions on Company Activities. During the period from the date of this Agreement and continuing until the earlier of the termination of this Agreement or the Effective Time, except as expressly contemplated by this Agreement and except as expressly set forth in the appropriate subsection of Section 5.2 of the Disclosure Schedule, the Company shall not, without the prior written consent of Acquiror:

(a) cause or permit any modifications, amendments or changes to the Charter Documents;

(b) declare, set aside, or pay any dividends on or make any other distributions (whether in cash, stock or property) in respect of any Company Capital Stock, or split, combine or reclassify any Company Capital Stock or issue or authorize the issuance of any other securities in respect of, in lieu of or in substitution for shares of Company Capital Stock, or directly or indirectly repurchase,

redeem or otherwise acquire any shares of Company Capital Stock (or options, warrants or other rights convertible into, exercisable or exchangeable for Company Common Stock, except pursuant to the Company's right of repurchase upon a termination of service approved by Acquiror;

(c) except for the exercise of Company Options outstanding as of the date of this Agreement and disclosed on Section 3.5(e) of the Disclosure Schedules, issue, grant, deliver or sell or authorize or propose the issuance, grant, delivery or sale of, or purchase or propose the purchase of, any Company Capital Stock, Company Options or equity-based awards (whether payable in cash, stock or otherwise) or any securities convertible into, exercisable or exchangeable for, or subscriptions, rights, warrants or options to acquire, or other Contracts of any character obligating any of them to issue or purchase any such shares or other convertible securities;

(d) form, or enter into any commitment to form, a subsidiary, or acquire, or enter into any commitment to acquire, an interest in any corporation, association, joint venture, partnership or other business entity or division thereof;

(e) make or agree to make any capital expenditure or commitment exceeding $10,000 individually or $25,000 in the aggregate;

(f) acquire or agree to acquire or dispose or agree to dispose of any assets of the Company or any business enterprise or division thereof outside the ordinary course of the business of the Company and consistent with past practice;

(g) (i) sell, exclusively license or assign to any Person or enter into any Contract to sell, exclusively license or assign to any Person any rights to any Company IP; (ii) buy or license any material Technology or Intellectual Property Right from any third party; (iii) license or distribute any Company Products or Company IP to third parties other than non-exclusive licenses to provide the Company Products to end-customers substantially in the form of the applicable Standard Form Agreement or agreements that do not materially differ in substance from the Standard Form Agreement; (iv) amend any agreement for the license, sale, or other distribution of Company Products or Company IP; (vi) enter into any Contract with respect to the development of any Technology or Intellectual Property Right on behalf of the Company with a third party; (vii) change pricing or royalties charged by the Company to, or the compensation or other amounts payable to, the Company's distributors, resellers, sales representatives, customers or licensees, or the pricing or royalties set or charged by Persons who have licensed Technology or Intellectual Property Rights to the Company, outside of the ordinary course of business; or (viii) amend the license applicable to any Company IP such that the Company IP becomes subject to an Open Source License;

(h) incur any Indebtedness (other than the obligation to reimburse employees for travel and business expenses in the ordinary course of the Company's business consistent with past practices), issue or sell any debt securities, create a Lien over any asset of the Company or amend the terms of any outstanding loan agreement;

(i) make any loan to any Person (except for advances to employees for reasonable business travel and expenses in the ordinary course of business consistent with past practice), purchase debt securities of any Person or guarantee any Indebtedness of any Person;

(j) commence or settle any Action or threat of any Action by or against the Company or relating to any of its businesses, properties or assets;

(k) pay, discharge, release, waive or satisfy any claims, rights or liabilities, other than the payment, discharge or satisfaction in the ordinary course of business of liabilities reflected on the Current Balance Sheet or incurred in the ordinary course of business after the Balance Sheet Date;

(l) adopt or change accounting methods or practices (including any change in depreciation or amortization policies or rates or any change to practices that would impact the methodology for recognizing revenue) other than as required by GAAP;

(m) make or change any Tax election, adopt or change any Tax accounting method, enter into any agreement in respect of Taxes, settle or compromise any Tax claim or assessment, consent to any extension or waiver of the limitation period applicable to any Tax claim or assessment, make or request any Tax ruling, enter into any Tax sharing or similar agreement or arrangement, enter into any transactions giving rise to deferred gain or loss, amend any Tax Return or file any income or other material Tax Return unless a copy of such Tax Return has been submitted to Acquiror for review a reasonable period of time prior to filing;

(n) adopt, amend or terminate any Company Employee Plan (other than as required to comply with applicable Law), including any indemnification agreement or enter into or amend any Employee Agreement;

(o) increase or make any other change that would result in increased cost to the Company to the salary, wage rate, employment status, title or other compensation (including equity based compensation) payable or to become payable by the Company to any Employee;

(p) make any declaration, payment, commitment or obligation of any kind for the payment (whether in cash, equity or otherwise) of any severance payment or other change in control payment, termination payment, bonus, special remuneration or other additional salary or compensation (including equity based compensation) to any Employee (other than as required by applicable law), except payments made pursuant to written agreements existing on the date of this Agreement and disclosed in Section 5.2(p) of the Disclosure Schedule;

(q) make any communications (including electronic communications) to Employees regarding this Agreement or the transactions contemplated hereby or make any representations or issue any communications to Employees that are inconsistent with this Agreement or the transactions contemplated thereby, including any representations regarding continued employment or offers of employment from Acquiror;

(r) cancel, amend (other than in connection with the addition of customers and suppliers to such insurance policies from time to time in the ordinary course of business consistent with past practices) or fail to renew (on substantially similar terms) any insurance policy of the Company;

(s) (i) terminate, amend, waive, or modify in any material manner relative to such Material Contract or the Company's businesses or operations, or violate, the terms of any Material Contract, or (ii) except to the extent in the ordinary course of business, enter into any Contract which would have constituted a Material Contract had such Contract been entered into prior to the date of this Agreement;

(t) amend any Company Privacy Policy, or publish any new Company Privacy Policy;

(u) enter into any Contract to purchase or sell any interest in real property or grant any security interest in any real property; or

(v) take, commit, or agree in writing or otherwise to take, any of the actions described in clauses (a) – (u) of this Section 5.2, or any other action that would prevent the Company from performing, or cause the Company not to perform, its covenants or agreements hereunder.

ARTICLE VI
COMPANY NON-SOLICITATION AGREEMENT

6.1 Termination of Discussions. The Company shall immediately cease and cause to be terminated any negotiations and discussions with third parties (other than Acquiror) regarding (i) any acquisition of all or any portion of the business, properties, assets or technologies of the Company, or any amount of Company Capital Stock (whether or not outstanding), in any case whether by merger, consolidation, amalgamation, purchase of assets or stock, tender or exchange offer, license or otherwise (other than the non-exclusive license of products and services to end-customers in the ordinary course of business consistent with past practice or the licensing of intellectual property rights in connection therewith pursuant to Standard Form Agreement), (ii) any joint venture or other strategic investment in or involving the Company (other than an ongoing commercial or strategic relationship in the ordinary course of business), including any new financing, investment round or recapitalization of the Company, or (iii) any similar transaction that is not in the ordinary course of business (each of the transactions described in the preceding clauses (i), (ii) and (iii) being referred to herein as an "Alternative Transaction").

6.2 No Solicitation. Commencing on the date of this Agreement and continuing at all times until the earlier to occur of the Effective Time and the valid termination of this Agreement pursuant to Section 8.1, the Company shall not (nor shall the Company permit any of its Affiliates, directors, officers, employees, shareholders, agents or other representatives ("Representatives") to), directly or indirectly:

(a) solicit, initiate, seek, knowingly encourage, promote or support, any inquiry, proposal or offer from, furnish any non-public information regarding the Company to, or participate in any discussions or negotiations with, any third party regarding, or in a manner intended or reasonably likely to facilitate, any Alternative Transactions;

(b) in connection with any Alternative Transaction, disclose any information not customarily disclosed to any person concerning the business, properties, assets or technologies of the Company, or afford to any Person access to its properties, assets, technologies, books or records, not customarily afforded such access;

(c) assist or cooperate with any person to make any inquiry, offer, proposal or indication of interest regarding any Alternative Transaction; or

(d) enter into any Contract with any person providing for an Alternative Transaction.

6.3 Notice of Alternative Transaction Proposals. In the event that the Company or any of its Representatives shall receive, prior to the Effective Time or the termination of this Agreement in accordance with Section 8.1, any inquiry offer, proposal or indication of interest regarding a potential Alternative Transaction, or any request for disclosure of information or access of the type referenced in Section 6.2(b), the Company or such Affiliate or Representative shall immediately notify Acquiror thereof.

6.4 Specific Performance. The parties hereto agree that irreparable damage would occur in the event that the provisions of this Article VI were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed by the parties hereto that Acquiror shall be entitled to an immediate injunction or injunctions, without the necessity of proving the inadequacy of money damages as a remedy and without the necessity of posting any bond or other security, to prevent breaches of the provisions of this Article VI and to enforce specifically the terms and provisions of this Agreement in any court of the United States or any state having jurisdiction, this being in addition to any other remedy to which Acquiror may be entitled at law or in equity. Without limiting the foregoing, it is understood that any violation of the restrictions set forth above by any Representative of the Company shall be deemed to be a breach of this Agreement by the Company.

ARTICLE VII
ADDITIONAL AGREEMENTS

7.1 Shareholder Approvals.

(a) Requisite Shareholder Approval. Immediately following the execution of this Agreement, and in compliance with applicable Law and the Company's Charter Documents, the Company shall solicit a Joinder Agreement and Shareholder Written Consent from each of its Shareholders by delivery of an Information Statement in substantially the form attached hereto as Exhibit E (the "Information Statement"). The Company shall cause the Information Statement to not contain, at or prior to the Effective Time, any untrue statement of a material fact, and to not omit to state any material fact necessary in order to make the statements made therein, in light of the circumstances under which made, not misleading; *provided, however,* that Acquiror shall cause any information included in the Information Statement about Acquiror to comply with the requirements of the Securities Act and to not contain, at or prior to the Effective Time, any untrue statement of a material fact about Acquiror, and to not omit to state any material fact about Acquiror necessary in order to make the statements made therein about Acquiror, in light of the circumstances under which made not misleading. The Company shall promptly deliver to Acquiror a copy of each executed Shareholder Written Consent upon receipt thereof from any Shareholder pursuant to such solicitation. Substantially simultaneously with the execution of this Agreement, the Company will deliver to Acquiror Shareholder Written Consents from Shareholders, pursuant to the preceding solicitation, that are sufficient to fully and irrevocably deliver the Requisite Shareholder Approval. Upon receipt of the Requisite Shareholder Approval, the Company shall promptly deliver notice (the "Shareholder Notice") to each Shareholder whose consent was not obtained prior to the Company's receipt of the Requisite Shareholder Approval, which notice shall include the notice to Shareholders required by Florida statute 607.1302 of the approval of the Merger and that appraisal rights are available. The Board of Directors of the Company shall not alter, modify, change or revoke its unanimous approval of this Agreement, the Merger and the other transactions contemplated hereby, nor its unanimous recommendation to the Shareholders to vote in favor of adoption of this Agreement and approval of the Merger and the other transactions contemplated hereby.

7.2 Governmental Approvals.

(a) In furtherance and not in limitation of the terms of Section 0, each of the Company and Acquiror shall promptly execute and file, or join in the execution and filing of, any application, notification or other document that may be necessary in order to obtain the authorization, approval or consent of any Governmental Entity, whether federal, state, local or foreign, that may be reasonably required, or that Acquiror may reasonably request, in connection with the consummation of the transactions contemplated hereby. Each of the Company and Acquiror shall use its reasonable best efforts to obtain all such authorizations, approvals and consents. To the extent permitted by applicable

Laws, each of the Company and Acquiror shall promptly inform the other of any material communication between the Company or Acquiror (as applicable) and any Governmental Entity regarding the transactions contemplated hereby. If the Company or Acquiror or any Affiliate thereof shall receive any formal or informal request for supplemental information or documentary material from any Governmental Entity with respect to the transactions contemplated hereby, then the Company or Acquiror (as applicable) shall make, or cause to be made, as soon as reasonably practicable, a response in compliance with such request. Each of the Company and Acquiror shall direct, in its sole discretion, the making of such response, but shall consider in good faith the views of the other.

(b) Notwithstanding the foregoing or anything to the contrary set forth in this Agreement, it is expressly understood and agreed that neither Acquiror nor Merger Sub shall have any obligation to litigate any administrative or judicial action or proceeding that may be brought in connection with the transactions contemplated by this Agreement, and neither Acquiror nor any Affiliate of Acquiror shall be required to agree to any license, sale or other disposition or holding separate (through the establishment of a trust or otherwise), of shares of capital stock or of any business, assets or property of Acquiror, the Company or any of their respective Affiliates, or the imposition of any limitation on the ability of any of them to conduct their businesses or to own or exercise control of such assets, properties and stock.

(c) Acquiror shall, in consultation with the Company and subject to Section 7.2(b), determine strategy, lead all proceedings and coordinate all activities with respect to seeking any actions, consents, approvals or waivers of any Governmental Entity as contemplated hereby, and the Company will take such actions as reasonably requested by Acquiror in connection with obtaining such consents, approvals or waivers. Notwithstanding Acquiror's rights to lead all proceedings as provided in the prior sentence, Acquiror shall not require the Company to, and the Company shall not be required to, take any action with respect to any applicable antitrust or anti-competition Law which would bind the Company irrespective of whether the Merger occurs.

7.3 [RESERVED].

7.4 Reasonable Efforts to Close. Subject to the terms and conditions provided in this Agreement (including Section 7.2(b)), each of the parties hereto shall use commercially reasonable efforts to take promptly, or cause to be taken promptly, all actions, and to do promptly, or cause to be done promptly, all things necessary, proper or advisable under applicable Laws to consummate and make effective the Merger and the other transactions contemplated hereby as promptly as practicable, including by using commercially reasonable efforts to take all action necessary to satisfy all of the conditions to the obligations of the other party or parties hereto to effect the Merger set forth in Article VII, to obtain all necessary waivers, consents, approvals and other documents required to be delivered hereunder and to effect all necessary registrations and filings and to remove any injunctions or other impediments or delays, legal or otherwise, in each case in order to consummate and make effective the Merger and the other transactions contemplated by this Agreement for the purpose of securing to the parties hereto the benefits contemplated by this Agreement.

7.5 Tax Matters.

(a) Tax Returns.

(i) The Shareholders' Representative or the Company, as applicable, shall prepare and timely file, or cause to be prepared and timely filed, all Tax Returns for the Company required to be filed on or prior to the Closing Date, and shall timely remit, or cause to be remitted, to the appropriate Governmental Entity all Taxes reflected on such Tax Returns, subject to Acquiror's right to

indemnification pursuant to Section 9.2(a)(ix). Such Tax Returns shall be prepared in accordance with applicable Law and consistent with the past practices of the Company in all material respects, except to the extent necessary in the Shareholders' Representative's reasonable judgment to comply with applicable Law. The Shareholders' Representative or the Company, as applicable, shall provide each income and other material Tax Return of the Company for any Pre-Closing Tax Period to Acquiror for review a reasonable period of time prior to filing and the Shareholders' Representative or the Company, as applicable, shall revise such Tax Return to reflect any reasonable comments of Acquiror prior to filing such Tax Return.

(ii) Acquiror shall prepare and timely file, or cause to be prepared and timely filed, all tax Returns for the Company required to be filed after the Closing Date, and shall timely remit or cause to be remitted, to the appropriate Governmental Entity all Taxes reflected on such returns, subject to Acquiror's right to indemnification pursuant to Section 9.2(a)(ix). To the extent such Tax Returns include any Pre-Closing Tax period (or would result in an increase in Tax liability for any pre-Closing Tax Period), such Tax Returns shall be prepared in accordance with applicable Law and consistent with the past practices of the Company in all material respects, except to the extent necessary in Acquiror's reasonable judgment to comply with applicable law. To the extent that any income or other material Tax Return of the Company for any Pre-Closing Tax Period so prepared by Acquiror could reasonably result in an indemnification claim against the Company Indemnifying Parties pursuant to this Agreement, Acquiror shall provide each such Tax Return to the Shareholders' Representative for review a reasonable period of time prior to filing and Acquiror shall consider in good faith any reasonable comments of the Shareholders' Representative prior to filing such Tax Return. For the avoidance of doubt, Acquiror may, in its sole discretion, prepare and file, or cause to be prepared and filed, any Tax Returns (including amended Tax Returns) related to the State Tax Amount after the Closing, subject to Acquiror's rights to indemnification pursuant to Section 9.2(a)(ix).

(b) Cooperation. Subject to Section 9.4(g), Acquiror and the Shareholders' Representative, on behalf of the Company Indemnifying Parties, shall cooperate, as and to the extent reasonably requested by the other party, in connection with (i) the filing of any Tax Returns of or with respect to the Company or its operations, and (ii) any audit, examination, voluntary disclosure or other administrative or judicial proceeding, contest, assessment, notice of deficiency, or other adjustment or proposed adjustment with respect to Taxes of the Company or its operations (a "Tax Contest"). Such cooperation shall include retaining and providing records and information that are reasonably relevant to any such Tax Return or Tax Contest, and making employees available on a mutually convenient basis to provide additional information and explanation of any materials provided hereunder.

(c) Tax Sharing Agreements. Any Tax sharing, indemnification or allocation agreement, arrangement, practice or policy to which the Company is a party or by which it is bound shall be terminated as of the Closing Date, and none of the Company shall have any liability or obligation pursuant thereto.

(d) Tax Refunds. Provided that the related Taxes either (i) have been paid by the Company on or prior to the Closing Date, (ii) have been reflected as a liability in the Company Net Working Capital, or (iii) have resulted in a claim in accordance with Article IX hereof, any refunds of Taxes or credits for overpayment of Taxes, in each case, in respect of a Pre-Closing Tax Period, that are actually received in cash, or actually reduce the cash Taxes required to be paid, by Acquiror, the Company, or the Surviving Corporation or any of their Subsidiaries shall be for the account of the Company Indemnifying Parties, and Acquiror will, and will cause the Surviving Corporation or any of their Affiliates to, at the written request of the Shareholders' Representative, take all commercially reasonable actions to obtain such refunds and credits, and shall deliver and pay over to the Paying Agent for the benefit of the Company Indemnifying Parties any such refund or the amount of any such credit

(net of any Taxes and any out-of-pocket expenses that Acquiror, the Surviving Corporation or any of their Affiliates incur with respect to such refund or credit) within ten (10) business days after receipt except to the extent such refund or credit results from the carryback of a net operating loss from any taxable period (or portion thereof) beginning after the Closing Date. All other refunds and credits shall be for the account of the Surviving Corporation, Parent or their respective Subsidiaries, as applicable. To the extent such refund or credit is subsequently disallowed or required to be returned to the applicable Governmental Entity, the Company Indemnifying Parties shall promptly repay the amount of such refund or credit, together with any interest, penalties or other additional amounts imposed by such Governmental Entity, to Acquiror.

7.6 Employee Matters.

(a) Proprietary Information and Inventions Assignment Agreements. Prior to the Closing, the Company shall use its reasonable best efforts to cause each current employee of the Company to enter into and execute, and each person who becomes an employee of the Company after the date of this Agreement and prior to the Closing shall be required by the Company to enter into and execute, an Employee Proprietary Information Agreement with the Company effective as of such employee's first date of employment or service. The Company shall use its reasonable best efforts to cause each current consultant or contractor of the Company to enter into and execute, and each Person who becomes a consultant or contractor of the Company after the date of this Agreement and prior to the Closing shall be required by the Company to enter into and execute, a Consultant Proprietary Information Agreement with the Company effective as of such consultant or contractor's first date of service.

(b) Termination of Option Plans. The Company shall take such other actions in furtherance of terminating the Company Option Plan.

(c) Payment of Accrued Employee Amounts. Prior to the Closing, the Company shall pay out all pro-rated bonuses as of the Closing Date, as set forth on Schedule 7.6(c).

(d) Key Employee Arrangements. Prior to the Closing, Acquiror shall extend an offer letter to each Key Employee that is not a Specified Key Employee and the Company shall seek to obtain and deliver to Acquiror from each Key Employee that is not a Specified Key Employee (i) a Key Employee Agreement and (ii) a PIIA, each of which will be effective only upon the Closing.

(e) No Employment Commitment or Plan Amendments. No provision of this Agreement is intended, or shall be interpreted, to provide nor create any third party beneficiary rights or any other rights of any kind or nature whatsoever in any Shareholder, Key Employee, Continuing Employee, Other Employee, consultant, contractor or any other Person, including any rights of employment for any specified period and/or any employee benefits, in favor of any Person, union, association, Continuing Employee, Key Employee, Other Employee, consultant or contractor or any other Person, other than the parties hereto and their respective successors and permitted assigns, and all provisions of this Agreement will be personal solely among the parties to this Agreement. In addition, no provision of this Agreement is intended, or shall be interpreted, to amend any term or condition of any employee related plan, program or policy of the Company.

7.7 Payoff Letters and Release of Liens.

(a) Payoff Letters. No later than two (2) Business Days prior to the Closing Date, the Company shall obtain from each holder of Indebtedness of the Company, and deliver to Acquiror, an executed payoff letter, in form and substance reasonably acceptable to Acquiror, setting forth: (i) the amounts required to pay off in full on the Closing Date, the Indebtedness owing to such creditor

(including the outstanding principal, accrued and unpaid interest and prepayment and other penalties) and wire transfer information for such payment; (ii) upon payment of such amounts, a release of the Company with respect to such Indebtedness; and (iii) the commitment of the creditor to release all Liens, if any, that the creditor may hold on any of the assets of the Company prior to the Closing Date (each, a "Payoff Letter").

(b) Release of Liens. At or prior to the Closing, the Company shall file all agreements, instruments, certificates and other documents, in form and substance reasonably satisfactory to Acquiror, that are necessary or appropriate to effect the release of all Liens, including those Liens set forth in Schedule 7.7(b).

7.8 Third Party Expenses.

(a) Whether or not the Merger is consummated, each party shall be responsible for its own expenses and costs that it incurs (and whether paid prior to, at or after the Effective Time) with respect to the negotiation, execution, delivery and performance of this Agreement. Without limiting or expanding the foregoing, the Company shall be responsible for all Third Party Expenses.

(b) At least two (2) Business Days prior to the Closing, the Company shall provide Acquiror with a statement, in a form reasonably satisfactory to Acquiror, setting forth all paid and unpaid Third Party Expenses incurred by or on behalf of the Company as of the Closing Date, or anticipated to be incurred or payable by or on behalf of the Company after the Closing (the "Statement of Expenses"). The Company shall take all necessary action to ensure that Third Party Expenses shall not be incurred by the Company after the Closing Date without the express prior written consent of Acquiror.

7.9 Working Capital Adjustment.

(a) At least two (2) Business Days prior to the Closing, the Company shall deliver a draft Company Net Working Capital Certificate to Acquiror. Prior to the Closing, the Company shall revise the Company Net Working Capital Certificate to reflect any changes thereto as may be reasonably requested by Acquiror, which changes shall be reflected in the final version of the Company Net Working Capital Certificate, which shall be delivered by the Company to Acquiror at Closing (it being understood that reflecting Acquiror's reasonably requested changes shall not limit Acquiror's right to be indemnified for any Final Company Net Working Capital Shortfall in accordance with and subject to Article IX). The Company has Made Available or shall provide to Acquiror, together with the Company Net Working Capital Certificate, all supporting information necessary to evidence the calculations, amounts and other matters set forth in the Company Net Working Capital Certificate.

(b) On or before the ninetieth (90^{th}) day after the Closing Date, Acquiror shall prepare and deliver, or cause to be prepared and delivered, to the Shareholders' Representative a statement (the "Post-Closing Adjusted Working Capital Statement") setting forth Acquiror's calculation of the Company Net Working Capital as of the Closing Date, in accordance with the methodology set forth on Schedule 7.9(b).

(c) The Shareholders' Representative shall have thirty (30) days following its receipt of the Post-Closing Adjusted Working Capital Statement (the "Review Period") to review the Post-Closing Adjusted Working Capital Statement. During the Review Period, Acquiror will use commercially reasonable efforts to make available to the Shareholders' Representative, to the extent reasonably requested by the Shareholders' Representative, Acquiror's books, records, work papers, personnel and such other information as the Shareholders' Representative may require in order to evaluate the Post-Closing Adjusted Working Capital Statement. On or before the expiration of the Review Period, the

Shareholders' Representative shall deliver to Acquiror a written statement accepting or disputing, in whole or in part, the Post-Closing Adjusted Working Capital Statement. In the event that the Shareholders' Representative shall dispute the Post-Closing Adjusted Working Capital Statement, such statement shall include a detailed itemization of the Shareholders' Representative's objections and the reasons therefor (such statement, a "Working Capital Dispute Statement"). Any component of the Post-Closing Adjusted Working Capital Statement that is not disputed in a Working Capital Dispute Statement shall be final and binding upon the parties to this Agreement and the Shareholders (including in their capacity as Indemnifying Persons), and not subject to appeal. If the Shareholders' Representative does not deliver a Working Capital Dispute Statement to Acquiror within the Review Period or delivers a statement accepting the Post-Closing Adjusted Working Capital Statement, the Post-Closing Adjusted Working Capital Statement shall be final and binding upon the parties to this Agreement and the Shareholders (including in their capacity as Indemnifying Persons), and not subject to appeal.

(d) If the Shareholders' Representative delivers a Working Capital Dispute Statement during the Review Period, Acquiror and the Shareholders' Representative shall meet and attempt in good faith to resolve their differences with respect to the disputed items set forth in the Working Capital Dispute Statement during the thirty (30) calendar days immediately following Acquiror's receipt of the Working Capital Dispute Statement, or such longer period as Acquiror and the Shareholders' Representative may mutually agree (the "Resolution Period"). Any such disputed items that are resolved by Acquiror and the Shareholders' Representative during the Resolution Period shall be set forth in a memorandum signed by both parties, which shall be final and binding upon the parties to this Agreement and the Shareholders (including in their capacity as Indemnifying Persons), and not subject to appeal. If Acquiror and the Shareholders' Representative do not resolve all such disputed items by the end of the Resolution Period, Acquiror and the Shareholders' Representative shall submit all items remaining in dispute with respect to the Working Capital Dispute Statement to any nationally recognized independent accounting firm upon which Acquiror and the Shareholders' Representative shall reasonably agree (the "Accounting Firm") for review and resolution. The Accounting Firm shall act as an expert and not an arbitrator. The Accounting Firm shall make all calculations in accordance with the methodology set forth on Schedule 7.9(b), shall determine only those items remaining in dispute between Acquiror and the Shareholders' Representative, and shall only be permitted or authorized to determine an amount with respect to any such disputed item that is either the amount of such disputed item as proposed by Acquiror in the Post-Closing Adjusted Working Capital Statement or the amount of such disputed item as proposed by the Shareholders' Representative in the Working Capital Dispute Statement. Each of Acquiror and the Shareholders' Representative shall (i) enter into a customary engagement letter with the Accounting Firm at the time such dispute is submitted to the Accounting Firm and otherwise cooperate with the Accounting Firm, (ii) have the opportunity to submit a written statement in support of their respective positions with respect to such disputed items, to provide supporting material to the Accounting Firm in defense of their respective positions with respect to such disputed items and to submit a written statement responding to the other party's position with respect to such disputed items and (iii) subject to customary confidentiality and indemnity agreements, provide the Accounting Firm with access to their respective books, records, personnel and representatives and such other information as the Accounting Firm may require in order to render its determination. The Accounting Firm shall be instructed to deliver to Acquiror and the Shareholders' Representative a written determination (such determination to include a worksheet setting forth all material calculations used in arriving at such determination and to be based solely on information provided to the Accounting Firm by Acquiror and the Shareholders' Representative) of the disputed items within thirty (30) calendar days of receipt of the disputed items, which determination shall be final and binding upon the parties to this Agreement and the Shareholders (including in their capacity as Indemnifying Persons), and not subject to appeal. Fifty percent (50%) of any expenses relating to the engagement of the Accounting Firm shall be paid by Acquiror and fifty percent (50%) of such expenses shall be paid by the Shareholders' Representative.

(e) Once the Adjusted Working Capital Amount is finally determined pursuant to this Section 7.9 (such amount, the "Final Adjusted Working Capital Amount"), (i) if there is a Final Company Net Working Capital Surplus, then each Shareholder shall be entitled to receive, for each share of Company Capital Stock held by such Shareholder as of immediately prior to the Closing, an amount of cash equal to the Per Share Final Net Working Capital Surplus, and (ii) if there is a Final Company Net Working Capital Shortfall, then Acquiror shall be entitled to be indemnified for such amount pursuant to Article IX, and recover from the Escrow Fund an amount of cash equal to the Company Net Working Capital Shortfall (with the distribution of such cash to be made in accordance with Section 9.4). In the event that Shareholders are entitled to recover any cash with respect to a Final Company Net Working Capital Surplus pursuant to this Section 7.9(e), the Shareholders' Representative and Acquiror shall promptly, and in any event within two (2) Business Days after such final determination, execute and deliver a joint written notice instructing the Escrow Agent to release to the Shareholders such cash amounts. In the event Acquiror is entitled to recover any cash with respect to an Final Company Net Working Capital Shortfall pursuant to this Section 7.9(e), the Shareholders' Representative and Acquiror shall promptly, and in any event within two (2) business days after such final determination, execute and deliver a joint written notice instructing the Escrow Agent to release to the Acquiror such cash. If the amount in the Escrow Fund is not sufficient to satisfy the amount of the Company Net Working Capital Shortfall, then Acquiror shall be entitled to recover directly from the Indemnifying Persons in accordance with Article IX.

(f) Any payment made under this Section 7.9, to the maximum extent permitted by applicable Law, shall be treated for all Tax purposes as an adjustment to the Aggregate Consideration.

7.10 Access to Information. At all times prior to the Effective Time the Company shall afford Acquiror and its Representatives access to (i) all of the assets, properties, Books and Records and Contracts of the Company, including all Company IP and Company Technology (code access limited to viewing code but not physical possession of copies), (ii) all other information concerning the business, assets, properties and personnel (subject to restrictions imposed by applicable law) of the Company as Acquiror may reasonably request, and (iii) all Employees of the Company as identified by Acquiror, provided, Acquiror and its Representatives shall not communicate with any customers or Employees of the Company regarding employment without the presence or written consent of the Specified Key Employees, *provided* that Acquiror and its Representatives shall be allowed to do the following without the presence or written consent of one of the Specified Key Employees: (A) communicate with customers in the ordinary course of business or in connection with matters unrelated to the acquisition of the Company, and (B) communicate with individual Employees according to a general plan of communication (including providing documentation of employment or consultant offers) as long as such general plan of communication has been approved by one of the Specified Key Employees. The Company agrees to provide to Acquiror and its accountants, counsel and other Representatives copies of internal financial statements (including Tax Returns and supporting documentation) promptly upon request. No information or knowledge obtained in any investigation conducted pursuant to this Section 7.10 or otherwise shall affect or be deemed to qualify, limit, modify, amend or supplement any representation or warranty contained herein or in the Disclosure Schedule, the conditions to the obligations of the parties to consummate the Merger in accordance with the terms and provisions of this Agreement, or the rights of Acquiror or any Indemnified Party under or arising out of a breach of this Agreement.

7.11 Notification of Certain Matters. The Company shall give prompt notice to Acquiror of its actual knowledge of: (a) the occurrence or non-occurrence of any event, the occurrence or non-occurrence of which is likely to cause any representation or warranty of the Company contained in this Agreement to be untrue or inaccurate at or prior to the Effective Time, and (b) any failure of the Company to comply with or satisfy any covenant, condition or agreement to be complied with or satisfied by it

hereunder; *provided, however*, that the delivery of any notice pursuant to this Section 7.11 shall not (a) limit or otherwise affect any remedies available to the party receiving such notice or (b) constitute an acknowledgment or admission of a breach of this Agreement. To the extent that any such notification relates to any fact, matter, circumstance or event first arising after the date of this Agreement that causes or that reasonably could cause such party to be in breach or violation of any representations or warranties contained in this Agreement that are made as of the Closing Date, such notification shall, without affecting the rights of the parties pursuant to the preceding sentence, be effective to qualify and cure any breach of or inaccuracy in, such representation or warranty made as of the Closing Date; provided, first, that any such notification must be received by Acquiror at least two (2) Business Days prior to any scheduled Closing Date (and, unless the Acquiror in its discretion otherwise waives this requirement, the Closing Date will be postponed as necessary to permit at least three (3) Business Days to elapse prior to Closing); and provided, second, that if Company supplements or amends the Schedules between the date hereof and the Closing Date in a manner that would be effective to qualify and cure any breach of or inaccuracy in, any representation or warranty in this Agreement (or certificate furnished to Acquiror hereunder) made on or as of the Closing Date, Acquiror shall have the right to terminate this Agreement prior to Closing pursuant to Section 8.1(e), it being understood that if Acquiror does not terminate this Agreement prior to Closing pursuant to Section 8.1(e), Acquiror will be deemed to have accepted such supplement or amendment to the Schedules.

7.12 Director and Officer Indemnification.

(i) The charter and bylaws (or equivalent organizational documents) of the Surviving Corporation and its Subsidiaries shall contain provisions with respect to indemnification and exculpation from liability that are substantially similar to those set forth in the charter or bylaws (or equivalent organizational documents) of the Company as in effect on the date of this Agreement, which provisions shall not be amended, repealed or otherwise modified for a period of six (6) years after the Closing Date in any manner that would materially and adversely affect the rights thereunder.

(ii) Prior to the Closing, the Company shall obtain a "tail" insurance policy (the "Company D&O Tail Policy"), with a claims period of at least six (6) years from the Closing Date, from an insurance carrier with the same or better credit rating as the Company's current insurance carrier with respect to directors' and officers' insurance, in an amount and scope at least as favorable as the Company's existing policies with respect to matters existing or occurring at or prior to the Closing Date.

(iii) The cost of each of the Company D&O Policy and the Company D&O Tail Policy shall be Third Party Expenses hereunder.

ARTICLE VIII
PRE-CLOSING TERMINATION OF AGREEMENT

8.1 Termination. Except as provided in Section 8.2, this Agreement may be terminated and the Merger abandoned at any time prior to the Closing only:

(a) by mutual agreement of the Company and Acquiror;

(b) by Acquiror if the Requisite Shareholder Approval shall not have been obtained by the Company and delivered to Acquiror within two (2) hours after the execution and delivery of this Agreement by Acquiror and the Company;

(c) by Acquiror or the Company if the Closing Date shall not have occurred by July 15, 2015 (the "End Date"); *provided, however*, that the right to terminate this Agreement under this

Section 8.1(c) shall not be available to any party whose action or failure to act has been a principal cause of or resulted in the failure of the Merger to occur on or before such date and such action or failure to act constitutes a material breach of this Agreement;

(d) by Acquiror or the Company if any Law shall be in effect which has the effect of making the Merger illegal or otherwise permanently prohibits the consummation of the Merger;

(e) by Acquiror if it is not in material breach of its obligations under this Agreement and there has been a breach of or inaccuracy in any representation, warranty, covenant or agreement of the Company contained in this Agreement such that the conditions set forth in Sections 2.2(b)(i) and 2.2(b)(ii) would not be satisfied as of the time of such breach or inaccuracy and such breach or inaccuracy has not been cured within ten (10) calendar days after written notice thereof to the Company; *provided, however*, that no cure period shall be required (i) for a breach or inaccuracy which by its nature cannot be cured or (ii) if any of the conditions to Closing in Sections 2.2(a) and 2.2(b) for the benefit of Acquiror are incapable of being satisfied on or before the End Date; or

(f) by the Company if it is not in material breach of its obligations under this Agreement and there has been a breach of or inaccuracy in any representation, warranty, covenant or agreement of Acquiror contained in this Agreement such that the conditions set forth in Sections 2.2(c)(i) and 2.2(c)(ii) would not be satisfied as of the time of such breach or inaccuracy and such breach or inaccuracy has not been cured within ten (10) calendar days after written notice thereof to Acquiror; *provided, however*, that no cure period shall be required (i) for a breach or inaccuracy which by its nature cannot be cured or (ii) if any of the conditions to Closing in Sections 2.2(a) and 2.2(c) for the benefit of the Company are incapable of being satisfied on or before the End Date.

8.2 Effect of Termination. In the event of termination of this Agreement as provided in Section 8.1, this Agreement shall forthwith become void and there shall be no liability or obligation on the part of Acquiror, Merger Sub or the Company, or their respective officers, directors or shareholders, if applicable, other than in the event of fraud or intentional misrepresentation; *provided, however*, that each party hereto and each Person shall remain liable for any breaches of this Agreement, Related Agreements or in any certificate or other instruments delivered pursuant to this Agreement prior to its termination; and *provided further, however*, that, the provisions of this Section 8.2, Sections 7.7(b) (*Expenses*), Section 11.3 (*Confidentiality*), Section 11.4 (*Public Disclosure*) and Article XI (*General Provisions*) shall remain in full force and effect and survive any termination of this Agreement pursuant to the terms of this Article VIII.

ARTICLE IX
POST-CLOSING INDEMNIFICATION

9.1 Survival of Representations and Warranties

The representations and warranties of the Company set forth in this Agreement or in the Officer's Certificate and the representations and warranties of Acquiror shall survive until 11:59 p.m. (Pacific time) on the date that is twelve (12) months following the Closing Date (the "Survival Date"); *provided, however*, that (i) the representations and warranties of the Company set forth in Section 3.1 (*Organization and Good Standing*), Section 3.2 (*Authority and Enforceability*), Section 3.4 (*Conflicts*), Section 3.5 (*Company Capital Structure*), Section 3.6 (*Company Subsidiaries*) and Section 3.10 (*Tax Matters*) (the representations and warranties of the Company referenced in this clause (i), collectively, the "Company Fundamental Representations") shall survive the Closing and continue in full force and effect until thirty (30) days after the expiration of the statute of limitations applicable to the subject matter of such representations or warranties and (ii) the representations and warranties of the Company set forth in

Section 3.12 (*Intellectual Property*) (together, the "IP and Privacy Representations" and, together with the Company Fundamental Representations, the "Special Representations") shall survive the Closing and continue in full force and effect until 11:59 p.m. on the date that is twenty-four (24) months following the Closing Date. Notwithstanding the foregoing, in the event of fraud or intentional misrepresentation with respect to a representation or warranty, such representation or warranty shall survive indefinitely; *provided, further,* that all representations and warranties of the Company and Acquiror shall survive beyond the Expiration Date with respect to any inaccuracy therein or breach thereof if a claim is made hereunder prior to the Expiration Date, in which case such representation and warranty shall survive as to such claim until such claim has been fully and finally resolved. The date on which a representation or warranty expires is referred to as the "Expiration Date." For the avoidance of doubt, it is the intention of the parties hereto that the foregoing respective survival periods and termination dates supersede any applicable statutes of limitations that would otherwise apply to such representations and warranties under applicable Law. The expiration of any representation and warranty of the Company or Acquiror shall not affect any indemnification claim for breaches of representations or warranties of the Company with respect to the matters set forth in an Indemnity Certificate if an Indemnity Certificate Notice with respect to such indemnification claim is delivered in accordance with Section 9.4 below prior to the Expiration Date of such representation and warranty.

9.2 Indemnification.

(a) From and after the Effective Time and by virtue of the Merger, the Shareholders (the "Company Indemnifying Parties") shall indemnify and hold harmless Acquiror and its directors, officers, employees, affiliates (including the Surviving Corporation), agents and other representatives (the "Acquiror Indemnified Parties") on a several (but not joint) basis in accordance with their Pro Rata Portion, from and against all losses, liabilities, damages, deficiencies, Taxes, judgments, awards, interest, penalties, costs and expenses, including reasonable attorneys' and consultants' fees and expenses and including any such reasonable fees and expenses incurred in connection with investigating, defending against or settling any of the foregoing (hereinafter individually a "Loss" and collectively "Losses") paid, incurred, suffered or sustained by the Indemnified Parties, or any of them (regardless of whether or not such Losses relate to any third party claims), arising out of any of the following:

(i) any breach of or inaccuracy in, as of the date of this Agreement or as of the Effective Time, a representation or warranty of the Company (other than any of the Special Representations) contained in this Agreement or the Officer's Certificate, without giving effect to purposes of calculating Losses, any qualifications based on the word "material" or similar phrases containing the word "material" (including "Company Material Adverse Effect") limiting the scope of such representation or warranty;

(ii) any breach of or inaccuracy in, as of the date of this Agreement or as of the Effective Time, any IP and Privacy Representations, without giving effect to purposes of calculating Losses, any qualifications based on the word "material" or similar phrases containing the word "material" (including "Company Material Adverse Effect") limiting the scope of such IP and Privacy Representation;

(iii) any breach of or inaccuracy in, as of the date of this Agreement or as of the Effective Time, any Company Fundamental Representation, without giving effect to purposes of calculating Losses, any qualifications based on the word "material" or similar phrases containing the word "material" (including "Company Material Adverse Effect") limiting the scope of such Company Fundamental Representation;

(iv) any failure by the Company to perform or comply with any of its covenants or agreements set forth in this Agreement;

(v) the costs of defending against and settling and any third party claims, if the facts and allegations set forth in such Action would give the Indemnified Parties a right of indemnification hereunder if such facts and allegations were accurate;

(vi) regardless of the disclosure of any matter set forth in the Disclosure Schedule, any inaccuracy in any information required to be set forth in the Payment Spreadsheet, including the components thereof relating to Third Party Expenses, Indebtedness, Closing Cash and other calculation that affect the Aggregate Consideration (other than the calculations set forth in the Net Working Capital Certificate).

(vii) regardless of the disclosure of any matter set forth in the Disclosure Schedule, any fraud or intentional misrepresentation on the part of the Company, any Shareholder, any Company Optionholder or the Shareholders' Representative of any of the foregoing in connection with this Agreement, the Merger or the other transactions contemplated hereby;

(viii) any payment in respect of any Dissenting Shares in excess of the consideration that otherwise would have been payable in respect of such shares in accordance with this Agreement, and any other Losses paid, incurred, suffered or sustained in respect of any Dissenting Shares, including all reasonable attorneys' and consultants' fees, costs and expenses and including any such fees, costs and expenses incurred in connection with investigating, defending against or settling any action or proceeding in respect of Dissenting Shares; or

(ix) any Pre-Closing Taxes.

(b) From and after the Effective Time and by virtue of the Merger, Acquiror shall indemnify and hold harmless the Company and its officers, employees, affiliates (including the Surviving Corporation), former directors, agents and other representatives (the "Company Indemnified Parties" and, collectively with the Acquiror Indemnified Parties, the "Indemnified Parties"), from and against all Losses paid, incurred, suffered or sustained by the Company Indemnified Parties, or any of them (regardless of whether or not such Losses relate to any third party claims), directly or indirectly resulting from or arising out of any of the following:

(i) any breach of or inaccuracy in, as of the date of this Agreement or as of the Effective Time, a representation or warranty of Acquiror, without giving effect to (A) for the purposes of calculating Losses, any qualifications based on the word "material" or similar phrases (including "Company Material Adverse Effect") limiting the scope of such representation or warranty or (B) any update of or modification to the Disclosure Schedule made or purported to have been made after the date of this Agreement; and

(ii) any failure by Acquiror to perform or comply with any of its covenants or agreements set forth in this Agreement.

(c) The Company Indemnifying Parties (including any officer or director of the Company) shall not have any right of contribution, indemnification or right of advancement from the Surviving Corporation or Acquiror with respect to any Loss claimed by an Indemnified Party.

(d) Any payments made to an Indemnified Party pursuant to any indemnification obligations under this Article IX will be treated as adjustments to the Aggregate Consideration for Tax

purposes and such agreed treatment will govern for purposes of this Agreement, unless otherwise required by applicable Laws.

(e) Subject to the disclosures in the Disclosure Schedule, the rights of the Indemnified Parties to indemnification, compensation or reimbursement, payment of Losses or any other remedy under this Agreement shall not be affected by any investigation conducted with respect to, or any knowledge acquired (or capable of being acquired) at any time, whether before or after the execution and delivery of this Agreement or the Closing Date, with respect to the accuracy or inaccuracy of or compliance with, any representation, warranty, covenant or agreement made by the Company or any other matter. The waiver of any condition based on the accuracy of any such representation or warranty, or on the performance of or compliance with any such covenant or agreement, will not affect the right to indemnification, compensation or reimbursement, payment of Losses, or any other remedy based on any such representation, warranty, covenant or agreement. No Indemnified Party shall be required to show reliance on any representation, warranty, certificate or other agreement in order for such Indemnified Party to be entitled to indemnification, compensation or reimbursement hereunder. Nothing in this Agreement shall limit the right of Acquiror or any other Indemnified Party to pursue remedies under any Related Agreement against the parties thereto.

9.3 Limitations on Indemnification.

(a)

(i) Except in the case of fraud, intentional misrepresentation or any claims under Sections 9.2(a)(v) relating to any of the Special Representations or any of the Company Fundamental Representations, there shall be no recovery for claims under Sections 9.2(a)(i) or Section 9.2(a)(v) until the aggregate amount of Losses of the Acquiror Indemnified Parties that may be claimed thereunder (together with any Losses that may be claimed under any other subsection of Section 9.2(a)) exceeds [redacted] (the "Threshold"), and once such Threshold has been reached, the Company Indemnifying Parties shall be liable to the Acquiror Indemnified Parties for the amount aggregate Losses that exceed the Threshold; provided that no individual claim shall be counted toward the Threshold or otherwise be payable pursuant to Section 9.2(a)(i) or Section 9.2(a)(v) unless such claim or group of related claims exceeds [redacted] (the "Per Claim Threshold"), and once the Per Claim Threshold has been reached, the entire amount of the individual claim shall be counted toward the Per Claim Threshold or otherwise be payable pursuant to Section 9.2(a)(i) or Section 9.2(a)(v).

(ii) Except in the case of fraud or intentional misrepresentation, there shall be no recovery for claims under Sections 9.2(b)(i) until the aggregate amount of Losses of the Company Indemnified Parties that may be claimed thereunder (together with any Losses that may be claimed under any other subsection of Section 9.2(a)) exceeds the Threshold, and once such Threshold has been reached, Acquiror shall be liable to the Company Indemnified Parties for the amount aggregate Losses that exceed the Threshold; provided that no individual claim shall be counted toward the Threshold or otherwise be payable pursuant to Section 9.2(b)(i) unless such claim or group of related claims exceeds the Per Claim Threshold, and once the Per Claim Threshold has been reached, the entire amount of the individual claim shall be counted toward the Per Claim Threshold or otherwise be payable pursuant to Section 9.2(b).

(b) Except in the case of fraud or intentional misrepresentation,

(i) the Indemnity Escrow Amount shall be the maximum liability of the Company Indemnifying Parties for indemnification claims under Sections 9.2(a)(i) and 9.2(a)(v) to the extent the claim underlying the claim under Section 9.2(a)(v) relates to Section 9.2(i);

(ii) [redacted] (less any other amounts paid for indemnification claims pursuant to this Article IX) shall be the maximum liability of the Company Indemnifying Parties for indemnification claims under Sections 9.2(a)(ii) and 9.2(a)(v) to the extent the claim underlying the claim under Section 9.2(a)(v) relates to the IP and Privacy Representations;

(iii) all claims for indemnification, compensation or reimbursement by any Acquiror Indemnified Party shall be (A) first paid out by the release of cash from the Indemnity Escrow Fund pursuant to and in accordance with this Agreement and the Escrow Agreement to the extent cash in the Indemnity Escrow Fund is available (and not otherwise subject to a demand for indemnification pursuant to this Article IX) and sufficient to satisfy such claim, (B) second, to the extent that the Indemnity Escrow Fund is not sufficient to satisfy such indemnification claims, directly against the Company Indemnifying Parties; *provided, however*, that to the extent any amounts are released from the Indemnity Escrow Fund to any Indemnified Party pursuant to Claims brought pursuant to clauses "(iii)"-"(ix)" and "(xi)" of Section 9.2(a), inclusive, such recovered amounts shall not reduce the amount that the Acquiror Indemnified Parties may recover pursuant to clauses "(i)" and "(ii)" of Section 9.2(a);

(iv) amounts remaining in the Escrow Funds shall be the maximum liability of Acquiror for indemnification claims under Section 9.2(b).

(c) In the event of fraud or intentional misrepresentation, the Acquiror Indemnified Parties shall be entitled to bring indemnification claims directly against the Company Indemnifying Parties; *provided, however*, that in no event shall the liability of any Company Indemnifying Party for any fraud or intentional misrepresentation exceed the Pro Rata Portion of the Aggregate Consideration paid to such Company Indemnifying Party hereunder (but for such fraud or intentional misrepresentation), unless any such Company Indemnifying Party either committed or had actual knowledge of such fraud or intentional misrepresentation at the time of its commission (in which event there shall be no limitation on the liability of such Indemnifying Party). For the purpose of valuing the Merger Stock Consideration paid to an Indemnifying Party the Merger Share Value shall be used.

(d) Nothing in this Agreement shall limit the liability of any Person in connection with a claim based on fraud or intentional misrepresentation committed by such Person or with the actual knowledge of such Person of such fraud or intentional misrepresentation at the time of its commission.

(e) Payments by a Company Indemnifying Party or Acquiror, as applicable, pursuant to Article IX in respect of any Losses shall be limited to the amount of any liability or damage that remains after deducting therefrom an amount equal to (i) the amount by which any insurance proceeds actually received by the Indemnified Party in respect of any such claim actually exceed the total Losses of the Indemnified Parties claimed by the Indemnified Parties with respect to such matter, less (ii) that portion of the policy premium increase in future policy periods that results directly from the assertion of such claim, as determined by (x) direct correspondence from the Indemnified Party's insurance carrier or insurance broker to the Indemnified Party, or (y) if the Indemnified Party's insurance carrier or insurance broker, despite the good faith efforts of the Indemnified Party to obtain such correspondence, provides no such correspondence, by the Indemnified Party's good faith estimate of such amount. The Indemnified Party shall use its commercially reasonable efforts to recover under applicable insurance policies for any Losses.

(f) Notwithstanding anything herein to the contrary, each of the parties hereto agrees to use its commercially reasonable efforts to mitigate any Losses that are subject to a claim for indemnification under this Article IX.

(g) No Indemnifying Party shall be liable to any Indemnified Party for punitive, exemplary or special damages, including with respect to loss of business reputation or opportunity relating to the breach or alleged breach of this Agreement, or diminution of value or any damages based on any type of multiple; provided, that the foregoing shall not be construed to preclude recovery by an Indemnified Party in respect of amounts actually paid by such Indemnified Party with respect to a Third Party Claim.

9.4 Escrow Arrangements.

(a) Indemnity Escrow Fund. By virtue of this Agreement and as partial security for the indemnity obligations provided for in Section 9.2, at the Effective Time, Acquiror will deposit with the Escrow Agent the Escrow Consideration without any action of or by the Company Indemnifying Parties. Such deposit of the Escrow Consideration will constitute the establishment of the Indemnity Escrow Fund to be governed by the terms set forth herein and the Escrow Agreement. The Indemnity Escrow Fund shall be available to compensate the Indemnified Parties for any claims by such parties for any Losses suffered or incurred by them and for which they are entitled to recovery under this Article IX. Any interest accruing on the Escrow Consideration shall be held in the Indemnity Escrow Fund, and be available to cover claims for Losses until distributed upon termination of the Indemnity Escrow Fund. Any such interest shall be distributed to Acquiror (to the extent earned or paid with respect to cash in the Indemnity Escrow Fund distributed to Acquiror to cover Losses pursuant to the Article IX) or, to the extent not paid to Acquiror, pro rata to the Shareholders upon termination of the Indemnity Escrow Fund, such that any interest earned on any cash in the Indemnity Escrow Fund generally follows the ultimate recipient of the cash on which such interest was earned (subject to the reporting and distribution covenants set forth in Section 9.4(c)(i)). The Indemnity Escrow Fund shall be invested in accordance with the Escrow Agreement.

(b) Escrow Period; Release upon Termination of Escrow Period. Subject to the following requirements, the Indemnity Escrow Fund shall terminate at 11:59 p.m. (Pacific time) on the date that is five (5) Business Days after the Survival Date (the "Escrow Period"), and the Escrow Agent shall release the remaining amounts in the Indemnity Escrow Fund, if any, to the Company Indemnifying Parties in proportion to their respective Pro Rata Portions following such termination; *provided, however*, that the Indemnity Escrow Fund shall not terminate with respect to any amount in respect of any unsatisfied claims specified in any Indemnity Certificate ("Unresolved Claims") delivered by Acquiror prior to the Survival Date, and any such amounts shall not be released to the Company Indemnifying Parties at such time and shall continue to be held by the Escrow Agent. As soon as reasonably practicable after all such Unresolved Claims have been resolved, the Escrow Agent shall deliver the remaining portion of the Indemnity Escrow Fund, if any, not required to satisfy such Unresolved Claims, to the Company Indemnifying Parties in accordance with their Pro Rata Portions.

(c) Tax Reporting Information and Certification of Tax Identification Numbers.

(i) The parties hereto agree that, for Tax reporting purposes, Acquiror shall be treated as the owner of any cash in the Indemnity Escrow Fund, and all interest on or other taxable income, if any, earned from the investment of such cash pursuant to this agreement shall be treated for Tax purposes as earned by Acquiror until the Indemnity Escrow Fund is distributed in accordance with this Agreement. The Escrow Agent is hereby directed to pay to Acquiror out of the Indemnity Escrow Fund, as soon as reasonably practicable following the reporting of any such income to Acquiror, a distribution equal to 40% of the amount of such net income reported to Acquiror. Upon the release of the cash in the Indemnity Escrow Fund, a portion of any cash distributed to the Shareholders shall be treated as interest under the imputed interest rules of the Code.

(ii) The parties hereto agree to provide the Escrow Agent with a certified tax identification number by signing and returning an IRS Form W-9 (or applicable IRS Form W-8, in case of non-U.S. persons) to the Escrow Agent upon the execution and delivery of this Agreement.

(d) Claims for Indemnification.

(i) Subject to Section 9.4(e)(i) below, upon receipt by the Escrow Agent at any time on or before the last day of the Escrow Period of an Indemnity Certificate, the Escrow Agent shall, subject to the provisions of Section 9.4(e) and Section 9.4(f), deliver to Acquiror or the Shareholders in accordance with their Pro Rata Portion, as applicable, as promptly as practicable, an amount of cash equal to such Losses. The date of such delivery of an Indemnity Certificate is referred to herein as the "Claim Date." For the purposes hereof, "Indemnity Certificate" shall mean a certificate delivered on behalf of an Indemnified Party (A) stating that an Indemnified Party has paid, sustained, incurred or properly accrued, or reasonably anticipates that it will have to pay, sustain, incur or accrue, any amount of Losses; and (B) specifying in reasonable detail the individual items of Losses included in the amount so stated, the date each such item was paid, sustained, incurred or properly accrued, or the basis for such anticipated liability, and, if applicable, the nature of the misrepresentation or breach of warranty or covenant to which such item is related, in each case, to the extent such information is available to such Indemnified Party.

(ii) In the event that an Indemnified Party pursues a claim directly against any Person, subject to the provisions of Section 9.3, Section 9.4(e) and Section 9.4(f), such Indemnified Party shall deliver an Indemnity Certificate to such Person from whom indemnification is sought, and such Company Indemnifying Party or Acquiror, as applicable, shall promptly, and in no event later than thirty (30) days after delivery of such Indemnity Certificate, make payment by wire transfer of immediately available funds to the applicable Indemnified Party an amount of cash equal to the amount of the Loss.

(e) Objections to Claims against the Indemnity Escrow Fund.

(i) The Escrow Agent shall hold and safeguard the Indemnity Escrow Funds during the Escrow Period, shall treat such funds as a trust fund in accordance with the terms of this Agreement and shall hold and dispose of the Indemnity Escrow Funds only in accordance with the terms of this Article IX. At the time of delivery of any Indemnity Certificate to the Escrow Agent, a duplicate copy of such certificate shall be delivered by the Indemnified Party to the Shareholders' Representative or Acquiror, as applicable (or, if a claim is being made directly against any Person, such Person) and for a period of thirty (30) days after the Claim Date, the Escrow Agent shall make no delivery to Acquiror of any portion of the Indemnity Escrow Fund pursuant to Section 9.4(d) unless the Escrow Agent shall have received written authorization from the Shareholders' Representative to make such delivery. After the expiration of such thirty (30) day period, the Escrow Agent shall make delivery of cash from the Indemnity Escrow Fund equal to the amount of Losses claimed in the Indemnity Certificate, *provided* that no such payment or delivery may be made if the Shareholders' Representative (or, if a claim is being made directly against any Person, such Person) shall object in a written statement to the claim made in the Indemnity Certificate (an "Objection Notice"), *provided further* that, to be effective, such Objection Notice must (A) be delivered to the Indemnified Party and the Escrow Agent prior to 5:00 p.m. (Pacific time) on the thirtieth (30th) day following the Claim Date of such Indemnity Certificate (such deadline, the "Objection Deadline" for such Indemnity Certificate and the claims for indemnification contained therein) and (B) set forth in reasonable detail the nature of the objections to the claims in respect of which the objection is made.

(ii) If the Shareholders' Representative (or, if a claim is being made directly against any Person, such Person) does not object in writing (as provided in Section 9.4(e)(i)) to the claims contained in an Indemnity Certificate prior to the Objection Deadline for such Indemnity Certificate, such failure to object shall be an irrevocable acknowledgment by the Shareholders' Representative and the Company Indemnifying Parties or Acquiror, as applicable (or, if a claim is being made directly against any Person, such Person) that the Indemnified Party is entitled to the full amount of the claims for Losses set forth in such Indemnity Certificate (and such entitlement shall be conclusively and irrefutably established).

(f) Resolution of Conflicts; Arbitration.

(i) In the event that the Shareholders' Representative (or, if a claim is being made directly against any Person, such Person) or Acquiror, as applicable, delivers an Objection Notice in accordance with Section 9.4(e), the Shareholders' Representative and Acquiror shall attempt in good faith to agree upon the rights of the respective parties with respect to each such claim. If the Shareholders' Representative (or, if a claim is being made directly against any Person, such Person) and Acquiror should so agree, a memorandum setting forth such agreement shall be prepared and signed by both parties and, in the case of a claim against the Indemnity Escrow Fund, shall be furnished to the Escrow Agent. The Escrow Agent shall be entitled to rely on any such memorandum and make distributions from the Indemnity Escrow Fund in accordance with the terms thereof.

(ii) If no such agreement can be reached after good faith negotiation and prior to thirty (30) days after delivery of an Objection Notice, either Acquiror or the Shareholders' Representative (or, if a claim is being made directly against any Person, such Person) may demand arbitration of the matter unless the amount of the Loss that is at issue is the subject of pending litigation with a third party, in which event arbitration shall not be commenced until such amount is ascertained or both parties agree to arbitration, and in either such event the matter shall be settled by arbitration conducted by one arbitrator reasonably agreeable to Acquiror and the Shareholders' Representative (or, if a claim is being made directly against any Person, such Person).

(iii) Any such arbitration shall be held in Orange County, California, under the Comprehensive Arbitration Rules and Procedures of JAMS ("JAMS"). The arbitrator shall determine how all expenses relating to the arbitration shall be paid, including the respective expenses of each party, the fees of the arbitrator and the administrative fee of JAMS. The arbitrator shall set a limited time period and establish procedures designed to reduce the cost and time for discovery while allowing the parties an opportunity, adequate in the sole judgment of the arbitrator to discover relevant information from the opposing parties about the subject matter of the dispute. The arbitrator shall rule upon motions to compel or limit discovery and shall have the authority to impose sanctions, including attorneys' fees and costs, to the same extent as a competent court of law or equity, should the arbitrator determine that discovery was sought without substantial justification or that discovery was refused or objected to without substantial justification. The decision of the arbitrator as to the validity and amount of any claim in such Indemnity Certificate shall be final, binding, and conclusive upon the parties to this Agreement and the Company Indemnifying Parties. Such decision shall be written and shall be supported by written findings of fact and conclusions that shall set forth the award, judgment, decree or order awarded by the arbitrator, and the Escrow Agent shall be entitled to rely on, and make distributions from the Indemnity Escrow Fund in accordance with, the terms of such award, judgment, decree or order. Within thirty (30) days of a decision of the arbitrator requiring payment by one party to another, such party shall make the payment to such other party, including any distributions out of the Indemnity Escrow Fund, as applicable.

(iv) Judgment upon any award rendered by the arbitrator may be entered in any court having jurisdiction. Except as set forth in Section 9.4(g), the forgoing arbitration provision shall

apply to any dispute among the any Indemnifying Party and the Indemnified Parties under this Article IX, whether relating to claims upon the Indemnity Escrow Fund or to the other indemnification obligations set forth in this Article IX.

(g) Third Party Claims. To be entitled under this Agreement to indemnification in respect of a claim or demand by another Person (a "Third Party Claim"), an Indemnified Party must deliver to the Indemnifying Party prompt written notice thereof specifying, to the extent then known by the Indemnified Party, the amount of such claim, the nature and basis of such claim and all relevant facts and circumstances relating thereto, including copies of all notices and documents (including court papers) received by the Indemnified Party relating to the Third Party Claim; provided, that the failure of any Indemnified Party to give such notice shall not relieve any Indemnifying Party of its obligations under this Article IX except to the extent that such Indemnifying Party is materially prejudiced by such failure to give notice. Thereafter, the Indemnified Party shall keep the Indemnifying Party informed on a reasonably current basis as to any changes or developments with respect to the foregoing, including providing copies of all notices and documents (including court papers) from time to time received by the Indemnified Party relating to the Third Party Claim. If a Third Party Claim is made against an Indemnified Party, the Company Indemnifying Party shall be entitled to participate in the defense thereof at its own cost by providing written notice to Acquiror within twenty (20) Business Days of receiving notice of such Third Party Claim. The Acquiror shall control all Third Party Claims. Each Party shall reasonably cooperate in the defense or prosecution of such Third Party Claim. Such cooperation shall include the retention and the provision of records and information which are reasonably relevant to such Third Party Claim, and making employees available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder. No compromise or settlement of any Third Party Claim may be effected by the Indemnifying Party without the Indemnified Party's consent, which shall not be unreasonably withheld, conditioned or delayed. The Indemnifying Party shall have no indemnification obligations with respect to any Third Party Claim which is settled by the Indemnified Party without the prior written consent of the Indemnifying Party, so long as such consent is not unreasonably withheld, conditioned or delayed.

(h) Sole and Exclusive Remedy. Except in the case of fraud or intentional misrepresentation, and without limiting any rights to specific performance, following the Closing an Indemnified Party's exclusive remedy for Losses arising out of any breach of any representation, warranty, agreement or covenant of another Party contained in this Agreement or any certificate delivered pursuant to the terms and conditions hereof shall be indemnification pursuant to this Article IX.

ARTICLE X
SHAREHOLDERS' REPRESENTATIVE

10.1 Appointment and Authority of Shareholders' Representative.

(a) By virtue of the execution and delivery of a Joinder Agreement, and the adoption of this Agreement and approval of the Merger by the Shareholders, each of the Company Indemnifying Parties shall be deemed to have agreed to appoint Todd Mezrah as its agent and attorney-in-fact, as the Shareholders' Representative for and on behalf of the Company Indemnifying Parties to give and receive notices and communications in respect of indemnification claims under this Agreement or any of the transactions and other matters contemplated hereby or thereby, to authorize Acquiror to effect the forfeiture of the necessary portion of the Indemnity Escrow Fund in satisfaction of any indemnification claims asserted by any Company Indemnified Party, to object to such forfeiture, to agree to, negotiate, enter into settlements and compromises of, and demand arbitration and comply with orders of courts and awards of the arbitrator with respect to any such indemnification claims, to assert, negotiate, enter into settlements and compromises of, and demand arbitration and comply with orders of courts and awards of

the arbitrator with respect to, any such indemnification claim by any Acquiror Indemnified Party hereunder against any Company Indemnifying Party or by any such Company Indemnifying Party against any Acquiror Indemnified Party or any dispute between any Acquiror Indemnified Party and any such Company Indemnifying Party, in each case relating to this Agreement or the transactions contemplated hereby, and to take all other actions that are either (i) necessary or appropriate in the judgment of the Shareholders' Representative for the accomplishment of the foregoing or (ii) specifically mandated by the terms of this Agreement. The Shareholders' Representative may resign at any time and such agency may be changed by the Company Indemnifying Parties from time to time upon not less than thirty (30) days prior written notice to Acquiror; *provided, however*, that the Shareholders' Representative may not be removed unless holders of a two-thirds interest of the Indemnity Escrow Fund agree to such removal and to the identity of the substituted agent. Notwithstanding the foregoing, a vacancy in the position of Shareholders' Representative may be filled by the holders of a majority in interest of the Indemnity Escrow Fund. No bond shall be required of the Shareholders' Representative. Notices or communications to or from the Shareholders' Representative shall constitute notice to or from the Company Indemnifying Parties.

10.2 Exculpation and Indemnification of Shareholders' Representative. The Shareholders' Representative shall not be liable for any act done or omitted hereunder as Shareholders' Representative while acting in good faith and in the exercise of reasonable judgment. The Company Indemnifying Parties shall jointly and severally indemnify the Shareholders' Representative and hold the Shareholders' Representative harmless against any loss, liability, or expense incurred without gross negligence or had faith on the part of the Shareholders' Representative and arising out of or in connection with the acceptance or administration of the Shareholders' Representative's duties hereunder, including the reasonable fees and expenses of any legal counsel retained by the Shareholders' Representative ("Shareholders' Representative Expenses"). If not paid directly to the Shareholders' Representative by the Company Indemnifying Parties, such Shareholders' Representative Expenses may be recovered by the Shareholders' Representative from the Indemnity Escrow Fund otherwise distributable to the Company Indemnifying Parties (and not distributed or distributable to an Acquiror Indemnified Party or subject to a pending indemnification claim of an Acquiror Indemnified Party) pursuant to the terms hereof, at the time of distribution, and such recovery will be made from the Company Indemnifying Parties; provided, that while this section allows the Shareholders' Representative to be paid from the Indemnity Escrow Fund, this does not relieve the Company Indemnifying Parties from their obligation to promptly pay such Shareholders' Representative Expenses as they are suffered or incurred, nor does it prevent the Shareholders' Representative from seeking any remedies available to it at law or otherwise. In no event will the Shareholders' Representative be required to advance its own funds on behalf of the Company Indemnifying Parties or otherwise. The Company Indemnifying Parties acknowledge and agree that the foregoing indemnities will survive the resignation or removal of the Shareholders' Representative or the termination of this Agreement. A decision, act, consent or instruction of the Shareholders' Representative, including an amendment, extension or waiver of this Agreement pursuant to Section 11.5 or Section 11.6, shall constitute a decision of the Company Indemnifying Parties and shall be final, conclusive and binding upon the Shareholders; and Acquiror may rely upon any such decision, act, consent or instruction of the Shareholders' Representative as being the decision, act, consent or instruction of the Company Indemnifying Parties. Acquiror is hereby relieved from any liability to any person for any acts done by them in accordance with such decision, act, consent or instruction of the Shareholders' Representative.

ARTICLE XI
GENERAL PROVISIONS

11.1 Certain Interpretations. When a reference is made in this Agreement to an Annex, Exhibit or Schedule, such reference shall be to an Annex, Schedule or Exhibit to this Agreement unless otherwise indicated. When a reference is made in this Agreement to an Article or a Section, such reference shall be

to an Article or a Section of this Agreement unless otherwise indicated. The words "include," "includes" and "including" when used herein shall be deemed in each case to be followed by the words "without limitation." The table of contents and headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. The parties hereto agree that they have been represented by counsel during the negotiation and execution of this Agreement and, therefore, waive the application of any law, regulation, holding or rule of construction providing that ambiguities in an agreement or other document will be construed against the party drafting such agreement or document.

11.2 Notices. All notices and other communications hereunder shall be in writing and shall be deemed given if delivered personally or by commercial messenger or courier service, or mailed by registered or certified mail (return receipt requested) or sent via facsimile (with acknowledgment of complete transmission) to the parties at the following addresses (or at such other address for a party as shall be specified by like notice or, if specifically provided for elsewhere in this Agreement, by email); *provided, however*, that notices sent by mail will not be deemed given until received:

(a) if to Acquiror or Merger Sub, to:

Nintex USA, LLC
10800 NE 8th Street, Suite 400
Bellevue, WA 98004
Attention: Jeff Christianson
Facsimile No.: (425) 458-0105

with a copy (which shall not constitute notice) to:

Wilson Sonsini Goodrich & Rosati
701 Fifth Avenue, Suite 5100
Seattle, Washington 98104
Attention: Patrick Schultheis
Facsimile No.: (206) 883-2699

(b) if to the Company (prior to the Closing), to:

Drawloop Technologies, Inc.
1 Post, Suite 175
Irvine, California 92618
Attention: James Roberson
Facsimile No.: (949) 266-9120

with a copy (which shall not constitute notice) to:

Buchalter Nemer
1000 Wilshire Boulevard, Suite 1500
Los Angeles, California 90017
Attention: Jeremy Weitz
Facsimile No.: (213) 630-5651

(c) if to the Shareholders' Representative, to:

Todd Mezrah
c/o Mezrah Consulting
5350 W. Kennedy Blvd., Suite Two
Tampa, Florida 33609
Facsimile No.: (813) 433-2488

with a copy (which shall not constitute notice) to:

Buchalter Nemer
1000 Wilshire Boulevard, Suite 1500
Los Angeles, California 90017
Attention: Jeremy Weitz
Facsimile No.: (213) 630-5651

11.3 Confidentiality. Each of the parties hereto hereby agrees that the information obtained in any investigation pursuant to Section 7.10 or any information obtained pursuant to the notice requirements of Section 7.11, or otherwise pursuant to the negotiation and execution of this Agreement or the effectuation of the transactions contemplated hereby, shall be governed by the terms of the Confidentiality Agreement dated as of April 3, 2015 (the "Confidential Disclosure Agreement"), between the Company and Acquiror.

11.4 Public Disclosure. Neither the Company nor any of its Representatives shall issue any public statement or communication to any third party (other than its agents that are bound by confidentiality restrictions) regarding the subject matter of this Agreement or the transactions contemplated hereby, including, if applicable, the termination of this Agreement and the reasons therefor, without the consent of Acquiror; provided, Acquiror shall not be entitled to state Aggregate Consideration or make a public statement containing the overall value of the transaction contemplated hereby or the consideration payable to the Shareholders or Company Optionholders unless required to by applicable Law (including any public disclosure requirements under the Securities Act of 1933, as amended).

11.5 Amendment. This Agreement may be amended by the parties hereto at any time by execution of an instrument in writing signed on behalf of the party against whom enforcement is sought. For purposes of this Section 11.5, the shareholders are deemed to have agreed that any amendment of this Agreement signed by the Shareholders' Representative shall be binding upon and effective against the shareholders whether or not they have signed such amendment.

11.6 Extension and Waiver. At any time prior to the Closing, Acquiror, on the one hand, and the Company and the Shareholders' Representative, on the other hand, may, to the extent legally allowed, (a) extend the time for the performance of any of the obligations of the other party hereto, (b) waive any inaccuracies in the representations and warranties made to such party contained herein or in any document delivered pursuant hereto, and (c) waive compliance with any of the covenants, agreements or conditions for the benefit of such party contained herein. Any agreement on the part of a party hereto to any such extension or waiver shall be valid only if set forth in an instrument in writing signed on behalf of such party. For purposes of this Section 11.6, the shareholders are deemed to have agreed that any extension or waiver signed by the Shareholders' Representative shall be binding upon and effective against all shareholders whether or not they have signed such extension or waiver.

11.7 Assignment. This Agreement shall not be assigned by operation of law or otherwise, except that Acquiror may assign its rights and delegate its obligations hereunder to its Affiliates as long as Acquiror remains ultimately liable for all of Acquiror's obligations hereunder.

11.8 Severability. In the event that any provision of this Agreement or the application thereof, becomes or is declared by a court of competent jurisdiction to be illegal, void or unenforceable, the remainder of this Agreement will continue in full force and effect and the application of such provision to other persons or circumstances will be interpreted so as reasonably to effect the intent of the parties hereto. The parties further agree to replace such void or unenforceable provision of this Agreement with a valid and enforceable provision that will achieve, to the extent possible, the economic, business and other purposes of such void or unenforceable provision.

11.9 Specific Performance and Other Remedies.

(a) The parties to this Agreement agree that, in the event of any breach or threatened breach by the other party or parties hereto, any securityholder or the Shareholders' Representative of any covenant, obligation or other agreement set forth in this Agreement, (i) each party shall be entitled, without any proof of actual damages (and in addition to any other remedy that may be available to it), to a decree or order of specific performance or mandamus to enforce the observance and performance of such covenant, obligation or other agreement and an injunction preventing or restraining such breach or threatened breach, and (ii) no party hereto shall be required to provide or post any bond or other security or collateral in connection with any such decree, order or injunction or in connection with any related action or legal proceeding.

(b) Except as otherwise set forth herein, any and all remedies herein expressly conferred herein upon a party hereto shall be deemed to be cumulative with, and not exclusive of, any other remedy conferred hereby, or by law or in equity upon such party, and the exercise by a party hereto of any one remedy will not preclude the exercise of any other remedy.

(c) The liability of any Person under Article IX will be in addition to, and not exclusive of, any other liability that such Person may have at law or in equity based on such Person's fraudulent acts or omissions or intentional misrepresentation. Notwithstanding anything to the contrary contained in this Agreement, none of the provisions set forth in this Agreement, including the provisions set forth in Article IX, shall be deemed a waiver by any party to this Agreement of any right or remedy which such party may have at law or in equity based on any other Person's fraudulent acts or omissions or intentional misrepresentation, nor will any such provisions limit, or be deemed to limit (i) the amounts of recovery sought or awarded in any such claim for fraud or intentional misrepresentation (ii) the time period during which a claim for fraud or intentional misrepresentation may be brought or (iii) the recourse which any such party may seek against another Person with respect to a claim for fraud or intentional misrepresentation.

11.10 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, regardless of the laws that might otherwise govern under applicable principles of conflicts of laws thereof, except to the extent that provisions of Florida Law are mandatorily applicable to the Merger.

11.11 Exclusive Jurisdiction. Subject to Section 9.4, each of the parties hereto irrevocably consents to the exclusive jurisdiction and venue of the Courts of Orange County in the State of California in connection with any matter based upon or arising out of this Agreement, the Merger and the other transactions contemplated by this Agreement or any other matters contemplated herein (or, only if the Courts of Orange County in the State of California decline to accept jurisdiction over a particular matter,

any federal court within the State of California). Subject to Section 9.4, each party agrees not to commence any legal proceedings related hereto except in the Courts of Orange County in the State of California (or, only if the Courts of Orange County in the State of California decline to accept jurisdiction over a particular matter, in any federal court within the State of California). By execution and delivery of this Agreement, subject to Section 9.4, each party hereto and the securityholders irrevocably and unconditionally submits to the exclusive jurisdiction of such courts and to the appellate courts therefrom solely for the purposes of disputes arising under the this Agreement and not as a general submission to such jurisdiction or with respect to any other dispute, matter or claim whatsoever. The parties hereto and the securityholders irrevocably consent to the service of process out of any of the aforementioned courts in any such action or proceeding by the delivery of copies thereof by overnight courier to the address for such party to which notices are deliverable hereunder. Any such service of process shall be effective upon delivery. Nothing herein shall affect the right to serve process in any other manner permitted by applicable law. The parties hereto and the securityholders hereby waive any right to stay or dismiss any action or proceeding under or in connection with this Agreement brought before the foregoing courts on the basis of (i) any claim that it is not personally subject to the jurisdiction of the above-named courts for any reason, or that it or any of its property is immune from the above-described legal process, (ii) that such action or proceeding is brought in an inconvenient forum, that venue for the action or proceeding is improper or that this Agreement may not be enforced in or by such courts, or (iii) any other defense that would hinder or delay the levy, execution or collection of any amount to which any party hereto is entitled pursuant to any final judgment of any court having jurisdiction.

11.12 Waiver of Jury Trial. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY AND ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT, OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE ACTIONS OF ANY PARTY HERETO IN NEGOTIATION, ADMINISTRATION, PERFORMANCE OR ENFORCEMENT OF THIS AGREEMENT.

11.13 Entire Agreement. This Agreement, Annex A hereto, the Exhibits and Schedules hereto, the Disclosure Schedule, the Related Agreements, and the documents and instruments and other agreements among the parties hereto referenced herein constitute the entire agreement among the parties hereto with respect to the subject matter of this Agreement and supersede all prior agreements and understandings both written and oral, among the parties with respect to the subject matter of this Agreement, and are not intended to confer upon any other person any rights or remedies hereunder.

11.14 Counterparts. This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other party, it being understood that all parties need not sign the same counterpart. The exchange of a fully executed Agreement (in counterparts or otherwise) by electronic transmission in .PDF format or by facsimile shall be sufficient to bind the parties to the terms and conditions of this Agreement.

[*Remainder of Page Intentionally Left Blank*]

IN WITNESS WHEREOF, Acquiror, Parent, Merger Sub, the Company and the Shareholders' Representative have caused this Agreement to be executed as of the date first written above.

NINTEX USA, LLC

By: _____
Name: Jeffrey Christianson
Title: Manager

NINTEX GLOBAL LIMITED
(solely for the purposes of Sections 2.3(b)(ii)-(iv))

By: _____
Name: Wayne Woolston
Title: Director

SEAHAWK ACQUISITION SUB, INC.

By: _____
Name: John Burton
Title: President

DRAWLOOP TECHNOLOGIES, INC.

By: _____
Name:
Title:

SHAREHOLDERS' REPRESENTATIVE

_____
Todd Mezrah

IN WITNESS WHEREOF, Acquiror, Parent, Merger Sub, the Company and the Shareholders' Representative have caused this Agreement to be executed as of the date first written above.

NINTEX USA, LLC

By: _____
Name:
Title:

NINTEX GLOBAL LIMITED
(solely for the purposes of Sections 2.3(b)(ii)-(iv))

By: _____
Name:
Title:

SEAHAWK ACQUISITION SUB, INC.

By: _____
Name:
Title:

DRAWLOOP TECHNOLOGIES, INC.

By: _____
Name: James Roberson
Title: President

SHAREHOLDERS' REPRESENTATIVE

_____
Todd Mezrah

IN WITNESS WHEREOF, Acquiror, Parent, Merger Sub, the Company and the Shareholders' Representative have caused this Agreement to be executed as of the date first written above.

NINTEX USA, LLC

By: _____
Name:
Title:

NINTEX GLOBAL LIMITED
(solely for the purposes of Sections 2.3(b)(ii)-(iv))

By: _____
Name:
Title:

SEAHAWK ACQUISITION SUB, INC.

By: _____
Name:
Title:

DRAWLOOP TECHNOLOGIES, INC.

By: _____
Name:
Title:

SHAREHOLDERS' REPRESENTATIVE

_____
Todd Mezrah

ANNEX A
CERTAIN DEFINED TERMS

"Accredited Investor" shall mean a Shareholder that is an "accredited investor" as defined in Rule 501 promulgated under Regulation D of the Securities Act.

"Action" shall mean any action, suit, claim, complaint, litigation, investigation, audit, proceeding, arbitration or other similar dispute.

"Affiliate" of any Person shall mean another Person that directly or indirectly through one of more intermediaries' controls, is controlled by or is under common control with, such first Person.

"Aggregate Consideration" shall mean the *sum* of (i) the Merger Cash Consideration, (ii) the Aggregate Cash Value of Merger Stock Consideration, and (iii) the Escrow Consideration.

"Aggregate Cash Value of Adjusted Merger Stock Consideration" shall mean the Aggregate Cash Value of Unadjusted Merger Stock Consideration *minus* the Total Unaccredited Cash Adjustment.

"Aggregate Cash Value of Unadjusted Merger Stock Consideration" shall mean [redacted].

"Behavioral Data" shall mean data collected from an IP address, web beacon, pixel tag, ad tag, cookie, JavaScript, local storage object, software, or by any other means, or from a particular computer, Web browser, mobile telephone, or other device or application, where such data (i) is collected from a particular computer or device regarding Web viewing or other activities; or (ii) is or may be used to identify or contact an individual, device, or application (including by means of an advertisement or other content), to develop a profile or record of the activities of an individual, device, or application across multiple websites or online services, to predict or infer the preferences, interests, or other characteristics of an individual, device, or application, or a user thereof, or to target advertisements or other content to an individual, device, or application.

"Business Day" shall mean each day that is not a Saturday, Sunday or other day on which banking institutions located in the State of California are authorized or obligated by law or executive order to close.

"Closing Cash" shall mean the aggregate amount of all cash held by the Company as of immediately prior to the Closing under GAAP, *minus* the aggregate amount of cash needed to fund checks, drafts, draws and any electronic disbursements written or ordered by the Company but not cleared prior to the Closing (including in respect of any payment of Indebtedness to be made by the Company prior to Closing); provided; however, that Closing cash shall not include any restricted cash.

"Closing Indebtedness" shall mean the aggregate amount of all outstanding Indebtedness (including principal and accrued and unpaid interest) of the Company as of immediately prior to the Effective Time, including any penalties or premiums that would be associated with the full repayment and retirement of such Indebtedness (whether prior to, as of, or following the Effective Time).

"COBRA" shall mean the continuation coverage requirements for "group health plans" under Title X of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, and as codified in Code Section 4980B and Sections 601 through 608 of ERISA, and any similar and applicable state or local statute, and, in each case, any official guidance promulgated thereunder.

"Code" shall mean the Internal Revenue Code of 1986, as amended.

"Company Capital Stock" shall mean the Company Common Stock and any other shares of capital stock, if any, of the Company, taken together.

"Company Common Stock" shall mean shares of common stock, par value $.001 per share, of the Company.

"Company Employee Plan" shall mean any plan, program, policy, practice, contract, agreement or other arrangement, whether written or unwritten, providing for compensation, severance, change of control, termination pay, retention, deferred compensation, performance awards, equity, stock or stock-related awards, phantom stock or bonus awards, welfare benefits, retirement benefits, fringe benefits, vacation, health, medical, profit sharing, payroll practice or other pay or employee benefits or remuneration of any kind, whether funded or unfunded, including, but not limited to, each "employee benefit plan," within the meaning of Section 3(3) of ERISA (whether or not subject to ERISA) which is or has been maintained, contributed to, or required to be contributed to, by the Company or any ERISA Affiliate for the benefit of any Employee, or with respect to which the Company or any ERISA Affiliate has or may have any liability or obligation, including any International Employee Plan.

"Company IP" shall mean any and all Intellectual Property Rights that are owned or purported to be owned by the Company.

"Company Material Adverse Effect" shall mean any change, event, violation, inaccuracy, circumstance or effect (any such item, an "Effect"), individually or when taken together with all other Effects that have occurred prior to the date of determination of the occurrence of the Company Material Adverse Effect, that is or is reasonably likely to (i) materially impede the authority of the Company to consummate the transactions contemplated by this Agreement in accordance with the terms of this Agreement and Laws, or (ii) be materially adverse to the business, assets (including intangible assets), financial condition or operations of the Company taken as a whole, other than any event, change or effect arising out of, resulting from or attributable to (a) changes in conditions in the United States or global economy or capital or financial markets generally, including changes in interest or exchange rates, *provided* that such changes or conditions do not have materially disproportionate or unique effect on the Company relative to other companies operating in the industry in which the Company conducts business, (b) changes affecting the Company's industry generally, *provided* that such changes do not have a materially disproportionate or unique effect on the Company relative to other companies operating in such industry, (c) changes in general legal, regulatory, political, economic or business conditions or changes in generally accepted accounting principles that, in each case, generally affect the industry in which the Company conducts business, *provided* that such changes do not have a materially disproportionate or unique effect on the Company relative to other companies operating in such industry, (d) acts of war (declared or not), sabotage, hostilities or terrorism, or any escalation or worsening of any such acts of war, sabotage or terrorism threatened or underway as of the date of this Agreement, (e) earthquakes or other natural disasters, and (f) any material changes first adopted following the date of this Agreement in any Tax, securities or other applicable Laws that do not disproportionately impact the Company when compared with other businesses operating in the same industry.

"Company Net Working Capital" shall mean (a) the sum of the Company's current assets as of the Closing Date *minus* (b) the sum of the Company's current liabilities as of the Closing, calculated in accordance with GAAP and in accordance with the methodology set forth on Schedule 7.9, excluding Closing Cash, Closing Indebtedness and unpaid Third Party Expenses.

"Company Net Working Capital Certificate" shall mean a certificate executed by the Chief Executive Officer of the Company dated as of the Closing Date, certifying the Estimated Company Net Working Capital, including an itemized list of each item reflected therein or the calculation thereof.

"Company Net Working Capital Target" shall mean negative [redacted].

"Company Option Plan" shall mean Drawloop Technologies Equity Incentive Plan dated May 1, 2013.

"Company Options" shall mean all issued and outstanding options (including commitments to grant options) to purchase or otherwise acquire Company Capital Stock (whether or not vested).

"Company Optionholder" shall mean any holder of any Company Options as of immediately prior to the Effective Time.

"Company Privacy Policy" shall mean each external or internal, past or present privacy policy or representation, obligation, or promise of the Company relating to privacy, data security, or the collection, interception, obtainment, compilation, creation, retention, storage, security, disclosure, transfer, disposal, use, and other processing of any Private Information or Customer Data.

"Company Products" shall mean all products and services (including applications and websites) developed (or currently under development), delivered, hosted, provided, made commercially available, marketed, distributed or licensed out by or on behalf of the Company.

"Company Source Code" shall mean any software source code embodied by or constituting any Company Technology or any Company Product.

"Company Technology" means any and all Technology embodied by or constituting Company Products, or in or to which the Intellectual Property Rights are owned or purported to be owned by the Company.

"Contaminant" shall mean any "back door," "drop dead device," "time bomb," "Trojan horse," "virus," or "worm" (as such terms are commonly understood in the software industry) or any other code, software routines, or hardware components designed or intended to have, or capable of performing, any of the following functions: (i) disrupting, disabling, harming or otherwise impeding in any manner the operation of, or permitting or causing unauthorized access to, a system, network, or other device; or (ii) damaging or destroying any data or file without the user's consent.

"Continuing Employees" shall mean the Employees who are both employed by the Company as of the Closing Date and continue their employment with Acquiror or a Subsidiary of Acquiror on the day following the Closing Date.

"Contract" shall mean any contract, mortgage, indenture, lease, license, covenant, plan, insurance policy or other agreement, instrument, arrangement, understanding or commitment, permit, concession, franchise or license.

"Controlled Group Liability" means any and all liabilities (i) under Title IV of ERISA, (ii) under Section 302 of ERISA, (iii) under Sections 412 or 4971 of the Code, (iv) as a result of a failure to comply with the continuation coverage requirements of COBRA, (v) as a result of a failure to comply with the requirements of Section 414(t) of the Code, and (vi) under corresponding or similar provisions of non-U.S. laws or regulations.

"Customer Data" shall mean (i) all data and content that is (a) uploaded by, provided by, or otherwise provided for, the Company's customers, or (b) transmitted to or stored by the Company's customers on, the Company Products; (ii) all data and content created, compiled, inferred, derived, or otherwise collected or obtained by or for the Company Products or by or for the Company in its provision of the Company Products; and (iii) data and content compiled, inferred, or derived directly or indirectly from any of the data and content described in subclauses (i) and (ii) above.

"Employee" shall mean any current or former employee, consultant, independent contractor or director of the Company or any ERISA Affiliate.

"Employee Agreement" shall mean each management, employment, severance, separation, settlement, consulting, contractor, relocation, change of control, retention, bonus, repatriation, expatriation, loan, visa, work permit or other agreement, or contract (including, any offer letter or any agreement providing for acceleration of any options or any other agreement providing for compensation or benefits) between the Company or any ERISA Affiliate and any Employee.

"Equity Incentive Plan" shall mean the Drawloop Technologies Equity Incentive Plan, dated May 1, 2013.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended.

"ERISA Affiliate" shall mean any other Person under common control with the Company or that, together with the Company, could be deemed a "single employer" within the meaning of Section 4001(b)(1) of ERISA or within the meaning of Section 414(b), (c), (m) or (o) of the Code, and the regulations issued thereunder.

"Escrow Agent" shall mean Wilmington Trust, National Association.

"Escrow Agreement" shall mean an escrow agreement executed and delivered by Acquiror, the Shareholders' Representative and the Escrow Agent in substantially the form attached hereto as Exhibit F.

"Escrow Consideration" shall mean an amount of cash equal to [redacted].

"Estimated Company Net Working Capital" shall mean the Company's calculation of the Company Net Working Capital as of the close of business on the Closing Date and before giving effect to the Closing.

"Estimated Company Net Working Capital Shortfall" shall mean the dollar amount by which the Estimated Company Net Working Capital is less than the Company Net Working Capital Target. For the avoidance of doubt, if the Estimated Company Net Working Capital is greater than the Company Net Working Capital Target, the Company Net Working Capital Shortfall shall be zero.

"Estimated Company Net Working Capital Surplus" shall mean the dollar amount by which the Estimated Company Net Working Capital is greater than the Company Net Working Capital Target. For the avoidance of doubt, if the Estimated Company Net Working Capital is greater than the Company Net Working Capital Target, the Company Net Working Capital Shortfall shall be zero.

"Final Company Net Working Capital Shortfall" shall mean the dollar amount by which the Final Company Net Working Capital is less than the Estimated Company Net Working Capital. For the avoidance of doubt, if the Final Company Net Working Capital is greater than the Estimated Company Net Working Capital, the Final Company Net Working Capital Shortfall shall be zero.

"Final Company Net Working capital Surplus" shall mean the dollar amount by which the Final Company Net Working Capital is greater than the Estimated Company Net Working Capital Target. For the avoidance of doubt, if the Final Company Net Working Capital is greater than the Estimated Company Net Working Capital, the Final Company Net Working Capital Shortfall shall be zero.

"Exchange Act" shall mean the Securities Exchange Act of 1934, as amended.

"Florida Law" shall mean the Florida Business Corporation Act.

"Fully-Diluted Company Capital Stock" shall mean (without duplication) (i) the aggregate number of shares of Company Capital Stock issued and outstanding immediately prior to the Effective Time, on an as converted to Company Common Stock basis, *plus* (ii) the maximum aggregate number of shares of Company Capital Stock issuable upon full exercise, exchange or conversion of any other rights, including Company Options, whether vested or unvested, that are convertible into, exercisable for or exchangeable for, shares of Company Capital Stock issued and outstanding immediately prior to the Effective Time, on an as converted to Company Common Stock basis.

"GAAP" shall mean United States generally accepted accounting principles consistently applied.

"Governmental Entity" shall mean any court, administrative agency or commission or other federal, state, county, local or other foreign governmental authority, instrumentality, agency or commission.

"HIPAA" shall mean the Health Insurance Portability and Accountability Act of 1996, as amended.

"Indebtedness" of any Person shall mean, without duplication: (i) all liabilities of such Person for borrowed money, whether current or funded, secured or unsecured, all obligations evidenced by bonds, debentures, notes or similar instruments, and all liabilities in respect of mandatorily redeemable or purchasable share capital or securities convertible into share capital; (ii) all liabilities of such Person for the deferred purchase price of property or services, which are required to be classified and accounted for under GAAP as liabilities; (iii) all liabilities of such Person in respect of any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which are, and to the extent, required to be classified and accounted for under GAAP as capital leases; (iv) all liabilities of such Person for the reimbursement of any obligor on any letter of credit, banker's acceptance or similar credit transaction securing obligations of a type described in clauses (i), (ii) or (iii) above to the extent of the obligation secured; and (v) all guarantees by such Person of any liabilities of a third party of a nature similar to the types of liabilities described in clauses (i), (ii), (iii) or (iv) above, to the extent of the obligation guaranteed.

"Indemnity Escrow Amount" shall mean the Escrow Consideration.

"Indemnity Escrow Fund" shall mean the Indemnity Escrow Amount deposited with the Escrow Agent, subject to the terms of the Escrow Agreement and this Agreement, and any interest thereon in accordance with the terms of the Escrow Agreement.

"Intellectual Property Rights" shall mean all intellectual property rights and all common law and statutory rights in any jurisdiction, in, arising out of, or associated with any of the following: (i) inventions, patents and utility models and applications therefor (including provisional applications) and all reissues, divisions, renewals, extensions, provisionals, continuations and continuations in part thereof (collectively, "Patent Rights"); (ii) copyrights and other rights in works of authorship, registrations and

applications thereto (collectively, "Copyrights"); (iii) trade names, logos, trademarks and service marks and other designations(collectively, "Trademarks"); (v) databases (including knowledge databases, customer lists and customer databases); (vi) trade secrets and other Confidential Information (collectively, "Trade Secret Rights"); (vii) Domain Names, including but not limited to keyword associations in any search engine, directory, or other Internet service; (ix) all moral and economic rights of authors and inventors, however denominated; (x) any similar, corresponding or equivalent rights to any of the foregoing; and (xi) all goodwill associated with any of the foregoing.

"International Employee Plan" shall mean each Company Employee Plan or Employee Agreement that has been adopted or maintained by the Company or any ERISA Affiliate, whether formally or informally, or with respect to which the Company or any ERISA Affiliate will or may have any liability, with respect to Employees who perform services outside the United States.

"IRS" shall mean the United States Internal Revenue Service.

"Key Employees" shall mean the Company Employees listed on Schedule A.

"Knowledge" or "Known" shall mean, with respect to the Company, the knowledge of Todd Mezrah and James Roberson after reasonable inquiry of all relevant employees, and management level consultants of the Company who would reasonably be expected to have knowledge of the matters in question.

"Law" shall mean any applicable federal, state, local or other constitution, law, statute, ordinance, rule, regulation, directive, published administrative position, policy or principle of common law issued, enacted, adopted, promulgated, implemented or otherwise put into legal effect by or under the authority of any Governmental Entity.

"Lien" shall mean any lien, pledge, charge, claim, mortgage, security interest or other encumbrance of any kind or character whatsoever, except, in each case, for Permitted Liens.

"Made Available" shall mean that the Company has posted such materials to the virtual data room managed on behalf of the Company and made available to Acquiror and its representatives during the negotiation of this Agreement, but only if so posted and made available on or prior to the date that is two (2) Business Days prior to the date of this Agreement unless such material was entered into after such date in which case such material shall be posted within three (3) Business Days of the entering into of such material.

"Merger Cash Consideration" shall mean an amount of cash equal to [redacted], *plus* (i) an amount of cash equal to the Closing Cash, *minus* (ii) an amount of cash equal to the Estimated Company Net Working Capital Shortfall, if any, *plus* (iii) an amount of cash equal to equal to the Estimated Company Net Working Capital Surplus, if any, *minus* (iv) an amount of cash equal to the Closing Indebtedness, *minus* (iv) an amount of cash equal to Third Party Expenses that are incurred but unpaid as of the Closing.

"Merger Consideration" shall mean the Merger Cash Consideration and Merger Debt Consideration Amount.

"Merger Debt Consideration Amount" shall mean an obligation of Acquiror to pay to the Shareholders an amount equal to the Aggregate Cash Value of Adjusted Merger Stock Consideration.

"Merger Share Value" shall mean [redacted].

"Merger Stock Consideration" shall mean a number of shares of Parent Preferred Stock equal to the quotient obtained by *dividing* (i) the Aggregate Cash Value of Adjusted Merger Stock Consideration by (ii) the Merger Share Value.

"Open Source Material" shall mean any software that is distributed or otherwise made available pursuant to any license meeting the Open Source Definition (as promulgated by the Open Source Initiative, available online at http://www.opensource.org/osd.html), or any substantially similar license, including any license approved by the Open Source Initiative and any Creative Commons License (each, an "Open Source License").

"Option Consideration" shall mean the aggregate amount payable in cash to the holders of Company Options pursuant to Section 1.3(c).

"Order" shall mean any order, judgment, injunction, ruling, edict, or other decree, whether temporary, preliminary or permanent, enacted, issued, promulgated, enforced or entered by any Governmental Entity.

"Parent Articles" shall mean the articles of association of the Parent, as amended from time to time.

"Parent Capital Stock" shall mean the Parent Common Stock, the Parent Performance Stock and the Parent Preferred Stock.

"Parent Common Stock" shall mean shares of B Class Ordinary Shares, par value $0.10 per share in the capital of Parent.

"Parent Loan Share Plan" shall meant the Nintex Global Loan Share Plan, as amended from time to time.

"Parent Option Plan" shall mean the Nintex Global Option Plan, as amended from time to time.

"Parent Options" shall mean all issued and outstanding options to purchase or otherwise acquire Parent Capital Stock (whether or not vested).

"Parent Performance Stock" shall mean shares of ordinary shares, par value $0.10 per share in the capital of Parent.

"Parent Preferred Stock" shall mean shares of A Class Convertible Preference Shares, par value $0.10 per share in the capital of Parent.

"Paying Agent" shall mean Wilmington Trust, National Association.

"Pension Plan" shall mean each Company Employee Plan that is an "employee pension benefit plan," within the meaning of Section 3(2) of ERISA.

"Permitted Lien" shall mean (i) Liens for Taxes or other payments that are not yet due and payable; (ii) deposits or pledges made in connection with, or to secure payment of, workers' compensation, unemployment insurance or similar programs mandated by Laws for amounts not yet due and payable; and (iii) Liens in favor of carriers, warehousemen, mechanics and materialmen to secure claims for labor, materials or supplies and other like Liens relative to the real property incurred in the ordinary course of business for amounts not yet due which are paid in full and released at Closing.

"Per Option Consideration" shall mean an amount of cash equal to (i) the excess, if any, of (A) the Per Share Consideration over (B) the exercise price per share of such Company Option, multiplied by (y) the total number of shares of Company Capital Stock issuable upon the exercise in full of such Company Option.

"Per Share Adjusted Cash Consideration" shall mean the sum of (i) the Per Share Cash Consideration and (ii) the Per Share Unaccredited Cash Adjustment.

"Per Share Cash Consideration" shall mean the quotient of (i) the Shareholder Total Unadjusted Cash Consideration, *divided by* (ii) the number of outstanding shares of Fully-Diluted Company Capital Stock, not including shares of Company Capital Stock underlying Company Options.

"Per Share Closing Consideration" shall mean (i) for an Accredited Investor, the Per Share Cash Consideration and the Per Share Stock Consideration, and (ii) for an Unaccredited Investor, the Per Share Adjusted Cash Consideration.

"Per Share Consideration" shall mean the Aggregate Consideration *divided by* the Fully-Diluted Company Capital Stock.

"Per Share Debt Consideration Amount" shall mean an obligation on the Acquiror to pay to a holder of Company Stock the quotient of (i) the Aggregate Cash Value of Adjusted Merger Stock Consideration, divided by (ii) the number of outstanding shares of Fully-Diluted Company Capital Stock, not including shares of Company Capital Stock underlying Company Options.

"Per Share Final Net Working Capital Surplus" shall mean an amount of cash equal to the Final Working Capital Surplus *divided* by the Fully-Diluted Company Capital Stock, not including shares of Company Capital Stock underlying Company Options.

"Per Share Stock Consideration" shall mean an amount equal to the quotient obtained by *dividing* (i) the Merger Stock Consideration by (ii) the Total Accredited Shares.

"Per Share Unaccredited Cash Adjustment" shall mean the quotient of (i) the Total Unaccredited Cash Adjustment *divided by* (ii) the Total Unaccredited Shares.

"Person" shall mean an individual or entity, including a partnership, a limited liability company, a corporation, an association, a joint stock company, a trust, a joint venture, an unincorporated organization, or a Governmental Entity (or any department, agency, or political subdivision thereof).

"Personal Data" shall mean: (i) a natural person's name, street address, telephone number, e-mail address, login name, photograph, social security number or tax identification number, driver's license number, passport number, credit/debit card number, bank information, or customer or account number, health information, device identifiers, IP addresses, biometric identifiers or any other piece of information that alone or in combination with other information directly or indirectly collected, held or otherwise managed by the Company allows the identification of or contact with a natural person (and for greater certainty includes all such information with respect to employees), (ii) any other information if such information is defined as "personal data", "personally identifiable information", "individually identifiable health information," "protected health information," "personal information," or any similar term under any Privacy Legal Requirement; and (iii) any information that is associated, directly or indirectly (by, for example, records linked via unique keys), to any of the foregoing.

"Pre-Closing Taxes" shall mean any Taxes of the Company (A) relating or attributable to any Pre-Closing Tax Period, determined as if the Company used the accrual method of Tax accounting throughout such period, including, but not limited to, the State Tax Amount (B) as a result of the Company being (or having been) on or prior to the Closing Date (1) a member of an affiliated, consolidated, combined, unitary, aggregate or similar group (including any arrangement for group or consortium relief or similar arrangement) prior to the Closing Date or (2) a transferee or successor by contract or otherwise; (C) as a result of an express or implied obligation arising on or prior to Closing Date to indemnify or otherwise assume or succeed to the Taxes of any other Person; or (D) arising as a result of the transactions contemplated by this Agreement or any ancillary agreement, including any Transaction Payroll Taxes and Transfer Taxes. For this purpose, in the case of Taxes based on income, sales, proceeds, profits, receipts, wages, compensation or similar items and all other Taxes that are not imposed on a periodic basis, the amount of such Taxes that have accrued through the Closing Date shall be deemed to be the amount that would be payable if the taxable year or period ended at the end of the day on the Closing Date based on an interim closing of the books, except that exemptions, allowances or deductions that are calculated on an annual basis (including depreciation and amortization deductions), other than with respect to property placed in service after the Closing, shall be allocated on a per diem basis. In the case of any Taxes that are imposed on a periodic basis, the amount of such Taxes that have accrued through the Closing Date shall be the amount of such Taxes for the relevant period (or, in the case of such Taxes determined on an arrears basis, the amount of such Taxes for the immediately preceding period) multiplied by a fraction the numerator of which shall be the number of calendar days from the beginning of the period up to and including the Closing Date and the denominator of which shall be the number of calendar days in the entire period.

"Pre-Closing Tax Period" shall mean any taxable period or portion thereof ending on or prior to the Closing Date.

"Privacy Legal Requirements" shall mean all (i) Laws, including requirements set forth in guidelines, reports and enforcement actions published by regulatory bodies such as the U.S. Federal Trade Commission and applicable European Union data protection authorities, (ii) Company Privacy Policies, (iii) contractual obligations, (iv) third-party privacy policies, terms of use, and similar documents that the Company is or has been contractually obligated to comply with, (v) rules or codes of conduct of any applicable self-regulatory organizations in which the Company is or has been a member or that the Company has been contractually obligated to comply with (including, to the extent applicable to the Company, the PCI Data Security Standard), and (vi) applicable published industry standards.

"Private Information" shall mean Personal Data and Behavioral Data.

"Pro Rata Portion" shall mean, for each Shareholder, a fraction (i) the numerator of which is the aggregate number of shares of Company Capital Stock held by such Shareholder, not including shares of Company Capital Stock underlying Company Options and (ii) the denominator of which is the Fully-Diluted Company Capital Stock, not including shares of Company Capital Stock underlying Company Options.

"Registered IP" shall mean all current Intellectual Property Rights that are the subject of an application, certificate, filing, registration, or other document issued by, filed or registered with or recorded by any Governmental Entity in any jurisdiction.

"Related Agreements" shall mean the Confidential Disclosure Agreement the Joinder Agreements, the Offer Letters, the Key Employee Agreements, the 280G Waivers, the PIIAs, and all other agreements and certificates entered into by the Company or any of the Shareholders in connection with the transactions contemplated herein.

"Requisite Shareholder Approval" shall mean adoption of this Agreement and approval of the Merger by the Shareholders of the Company who hold at least a majority of the voting power of the outstanding shares of Company Capital Stock, voting together as a single class on an as converted into Company Common Stock basis.

"Securities Act" shall mean the Securities Act of 1933, as amended.

"Shrink-Wrap Code" shall mean any generally commercially available software in executable code form made available on a license basis or as a service that is available for a cost of not more than $200 for a perpetual license for a single user or work station.

"Specified Key Employees" shall mean Jim Roberson and Todd Mezrah.

"State Tax Amount" shall mean, without duplication, the amount of any state or local income, franchise, gross receipts or similar Taxes or state or local sales, use, transfer or other similar Taxes (including any penalties and interest) relating or attributable to any Pre-Closing Tax Period that were required to be paid or collected and remitted by the Company, and including any out-of-pocket expenses that Acquiror, the Surviving Corporation or any of their Affiliates incur with respect to such Taxes or the preparation and filing of any Tax Returns related to such Taxes.

"Shareholder" shall mean any holder of any Company Capital Stock as of immediately prior to the Effective Time.

"Shareholder Total Unadjusted Cash Consideration" shall mean the Merger Cash Consideration minus the Option Consideration.

"Subsidiary" shall mean with respect to any entity, that such entity shall be deemed to be a "Subsidiary" of another Person if such other Person directly or indirectly owns, beneficially or of record, (i) an amount of voting securities or other interests in such entity that is sufficient to enable such Person to elect at least a majority of the members of such entity's board of directors or other governing body or (ii) at least a majority of the outstanding equity interests of such entity.

"Tax" (or collectively "Taxes") shall mean (i) any and all U.S. federal, state, local and non-U.S. taxes, assessments and other governmental charges, duties (including stamp duty), impositions and liabilities, including capital gains tax, taxes based upon or measured by gross receipts, income, profits, sales, use and occupation, and value added, ad valorem, transfer, franchise, withholding, payroll, recapture, employment, escheat, excise and property taxes as well as public imposts, fees and social security charges (including health, unemployment, workers' compensation and pension insurance) together with any interest or any penalty, addition to tax or additional amount (whether disputed or not) imposed by any Governmental Entity responsible for the imposition of any such tax (domestic or foreign), (ii) any liability for the payment of any amounts of the type described in clause (i) of this sentence as a result of being or have been a member of an affiliated, consolidated, combined, unitary, aggregate or similar group (including any arrangement for group or consortium relief or similar arrangement) for any taxable period, and (iii) any liability for the payment of any amounts of the type described in clauses (i) or (ii) of this sentence as a result of being a transferee of or successor to any Person or as a result of any express or implied obligation to assume such Taxes or to indemnify any other Person, including by operation of law.

"Tax Return" shall mean any return (including any information return), report, statement, declaration, estimate, schedule, notice, notification, form, election, certificate or other document or information filed with or submitted to, or required to be filed with or submitted to, any Governmental

Entity in connection with the determination, assessment, collection or payment of any Tax or in connection with the administration, implementation or enforcement of or compliance with any Law relating to any Tax, including any amendment thereof or attachment thereto.

"Technology" shall mean all technology, regardless of form, including any or all of the following and any tangible embodiments thereof: (i) published and unpublished works of authorship, including audiovisual works, collective works, computer programs and other software (whether in source code or executable form), documentation, compilations, derivative works, literary works, maskworks and sound recordings ("Works of Authorship"); (ii) inventions (whether or not patentable), discoveries, improvements, business methods, compositions of matter, machines, methods, processes and new uses for any of the preceding items ("Inventions"); (iii) proprietary and confidential information and trade secrets, including algorithms, customer lists, ideas, designs, formulas, know-how, methods, processes, programs, prototypes, systems and techniques ("Confidential Information"); (iv) data, databases, data compilations and collections; (v) Trademarks; (vi) domain names and web addresses ("Domain Names"); (vii) devices, prototypes, designs and schematics; and (viii) any other form of technology.

"Third Party Expenses" shall mean all fees, costs, expenses and other amounts incurred by or on behalf of the Company (and whether becoming due at, prior or following the Effective Time) in connection with this Agreement, the Merger and the other transactions contemplated hereby, including: (i) all legal, accounting, financial advisory, consulting, finders and all other fees and expenses of third parties incurred by the Company in connection with the negotiation and effectuation of the terms and conditions of this Agreement and the transactions contemplated hereby; (ii) any termination, pre-payment, balloon or similar fees or payments (including penalties) of the Company on account of outstanding Indebtedness of the Company, or resulting from the early termination of Contracts, resulting from, or in connection with, the transactions contemplated hereby (it being understood that this clause (ii) shall not include any amounts included in Closing Indebtedness); (iii) any bonus, severance, change-in-control payments or similar payment obligations (including payments with either "single-trigger" or "double-trigger" provisions) of the Company to Employees resulting from, or in connection with, the transactions contemplated hereby; and (iv) any payments in connection with any change in control obligations resulting from or in connection with the Merger or any of the transactions contemplated by this Agreement, including the cost of the Company D&O Policy and Company D&O Tail Policy, or any payment or consideration arising under or in relation to obtaining any consents, waivers or approvals of any party under any Contract of the Company as are required in connection with the Merger for any such Contract to remain in full force and effect following the Closing or resulting from agreed-upon modification or early termination of any such Contract (for the avoidance of doubt, no fees and expenses shall be double counted when calculating Third Party Expenses).

"Total Accredited Shares" means (i) the number of outstanding shares of Fully-Diluted Company Capital Stock, not including shares of Company Capital Stock underlying Company Options *minus* (ii) the Total Unaccredited Shares.

"Total Unaccredited Cash Adjustment" shall mean an amount of cash equal to the *product* of (i) the Aggregate Cash Value of Unadjusted Merger Stock Consideration *multiplied* by (ii) the Unaccredited Percentage.

"Total Unaccredited Shares" means the number of outstanding shares of Fully-Diluted Company Capital Stock held by Unaccredited Investors, not including shares of Company Capital Stock underlying Company Options.

"Transaction" shall mean the transactions contemplated by this Agreement and the Related Agreements.

"Transaction Payroll Taxes" shall mean all employer portion payroll or employment Taxes incurred in connection with any other bonuses, option cashouts (including pursuant to Section 7.6(c)) or other compensatory payments (including any payments or issuances of stock recharacterized as such by a Tax authority) made in connection with the transactions contemplated by this Agreement, whether payable by Acquiror or the Company.

"Transfer Taxes" shall mean all sales, use, transfer, valued added, goods and services, gross receipts, excise, conveyance, documentary, stamp, recording, registration and other similar Taxes, charges and fees (including any penalties and interest) incurred in connection with the consummation of the transactions contemplated by this Agreement.

"Unaccredited Investor" shall mean a Shareholder that Acquiror does not reasonably believe is an "accredited investor" as defined in Rule 501 promulgated under Regulation D of the Securities Act.

"Unaccredited Percentage" means a fraction with (i) the numerator being the number of outstanding shares of Fully-Diluted Company Capital Stock held by Unaccredited Investors, not including shares of Company Capital Stock underlying Company Options, and (ii) the denominator being the number of outstanding shares of Fully-Diluted Company Capital Stock, not including shares of Company Capital Stock underlying Company Options.