

## PATENT ASSIGNMENT COVER SHEET

Electronic Version v1.1  
Stylesheet Version v1.2

Assignment ID: PATI79888

<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT
<b>NATURE OF CONVEYANCE:</b>	ASSIGNMENT
<b>CONVEYING PARTY DATA</b>	
<b>Name</b>	<b>Execution Date</b>
Armory, Inc.	01/08/2024
<b>RECEIVING PARTY DATA</b>	
<b>Company Name:</b>	Harness Inc.
<b>Street Address:</b>	55 Stockton Street
<b>Internal Address:</b>	8th Floor
<b>City:</b>	San Francisco
<b>State/Country:</b>	CALIFORNIA
<b>Postal Code:</b>	94108
<b>PROPERTY NUMBERS Total: 7</b>	
<b>Property Type</b>	<b>Number</b>
<b>Application Number:</b>	18109005
<b>Application Number:</b>	17028691
<b>Application Number:</b>	62904044
<b>Application Number:</b>	16385534
<b>Application Number:</b>	62657933
<b>Application Number:</b>	63288512
<b>PCT Number:</b>	US2052023
<b>CORRESPONDENCE DATA</b>	
<b>Fax Number:</b>	4087257521
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>	
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<b>ATTORNEY DOCKET NUMBER:</b>	HARN-400
<b>NAME OF SUBMITTER:</b>	Stephen Bachmann
<b>SIGNATURE:</b>	Stephen Bachmann

DATE SIGNED:	03/08/2024
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**Total Attachments: 98**

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**ASSET PURCHASE AGREEMENT**

between

**HARNESS INC.**

and

**ARMORY, INC.**

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## ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this “**Agreement**”) is entered into as of **January 8, 2024**, by and between **HARNESS INC.**, a Delaware corporation (“**Purchaser**”), and **ARMORY, INC.**, a Delaware corporation (“**Seller**”). Certain capitalized terms used but not otherwise defined in this Agreement are defined as set forth in Exhibit A.

### RECITALS

A. Seller desires to sell, convey, transfer, assign and deliver to Purchaser, and Purchaser desires to purchase and acquire from Seller, the Transferred Assets, free and clear of all Encumbrances upon the terms, and subject to the conditions, set forth in this Agreement.

B. On or prior to the date of this Agreement, the board of directors of Seller has duly approved entering into this Agreement and consummating the transactions contemplated by this Agreement.

C. Concurrently with the execution and delivery of this Agreement, and as a material inducement to the willingness of Purchaser to enter into this Agreement, Seller has delivered to Purchaser (i) a Joinder Agreement, in substantially the form attached hereto as Exhibit B (each, a “**Joinder Agreement**”), executed by Stockholders holding in the aggregate at least 90% of the capital stock of Seller (“**Seller Shares**”) and each holder of at least 1% of the Seller Shares (in each case, on an as-converted to Common Stock basis), and which shall include the Stockholders listed on Schedule B, containing a waiver and release by each Stockholder set forth in this clause (i) (each, a “**Key Stockholder**” and together, the “**Key Stockholders**”), to become effective upon the Closing and (ii) a written consent executed by the Key Stockholders, collectively representing (a) at least 90% of the Seller Shares and each holder of at least 1% of the Seller Shares (in each case, on an as-converted to Common Stock basis), (b) at least a majority of the outstanding shares of preferred stock of Seller, and (c) either a majority of the outstanding shares of (x) Series B preferred stock of Seller or (y) Series C preferred stock of Seller.

### AGREEMENT

The parties to this Agreement, intending to be legally bound, agree as follows:

#### 1. SALE OF TRANSFERRED ASSETS; RELATED TRANSACTIONS.

**1.1 Sale of Transferred Assets.** At the Closing, Seller shall cause to be sold, assigned, transferred, conveyed and delivered to Purchaser (or one or more of its Affiliates or their respective assignees) good and valuable title to all of the Transferred Assets, free of any Encumbrances, on the terms and subject to the conditions set forth in this Agreement (such sale, assignment, transfer, conveyance and delivery, including the satisfaction of the deliverables required under Section 6.1(j), the “**Delivery of the Transferred Assets**”). For purposes of this Agreement, “**Transferred Assets**” shall mean the following:

- (a) the Transferred IP and the Transferred Technology (each as defined below);
- (b) all accounts receivable of Seller;
- (c) the Transferred Books and Records (as defined below);
- (d) all assets listed on Schedule 1.1(e);

(e) all rights of Seller, under each IP Grant Agreement (as defined below) and all rights of Seller under those other Contracts (as defined below) listed on Schedule 1.1(e) (together with the IP Grant Agreements, the “**Transferred Contracts**”), it being acknowledged and agreed that, notwithstanding anything to the contrary herein, for such Transferred Contracts, all obligations arising from such Transferred Contracts in part or in whole prior to the Closing (including any obligations to pay amounts owed but not yet paid as of the Closing) shall be Excluded Liabilities, and all obligations arising from such Transferred Contracts solely for the period after the Closing shall be Assumed Liabilities;

(f) all of Seller’s rights in its corporate names, including without limitation, the Names and Marks (each term as defined below) in any location in the United States or in any foreign country; and

(g) all claims and causes of action of Seller against other Persons relating to Transferred Assets (regardless of whether or not such claims and causes of action have been asserted by Seller), and all rights of indemnity, warranty rights, rights of contribution, rights to refunds, rights of reimbursement and other rights of recovery possessed by Seller (regardless of whether such rights are currently exercisable) with respect to the Transferred Assets.

**1.2 Excluded Assets.** Notwithstanding anything to the contrary contained in this Agreement, the parties hereto agree Seller is not selling, assigning, transferring, conveying or delivering to Purchaser (a) any Contract other than the Transferred Contracts or (b) any assets other than the Transferred Assets (collectively, the “**Excluded Assets**”), which include, but are not limited to:

(a) all Contracts of Seller other than the Transferred Contracts;

(b) the corporate seals, organizational documents, minute books, stock books, books of account or other records having to do with the corporate organization of Seller;

(c) all Seller Employee Plans (as defined below) and assets attributable thereto and Seller Employee Agreements (as defined below);

(d) any leases of or related to real property;

(e) all rights which accrue or will accrue to Seller under this Agreement and the Transaction Agreements;

(f) all books and records of Seller (other than the Transferred Books and Records);

(g) any equity interests of Seller or owned or held by Seller;

(h) any Tax Returns of Seller or any Affiliates of Seller or any notes, worksheets, files or documents relating thereto, and any rights with respect to refunds, credits or similar benefits of Seller or any Affiliates of Seller with respect to Taxes, but excluding any Tax Returns, notes, worksheets, files or documents relating solely to the Transferred Assets or the Business;

(i) all other assets, rights, entitlements and claims of any nature whatsoever relating to the Business which are not explicitly described as Transferred Assets herein.

**1.3 Purchase Price.** As consideration for the Delivery of the Transferred Assets to Purchaser (or any of its Affiliates or their respective assignees): (i) within the later of (x) one (1) Business Day after Closing and (y) one (1) Business Day after the Delivery of the Transferred Assets, Purchaser shall pay to Seller the Closing Consideration by wire transfer of immediately available funds to the account specified

by Seller to Purchaser, which account information shall be provided to Purchaser no later than five (5) Business Days prior to Closing, (ii) Purchaser shall assume the Assumed Liabilities and (iii) the Indemnity Holdback Amount and the Special Holdback Amount shall be paid by Purchaser at the times and subject to the conditions set forth in Section 1.8.

**1.4 Assumption of Liabilities.** Purchaser shall not assume and shall not be responsible to pay, perform or discharge any Liabilities (as defined below) of Seller or any of its Affiliates of any kind or nature whatsoever (whether or not related to the Transferred Assets), other than (i) with respect to each Transferred Contract set forth on Schedule 1.4, solely those payment obligations set forth on Schedule 1.4 and (ii) with respect to any Transferred Contract not set forth on Schedule 1.4 and with respect to any other Transferred Assets, solely those obligations arising from such Transferred Assets solely relating to the period after the Closing (provided that, notwithstanding anything to the contrary in the foregoing or on Schedule 1.4, any obligations arising from such Transferred Contracts or Transferred Assets in part or in whole prior to the Closing (including with respect to any breach of contract prior to Closing or any obligations to pay amounts owed but not yet paid as of the Closing) shall not be Assumed Liabilities) (clauses (i) and (ii), together, the “**Assumed Liabilities**”), and it is understood that, except for the Assumed Liabilities, Purchaser is expressly disclaiming any express or implied assumption of any other Liabilities of Seller (“**Excluded Liabilities**”), which Excluded Liabilities include, but are not limited to:

(a) all Liabilities arising in connection with any liquidation, dissolution or winding up of Seller or the Business;

(b) all Indebtedness and Transaction Expenses of Seller or other Liabilities related thereto;

(c) all Liabilities of any nature whatsoever related to or arising in connection with the Business, including, but not limited to, relating or arising from unfulfilled commitments, quotations, purchase orders, customer orders, work orders or other Contracts (other than Liabilities under Transferred Contracts first arising based solely on the actions of Purchaser after the Closing);

(d) all Liabilities related to or arising in connection with the Excluded Assets;

(e) all Liabilities related to or arising in connection with the Transferred Assets from any action, event, or circumstance occurring, in effect, or existence on or prior to the Closing;

(f) all Liabilities of Seller to or in respect of any present or former employees, officers, directors, retirees, independent contractors or consultants of Seller (“**Seller Employees**”), including Transferred Employees, including, without limitation, any Liabilities associated with any claims for wages (accrued or otherwise) or other benefits, under or related to Seller Employee Plans, bonuses, any and all payments made by, or obligation for payment by, Seller in connection with or as a result of the Transactions, accrued vacation, workers’ compensation, severance (including for any employees or consultants of Seller who are offered employment or service relationships with Purchaser), retention, termination or other payments, and including all Liabilities of the Seller or administrators of Seller Employee Plans to Seller Employees under any existing or future Seller Employee Plans and all Liabilities of the Seller under ERISA, COBRA, Cal-COBRA, WARN or any similar applicable laws (including but not limited to COBRA health care continuation coverage for such Seller Employees and any administrative fees related to providing COBRA health care continuation coverage through a PEO arrangement or otherwise for the period of COBRA health care continuation coverage of each COBRA beneficiary, including M&A qualified beneficiaries);

(g) all Liabilities of Seller arising or incurred in connection with the negotiation, preparation, investigation and performance of this Agreement, the Transaction Agreements and the transactions contemplated hereby and thereby, including, without limitation, fees and expenses of counsel, accountants, consultants, advisers and others;

(h) all Liabilities in respect of any pending or threatened Proceeding (as defined below) arising out of, relating to or otherwise in respect of the operation of the Business, the Excluded Assets or, with respect to any Proceeding that relates in any way to any pre-Closing action, item, or period, the Transferred Assets or otherwise, where the Seller is a named party thereto, or any pending or threatened Proceeding relating to or otherwise in respect of Transferred Assets arising from events or circumstances occurring prior to the Closing;

(i) all Liabilities arising out of, in respect of or in connection with the failure by Seller or any of its Affiliates to comply with any Law;

(j) all Liabilities arising out of, resulting from or in connection with any express or implied representation, warranty, agreement or guaranty made by Seller at any time in respect of the products or services of Seller or the Business produced, performed or sold prior to or after the Closing, except such representations, warranties, agreements or guaranties arising under the Transferred Contracts and that are ascertainable by reference to the express terms of such Transferred Contracts and that arise after the Closing based solely on the actions of Purchaser after the Closing;

(k) all Liabilities arising from or related to or in connection with “bulk-sale” or “bulk-transfer” laws; and

(l) all Excluded Taxes (including known sales Tax Liabilities for the jurisdictions set forth on Schedule 1.4(l)) accruing prior to or as of the Closing (such known sales Tax Liabilities, the “**Known Sales Tax Liabilities**”).

**1.5 Allocation.** Within 90 days of Closing, Purchaser shall deliver to Seller an allocation schedule setting forth Purchaser’s allocation of the Purchase Price and any other relevant items among the Transferred Assets for U.S. federal, and applicable and state and local, income Tax purposes pursuant to Section 1060 of the Code, the Treasury Regulations promulgated thereunder and any similar provision of state, local or non-U.S. law, as appropriate (the “**Allocation Schedule**”) for Seller’s review and comment. Purchaser shall consider in good faith any comments delivered, in writing, by Seller to Purchaser with respect to the Allocation Schedule within 30 days of Seller’s receipt thereof. The Allocation Schedule shall be binding on Purchaser and Seller, and Purchaser and Seller shall file all Tax Returns (such as IRS Form 8594 and any other forms or reports required to be filed pursuant to Section 1060 of the Code or any comparable Legal Requirements (“**Section 1060 Forms**”)) in a manner that is consistent with the Allocation Schedule and refrain from taking any Tax position inconsistent therewith (including in any examination of any such Tax Return), in any refund claim or in any Proceeding unless otherwise required by a final “determination” (within the meaning of Section 1313(a) of the Code). Seller shall, and shall cause its Affiliates to, cooperate with Purchaser in the preparation of the Allocation Schedule and Section 1060 Forms.

**1.6 Withholding.** Purchaser and any other applicable withholding agent shall be entitled to deduct and withhold from any payments to Seller (or its permitted designees), or any other Persons (as defined below) made pursuant to this Agreement such amounts as may be required to be deducted or withheld with respect to such payments under the Code or any other applicable Legal Requirements, and shall be provided any necessary Tax forms, including IRS Form W-9 or the appropriate version of IRS Form W-8, as applicable, and any similar information. To the extent that amounts are so deducted or

withheld and duly paid to the appropriate Governmental Body, such deducted or withheld amounts shall be treated for all purposes of this Agreement as having been paid to the Person in respect of which such deduction or withholding was made. Purchaser shall use commercially reasonable efforts to (a) promptly provide Seller with written notice of any amounts that Purchaser (or any agent on Purchaser's behalf) intends to withhold from any payment required to be made pursuant to this Agreement, and shall endeavor in good faith to provide such notice reasonably in advance of such payment, (b) cooperate in good faith with the Seller to seek to eliminate or reduce any such withholding or deduction, and (c) request from Seller any applicable certificates, forms or other documentation that Purchaser is aware of and that would eliminate or reduce the requirement to deduct or withhold under applicable Law.

**1.7 Agreements Relating to Transfer of Transferred Assets.** Seller and Purchaser agree that any Technology included in the Transferred Assets and any other Transferred Assets that can be transmitted to Purchaser by electronic transmission shall be delivered to Purchaser by secure electronic transmission at the Closing and shall not be delivered to Purchaser on any tangible medium. Promptly after the delivery of any Transferred Assets to Purchaser, Seller shall destroy any remaining copies of (including any Software, documents or materials in electronic format) the Transferred Assets.

**1.8 Indemnity Holdback: Special Holdback.**

(a) Subject to the terms and conditions of this Agreement, the Indemnity Holdback Amount shall be withheld from amounts payable to Seller at the Closing and shall remain with Purchaser and be available as partial security to compensate Purchaser (on behalf of itself or any other Indemnified Parties) for Losses pursuant to the indemnification obligations of Seller as set forth in Section 4. Subject to the terms and conditions of this Agreement, the Special Holdback Amount shall be withheld from amounts payable to Seller at the Closing and shall remain with Purchaser until Seller has provided satisfactory evidence to Purchaser from the jurisdictions set forth on Schedule 1.4(l) that all sales tax Liabilities with respect to periods prior to Closing with respect to the Transferred Assets have been paid to the relevant Tax authorities in such jurisdictions, and such Special Holdback Amount shall be available as partial security to compensate Purchaser (on behalf of itself or any other Indemnified Parties) for Losses pursuant to the indemnification obligations of Seller as set forth in Section 4 solely with respect to the Known Sales Tax Liabilities.

(b) Within ten (10) Business Days after the expiration of the Indemnity Holdback Period (the "**Indemnity Holdback Release Date**"), the remaining balance of the Indemnity Holdback Amount (net of any amounts subject to pending but unresolved claims for indemnification), if any, shall be distributed to Seller in accordance with the terms of this Agreement. Any portion of the Indemnity Holdback Amount held following the Indemnity Holdback Release Date with respect to pending but unresolved claims for indemnification that is not awarded to Purchaser upon the resolution of such claims shall be (promptly after the final resolution thereof) disbursed to Seller within ten (10) Business Days following final resolution of such claims in accordance with the terms of this Agreement, provided that such amount shall be no greater than the Claim Amount (as defined below) only to the extent the Claim Amount has been explicitly provided, with respect to such pending but unresolved claims. For purposes of the foregoing sentence, with respect to any amounts withheld by Purchaser pending resolution of unresolved claims for indemnification, such amounts shall not become due until the final resolution of such dispute in accordance with the terms of this Agreement. Within ten (10) Business Days after Seller has provided satisfactory evidence to Purchaser from each of the jurisdictions set forth on Schedule 1.4(l) that all sales tax Liabilities with respect to periods prior to Closing with respect to the Transferred Assets have been paid to the relevant Tax authorities in such jurisdiction, the lesser of (i) the estimated amount of the Special Holdback Amount set forth on Schedule 1.4(l) with respect to such jurisdiction and (ii) the actual amount paid by Seller to satisfy such Liabilities in such jurisdiction, shall be distributed to Seller in accordance with the terms of this Agreement (each such date, a "**Special Holdback Release Date**"); provided,

however, that in the event the Seller provides evidence satisfactory to Purchase that no amount is owed or payable with respect to such Known Sales Tax Liabilities in such jurisdiction, then the full estimated amount for such jurisdiction shall be released to Seller, and provided, further, that any such release shall be net of any amounts subject to pending but unresolved claims for indemnification with respect to the Known Sales Tax Liabilities for such jurisdiction. Any portion of the Special Holdback Amount held following the Special Holdback Release Date for a jurisdiction set forth on Schedule 1.4(l) with respect to any excess from the difference between such estimated amount and the actual amount paid by Seller pursuant to the foregoing sentence shall be released to Seller concurrent with the Special Holdback Release Date for the final jurisdiction, subject to the second to last sentence of this section. Any portion of the Special Holdback Amount held following the Special Holdback Release Date for a jurisdiction set forth on Schedule 1.4(l) with respect to pending but unresolved claims for indemnification with respect to Known Sales Tax Liabilities that is not awarded to Purchaser upon the resolution of such claims shall be (promptly after the final resolution thereof) disbursed to Seller within ten (10) Business Days following final resolution of such claims in accordance with the terms of this Agreement, provided that such amount shall be no greater than the Claim Amount (as defined below) only to the extent the Claim Amount has been explicitly provided, with respect to such pending but unresolved claims. For purposes of the foregoing sentence, with respect to any amounts withheld by Purchaser pending resolution of unresolved claims for indemnification, such amounts shall not become due until the final resolution of such dispute in accordance with the terms of this Agreement. In the event that Seller has not provided satisfactory evidence to Purchaser from any of the jurisdictions set forth on Schedule 1.4(l) that all sales tax Liabilities with respect to periods prior to Closing with respect to the Transferred Assets have been paid to the relevant Tax authorities in each such jurisdiction by the date that is two years after the Closing, Purchaser shall be entitled to retain the remaining balance of the Special Holdback Amount and not pay it to Seller.

**1.9 Closing.** The closing of the sale of the Transferred Assets to Purchaser and the other Transactions (the “**Closing**”) shall take place immediately following the execution and delivery of this Agreement on the date hereof (the “**Closing Date**”), provided that as a condition to the Closing, Seller shall have complied with the covenant in Section 6.1.

**1.10 Post-Closing Conduct.** Purchaser shall be responsible for any Liabilities solely to the extent arising out of (x) Purchaser’s use of the Transferred Assets following the Closing or (y) breach solely by Purchaser of the Transferred Contracts following the Closing, in each case except to the extent that any such Liability constitutes an Excluded Liability hereunder and provided that the foregoing shall not in any way limit the rights of Purchaser to indemnification hereunder pursuant to the provisions of Section 4, including for any Losses arising out of or resulting from or in connection with any breach by Seller of its representations and warranties set forth in this Agreement. Notwithstanding anything to the contrary in this section or otherwise in this Agreement, Purchaser shall not be responsible for any Liabilities related to or arising in connection with any matters prior to the Closing (which shall be Excluded Liabilities).

## **2. REPRESENTATIONS AND WARRANTIES OF SELLER.**

Seller represents and warrants, to and for the benefit of the Indemnified Parties (as defined below), as follows:

**2.1 Due Organization; Corporate Status.** Seller and each of its Subsidiaries is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization. Each of Seller and its Subsidiaries has all requisite power and authority to (i) carry on the business to which it is engaged in the manner in which it is currently being conducted and (ii) own, license, lease or use the Transferred Assets in the manner in which such Transferred Assets are currently owned and used. Each of Seller and its Subsidiaries is duly qualified, licensed or admitted to do business and is in good standing (to

the extent that applicable jurisdiction recognizes the concept of good standing) in all material respects under the Laws of each of the jurisdictions in which it is required to be so qualified, licensed or authorized.

**2.2 Absence of Liabilities; Distribution of Consideration.** Seller has no Liabilities, except those identified on Schedule 2.2(a) hereto or as set forth in the Financial Statements (as defined in Section 2.18 below). Seller has no outstanding Indebtedness. Schedule 2.2(b) contains a complete and accurate list of the Persons that will receive the Closing Consideration (including (i) with respect to each such Person that is a stockholder, equityholder or other securityholder of Seller (which Persons' names shall be set forth under a column titled "Seller Equityholders" on Schedule 2.2(b), and with each Seller Indemnitor identified under a column titled "Seller Indemnitors"), such Person's Pro Rata Share of any portion of the Purchase Price that will be distributed to the Seller Indemnitors, (ii) the projected amount of the Closing Consideration each such Person will receive, (iii) the (A) percentage and (B) projected amount of the Indemnity Holdback Amount and Special Holdback Amount that each such Person will receive, if no successful indemnification claims are made against the Indemnity Holdback Amount or the Special Holdback Amount, provided that the amounts in the foregoing (ii) and (iii)(B) shall be based on the Seller's good faith estimate of the amount of the Closing Consideration available for distribution to such Persons after payment, discharge or release of all Indebtedness, Transaction Expenses and Excluded Liabilities, which estimate may be adjusted as provided in Section 5.2(c) herein), as such amounts will be distributed after Closing by Seller. The amount of Seller's unrestricted cash on hand plus the Closing Consideration is sufficient to pay, in full, all Liabilities and Transaction Expenses of Seller outstanding and payable as of the Closing Date, and Seller shall have sufficient cash on hand to pay all other Liabilities and Transaction Expenses of Seller when due.

### **2.3 Intellectual Property.**

(a) Schedule 2.3(a) sets forth all Intellectual Property Registrations in which Seller has or purports to have an ownership interest (whether exclusively, jointly with another Person, or otherwise) or exclusive license and includes, (i) the name of the record owner; (ii) the jurisdiction where the application/registration is located (or, for domain names, the applicable registrar); (iii) the application, publication, issue, or registration number; (iv) the filing date and issuance/registration/grant date; and (v) the prosecution status (e.g. issued, pending or abandoned). All required filings and fees related to the foregoing Intellectual Property Registrations owned or purported to be owned by Seller have been timely made and paid to the applicable Governmental Bodies, and all Intellectual Property Registrations are otherwise in good standing and in compliance with applicable Legal Requirements relating to Intellectual Property Rights. Seller has provided Purchaser with access to true and complete copies of all file histories, documents, certificates, office actions, material correspondence and other materials related to all Intellectual Property Registrations. Schedule 2.3(a) sets forth all material filings, payments and actions that must be made or taken on or before the date that is 90 days after the Closing in order to maintain each such Intellectual Property Registration in full force and effect. Seller has not claimed small entity or micro entity status in connection with any of its Patent filings. If Seller has claimed such status, Seller has, at all times, qualified for such status.

(b) Seller exclusively owns all Transferred IP, free and clear of any Encumbrances. No third party has any right, license, claim or interest whatsoever in or with respect to the Transferred IP, other than non-exclusive, object code only licenses on non-negotiated end user terms issued to customers in the Ordinary Course of Business, the form of which has been available to Purchaser ("Customer Licenses").

(c) All Transferred IP is valid, subsisting, and enforceable.

(d) To the Knowledge of Seller, no Person has infringed, misappropriated, or otherwise violated, and no Person is currently infringing, misappropriating, or otherwise violating, any Transferred IP. There are no legal actions, investigations, claims or proceedings pending or, to the Knowledge of Seller, threatened related to the Transferred IP, the Transferred Technology, the Seller Products, or the Business, and Seller knows of no basis for any such claim.

(e) Neither the execution, delivery, or performance of the Transaction Agreements nor the consummation of any of the Transactions will, with or without notice or lapse of time, result in, or give any other Person the right or option to cause or declare: (i) a loss or impairment of, or Encumbrance on, any Transferred IP; (ii) the release, disclosure, or delivery of any Transferred Technology by or to any escrow agent or other Person; (iii) payment of any additional amounts with respect to, nor require the consent of any other Person in respect of, Seller's right to own, use, hold for use, or license or transfer any item of Transferred IP; (iv) any right to, or with respect to, any Intellectual Property Right owned by Purchaser (other than rights to the Transferred IP that were granted to such Person prior to the date of this Agreement), or (v) Purchaser being bound by, or subject to, any noncompetition, exclusivity, most favored customer pricing, or other restriction on the operation or scope of any business.

(f) Each Person who is or was an employee or contractor of Seller or who is or was involved in the creation or development of any Technology for or on behalf of Seller has signed a valid, enforceable Contract containing an assignment of Intellectual Property Rights pertaining to such Technology to Seller and confidentiality provisions protecting their proprietary nature in favor of Seller (each such Contract, an "**IP Grant Agreement**"). Except as explicitly set forth on Schedule 2.3(f), no IP Grant Agreements deviate from the standard form of IP Grant Agreement made available to Purchaser, in a material manner.

(g) Schedule 2.3(g) accurately identifies: (i) each item of Open Source Code that is contained in, distributed with, or used in the development of Seller Products or any Transferred Technology or from which any part of any Seller Product or any Transferred Technology is derived; (ii) the applicable license for each such item of Open Source Code; and (iii) the Seller Product or Transferred Technology to which each such item of Open Source Code relates and whether such item of Open Source Code is distributed.

(h) No Seller Product and no Transferred Technology contains, is derived from, is distributed with, or is being or was developed using Open Source Code that is licensed under any terms that: (i) impose a requirement or condition that any Seller Product (or Transferred Technology) or part thereof: (A) be disclosed or distributed in Source Code form; (B) be licensed for the purpose of making modifications or derivative works; or (C) be redistributable at no charge; or (ii) otherwise impose any other material limitation, restriction, or condition on the right or ability of Seller to use or distribute any Seller Product or Transferred Technology. Seller is in compliance with the license terms for all Open Source Code. Seller has not made any Seller Product available as Open Source Code (other than the underlying Spinnaker product).

(i) Schedule 2.3(i) sets forth all Intellectual Property Agreements pursuant to which (i) Seller grants rights to any third party with respect to any Intellectual Property Rights other than Customer Licenses, and (ii) any third party grants to Seller any rights with respect to any Intellectual Property Rights, other than "off-the-shelf" software or Open Source Code licensed to Seller. Seller has made available to Purchaser true and complete copies of all such Intellectual Property Agreements, including all modifications, amendments and supplements thereto and waivers thereunder. Each such Intellectual Property Agreement is valid and binding on Seller in accordance with its terms, and to Seller's Knowledge, on any counterparty thereto.



(j) (i) Neither Seller, nor, to Seller's Knowledge, any other party thereto, is in breach of or default under (or is alleged to be in breach of or default under) in any material respect, or, to Seller's Knowledge, has provided or received any notice of breach or default of or any intention to terminate, any Intellectual Property Agreement; (ii) no event or circumstance caused by or attributable to Seller, or to Seller's Knowledge, caused by or attributable to any counterparty to any Intellectual Property Agreement, has occurred that, with notice or lapse of time or both, would constitute an event of default under any Intellectual Property Agreement or result in a termination thereof or would cause or permit the acceleration or other changes of any right or obligation or the loss of any benefit thereunder; and (iii) no royalties or other fees are payable by Seller to any Person under any Intellectual Property Agreement by reason of the ownership of any Intellectual Property Rights by any third party.

(k) Schedule 2.3(k) contains a complete and accurate list of Third Party Components other than Open Source Code, in each case identifying (i) the version of the Seller Products associated with such Third Party Component and (ii) the license or other agreement granting Seller rights in or to such Third Party Component.

(l) Seller has taken all reasonable steps and precautions necessary to maintain the confidentiality of and otherwise protect and enforce their rights in all proprietary information pertaining to the Transferred IP and each item of non-public or confidential information of Seller.

(m) Neither Seller, any Transferred Technology (including that which comprises the Seller Product), nor the operation of the Business as has been conducted and as currently conducted has infringed, misappropriated, or otherwise violated or made unlawful use of any Intellectual Property Right of any other Person, nor will any of the foregoing infringe when conducted by Purchaser in substantially the same manner following the Closing. There are no proceedings (including any oppositions, interferences or re-examinations) pending or, to Seller's Knowledge, threatened (including in the form of offers to obtain a license): (i) alleging any infringement, misappropriation, dilution or violation of the Intellectual Property Right of any Person by Seller or customer of the Business in connection with any Seller Product or the Business; or (ii) challenging the validity, enforceability, registrability or ownership of any Transferred IP. Seller is not subject to any outstanding or prospective order (including any motion or petition therefor) that does or would restrict or impair the use of any Transferred IP. No Person has provided written notice to Seller asserting any claim regarding the use of, or challenging or questioning Seller's right or title in, any of the Transferred IP or alleging infringement or misappropriation by any Seller Product or other item of Transferred Technology.

(n) Neither the Seller Products nor any other item of Transferred Technology contain any "back door," "time bomb," "Trojan horse," "worm," "drop dead device," "virus" or other Software routines or hardware components that permit unauthorized access or the unauthorized disablement, data corruption or erasure ("**Harmful Code**").

(o) Each item of Transferred Technology (including that which comprises the Seller Products) performs substantially in accordance with the functional specifications and documentation (which contains no material error) currently being provided or advertised to customers of the Seller or to which such Seller Products were developed. Seller has performed all installation, programming, integration, repair, maintenance, support, training, and other services related to its deployed Transferred Technology (including that comprising the Seller Products) without material error and in conformity with all Legal Requirements.

(p) Seller owns and possesses all right, title, and interest in and to all of the Seller Software, including rights to the Intellectual Property Rights therein, free and clear from any Encumbrances (other than Customer Licenses). None of the Seller Software or Intellectual Property Right therein were

developed under any grant associated with, or equipment provided by, or any Person or Persons concurrently employed by any federal, state, and/or local Governmental Body, or any public or private university or research institute. Seller Software consists entirely of information, data, and materials: (i) that were created as a work for hire (as defined under United States copyright law) exclusively by a Person or Persons who were at the time of creation salaried employees of Seller or contractors of Seller pursuant to written agreements assigning rights to Seller, and the copyright in which is now owned by, Seller; or (ii) the copyright ownership of which was assigned to Seller pursuant to a written agreement. Seller has not sold, assigned or otherwise transferred any interest in any Seller Software to any third party. Seller Software is not subject to any restrictions or limitations (including any orders or settlement agreements) regarding ownership, use or enforcement of such Seller Software, or any Intellectual Property Rights embodied thereby.

(q) Seller has taken commercially reasonable steps and implemented commercially reasonable safeguards designed to ensure that the Transferred Technology and the Systems are free from Harmful Code. There has been no unauthorized access to the Systems in the three year period prior to the date of this Agreement.

(r) No item of Transferred IP has been created by or on behalf of Seller through the use of any artificial intelligence, machine learning, or other algorithm, program, product, or technology, including those simulating human intelligent thought processes, (collectively, “**AI Programs**”). Seller has not used in creation of any Transferred IP any data sets, information, or data provided by or obtained or collected from any Person in developing, building, instructing, or training AI Programs in violation of Legal Requirements.

(s) Privacy.

(i) Seller and its Subsidiaries have complied with and comply with all applicable Legal Requirements, reputable industry practice, standards, self-governing rules and policies and its own published, posted and internal agreements and policies (which are in conformance with reputable industry practice) (“**Privacy Laws**”) with respect to: (A) personally identifiable information (including name, address, telephone number, electronic mail address, social security number, bank account number or credit card number), sensitive personal information and any special categories of personal information regulated thereunder or covered thereby (“**Personal Information**”) (including such Personal Information of visitors who use Seller Websites) that is collected, used, stored, hosted, distributed, retained, disclosed, transferred, disposed of, transmitted, by or on behalf of Seller; (B) non-personally identifiable information (including such Personal Information of visitors who use Seller Websites) that is collected, used, stored, hosted, distributed, retained, disclosed, transferred, disposed of, transmitted, by or on behalf of Seller; (C) spyware and adware; (D) the procurement or placement of advertising from or with Persons and websites; (E) the use of Internet searches associated with or using particular words or terms; and (F) the sending of solicited or unsolicited electronic mail messages.

(ii) Schedule 2.3(s)(ii) identifies each distinct electronic or other database containing (in whole or in part) Personal Information maintained by or for Seller or its Subsidiaries (the “**Seller Databases**”), the types of Personal Information in each such database, the means by which the Personal Information was collected, and the security policies that have been adopted and maintained with respect to each such database. No material breach or violation of any such security policy has occurred, or to the Knowledge of Seller, is threatened, and there has been no unauthorized or illegal use of or access to any of the data or information in any of Seller Databases.

(iii) Seller has made available to Purchaser each Seller Privacy Policy in effect at any time. Each Seller Privacy Policy (past and current) discloses how Seller and each of its Subsidiaries

uses, collects, or receives any Personal Information or sensitive non-personally identifiable information and Seller and each of its Subsidiaries is in compliance in all material respects with the terms of its published privacy policy.

(iv) Neither the execution, delivery or performance of this Agreement (or any other Transaction Agreement) nor the consummation of any of the Transactions, nor Purchaser's possession, will result in any violation of Seller Privacy Policy or any applicable Legal Requirements pertaining to privacy or Personal Information.

(t) Common Vulnerabilities and Exposures. There are no unremediated critical severity common vulnerabilities and exposures ("CVEs") greater than 30 days old as of the Closing applicable to the Transferred Assets.

## **2.4 Title to Transferred Assets.**

(a) Seller owns, and has good and valid title to, all of the Transferred Assets, free and clear of any Encumbrances (other than Permitted Encumbrances). Seller is the sole and exclusive owner of the Transferred Assets. No Transferred Asset is subject to any pending litigation or outstanding order of any Governmental Body to which Seller or its Subsidiaries is a party, or, to the Knowledge of Seller, any other pending litigation or outstanding order, that restricts in any manner the use, transfer or licensing thereof or that may affect the validity, use or enforceability of any of the Transferred Assets or any rights or remedies relating thereto. None of the Stockholders of Seller holds title to, or has an ownership interest in, any of the Transferred Assets.

(b) There is no contract, option or any other right of another Person binding upon or which at any time in the future may become binding upon Seller or its Subsidiaries to sell, transfer, assign, pledge, charge, mortgage or in any other way dispose of or encumber the Business or any of the Transferred Assets, other than pursuant to the provisions of this Agreement.

(c) Except as set forth on Schedule 2.4(c) hereto, (i) there has not been any material loss, damage or destruction to, or any material interruption in the use of, any of the Transferred Assets (whether or not covered by insurance); (ii) none of Seller or its Subsidiaries has purchased or otherwise acquired any asset related to the Transferred Assets from any other Person; (iii) none of Seller or its Subsidiaries has leased or licensed any asset related to the Transferred Assets from any other Person; (iv) none of Seller or its Subsidiaries has sold or otherwise transferred, or leased or licensed, any Transferred Asset to any other Person; (v) none of Seller or its Subsidiaries has forgiven any debt or otherwise released or waived any material right or claim with respect to any Transferred Asset; (vi) with respect to any Transferred Asset, Seller has not entered into any transaction or taken any other action outside the ordinary course of Seller's Business; and (vii) none of Seller or its Subsidiaries has agreed, committed or offered (in writing or otherwise) to take any of the foregoing actions.

## **2.5 Tax Matters.**

(a) Each of the Tax Returns that was required by Law to be filed by Seller and/or its Affiliates: (i) has been timely filed on or before the applicable due date (including any extensions of such due date properly obtained in the ordinary course of the Business) and (ii) discloses all Taxes required by Law to be paid for the periods covered thereby. All Taxes required by Law to be paid by Seller and/or its Affiliates (whether or not shown or required to be shown on any Tax Returns) have been timely paid and no such Taxes are delinquent. No power of attorney that is currently in effect has been granted by the Seller with respect to the Transferred Assets or the Business (other than powers of attorney granted in the Ordinary Course of Business that will have no continuing effect after the Closing). There are no Encumbrances on

any of the Transferred Assets or otherwise applicable to the Business that arose in connection with any failure (or alleged failure) to pay any Tax. Neither Seller nor any of its Affiliates has deferred or delayed the payment of any Taxes under the CARES Act or otherwise as a result of the effects of the COVID-19 pandemic.

(b) No deficiency for Tax has been asserted or assessed by a Governmental Body against Seller or any of its Affiliates, and Seller does not reasonably expect that any such assertion or assessment of Tax Liability will be made. There has never been any audit or other Proceeding with respect to Taxes against or with respect to Seller or any of its Affiliates, and no such audit or other Proceeding has been threatened in writing against Seller or any of its Affiliates by any Governmental Body, nor to the Knowledge of Seller is any such audit or Proceeding currently pending. No statute of limitations with respect to Taxes of Seller or any of its Affiliates has ever been extended or waived which waiver or extension remains outstanding, and no request for such extension or waiver is currently pending.

(c) Seller has withheld and timely paid to the applicable Governmental Body all Taxes required by Law to have been withheld and paid in connection with any amounts paid or owing to any employee (including the Transferred Employees), independent contractor, equityholder, creditor, customer or other third party and all required information reporting, payroll tax forms and other compliance obligations with respect thereto have been properly completed and timely filed in accordance with all applicable Legal Requirements.

(d) Schedule 2.5(d) lists all of the jurisdictions in which Seller and/or its Affiliates file income, franchise, employment, sales or other material Tax Returns relating to the Business, Transferred Assets, and Transferred Employees. Seller has received no written claim made by a Governmental Body in a jurisdiction where Seller or any of its Affiliates does not file Tax Returns asserting that Seller and/or its Affiliates is or may be subject to taxation by or required to file Tax Returns in that jurisdiction.

(e) Seller is not a “foreign person” within the meaning of Sections 1445 or 1446 of the Code. Seller is, and always has been, properly treated as a domestic C corporation for U.S. federal and applicable state and local income Tax purposes.

(f) The Transferred Assets do not include any tax-sharing agreements, or any stock or other ownership interests in any trust, partnership, corporation, limited liability company, or other “business entity” within the meaning of Treasury Regulations Section 301.7701-2(a). None of the Transferred Assets represent prepaid amounts or deferred revenues of Seller and/or its Affiliates the recognition of which is (or would in the absence of the transactions contemplated by this Agreement) deferred for income tax purposes to any taxable period or portion thereof after the Closing. None of the Transferred Assets are (i) property required to be treated as being owned by another Person pursuant to the provisions of Section 168(f)(8) of the Internal Revenue Code of 1954, as amended and in effect immediately prior to the enactment of the Tax Reform Act of 1986, (ii) “tax-exempt use property” within the meaning of Section 168(h)(1) of the Code, (iii) “tax-exempt bond financed property” within the meaning of Section 168(g) of the Code, (iv) subject to Section 168(g)(1)(A) of the Code, or (v) subject to a “section 467 rental agreement” as defined in Section 467 of the Code.

(g) No Taxes have attached to the Transferred Assets and will become a liability of Purchaser as a result of the execution of this Agreement and purchase of the Transferred Assets.

(h) Seller has not made any payments, is not obligated to make any payments and is not a party to any agreement that has resulted or would reasonably be expected to result, separately or in the aggregate, in the payment of any “excess parachute payment” within the meaning of section 280G of the Code.

**2.6 Proceedings; Orders.** There is no pending Proceeding against or involving Seller (whether or not Seller is named as a party thereto) or its Subsidiaries, and, to the Knowledge of Seller, no Person has threatened to commence any Proceeding against or involving Seller or its Subsidiaries (whether or not Seller is named as a party thereto), or that challenges, or that may have the effect of preventing, materially delaying, making illegal or otherwise materially interfering with, any of the Transactions. No event has occurred, and no claim, dispute or other condition or circumstance exists, that would reasonably be expected to give rise to or serve as a basis for the commencement of any such Proceeding. There are no Proceedings pending or resolved within the last two years, by or against or, to the Knowledge of Seller, threatened against, Seller or its Subsidiaries or any officer or director of Seller in his or her capacity as such with respect to the Transferred Assets. There are no Proceedings pending by Seller or its Affiliates or, to the Knowledge of Seller, that Seller or its Subsidiaries intends to initiate against any other Person.

**2.7 Compliance with Legal Requirements.** Seller and each of its Subsidiaries is, and at all times has been, in compliance with each Legal Requirement that is applicable to it or to the conduct of its business or the ownership or use of any of its assets, including but not limited to any of the Transferred Assets (each, an “**Applicable Legal Requirement**”) in all material respects. No event has occurred, and to the Knowledge of Seller no condition or circumstance exists, that will or would reasonably be expected to (with or without notice or lapse of time) constitute or result directly or indirectly in a violation by Seller or its Subsidiaries of, or a failure on Seller’s or its Subsidiaries’ part to comply with any Applicable Legal Requirement. Seller has not received, at any time, any notice or other communication (in writing or otherwise) from any Governmental Body or any other Person regarding any actual, alleged, possible or potential violation of, or failure to comply with any Applicable Legal Requirement, or any actual, alleged, possible, or potential obligation on the part of such Person to undertake, or to bear all or any portion of the cost of, any cleanup or any remedial, corrective or response action of any nature. To the Knowledge of Seller, no Governmental Body has proposed or is considering any Legal Requirement that, if adopted or otherwise put into effect, (A) would have a material and adverse effect on the Business, the Transferred Assets or on the ability of Seller to comply with or perform any covenant or obligation under any of the Transaction Agreements, or (B) may have the effect of preventing, materially delaying, making illegal or otherwise materially interfering with any of the Transactions.

**2.8 Authority; Binding Nature of Agreements.** Seller has the right, power and authority to enter into and to perform its obligations under this Agreement and to consummate the Transactions. The execution and delivery of this Agreement by Seller, the performance by Seller of its obligations hereunder, and the consummation by Seller of the Transactions, have been duly and validly authorized by the board of directors of Seller and the requisite number of Stockholders, and no other corporate action on the part of Seller or the Stockholders is necessary to authorize the execution and delivery of this Agreement by Seller, the performance by Seller of its obligations hereunder or the consummation by Seller of the Transactions. This Agreement has been duly executed and delivered by Seller and (assuming due authorization, execution and delivery by the other parties to this Agreement) constitutes the legal, valid and binding obligation of Seller, enforceable against Seller in accordance with its terms, except as enforceability may be limited by or subject to (i) bankruptcy, insolvency, reorganization, moratorium and other similar Laws relating to or affecting creditors’ rights generally or (ii) the effect of rules of Legal Requirements and general principles of equity, including those governing specific performance, injunctive relief and other equitable remedies (regardless of whether such enforceability is considered in a proceeding in equity or at Law) (the “**Enforceability Exception**”).

**2.9 Contracts.**

(a) Seller has delivered to Purchaser accurate and complete copies of all Seller Contracts relating to the Business or any Transferred Asset, including all amendments thereto. Each current Seller Contract is valid and in full force and effect. Except for this Agreement and the Contracts specifically

identified in Schedule 2.9 (with each of such Contracts specifically identified under subsection(s) of such Schedule 2.9 that correspond to the Subsection or Subsections of this Section 2.9 applicable to such Contract), none of Seller or its Subsidiaries is a party to or bound by any of the following Contracts (each, a “**Material Contract**”):

(i) any management service, partnership or joint venture Contract, (B) any Contract that involves a sharing of revenues, profits, cash flows, expenses or losses with other Persons, and (C) any Contract that involves the payment of royalties to any other Person;

(ii) any Contract with (A) any customer or distributor who, (I) in the fiscal year ended January 31, 2023 or (II) the ten (10) month period ended November 30, 2023, was one of the ten (10) largest sources of revenues for Seller based on amounts paid or payable with respect to such periods (“**Top Customers**”), together with the respective revenue amounts; or (B) any supplier or partner who either, (A) in (I) the fiscal year ended January 31, 2023 or (II) the ten (10) month period ended November 30, 2023, was one of the ten (10) largest suppliers of products and/or services to or partner of Seller, based on amounts paid or payable with respect to such periods, together with such payment amounts, or (B) provided products, services or support with respect to the development, hosting or maintenance of the Seller Products (collectively, “**Top Suppliers**”);

(iii) any distributor, original equipment manufacturer, reseller, value added reseller, sales, advertising, agency or manufacturer’s representative Contract;

(iv) any Contract (A) pursuant to which any other party is granted exclusive rights, rights of first refusal, or “most favored party” rights of any type or scope with respect to any of the Seller Products or Transferred IP, (B) containing any non-competition covenants, or (C) that limits or would limit the freedom of Seller or any of its successors, assigns or Affiliates to (1) engage or participate, or compete with any other Person, in any line of business, market or geographic area with respect to the Seller Products or the Transferred IP or (2) sell, distribute or manufacture any products or services or to purchase or otherwise obtain any software, components, parts or services;

(v) any Contract that is required to be set forth on Schedule 2.3;

(vi) any Contract pursuant to which Seller or any of its Subsidiaries has agreed to encumber, transfer or sell rights in or with respect to any Transferred IP (other than non-exclusive licenses granted pursuant to customer agreements entered into in the Ordinary Course of Business);

(vii) any Contract providing for the joint development of any Intellectual Property,

(viii) any settlement agreement with respect to any Proceeding;

(ix) any standstill or similar agreement containing provisions prohibiting a third party from purchasing equity interests of Seller or its Subsidiaries or assets of Seller or its Subsidiaries or otherwise seeking to influence or exercise control over Seller or its Subsidiaries;

(x) any Contract or plan (including any stock option, merger and/or stock bonus plan) relating to the sale, issuance, grant, exercise, award, purchase, repurchase or redemption of any shares of Seller Capital Stock or any other securities of Seller or any options, warrants, convertible notes or other rights to purchase or otherwise acquire any such shares of stock, other securities or options, warrants or other rights therefor;

(xi) any Contract with any labor union or any collective bargaining agreement or similar Contract with its Employees;

(xii) any separation agreement, settlement agreement with any Employee, under which Seller has any current actual or potential Liability, as well as any settlement agreement, consent decree, or other similar agreement with any Governmental Entity;

(xiii) any Contract, employment Contract or offer letter with any Employee, or beneficial owner of more than one percent (1%) of the total shares of Seller Capital Stock that is not immediately terminable at-will by Seller without notice, severance, or other cost or Liability;

(xiv) any Contract providing for retention payments, change of control payments, severance, accelerated vesting or any other payment or benefit that may or will become due as a result of the Transactions;

(xv) any trust indenture, mortgage, promissory note, loan agreement or other Contract for the borrowing of money, any currency exchange, commodities or other hedging arrangement or any leasing transaction of the type required to be capitalized in accordance with GAAP;

(xvi) any Contract of guarantee, support, indemnification, assumption or endorsement of, or any similar commitment with respect to, the Liabilities or indebtedness of any other Person, including any Contract mortgaging, pledging or otherwise placing an Encumbrance (other than Permitted Encumbrances) on any material portion of the assets of Seller or its Subsidiaries;

(xvii) any Contract for capital expenditures in excess of \$30,000 in the aggregate;

(xviii) any Contract pursuant to which Seller or any of its Subsidiaries is a lessor or lessee of any real property and any Contract pursuant to which Seller or any of its Subsidiaries is a lessor or lessee of any machinery, equipment, motor vehicles, office furniture, fixtures or other tangible personal property involving expenditures in excess of \$50,000 per annum;

(xix) any Contract with any investment banker, broker, advisor or similar party, or any accountant, legal counsel or other Person retained by Seller or any of its Subsidiaries, in connection with this Agreement and the Transactions;

(xx) any Contract pursuant to which Seller or any of its Subsidiaries has acquired a business or entity, or assets of a business or entity, whether by way of merger, consolidation, purchase of stock, purchase of assets, exclusive license or otherwise, or any Contract pursuant to which it has any material ownership interest in any other Person;

(xxi) any Contract with any Governmental Entity, any Seller Permit, or any Contract with a government prime contractor, or higher-tier government subcontractor, including any indefinite delivery/indefinite quantity contract, firm-fixed-price contract, schedule contract, blanket purchase agreement, or task or delivery order (each a “**Government Contract**”);

(xxii) any Contract that constitutes a business associate agreement under HIPAA;

(xxiii) any Contract entered into by Seller or any of its Subsidiaries with any customer or reseller of Seller that provide for obligations by Purchaser or its successors that do not terminate, or are not terminable by Seller, within one year following the Closing; or

(xxiv) any other Contract, the termination of which would be material to the Seller.

(b) Seller has delivered to Purchaser accurate and complete copies of all Seller Contracts relating to the Business or any Transferred Asset, including all amendments thereto. Each current Seller Contract is valid and in full force and effect. Seller has no current Seller Contracts that are customer Contracts or operating Contracts except as listed on Schedule 2.9.

(c) No Person has violated or breached, or declared or committed any default under, any Material Contract, and no event has occurred, and no circumstance or condition exists, that would reasonably be expected to (with or without notice or lapse of time) (A) result in a material violation or material breach 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. No Person is renegotiating, or has the right to renegotiate, any term or provision of any Material Contract. Seller has not received any notice or other communication regarding any actual, alleged or potential material violation or material breach of, or default under, any Material Contract. Seller has not waived any material right under any Material Contract. There are no outstanding claims or disputes and at no time during the term of any Material Contract were there any claims made under or in connection with such Material Contracts, including with respect to any product warranty in connection with the Business.

(d) No Top Customer or Top Supplier has provided any notice of any intent to terminate, or amend in a manner adverse to Seller, such Person's Contract with Seller, or to reduce the volumes purchased from or provided to Seller, and Seller has no reasonable basis to expect any of the foregoing may occur.

(e) The performance of Material Contracts will not result in any violation of or failure to comply with any Legal Requirement.

**2.10 Insolvency.** Seller is not now insolvent, nor will it be rendered insolvent by any of the Transactions. As used in this section, "insolvent" means the debts and other probable Liabilities of Seller exceed the sum of the present fair saleable value of Seller. Immediately after giving effect to the consummation of the Transactions: (i) Seller will be able to pay its Liabilities as they become due in the usual course of its business; and (ii) Seller will have assets (calculated at fair market value) that exceed its Liabilities.

#### **2.11 Non-Contravention; Consents.**

(a) The execution and delivery of this Agreement, the performance by Seller of its obligations hereunder and the Transaction Agreements to which Seller is a party, and the consummation by Seller of the Transactions or the transactions contemplated by the Transaction Agreements to which Seller is a party, (i) does not (A) conflict with, or result in any violation of the Organizational Documents of Seller; (B) conflict with or result in a violation of any permit or Legal Requirement applicable to the Transferred Assets or the Business; or (C) conflict with, result in a breach of, constitute a default under, result in the acceleration of, create in any party the right to accelerate, terminate, modify, cancel or require notice or consent under any of the terms, conditions or provisions of any Contract, Governmental Authorization or other arrangement to which Seller is a party or by which Seller is or may be bound or to which the



Transferred Assets may be subject (or result in the imposition of any Encumbrance upon or with respect to any of the Transferred Assets) or (ii) result in imposition of any Encumbrance on any Transferred Asset.

(b) No consent of, or registration, declaration, notice or filing with, any Governmental Body is required to be obtained or made by Seller in connection with the execution, delivery and performance of this Agreement and the Transaction Agreements to which Seller is a party or the consummation of the Transactions, including without limitation the transfer of the Transferred Assets contemplated hereby.

## **2.12 Capitalization.**

(a) Schedule 2.12(a) sets forth a complete and accurate list of (i) all Persons who hold Seller Shares, indicating the date of issuance, number and class, of Seller Shares held by each Person, and (ii) all Persons who hold securities convertible into or exercisable for Seller Shares, including any Seller Options, indicating (A) a description of the security, (B) the number and class of Seller Share into or for which the security is convertible or exercisable, and (C) the conversion or exercise price, date of issuance, date of expiration, vesting terms (if any), and accelerated vesting provisions (if any) for such security.

(b) Except as set forth on Schedule 2.12(b), there are no (i) shareholder agreements between Seller and any Stockholders or other holder of Seller securities regarding the securities of the Seller, or (ii) agreements among holders of Seller Shares with respect to the voting or transfer of the securities of Seller or with respect to the governance of or any other aspect of Seller's affairs (including any voting trusts, proxies, rights of first refusal, or similar restrictions on transfer).

(c) No distributions (including distributions for Taxes) are owed by Seller to any holder of Seller Shares or other holder of Seller securities, and no payments (including payments for Taxes) are owed to Seller with respect to any Seller Shares.

(d) All issued and outstanding shares of each Subsidiary of the Seller are duly authorized, validly issued in compliance with the requirements of applicable Law, and directly owned, of record and beneficially, by Seller, free and clear of any Encumbrances (other than Encumbrances arising under applicable securities Laws). Schedule 2.12(d) sets forth a true, correct and complete list of (a) the Subsidiaries of Seller, (b) the names of the members of the board of directors (or similar body) of each Subsidiary, (c) the names and titles of the officers of each Subsidiary, and (d) the amount and type of securities authorized by, issued by, and outstanding for each Subsidiary. Seller does not directly or indirectly own any equity or similar interest in, or any interest convertible or exchangeable or exercisable for, any equity or similar interest in, any Person other than the Subsidiaries set forth on Schedule 2.12(d).

**2.13 Absence of Changes.** Since February 1, 2023, there has not been any material adverse change in, and no event has occurred that would reasonably be expected to have a material adverse effect on (i) the Transferred Assets, or (ii) the business, condition, liabilities or operations of Seller. Except as set forth on Schedule 2.13 hereto, since July 31, 2023, Seller has not:

(a) amended its Certificate of Incorporation or bylaws or equivalent organizational or governing documents of Seller or incorporated or formed any additional Subsidiaries;

(b) merged or consolidated itself with any other Person or adopted a plan of complete or partial liquidation, dissolution, consolidation, restructuring, recapitalization or other reorganization;

(c) declared or paid any dividends on or make any other distributions (whether in cash, stock or other property) in respect of any of its equity interests, or split, combined or reclassified any of its

equity interests or issue or authorize the issuance of any equity interests or other securities in respect of, in lieu of or in substitution for its equity interests, or repurchase or otherwise acquire, directly or indirectly, any of its equity interests except for purchases from former employees, non-employee directors and consultants in accordance with agreements providing for the repurchase of shares in connection with any termination of service and issuances in connection with the exercise of Seller Options that are outstanding as of the date of this Agreement;

**(d)** (i) entered into, renewed, or materially amended or modified any (A) Contract that would constitute a Material Contract, (B) Material Contract, (C) Contract requiring a novation or consent in connection with the Transactions, or (D) Contract with a customer, (ii) violated, terminated, renewed, materially amended or modified (including by entering into a new Contract with such party or otherwise) or waive any of the material terms of any of its Material Contracts, or (iii) entered into, amended, renewed, modified or terminated any Contract or waive, release or assign any rights or claims thereunder, which if so entered into, modified, amended, terminated, waived, released or assigned would be reasonably likely to (A) adversely affect Seller (or, following consummation of the Transactions, Purchaser or any of its Affiliates) in any material respect, (B) impair the ability of Seller to perform its obligations under this Agreement, or (C) prevent or materially delay or impair the consummation of the Transactions.

**(e)** issued, delivered, granted or sold or authorized or propose the issuance, delivery, grant or sale of, approved the transfer of, or purchased or proposed the purchase of, any Seller equity interests, or entered into or authorized or proposed to enter into any Contracts of any character obligating it to issue any equity interests, other than: (i) the issuance of shares of Seller Capital Stock pursuant to the exercise of Seller Options that are outstanding as of the Agreement Date and (ii) the repurchase of any shares of Seller Capital Stock from former employees, non-employee directors and consultants in accordance with Contracts providing for the repurchase of shares in connection with any termination of service;

**(f)** (i) hired, or offered to hire, any additional officers or other employees, or any consultants or independent contractors, (ii) terminate the employment (except for cause or mutual separation), change the title, office or position, or materially reduce the responsibilities or terms and conditions of employment or engagement of any Employee, (iii) enter into, materially amend or extend the term of any employment or consulting agreement, bonus arrangement, severance, retention bonus, or change of control agreement with, or Seller Option held by, any officer, employee, consultant or independent contractor, (iv) enter into, terminate or modify any Contract with a labor union or collective bargaining agreement (unless required by Law), or (v) add any new members to the Seller Board or change the constitution or composition of the Seller Board;

**(g)** made any loans, advances, securities or guarantees (other than routine expense advances to employees of Seller consistent with past practice) to, or any investments in or capital contributions to, any Person, or forgive or discharge in whole or in part any outstanding loans or advances, or prepay any indebtedness for borrowed money;

**(h)** materially amended or replaced any Seller Privacy Policy (or other public statements and commitments), except for non-exclusive licenses in connection with the provision of the Seller's Products and services in the Ordinary Course of Business, transferred or licensed from any Person any rights to any Intellectual Property, transferred or licensed to any Person any rights to any Transferred IP, or transfer or provide a copy of any Seller Source Code to any Person (including any Employee or commercial partner of Seller) (other than providing access to Seller Source Code to current Employees involved in the development of the Seller Products on a need to know basis in the Ordinary Course of Business);

(i) taken any action regarding a patent, patent application or other Intellectual Property right, other than filing continuations for existing patent applications or completing or renewing registrations of existing patents, domain names, trademarks or service marks in the Ordinary Course of Business;

(j) sold, leased, licensed or otherwise disposed of or encumbered (other than Permitted Encumbrances) any of its material properties or assets, other than sales and non-exclusive licenses of Seller Products in the Ordinary Course of Business, or enter into any Contract with respect to the foregoing;

(k) issued, delivered, or provided any new releases for any of the Seller Products to any Person;

(l) entered into any operating lease or any leasing transaction of the type required to be capitalized in accordance with GAAP;

(m) incurred any indebtedness for borrowed money or guarantee any such indebtedness or issue or sell any debt securities or guarantee any debt securities of others;

(n) paid, discharged or satisfied (i) any Liability to any Person who is an officer, director or stockholder of Seller, other than compensation due for services as an officer or director, or (ii) any claim or Liability arising other than in the Ordinary Course of Business, other than the payment, discharge or satisfaction of Liabilities reflected or reserved against on the face of the Financial Statements;

(o) made any capital expenditures, capital additions or capital improvements in excess of \$10,000 individually or \$37,500 in the aggregate;

(p) materially changed the amount of, or terminate, any insurance coverage;

(q) canceled, released or waived any material claims or rights held by Seller;

(r) (i) adopted, terminated or amended any Seller Employee Plan or any compensation benefit plan, including any stock issuance or stock option plan, or amend any compensation, benefit, entitlement, grant or award provided or made under any such plan, except in each case as required under ERISA, applicable Law or as necessary to maintain the qualified status of such plan under the Code, (ii) materially amend any deferred compensation plan within the meaning of Section 409A of the Code and the regulations thereunder, (iii) pay any bonus or other incentive compensation to any Employee, or (iv) increase the salaries, wage rates or fees of Employees (other than, with respect to clauses (iii) and (iv), in the Ordinary Course of Business or pursuant to preexisting plans, policies or Contracts that have been disclosed to Purchaser and are set forth on Schedule 2.13(d)(ix));

(s) granted or paid, or enter into any Contract providing for the granting of any severance, change of control benefits, retention or termination pay, or the acceleration of vesting or other benefits, to any Person (other than payments or acceleration made pursuant to preexisting plans, policies or Contracts that have been disclosed to Purchaser and are set forth on Schedule 2.13(s));

(t) (i) commenced a lawsuit other than (A) for the routine collection of bills, (B) in such cases where it in good faith determines that failure to commence suit would result in the material impairment of a valuable aspect of its business (provided that it consults with Purchaser prior to the filing of such a suit) or (C) for a breach of this Agreement or (ii) settle or agree to settle any pending or threatened lawsuit or other dispute;

(u) acquired or agreed to acquire by merging or consolidating with, or by purchasing a substantial portion of the assets of, or by any other manner, any business or any corporation, partnership, association or other business organization or division thereof, or otherwise acquire or agree to acquire any assets that are material, individually or in the aggregate, to its business, or enter into any Contract with respect to a joint venture, strategic alliance or partnership;

(v) changed accounting methods or practices (including any change in depreciation or amortization policies) or revalue any of its assets (including writing down the value of inventory or writing off notes or accounts receivable otherwise than in the Ordinary Course of Business), except in each case as required by changes in GAAP as concurred with its independent accountants and after notice to Purchaser;

(w) entered into any agreement for the purchase, sale or lease of any real property;

(x) placed or allowed the creation of any Encumbrance (other than a Permitted Encumbrance) on any of its properties or its shares or other equity interests;

(y) materially changed the manner in which it provides warranties, discounts or credits to customers;

(z) allowed any license necessary for the conduct of Seller's business to lapse, expire, or fall out of good standing or take any action, or fail to take any action required or advisable, that could result in the loss, termination, or suspension of any such license;

(aa) entered into any Contract that, if entered prior to the Agreement Date, would be required to be listed on Schedule 2.19; or

(bb) taken or agreed in writing or otherwise to take, any of the actions described in clauses (a) through (aa).

**2.14 Brokers.** Other than Guggenheim Securities, LLC, none of Seller nor any of its Subsidiaries has agreed or become obligated to pay, or taken any action that would reasonably be expected to result in any Person claiming to be entitled to receive, any brokerage commission, finder's fee or similar commission or fee in connection with any of the Transactions.

## **2.15 Employee and Labor Matters.**

(a) Schedule 2.15(a) contains a true and complete list of all current employees (whether full-time, part-time, retained through employee leasing arrangements or otherwise) of Seller and its Subsidiaries, including such individual's: (i) name; (ii) current annual salary or other rate of pay; (iii) any other compensation payable to them (including, without limitation, bonuses, commissions or deferred compensation); (iv) position; (v) date of hire; (vi) location of employment; (vii) exempt or non-exempt status, (viii) full-or part-time status; (ix) immigration status; (x) any promises or commitments made to them with respect to material changes to their compensation or benefits, and (xi) which of Seller or its Subsidiaries is the employer of such individual.

(b) Schedule 2.15(b) contains a true and complete list of all current independent contractors of Seller and its Subsidiaries, including such contractor's: (i) name; (ii) the date the engagement began; (iii) the date the engagement is scheduled to end; (iv) a description of the services being performed, (v) the terms of the compensation for such contractor, and (vi) which of Seller or its Subsidiaries has engaged such contractor.

**(c)** Seller has provided to Purchaser true, correct and complete copies of each of the following: (i) all forms of offer letters, (ii) all forms of employment, severance, retention, or change of control agreements, (iii) all forms of independent contractor agreements for individual independent contractors or consultants, (iv) all forms of confidentiality, non-competition or inventions agreements used with employees, (v) all forms of bonus plans and any form award agreement thereunder, and a schedule of bonus commitments made to employees, (vi) any commission plan or other incentive compensative agreement, and a schedule of the actual or estimated commission payments owed but unpaid to each eligible employee, and (vii) any such document in clauses (i)-(vi) that deviate materially from the form document.

**(d)** None of the current or former independent contractors of Seller or its Subsidiaries could be reclassified as an employee. There are not, and at no time have been, any independent contractors who have provided services to Seller for a period of six consecutive months or longer. Seller and its Subsidiaries have never had any temporary or leased employees. No independent contractor of Seller or any of its Subsidiaries is or was eligible to participate in any Seller Employee Plan. None of Seller or its Subsidiaries has any material liability with respect to the misclassification of any employee as exempt from overtime wages.

**(e)** The consummation of the Transactions will not, either alone or in combination with another event, (i) entitle any current or former employee, director or officer of Seller or its Subsidiaries to severance pay, unemployment compensation, debt forgiveness or any other payment, or (ii) accelerate the time of payment or vesting, or increase the amount of compensation due any such employee, director or officer.

**(f)** None of Seller or its Subsidiaries are a party to or bound by, and none of Seller or its Subsidiaries has ever been a party to or bound by, any union contract, collective bargaining agreement or similar Seller Contract. To the Knowledge of Seller, none of Seller or its Subsidiaries is the subject of any threatened or apparent union organizing activities involving any of the Transferred Employees.

**(g)** Each of Seller and its Subsidiaries is, and has been, in material compliance with all applicable Legal Requirements related to the employment of labor to the extent they relate to the Transferred Employees, including all employment standards, labor relations, anti-discrimination, harassment and retaliation in employment, terms and conditions of employment, leaves of absence, sick leave, disability accommodation, immigration, pay equity, employment equity, employee classification (including the proper classification of workers as independent contractors and consultants, and employees as exempt and non-exempt), overtime compensation, and workplace health and safety laws. Neither Seller nor any of its Affiliates has engaged in any plant closings, employee layoff activities (including temporary layoffs or furloughs) or reduction in employees' hours or pay. Neither Seller nor any of its Subsidiaries is a party to any application, complaint or proceeding under any statute with respect to the Transferred Employees. There are no claims or complaints nor, to the Knowledge of Seller, any threatened claims or complaints against Seller or its Subsidiaries pursuant to any Legal Requirement relating to the Transferred Employees including employment standards, occupational health and safety, human rights, labor relations, worker's compensation, pay equity and employment equity. Furthermore, to the Knowledge of Seller, (A) no allegations of sexual harassment or misconduct while employed by, or providing services to, Seller or any of its Subsidiaries have been made against any employee of Seller or its Subsidiaries who, directly or indirectly, supervises any employee of Seller or its Subsidiaries and (B) none of Seller or any of its Subsidiaries has entered into any settlement agreement or conducted any investigation related to allegations of sexual harassment or sexual misconduct by or regarding any employee or other representative of Seller or its Subsidiaries.

**(h)** No current Seller or Seller Subsidiary employee is a party to or is bound by any confidentiality agreement, noncompetition agreement or other Seller Contract (with any Person) that may

have an adverse effect on: (A) the performance by such employee of any of his duties or responsibilities as an employee of Seller or its Subsidiaries or Purchaser; or (B) the use by Purchaser of the Transferred Assets. Except as set forth on Schedule 2.15(h), all of the Transferred Employees may be terminated without notice and without payment of severance except as required by applicable law.

## **2.16 Benefit Plans.**

(a) Each Seller Employee Plan and Seller Employee Agreement complies in all material respects in form and in operation and has been administered substantially in accordance with its terms and any applicable provisions of ERISA, the Code and all other Legal Requirements.

(b) As of the Closing, full payment to each Seller Employee Plan and Seller Employee Agreement of all contributions or other remittances or payments (including all employer contributions, employee salary reduction contributions, premiums and other amounts) that are required to be made by Seller under the terms of each Seller Employee Plan and Seller Employee Agreement and under ERISA, the Code and other Legal Requirements in respect of the current and prior plan years, if any, have been made on a timely basis.

(c) No Seller Employee Plan currently or previously maintained or contributed to by Seller or any affiliate of Seller or with respect to which Seller or any Affiliate of Seller has or has had any liability (actual or contingent) is (1) a “multiemployer plan” as defined in Section 3(37) of ERISA, (2) a “multiple employer plan” as described in Section 413(c) of the Code or Sections 4063, 4064 or 4066 of ERISA, (3) a “defined benefit plan” as defined in Section 3(35) of ERISA or subject to Title IV of ERISA or (4) a pension plan subject to the funding standards of Section 302 of ERISA or Section 412 or 430 of the Code, and Seller and its affiliates have not previously maintained or had an obligation to contribute to any such plans.

**2.17 Financial Statements.** Seller has delivered to Purchaser and attached hereto as Schedule 2.17: (a) the unaudited balance sheets of Seller as of January 31, 2021 and January 31, 2022, and the related statements of income for the 12-month periods then ended, and (b) the unaudited balance sheet of Seller as of November 30, 2023 (the “**Latest Balance Sheet**” and such date, the “**Latest Balance Sheet Date**”) and the related unaudited statements of income for the ten-month period then ended (together with the financial statements in clause (a), the “**Financial Statements**”). The Financial Statements are consistent with the books and records of Seller and present fairly in all material respects the financial condition and income of Seller as of and for the periods referred to therein.

**2.18 Permits; Licenses.** Schedule 2.18 sets forth a true, correct and complete list of all of the material Permits affecting or relating in any way to the Business and the operation or ownership of the Transferred Assets in the manner operated or owned by Seller (collectively, the “**Operating Permits**”). The Operating Permits include all material Permits required to own and operate the Business and the Transferred Assets. Seller holds each of the Operating Permits in Seller’s name, and all of the Operating Permits are valid and in full force and effect. Seller is not in default under, and, to the Knowledge of Seller, no condition exists that with or without notice or lapse of time or both would constitute a default under, any Operating Permit. None of Seller nor its Subsidiaries has received any written notice from any Governmental Body that it is in violation of or in default under any Operating Permit. None of the Operating Permits shall be terminated or impaired or become terminable, in whole or in part, as a result of the Transactions.

**2.19 Related Party Transactions.** Except as listed on Schedule 2.19, there are no agreements, contracts, plans, arrangements or other transactions between or among Seller, on the one hand, and any Affiliate of Seller, or any officer, director, stockholder or member of Seller, on the other hand, other than

(i) standard employee benefits generally made available to all employees of Seller (including standard offer letters, consulting agreements, and advisor agreements), (ii) standard director and officer indemnification agreements approved by the Board of Directors (previously provided to the Purchaser or its counsel), and (iii) agreements related to the purchase of shares of Seller's capital stock and the issuance of options to purchase shares of Seller's Common Stock pursuant to the stock plan, in each instance, approved in the written minutes of the Board of Directors (previously provided to the Purchaser or its counsel).

**2.20 Real Property.** None of Seller or its Subsidiaries owns, or has ever owned, any real property. Schedule 2.20 sets forth the address of each real property leased by Seller or its Subsidiaries ("**Leased Real Property**"). With respect to each Leased Real Property: (i) a copy of such lease has been delivered to Purchaser, (ii) such lease is legal, valid, binding and enforceable against Seller, and is in full force and effect and has not been modified, (iii) the Transactions do not require the consent of any other party to such lease and will not result in a breach of or default under such lease, and (iv) Seller is not in breach or default under any such lease.

**2.21 Anti-Corruption Compliance.** Seller has not (and none of its officers or directors, agents, employees, Affiliates or any other Person acting on Seller's or its Affiliates' behalf has), directly or indirectly: (a) taken any action which would cause it to be in violation of the Foreign Corrupt Practices Act of 1977, as amended, or any rules or regulations thereunder, or any similar anti-corruption or anti-bribery Legal Requirements applicable to Seller in any other jurisdictions other than the United States, (b) used any corporate funds for unlawful contributions, gifts, entertainment or other unlawful expenses relating to political activity, (c) made, offered or authorized any unlawful payment to foreign or domestic government officials or employees, whether directly or indirectly or (d) made, offered or authorized any bribe, rebate, payoff, influence payment, kickback or other similar unlawful payment, whether directly or indirectly.

**2.22 Export Control Legal Requirements.**

(a) Seller and its Subsidiaries have complied with all applicable export and re-export control laws and regulations ("**Export Controls**"), including but not limited to the Export Administration Regulations ("**EAR**") maintained by the U.S. Department of Commerce, trade and economic sanctions maintained by the Treasury Department's Office of Foreign Assets Control ("**OFAC**"), and the International Traffic in Arms Regulations ("**ITAR**") maintained by the Department of State and any applicable anti-boycott compliance regulations. None of Seller or any of its Subsidiaries has directly or indirectly sold, exported, re-exported, transferred, diverted, or otherwise disposed of any products, software, or technology (including products derived from or based on such technology) to any destination, entity, or person prohibited by the laws or regulations of the United States or any other country, without obtaining prior authorization from the competent Governmental Bodies as required by those laws and regulations. Seller and each of its Subsidiaries is in compliance with all applicable U.S. and foreign import laws and regulations ("**Import Restrictions**"), including but not limited to Title 19 of the U.S. Code and Title 19 of the Code of Federal Regulations.

(b) Except as authorized, none of Seller or its Subsidiaries has released or disclosed controlled technical data or technology to any foreign national whether in the United States or abroad.

(c) No action, proceeding, writ, injunction, claim, request for information, or subpoena is pending, or to Seller's Knowledge, threatened, concerning or relating to any export or import activity of Seller or its Subsidiaries. No voluntary self-disclosures have been filed by or for Seller with respect to possible violations of Export Controls and Import Restrictions.

(d) Seller has no Knowledge of any fact or circumstance that could result in any liability for violation of Export Control and Import Restrictions.

(e) Seller and its Subsidiaries have maintained all records required to be maintained in their possession as required under the Export Control and Import Restrictions.

### 3. REPRESENTATIONS AND WARRANTIES OF PURCHASER.

Purchaser represents and warrants, to and for the benefit of Seller, as follows:

**3.1 Due Organization.** Purchaser is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization.

**3.2 Authority.** Purchaser has the requisite right, power and authority to enter into and to perform its obligations under this Agreement and to consummate the Transactions on the terms set forth herein, and the execution and delivery by Purchaser of this Agreement has been duly authorized by all necessary action on the part of Purchaser.

**3.3 Binding Nature of Agreements.** This Agreement has been duly executed and delivered by Purchaser and (assuming due authorization, execution and delivery by the other parties to this Agreement) constitutes the legal, valid and binding obligation of Purchaser, enforceable against Purchaser in accordance with its terms, subject to the Enforceability Exception.

**3.4 No Conflicts.** None of the execution and delivery by Purchaser of this Agreement, any other Transaction Agreement, the consummation of the Transactions, or compliance by Purchaser with any of the provisions hereof or thereof conflict with, or result in any violation or breach of (with or without notice or lapse of time, or both) (i) Purchaser's certificate of incorporation, (ii) Purchaser's bylaws, or (iii) applicable law that would be reasonably likely to prohibit or restrain the ability of Purchaser to enter into this Agreement, or any other Transaction Agreement, or consummate the transactions contemplated hereby or thereby.

### 4. INDEMNIFICATION, ETC

#### 4.1 Survival.

(a) The representations and warranties of Seller contained in this Agreement or in any other Transaction Agreement shall survive the Closing Date and continue in full force and effect until 11:59 pm (Pacific Time) on the date that is twelve (12) months after the Closing Date (the "**Expiration Date**"); provided, however, that:

(i) each of the Fundamental Representations and the indemnity obligations related thereto shall survive the Closing and continue in full force and effect until the longer of (x) the Expiration Date or (y) the expiration of the longest statute of limitations applicable to the subject matter underlying such Fundamental Representation;

(ii) each of the IP Representations and the indemnity obligations related thereto shall survive the Closing and continue in full force and effect until 11:59 (Pacific Time) on the date that is twenty-four (24) months after the Closing Date; and

(iii) any claim of Fraud shall survive indefinitely.

(b) All covenants and agreements of Seller contained in this Agreement or of the Seller in any other Transaction Agreement shall survive the Closing for the period explicitly specified related to



such covenant and agreement, or if no period is explicitly specified, for three (3) years after the Closing Date.

(c) If, in accordance with this Article 4, (i) any Representation Claim in respect of a representation or warranty other than a Fundamental Representation (each, a “**General Representation Claim**”) is asserted prior to the Expiration Date, (ii) any Representation Claim arising from any inaccuracy in any breach of any Fundamental Representation (each, a “**Fundamental Representation Claim**”) is asserted prior to the expiration date described in Section 4.1(a)(i), (iii) any Representation Claim arising from any inaccuracy in any breach of any IP Representations (each, an “**IP Representation Claim**”) is asserted prior to the expiration date described in Section 4.1(a)(ii), (iv) any Indemnification Claim arising from any claim of Fraud is asserted prior to the expiration date described in Section 4.1(a)(iii), or (v) any Indemnification Claim arising from any claim of a breach of a covenant or agreement of Seller contained in this Agreement or in any other Transaction Agreement is asserted prior to the expiration date described in Section 4.1(b), then in each case, such Indemnification Claim shall continue until the final amount of recoverable Losses are determined by final agreement, settlement, judgment or award binding on Seller and Purchaser in accordance with this Article 4 (the final amount of recoverable Losses so determined, the “**Loss Amounts**”).

(d) The representations, warranties, covenants and agreements of Purchaser contained in this Agreement or in any other Transaction Agreement shall not survive the Closing (other than covenants and agreements which are to be performed after the Closing, which will survive in accordance with their terms).

#### **4.2 Indemnification.**

(a) Subject to the limitations in this Article 4, from and after the Closing Date, the Seller Indemnitors shall severally and not jointly, pro rata in accordance with their Pro Rata Share, hold harmless and indemnify each of the Indemnified Parties from and against, and compensate and reimburse each of the Indemnified Parties for, any and all Losses imposed upon or incurred by any of the Indemnified Parties or to which any of the Indemnified Parties may otherwise become subject (regardless of whether or not such Losses relate to any third-party claim) and that arise from or are as a result of, or are connected with:

(i) any inaccuracy in or breach of any representation or warranty of Seller contained in this Agreement or in any other Transaction Agreement (“**Representation Claims**”);

(ii) any breach by Seller of any of its covenants or agreements contained in this Agreement or in any other Transaction Agreement;

(iii) any Liabilities of Seller, whether arising from or related to the conduct of the Business or otherwise, now existing or arising in the future, in respect of the Excluded Assets or the Excluded Liabilities (including, but not limited to, those Liabilities arising in connection with any and all Excluded Taxes);

(iv) any Liability of Seller or any Liability to which Purchaser or any of the other Indemnified Parties may become subject and that arises from or relates to any failure to comply with any bulk transfer law or similar Legal Requirement in connection with the Transactions;

(v) any Liability to which Purchaser or any of the other Indemnified Parties may become subject and that arises from or relates to any failure of Seller to pay, discharge and satisfy any Indebtedness or Transaction Expenses;

(vi) any Fraud on the part of (x) Seller or (y) any Representative of Seller or any Seller Stockholder, if Purchaser reasonably believes that such Representative or Seller Stockholder was acting on behalf of Seller, including in connection with or relating directly or indirectly to (i) the negotiation, execution, delivery or performance of this Agreement and (ii) any of the Transactions;

(vii) any current or future Proceeding against Seller or Purchaser related to or in connection with any Excluded Asset or Excluded Liability, including without limitation, under any successor liability theory;

(viii) any Liability with respect to any liquidation, dissolution or winding up of Seller, including any Proceeding, bankruptcy filing, assignment for the benefit of creditors or similar restructuring or reorganization involving Seller; and

(ix) any Liability with respect to any claims by any current or former holder of equity interests in Seller, or purported holder of equity interests in Seller, with respect to the negotiation, documentation, execution or consummation of the Transactions, including the allocation or distribution of the Purchase Price; provided, that the foregoing shall not limit any right of Seller or its successors to enforce this Agreement.

#### **4.3 Certain Limitations.**

(a) Materiality standards or qualifications and qualifications by reference to the term material adverse effect in any representation, warranty, covenant or agreement shall neither be taken into account in determining whether a breach of or default in connection with such representation, warranty, covenant or agreement (or failure of any representation or warranty to be true and correct) exists, nor be taken into account in determining the amount of any Losses with respect to such breach, default or failure to be true and correct.

(b) The representations, warranties, covenants and agreements of the Seller, and the rights and remedies for indemnification, compensation and reimbursement or otherwise that may be exercised by the Indemnified Parties, shall not be limited or otherwise affected by or as a result of any information furnished to, or any investigation made by, or virtue of the knowledge of, any Indemnified Party of any inaccuracy, breach or untruth of any representation or warranty of the Seller or any of its Affiliates, whether such knowledge arose before or after the date hereof.

(c) Subject to Section 4.3(d) and except in the case of Fraud, (i) the Seller Indemnitors' aggregate liability for General Representation Claims shall be limited to an amount equal to the Indemnity Holdback Amount, (ii) the Seller Indemnitors' aggregate liability for Fundamental Representation Claims or any breach by Seller of any of its covenants or agreements contained in this Agreement or in any other Transaction Agreement (except for willful breach of such covenants or agreements by Seller) shall be limited to an amount equal to the Purchase Price, (iii) the Seller Indemnitors' aggregate liability for IP Representation Claims shall be limited to an amount equal to \$2,700,000. The Seller's liability for Fraud by or on behalf of Seller or willful breach by Seller of any of its covenants or agreements contained in this Agreement or in any other Transaction Agreement shall be unlimited.

(d) Subject to the limitations set forth in Section 4.3(c), the Indemnified Parties shall be entitled to bring indemnification claims directly against the Seller Indemnitors. In no event shall the aggregate amount of Losses for which each Seller Indemnitor is obligated to indemnify the Indemnified Parties in respect of Indemnification Claims exceed the portion of the Purchase Price actually received by such Seller Indemnitor (including any funds from the Indemnity Holdback Amount and the Special Holdback Amount); provided that the foregoing limitation shall not apply in the case of Fraud committed

by or with the knowledge of such Seller Indemnitor (“**Seller Indemnitor Fraud**”) or any willful breach by such Seller Indemnitor of any covenant or agreement of such Seller Indemnitor under this Agreement or in any other Transaction Agreement signed by such Seller Indemnitor, for which Liability for such Seller Indemnitor shall be unlimited and nothing in this Agreement shall limit the rights or remedies of any Indemnified Party against such Seller Indemnitor.

(e) Losses shall be calculated net of actual recoveries received by or on behalf of the Indemnified Parties under insurance policies (but in each case net of any actual costs of recovery or collection, deductibles, retroactive premium adjustments, reimbursement obligations or other costs directly related to the insurance claim and deductibles); *provided*, that no Indemnified Party shall have any obligation hereunder to take any action to obtain such payments or to obtain or maintain any such insurance policies, and the Indemnified Party shall reasonably promptly refund any amount it actually receives (net of costs and expenses incurred in connection with the collection of such amount) pursuant to this clause (ii) from insurance to the extent that it actually receives such amount after payment by any Indemnifying Party.

(f) No Indemnified Party shall be entitled to double recovery for any indemnifiable Losses even though such Losses may have resulted from the breach of more than one of the representations, warranties, agreements and covenants in this Agreement or any Seller document; *provided, however*, that the foregoing limitation shall not prevent an Indemnified Party from recovering all Losses to which it is entitled hereunder arising out of the same set of facts and circumstances notwithstanding the fact that an indemnification claim for such Losses is based upon more than one representation, warranty, agreement or covenant.

#### **4.4 Third-Party Claims.**

(a) In the event of the assertion or commencement by any Person of any claim or Proceeding (whether against Purchaser or against any other Person) with respect to which any Indemnified Party may be entitled to indemnification, compensation or reimbursement pursuant to this Article 4 (a “**Third Party Claim**”), Purchaser shall have the right in its sole discretion to conduct the defense of, and to settle, such Third Party Claim. If Purchaser so proceeds with the defense of any such Third Party Claim or Proceeding, (i) Seller shall cooperate and assist Purchaser in the defense of the Third Party Claim by providing information, assisting in the identification of witnesses and arranging for interviews, and otherwise responding to reasonable requests by Purchaser in the defense of the Third Party Claim, and (ii) all reasonable fees and expenses relating to the defense of such Third Party Claim or Proceeding shall constitute Losses, subject to the limitations and other provisions of this Article 4. Purchaser shall notify Seller of any such Third Party Claim against Purchaser, and Seller shall be entitled (on behalf of the Seller Indemnitors and at their expense), or, in the event indemnification is being sought hereunder from fewer than all the Seller Indemnitors in respect of Seller Indemnitor Fraud, the applicable Seller Indemnitors (the “**Applicable Indemnitor Parties**”) to receive updates and information regarding such Third Party Claim, but not to determine, participate in, or conduct the defense of such Third Party Claim. The failure of Purchaser to so notify Seller or the Applicable Indemnitor Parties of the Third Party Claim shall not relieve the Seller Indemnitors of any Liability unless, and only to the extent, the Seller Indemnitors demonstrate that the defense of such action is actually and materially prejudiced thereby. If Purchaser does not elect to proceed with the defense of any such Proceeding, Seller may proceed with the defense of such Proceeding with counsel reasonably satisfactory to Purchaser; *provided, however*, that Seller may not settle nor compromise any such Proceeding without the prior written consent of Purchaser.

#### **4.5 Indemnification Procedures and Resolution of Claims.**

(a) Subject to the limitations set forth in Section 4.3, if an Indemnified Party wishes to make an Indemnification Claim under Section 4.2, such Indemnified Party shall deliver a written notice

(a “**Claim Notice**”) to Seller and in respect of Seller Indemnitor Fraud, the Applicable Indemnitor Parties. Each Claim Notice shall, with respect to each Indemnification Claim set forth therein, to the extent known to the Indemnified Party, (i) specify in reasonable detail and in good faith the nature of the Indemnification Claim being made, and (ii) contain a good faith, non-binding, preliminary estimate of the aggregate amount of Losses to which Purchaser or such Indemnified Party might be entitled (the aggregate amount of such estimate, as it may be modified by Purchaser in good faith from time to time, being referred to as the “**Claim Amount**”).

(b) If Seller or the Applicable Indemnitors Parties wish to object to the allowance of some or all Indemnification Claims made in a Claim Notice, Seller must deliver a written objection to Purchaser within twenty (20) Business Days after receipt of such Claim Notice expressing such objection and explaining in reasonable detail and in good faith the basis therefor (an “**Objection Notice**”). Following receipt by Purchaser of Seller’s Objection Notice, if any, Purchaser (on behalf of any other Indemnified Party, if applicable) and the Applicable Indemnitors Parties shall promptly, and within ten (10) Business Days, attempt in good faith to resolve the rights of the respective parties with respect to each Indemnification Claim that is the subject of the Objection Notice. If Seller and Purchaser (on behalf of any other Indemnified Party, if applicable) resolve the dispute that is the subject of the Objection Notice, then a memorandum setting forth such agreement and the aggregate dollar amount of Losses payable to Purchaser or any other Indemnified Party (the “**Stipulated Amount**”) shall be prepared and executed by Purchaser (on behalf of any other Indemnified Party, if applicable) and Seller or the Applicable Indemnitors Parties. In such event, Purchaser shall be entitled to retain for its own use an amount equal to the Stipulated Amount from the Indemnity Holdback Amount, and, solely if such Losses are in respect of the Known Sales Tax Liabilities, the Special Holdback Amount, and to the extent the Stipulated Amount exceeds the remaining amount of the Indemnity Holdback Amount or, solely if such Losses are in respect of the Known Sales Tax Liabilities, the Special Holdback Amount, but subject to the limitations contained in Section 4.3, the Seller and/or the Seller Indemnitors, as applicable, shall, within ten (10) Business Days following receipt of a notice to be promptly provided to them by Purchaser advising them of their respective Pro Rata Share of the amount of the Stipulated Amount owed by the Seller and/or such Seller Indemnitors, pay such excess portion of the Stipulated Amount to Purchaser in cash.

(c) If Purchaser does not receive an Objection Notice from Seller or the Applicable Indemnitors Parties with respect to any Indemnification Claim set forth in a Claim Notice by the end of the twenty (20) Business Day period referred to in Section 4.5(b), then the Seller and the Seller Indemnitors shall be deemed to have irrevocably waived any right to object to such Indemnification Claim and to have agreed that Losses in the amount of the applicable Claim Amount (the “**Agreed Amount**”) are indemnifiable hereunder. Purchaser shall be entitled to retain for its own use an amount equal to the Agreed Amount from the Indemnity Holdback Amount and, solely if such Losses are in respect of the Known Sales Tax Liabilities, the Special Holdback Amount, and to the extent the Agreed Amount exceeds the remaining amount of the Indemnity Holdback Amount or, solely if such Losses are in respect of the Known Sales Tax Liabilities, the Special Holdback Amount, but subject to the limitations contained in Section 4.3, the Seller and/or the Seller Indemnitors shall, within ten (10) Business Days following receipt of a notice to be promptly provided to them by Purchaser advising them of their respective Pro Rata Share of the amount of the Agreed Amount owed by the Seller and/or such Seller Indemnitors, pay such excess portion of the Agreed Amount to Purchaser in cash.

(d) If no such agreement can be reached during the ten (10) Business Day period for good faith negotiation referred to in Section 4.5(b), but in any event upon the expiration of such ten (10) Business Day period, Purchaser or Seller and/or the Applicable Indemnitors Parties may commence a Proceeding to resolve such dispute and enforce its rights with respect thereto pursuant to the terms of Section 7.6 to resolve the matter (an “**Adjudicated Dispute**”). Upon the resolution of an Adjudicated Dispute, the Seller and/or the Seller Indemnitors shall, within ten (10) Business Days following receipt of

a notice to be promptly provided to them by Purchaser advising them of their respective Pro Rata Share of the amount of the final adjustment owed by the Seller and/or such Seller Indemnitors, pay such indemnifiable amount to Purchaser in cash.

**4.6 Treatment of Indemnification Payments.** Any indemnification payments made pursuant to this Agreement shall be treated for applicable Tax purposes as an adjustment to the Purchase Price, unless otherwise required by applicable Legal Requirements.

**4.7 Exclusive Remedy.** From and after the Closing, the remedies contained in this Article 4 shall be the sole and exclusive remedy of any Indemnified Party for monetary damages for any claims arising under this Agreement, including claims of inaccuracy in or breach of any representation or warranty; provided, however, that nothing in this Agreement shall limit the right of Purchaser or any other Indemnified Party to pursue (A) specific performance, injunctive relief or other non-monetary equitable remedies, (B) remedies under any Transaction Agreement against the parties thereto pursuant to its terms, or (C) remedies in respect of any Fraud (except as set forth in Section 4.3(d) to this Agreement).

## **5. CERTAIN COVENANTS**

### **5.1 Further Actions.**

(a) If, at any time after the Closing, any further action is reasonably necessary or desirable to carry out the purposes of this Agreement, the officers and directors of Purchaser or its Affiliates and Seller, are fully authorized in the name of their respective entities or otherwise to take, and will take, all such lawful and necessary action, so long as such action is not inconsistent with this Agreement. In the event Purchaser discovers after the Closing that it, or its Affiliates, is the owner of, receives or otherwise comes to possess any Liability that is allocated to Seller in accordance with this Agreement, Seller will take such actions to accept or assume such Liability.

(b) To the extent that Seller has been unable to obtain any Consent that Purchaser reasonably deems necessary be obtained for the transfer of any of the Transferred Assets to Purchaser by the Closing: (a) such Transferred Asset (a “**Specified Asset**”) shall not be assigned or transferred to Purchaser until such time as such Consent is obtained, if ever; and (b) Seller shall cooperate with Purchaser and takes such actions necessary to obtain such Consent as promptly as practicable thereafter. Until such Consent is obtained, Seller shall preserve such Specified Asset and shall cooperate, and shall use its reasonable efforts to cause its Representatives to cooperate, with Purchaser in any lawful arrangement designed to provide Purchaser with the benefits of such Specified Assets at no cost to Purchaser in excess of the cost Purchaser would have incurred (without modification to the terms of any Contract) if the Consent had been obtained. If a required Consent with respect to a Specified Asset is obtained after the Closing Date, the Specified Asset subject to such Consent shall be deemed to have been assigned and transferred to Purchaser as of the date such Consent is effective.

(c) Seller hereby irrevocably nominates, constitutes and appoints Purchaser as the true and lawful attorney-in-fact of Seller (with full power of substitution) effective as of the Closing with respect to the Transferred Assets and Assumed Liabilities only, and hereby authorizes Purchaser, in the name of and on behalf of Seller, to execute, deliver, acknowledge, certify, file and record any document, to institute and prosecute any Proceeding and to take any other action (on or at any time after the date of this Agreement) that Purchaser may deem appropriate for the purpose of: (i) collecting, asserting, enforcing or perfecting any claim, right or interest of any kind that is included in or relates to any of the Transferred Assets; (ii) defending or compromising any Proceeding relating to any of the Transferred Assets; or (iii) otherwise carrying out or facilitating any of the Transactions; provided, that, Seller shall not be liable for any Losses arising out of or in connection with the foregoing appointment or any actions taken by Purchaser

in connection with, pursuant to or under such appointment. The power of attorney referred to in the preceding sentence is and shall be coupled with an interest and shall be irrevocable, and shall survive the dissolution or insolvency of Seller.

## **5.2 Discharge of Liabilities; Distribution of Closing Consideration; Contracts.**

(a) Following the Closing Date, Seller will pay or discharge promptly when due all of the Indebtedness, Transaction Expenses and Excluded Liabilities (including applicable Excluded Taxes). Without limiting the generality of the foregoing, no distributions to the Stockholders of Seller will be made by Seller until such time as (i) all Indebtedness and Transaction Expenses of Seller and all known Seller Liabilities (including Excluded Liabilities, but excluding the Administrative Liabilities) have been paid, discharged and/or released in writing (as appropriate) and (ii), after the conditions of clause (i) have been satisfied, solely with the prior written consent of Purchaser, following an establishment (and evidence reasonably satisfactory to Purchaser of such establishment) of a reasonable reserve by Seller for the payment in full of (x) the expected costs of publication of anticipated dissolution in Delaware or any other applicable state, (y) the expected costs and fees associated with filing of the certificate of dissolution or other required dissolution documents, and (z) administrative costs of Seller associated with managing the release of the Indemnity Holdback Amount, Special Holdback Amount and distribution of any remaining Closing Consideration to the equityholders or securityholders of Seller (the items described in clauses (x)-(z), the “**Administrative Liabilities**”).

(b) Prior to the latest of (x) the Indemnity Holdback Release Date, (y) the final Special Holdback Release Date and (z) to the extent there are any Indemnification Claims outstanding as of such date, the date such Indemnification Claim is finally determined pursuant to Article 4, without Purchaser’s prior written consent, (i) Seller shall not be wound up, liquidated or dissolved, or initiate any procedures or processes to be wound up, liquidated or dissolved, (ii) the Stockholders of Seller shall not file a petition in bankruptcy under any provisions of federal or state bankruptcy or insolvency Law or consent to the entry of an order for relief (or any other order with similar effect) under any involuntary bankruptcy proceedings (or any other similar proceedings under state law) commenced against Seller, and (iii) the Stockholders of Seller will not seek, nor consent to the appointment of a trustee, receiver, liquidator, assignee for the benefit of creditors or other person or official with similar duties with respect to the Seller or a substantial portion of its assets. Further, from the date hereof until the date of Seller’s winding up, liquidation or dissolution (the “**Dissolution Date**”), without Purchaser’s prior written consent, (i) Seller shall not engage in any business activities, conduct any operations or incur any Liabilities, other than such activities, operations or Liabilities that are (a) reasonable and necessary to effect the winding up, liquidation or dissolution of Seller, which shall not include payments to the Seller Indemnitors of their portion of the Purchase Price as set forth in Schedule 2.2(b) until the conditions of Section 5.2 are satisfied or (b) necessary to perform Seller’s obligations under any Seller Contracts in effect as of the Closing Date and (ii) the Stockholders of Seller shall permit and cause Seller to pay its debts and other Liabilities as they become due and mature. Seller shall not be wound up, liquidated or dissolved without first (i) complying with the applicable provisions of any laws or regulations applicable to such winding up, liquidation, and dissolution and (ii) delivering to Purchaser copies of any Joinder Agreements delivered after the Closing (if any).

(c) Prior to Seller distributing or permitting the distribution of any amounts of the Purchase Price to any equityholders or securityholders of Seller, Seller shall either certify in writing to Purchaser that Schedule 2.2(b) remains accurate or, in the event the amounts in Schedule 2.2(b) have been adjusted, provide an updated Schedule 2.2(b) to Purchaser restating such adjusted amounts, in each case certified in writing by an officer of Seller as of the date thereof and with evidence reasonably satisfactory to Purchaser that such adjusted amounts are accurate.

**5.3 Publicity.** From and after the date of this Agreement, none of Seller, any Stockholder of Seller, nor any of their respective Representatives shall, directly or indirectly, issue any press release or otherwise make any public statements in any form, including any statements accessible to the public via the internet, social media or other means, with respect to this Agreement or the Transaction, without the prior written consent of Purchaser; *provided that*, notwithstanding the foregoing, to the extent that Purchaser makes any public disclosure in respect of this Agreement or the Transactions after the Closing, the Seller, the Stockholders of Seller and their respective Representatives may make public disclosures of the same information that has been so publicly disclosed by Purchaser.

**5.4 Confidentiality.**

(a) Seller agrees that, from and after the date of this Agreement, this Agreement, the other Transaction Agreements and the terms and conditions set forth herein and therein shall be kept confidential and shall not be disclosed or otherwise made available to any other Person and that copies of this Agreement and the other Transaction Agreement shall not be publicly filed or otherwise made available to the public, except (i) where such disclosure, availability or filing, upon the advice of outside counsel, is required by applicable Law (including the periodic reporting requirements under applicable Legal Requirements) and only to the extent required by such Legal Requirements or under the rules of any securities exchange on which the securities of Seller are listed, (ii) to its financial, tax and legal advisors (so long as the relevant advisor is subject to a similar obligation of confidentiality with respect to the receipt of such information as imposed on the Seller and Stockholders of Seller hereunder), (iii) that have been publicly disclosed by Purchaser on or after the Closing Date subject to the limitations described in Section 5.3 herein, (iv) pursuant to the express terms of, or as expressly required in order to perform Seller's or Stockholders' of Seller's obligations under, or in order to enforce their rights under, this Agreement or any Transaction Agreements, and (v) as otherwise agreed by each of Purchaser and Seller. In the event that any such disclosure, availability or filing is required by applicable Legal Requirements (other than any filing required by a securities exchange or Legal Requirements pertaining to the securities of Seller), Seller agrees to use its commercially reasonable efforts to obtain "confidential treatment" or similar treatment of this Agreement and the other Agreements and to redact such terms of this Agreement and the other Agreements that Purchaser, in the case of Seller, shall reasonably request.

(b) Effective as of the Closing, the Parties' obligations under that certain Mutual Non-Disclosure Agreement, dated as of October 28, 2023, between Purchaser and Seller (as amended, supplemented or restated from time to time, the "**Confidentiality Agreement**") shall terminate and, notwithstanding anything to the contrary in the Confidentiality Agreement, the terms of such Confidentiality Agreement shall be of no further force or effect and shall be superseded by the terms herein. Each of Seller and Purchaser agrees that, from and after the Closing, all Confidential Information relating to the Transferred Assets or Purchaser (or its Affiliates or representatives), including its contractors, suppliers, vendors, distributors and similar third parties shall hereby collectively be deemed "**Confidential Information**" of Purchaser and shall be used by Seller solely as required to perform its obligations or exercise or enforce its rights under this Agreement (the "**Seller Permitted Purpose**"), and for no other purpose. After the Closing, Seller shall not disclose, or permit the disclosure of, any of the Purchaser Confidential Information to any Person except those Persons to whom such disclosure is necessary in connection with any Seller Permitted Purpose or in compliance with applicable Legal Requirements as advised by outside legal counsel and solely to the extent so required by Legal Requirements, in which case Seller shall provide prompt written notice to Purchaser in advance of such disclosure and use commercially reasonable efforts, at the written request of Purchaser to cooperate with Purchaser to limit such disclosure.

**5.5 Bulk Sales.** The Parties waive compliance with any applicable bulk sale or bulk transfer laws of any jurisdiction in connection with the sale of Transferred Assets to Purchaser; provided, however,

any Taxes resulting from the application of or the failure to comply with such bulk transfer, bulk sales or similar Legal Requirements will be borne exclusively by Seller and the Stockholders of Seller.

#### **5.6 Non-Competition; Non-Solicitation; Non-Disparagement.**

(a) From the Closing Date until the third anniversary of the Closing (the “**Non-Compete Period**”), Seller agrees that it shall not in any way, directly, indirectly, individually or through any other Person (including through its directors, officers, employees, or independent contractors), or for the benefit of any other Person, without the prior written consent of Purchaser, in each instance, which Purchaser may withhold or condition in its sole and absolute discretion, own, manage, operate, control or participate in the ownership, management, operation, control of, or consult with or perform services for, or be connected in any manner with (whether as agent, employer, investor, consultant, shareholder, partner, member, financier or in any other representative capacity of any kind whatsoever), any business that is competitive with the Business anywhere in the world.

(b) During the Non-Compete Period, Seller agrees that it shall not in any way, directly, indirectly, individually or through any other Person, or for the benefit of any other Person, without the prior written consent of Purchaser, in each instance, which Purchaser may withhold or condition in its sole and absolute discretion:

(i) solicit, induce, encourage or recruit any employee, advisor or contractor of Seller or any of its Subsidiaries who assumes employment or other service with Purchaser or any of its Affiliates or designees, including the Transferred Employees, to terminate or reduce the scope of his or her employment or other service relationship with Purchaser or otherwise interfere with such relationship;

(ii) employ or engage any Person described in clause (i); or

(iii) at any time, and shall cause the officers, directors, and Seller or its Subsidiaries’ employees to not, make, publish, or communicate to any Person or in any public forum any defamatory or disparaging remarks, comments, or statements concerning Purchaser, its business, any Transferred Employee or the Transaction.

#### **5.7 Release.**

(a) In consideration of Purchaser’s covenants and agreements contained in this Agreement (including the payment of the Purchase Price and Purchaser’s agreement to enter into this Agreement), to the extent permitted by law and effective as of the Closing, Seller (on its own behalf and on behalf of its heirs, executors, administrators, agents, successors, permitted assigns and Affiliates) (each, a “**Releasor**”) hereby knowingly, fully, irrevocably and forever acquits, releases, waives and discharges Purchaser, its Affiliates and their respective subsidiaries, members or Affiliates or any of their respective employees, managers, partners, officers, agents, attorneys, representatives, predecessors, successors, related entities, assigns or the like or any persons acting by, through, under or in concert with, any of them (collectively, the “**Releasees**”) from any and all past, present and future actions, causes of action, suits, debts, dues, sums of money, accounts, bonds, bills, covenants, controversies, agreements, promises, variances, trespasses, losses, judgments, executions, attorney’s fees, interest, damages (including punitive damages), expenses, potential claims, counterclaims, cross claims, claims and demands whatsoever (including those sounding in contract or tort, loss of profits, interference with business contracts, interference with contractual relations, damage to business reputation, increased cost of doing business, interference with economic or business relationship or any prospect of economic or business relationship, and interference with expectancy of business advantage, in each case whether current or prospective), obligations, Contracts, covenants, fees, costs, and Losses of any kind whatsoever (whether direct, indirect,



consequential, incidental, or otherwise), including legal fees incurred in connection with this Agreement, the other Transaction Agreements or in connection with any costs associated with appearing as a third party witness, with the enforcement of this release and with the posting of any bond in connection with any appeal process, known or unknown, in its own right or derivatively, in law or equity, express or implied, matured or unmatured, contingent or vested, liquidated or unliquidated, or any kind, nature, or description whatsoever that any Releasor had, presently has, may hereafter have, or claims or asserts to have against any of the Releasees by reason of any action, omission, transaction, occurrence, conduct, circumstance, condition, harm, matter, cause or thing that has occurred or existed at any time from the beginning of time up to and including the Closing (collectively, the **"Released Claims"**) that in any way arises from or out of, is based upon, or relates to any omissions, acts, events, or facts that have occurred or occur at any time prior to or as of the Closing, including (a) the preparation, negotiation, execution or consummation of this Agreement, the other Transaction Agreements, or any other agreement, document, certificate or instrument delivered in connection with the Transactions, (b) in respect of a breach by Seller's board of directors or any of its individual directors and officers of their obligations, including in connection with the negotiation and execution of this Agreement and the consummation of the transactions contemplated by this Agreement (c) the hiring by Purchaser (or any of its Affiliates) of any employees of Seller in connection with this Agreement, including the Transferred Employees and (d) claims arising from any portion of the Indemnity Holdback Amount or Special Holdback Amount (other than the right of Seller to receive payment thereof in accordance with this Agreement); provided, that the foregoing release will not extend to any claims resulting from or arising under this Agreement, or any agreement, document or instrument contemplated by or entered into in connection with this Agreement to which the Releasor is a party.

(b) With respect to such Released Claims, the Releasor expressly waives any and all rights conferred upon him, her or it by any statute or rule of law which provides that a release does not extend to claims which the claimant does not know or suspect to exist in his, her, or its favor at the time of executing the release, which if known by him, her or it must have materially affected his, her, or its settlement with the released party. The Releasor, being aware of said code section and any similar, applicable state law, agrees to expressly waive any rights that the Releasor may have under such law, as well as under any other statute or common law principles of similar effect with respect to the Released Claims. Releasor acknowledges that he, she or it is aware that any of the Releasor or its respective attorneys may hereafter discover claims or facts in addition to or different from those which the Releasors or their respective attorneys now know or believe to exist with respect to the subject matter of the foregoing releases, and it is his, her or its intention hereby to fully, finally, and forever settle and release all possible claims purported to be released hereunder that it may have against the Releasees. Further, it is expressly understood that notwithstanding the discovery or existence of any such additional or different claims or facts, the release given in this Agreement will be and remain in effect as a full and complete release with respect to all Claims released hereunder. This release is for any relief, no matter how denominated, including, but not limited to, injunctive relief, wages, front pay, compensatory damages, or punitive damages for all claims released hereunder.

#### **5.8 Seller Employee Plans; Employment Costs of Transferred Employees.**

(a) Seller shall remain responsible for administering Seller Employee Plans following the Closing and shall designate a person to whom the Transferred Employees may direct any questions about benefits due to them under Seller Employee Plans after the Closing. Seller shall make all required contributions and pay all premiums required under each Seller Employee Plan or Seller Employee Agreement on behalf of Transferred Employees with respect to periods ending prior to close of business on the date hereof in the ordinary course.

(b) Effective on or before the Closing Date, Seller shall, or shall cause its Subsidiary, if such Subsidiary is the employer, to terminate the employment of all Transferred Employees (except for

those Transferred Employees who Purchaser notes should resign). Seller shall comply with all Legal Requirements, including effects bargaining with any labor organizations representing such Transferred Employees, and with all requirements and obligations imposed under applicable Contracts or working conditions to which any such Seller may be bound (including notice and dismissal requirements, and severance obligations) in connection with the termination of the employment of, and transition the employment of, such Transferred Employees to employment by Purchaser. Seller shall be solely responsible for all Liabilities based upon, arising out of or relating to (i) all Seller Employee Plans and Seller Employee Agreements, and (ii) the employment or termination of each Transferred Employee by Seller or any of its Subsidiaries for all time periods ending on or prior to the date such person's employment is terminated by Seller or its Subsidiary, including any claims of constructive dismissal by a Transferred Employee, whether such Liabilities are asserted prior to, on, or after the Closing. Without limiting the generality of the foregoing, Seller shall be solely responsible for providing, and shall provide, continuation coverage under COBRA, or similar statute, if applicable, to each current and former Seller Employee who is not a Transferred Employee and their qualified beneficiaries (as defined in Section 4980B(g)(1) of the Code). Seller shall maintain a group health plan or arrangement, which may include a group health plan through a PEO, in order to provide COBRA continuation coverage, and shall pay any applicable administrative fees to the group health plan insurer or PEO required to maintain such COBRA continuation coverage for the period of COBRA health care continuation coverage of each COBRA beneficiary, including M&A qualified beneficiaries. Notwithstanding the foregoing, as soon as practicable following the Closing, but in no event later than 14 days after the Closing, Seller shall provide Purchaser with the name, mailing address and date of termination for each COBRA "*M&A qualified beneficiary*" (as such term is defined under COBRA or applicable regulations or proposed regulations) of Seller who is currently receiving COBRA continuation coverage, currently has a right to elect COBRA continuation coverage or may become entitled to continuation of health coverage benefits under COBRA following the Closing.

(c) At or immediately prior to the Closing, Seller shall prepare a special payroll run to pay out all accrued wages, bonuses, commissions, vacation or paid time off, fees, termination costs, severance pay, notice pay, benefits and other vested and earned but unpaid compensation, costs or benefits due to any Transferred Employees as of the Closing Date (collectively, the "**Accrued Employee Amounts**").

(d) The provisions contained in this Section 5.8 are for the sole benefit of the Purchaser and the Seller and no current or former employee, director, independent contractor, consultant, service provider or any other individual associated therewith shall be regarded for any purpose as a third-party beneficiary of this Agreement. Nothing in this Section 5.8, express or implied, shall be construed or interpreted to create any right, benefit or remedy of any nature whatsoever, including any right to continued employment or service, under or by reason of this Agreement, in any other person.

**5.9 Foreign Contractors/Employees.** Seller shall cooperate with Purchaser and use commercially reasonable efforts to assist Purchaser with its efforts to (a) enter into engagement agreements with, (b) transition to alternative engagement or employment arrangements with, or (c) take such other steps as reasonably requested in respect of contractors or employees providing services to Seller or its Subsidiaries outside of the United States of America. Notwithstanding anything contained in this Agreement to the contrary, Purchaser shall not have any obligation to make an offer of employment to any such contractor. With respect to matters described in this Section 5.10, Seller will consult with Purchaser (and will consider in good faith the advice of Purchaser) prior to it or its Subsidiaries sending any notices or other communication materials to its contractor, and, except as Purchaser consents in writing, Seller shall not make any representation to any individual about the terms of employment or engagement to be offered by Purchaser or one of its Subsidiaries or designees.

## 5.10 Tax Matters.

(a) Tax Cooperation and Exchange of Information. Seller and its Affiliates shall fully cooperate with Purchaser, as and to the extent reasonably requested by Purchaser, in connection with the preparation and filing of any Tax Return, amended Tax Return or claim for refund, determining a Liability for Taxes or a right to a refund of Taxes or participating in or conducting any audit or other Proceeding in respect of Taxes. Such cooperation shall include the retention and provision of relevant records, documents, and other information, including Tax Returns, together with related workpapers and documents relating to rulings or other determinations by taxing authorities, and making employees available on a mutually convenient basis to provide additional information and explanation of any material provided pursuant to this Section 2.11(a). Purchaser shall have the right to make copies of such records, documents, and other information.

(b) Conveyance Taxes. Seller shall be liable for, shall hold Purchaser and its Affiliates harmless against, shall timely pay any and all Conveyance Taxes, and shall timely file all Tax Returns and other documentation with respect to Conveyance Taxes. Purchaser and Seller shall each use commercially reasonable efforts to cooperate in the execution and delivery of all instruments and certificates reasonably necessary to minimize the amount of any Conveyance Taxes and to enable Purchaser and/or Seller to comply with any filing requirements.

(c) Tax Deficiencies. Seller shall not permit to exist any Tax deficiencies (including penalties and interest) assessed against or relating to Seller with respect to taxable periods ending on or before, or including, the Closing Date of a character or nature that could reasonably be expected to result in liens or claims on any of the Transferred Assets or on Purchaser's title or use of the Transferred Assets following the Closing Date or that would reasonably be expected to result in any claim against Purchaser.

(d) Tax Apportionment. Except for Conveyance Taxes (the entirety of which shall be Excluded Taxes), all real property Taxes, personal property Taxes, ad valorem Taxes, and similar Taxes and obligations levied with respect to the Transferred Assets for a taxable period that includes (but does not end on) the Closing Date (collectively, the "**Apportioned Obligations**") shall be apportioned between Seller and Purchaser as of the Closing Date based on the number of days of such taxable period ending on and including the Closing Date (the "**Pre-Closing Apportioned Period**") and the number of days of such taxable period beginning the day after the Closing Date through the end of such taxable period (the "**Post-Closing Apportioned Period**"). Seller shall be liable for the proportionate amount of the Apportioned Obligations that is attributable to the Pre-Closing Apportioned Period. Purchaser shall be liable for the proportionate amount of the Apportioned Obligations that is attributable to the Post-Closing Apportioned Period.

(e) Wage Reporting. Purchaser and Seller agree to utilize or cause their respective Affiliates to utilize the standard procedure set forth in Revenue Procedure 2004-53, 2004-2 C.B. 320, with respect to wage reporting.

**5.11 Name Change.** Seller shall, within 10 Business Days after the Closing, change its corporate name to remove any references to "Armory". The new corporate name shall not include any similar references to "Armory". Seller shall deliver evidence of such name change to Purchaser within 15 Business Days after the Closing.

## 6. CLOSING DELIVERIES

**6.1 Deliveries by Seller.** Upon the terms and subject to the conditions of this Agreement, in reliance upon the representations, warranties and agreements of Purchaser contained herein and in

consideration of the aggregate consideration to be paid to Seller, Seller is delivering (or causing to be delivered) to Purchaser at, or prior to, the Closing the following:

(a) (i) a duly executed counterpart to a bill of sale and assignment agreement, in form and substance reasonably satisfactory to Seller and Purchaser (the “**Bill of Sale**”), and (ii) duly executed counterparts, as necessary, to any other documentation that is necessary or appropriate to (a) assign, convey, transfer and deliver to Purchaser good and valid title to the Transferred Assets free and clear of any Encumbrances, including short form patent and trademark assignments for recordation with the applicable Governmental Bodies, or (b) otherwise facilitate the consummation or performance of any of the Transactions;

(b) evidence reasonably satisfactory to Purchaser that any and all Encumbrances on any of the Transferred Assets have been released and terminated;

(c) copies of all Transferred Books and Records;

(d) copies of all Transferred Employee Books and Records;

(e) a duly executed copy of a Joinder Agreement from each of the Key Stockholders;

(f) duly executed Consents to the assignment from Seller to Purchaser of the Transferred Contracts set forth on Schedule 1.1(e) that have a single asterisk next to such Contracts, with such Consents in substantially the form attached hereto as Exhibit C hereto, and evidence that all notices of (x) the assignment from Seller to Purchaser of the Transferred Contracts and/or (y) the transactions contemplated by this Agreement have been provided to the counterparty under each Transferred Contract set forth on Schedule 1.1(e) that has a double asterisk next to such Contract, in a form satisfactory to Purchaser;

(g) a duly executed IRS Form W-9 of Seller;

(h) a duly executed counterpart to an assignment, in form and substance satisfactory to Purchaser, transferring all of Seller’s right, title and interest in and to all of Seller’s corporate names, including without limitation, the Names and Marks (each term as defined below) in any location in the United States or in any foreign country;

(i) evidence reasonably satisfactory to Purchaser that Seller has remediated any critical severity CVEs greater than 30 days old as of the Closing applicable to the Transferred Assets;

(j) evidence reasonably satisfactory to Purchaser of the transfer for all administrative accounts, subscriptions, projects, tenants, and other product or service access for the Transferred Contracts that are supplier, vendor, or inbound license Contracts, including a list of usernames, passwords, account keys, account recovery, and all other information which may be necessary or helpful for Purchaser to assume control of such accounts, products, and services, which information and access shall have been validated by Purchaser;

(k) a full and complete copy of the Transferred Technology, including all Source Code, object code, and documentation for the Seller Products in a server account to be mutually agreed by the Seller and the Purchaser prior to the Closing;

(l) certified copies of resolutions of the Seller’s board of directors authorizing and approving this Agreement and the Transactions;

(m) evidence satisfactory to Purchaser of the release of all encumbrances and all UCC liens on Seller or the Transferred Assets have been released, including, but not limited to, the following liens: (i) the lien held by Silicon Valley Bank, and subsequently assigned to First Citizens Bank & Trust Company, pursuant to UCC Financing Statement 20197282689 filed on October 17, 2019 and (B) the lien held by Silicon Valley Bank, pursuant to UCC Financing Statement 20216747753 filed on August 25, 2021; and

(n) a good standing certificate (or equivalent) from each jurisdiction in which Seller or its Subsidiaries is organized or incorporated, as applicable.

**6.2 Deliverables by Purchaser.** Upon the terms and subject to the conditions set forth in this Agreement, in reliance on the representations, warranties and agreements of Seller contained herein, Purchaser is delivering (or causing to be delivered) to Seller at, or prior to, the Closing, duly executed counterparts to the Bill of Sale.

## **7. MISCELLANEOUS PROVISIONS.**

**7.1 Fees and Expenses.** Each party shall bear and pay all fees, costs and expenses that it incurs with respect to this Agreement and the consummation of the Transactions.

**7.2 Notices.** All notices and other communications to be given to any party hereunder must be in writing, and shall be sufficiently given for all purposes hereunder, (i) as of the date delivered, if delivered personally, (ii) one (1) Business Day after being sent by overnight courier or overnight delivery service, (iii) three (3) Business Days after being mailed by certified or registered mail (return receipt requested, with appropriate postage prepaid), or (iv) when sent via email transmission if no error message is generated, and shall be directed to the address set forth below (or at such other address or email address as such party shall designate by like notice):

if to Purchaser:

Address: 55 Stockton Street, 8<sup>th</sup> Floor, San Francisco, CA 94108  
Attention: Chief Executive Officer  
Email: legal@harness.io

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

Cooley LLP  
1333 2<sup>nd</sup> Street, Suite 400  
Santa Monica, CA 90401  
Attention: Anne Lieberman  
E-mail: alieberman@cooley.com

if to Seller:

Address: 548 Market St, PMB 77458, San Francisco, CA 94104-5401  
Attention: James Douglas  
Email: legal@nimbiotech.com

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

Silicon Legal Strategy, A Professional Corporation

201 Mission Street, Suite 800  
San Francisco, CA 94105  
Attention:  
Ryan Southerland  
Email: ryan@siliconlegal.com

**7.3 Counterparts and Exchanges by Electronic Delivery.** This Agreement may be executed in counterparts, each of which shall constitute an original and all of which, when taken together, shall constitute one agreement. The exchange of a fully executed Agreement (in counterparts or otherwise) by electronic delivery in .pdf format shall be sufficient to bind the parties to the terms and conditions of this Agreement.

**7.4 Governing Law.** This Agreement shall be deemed to be made and in all respects shall be interpreted, construed and governed solely and exclusively by and in accordance with the Laws of the State of Delaware without regard to the conflicts of laws principles thereof.

**7.5 Remedies Cumulative; Specific Performance.** Except as otherwise provided herein, any and all remedies herein expressly conferred upon a party hereto shall be deemed cumulative with and not exclusive of any other remedy conferred hereby, or by law or equity upon such party, and the exercise by a party hereto of any one remedy shall not preclude the exercise of any other remedy and nothing herein shall be deemed a waiver by any party hereto of any right to specific performance or injunctive relief. It is accordingly agreed that, subject to Section 7.6, the parties hereto shall be entitled to seek an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereof, this being in addition to any other remedy to which they are entitled at law or in equity, and the parties hereto hereby waive the requirement of any posting of a bond in connection with the remedies described herein.

**7.6 Resolution of Conflicts; Arbitration; Accounting Firm.** Subject to Section 4.5, and except for claims addressed in Section 7.6(d) below, the parties hereto agree that any and all disputes, claims or controversies arising out of or relating to this Agreement, including the performance, breach, termination, interpretation, existence or validity thereof (“**Disputes**”), and the scope or applicability of this Section 7.6, including but not limited to the arbitrability of any and all Disputes, shall be fully and finally resolved by binding arbitration administered by Judicial Arbitration and Mediation Services or its successor organization (“**JAMS**”) according to the applicable JAMS arbitration rules in effect as of the date when such claim is commenced (i.e., either the Comprehensive Arbitration Rules for claims exceeding \$250,000, or the Streamlined Arbitration Rules for claims not exceeding \$250,000). The seat of the arbitration shall be San Francisco, California. Unless the parties hereto agree otherwise, the neutral arbitrator(s) will be a former or retired judge or justice of any state or federal court of California.

**(a)** If the amount in controversy is or is less than \$1,000,000, the tribunal shall consist of one (1) arbitrator, selected by the following procedure: either (i) Purchaser and Seller shall mutually select an arbitrator; or (ii) if the parties hereto cannot agree on such arbitrator, then (A) within fourteen (14) days of the filing of the notice of arbitration, each of Purchaser and Seller shall select and simultaneously exchange the names of five (5) arbitrators, and (B) within seven (7) calendar days of the exchange of the names, each of Purchaser and Seller may strike two (2) names and shall rank the remaining candidates in order of preference. The remaining candidate with the highest composite ranking shall be appointed the arbitrator to solely preside over the arbitration. If the amount in controversy exceeds \$1,000,000, the tribunal shall consist of a panel of three (3) arbitrators, selected by the following procedure: either (i) Purchaser and Seller shall mutually select all three (3) arbitrators; or (ii) if the parties hereto cannot agree

on such arbitrators, then (A) within fourteen (14) days of the filing of the notice of arbitration, each of Purchaser and Seller shall select one (1) arbitrator and (B) within twenty-one (21) days of the filing of the notice of arbitration, the two selected arbitrators shall agree upon the third arbitrator, who shall serve as the head of the tribunal.

(b) If any party hereto refuses to perform any or all of its obligations under the final arbitration award within thirty (30) days of such award being rendered, then the other parties hereto may confirm or enforce the final award in any court of competent jurisdiction sitting in San Francisco, California.

(c) Unless disclosure is required by law or judicial decision, the parties hereto agree to maintain the confidential nature of all aspects of any Dispute or arbitration (including the existence of the Dispute, all arbitral proceedings to resolve the Dispute, all documents and information exchanged in such proceedings, and any arbitral award (interim, final, or otherwise)) except as may be necessary to prepare for or conduct the arbitration hearing on the merits, or except as may be necessary in connection with a judicial challenge to a final award or its enforcement. A party hereto shall not apply for recognition and/or enforcement of the final award in any court, unless the other parties hereto have refused to perform any or all of its obligations under a final award after thirty (30) days of receipt of such final award. If a party hereto is required to resort to a court to enforce any or all of its rights under a final award, that party shall be entitled to recover its attorneys' fees and costs incurred in any such successful enforcement proceedings.

(d) Accounting Firm. With respect to claims in any Claim Notice as to the amount of Indebtedness or Transaction Expenses, if such claims are disputed pursuant to and in accordance with Section 4.5(b), and not resolved by the parties prior to the end of the ten (10)-day period set forth in Section 4.5(d), then after such tenth (10<sup>th</sup>) day, Purchaser and Seller shall promptly (and in any event no later than five (5) Business Days after such tenth (10<sup>th</sup>) day) retain the Accounting Firm (including by executing a customary agreement with the Accounting Firm in connection with its engagement), the retention of which will not give rise to present or potential future auditor independence problems for Purchaser or any of its Affiliates (as determined in the reasonable discretion of Purchaser) and submit any unresolved objections covered by the applicable Objection Notice (the "**Disputed Items**") to the Accounting Firm for resolution in accordance with this Section 7.6(d). The Accounting Firm will be instructed to (A) make a final determination on an expedited basis (and in any event within thirty (30) days after submission of the Disputed Items) with respect to each of the Disputed Items (and only the Disputed Items) that is within the range of the respective positions taken by each of Purchaser and Seller and (B) prepare and deliver to Purchaser and Seller a written statement setting forth its final determination (and a reasonably detailed description of the basis therefor) with respect to each Disputed Item (the "**Accounting Firm's Report**"). During the ten (10) days after submission of the Disputed Items to the Accounting Firm, each of Purchaser and Seller may provide the Accounting Firm with a definitive statement in writing of its positions with respect to the Disputed Items (and only the Disputed Items). Each of Purchaser and Seller agrees that (1) the Accounting Firm's determination with respect to each Disputed Item as reflected in the Accounting Firm's Report shall be deemed to be final, conclusive, binding and non-appealable, absent Fraud or manifest error, and, except for Fraud by or on behalf of Seller, the procedures set forth in this Section 7.6(d) shall be the sole and exclusive remedy for monetary damages absent Fraud or manifest error with respect to the final determination of the Disputed Items. The Accounting Firm's determination under this Section 7.6(d) shall be enforceable as an arbitral award, and judgment may be entered thereupon in any court having jurisdiction over the party against which such determination is to be enforced. Each of Purchaser and Seller shall (A) pay its own respective costs and expenses incurred in connection with this Section 7.6(d) and (B) be responsible for the fees and expenses of the Accounting Firm on a pro rata basis based upon the degree to which the Accounting Firm has accepted the respective positions of Purchaser and Seller (which shall be determined by the Accounting Firm and set forth in the Accounting Firm's Report).

**7.7 Successors and Assigns; Parties in Interest.** Except as otherwise expressly provided herein, the provisions hereof shall inure to the benefit of, and be binding upon the parties hereto and their respective successors, assigns, heirs, executors and administrators. Purchaser may freely assign any or all of its rights under Article 4, in whole or in part, to any other Person without obtaining the consent or approval of any other Person. Seller shall not be permitted to assign any of its rights or delegate any of its obligations under this Agreement without Purchaser's prior written consent.

**7.8 No Third Party Beneficiaries.** None of the provisions of this Agreement are intended to provide any rights or remedies to any Person other than the parties to this Agreement and their respective successors and assigns (if any). Without limiting the generality of the foregoing, (i) no independent contractor or employee of Seller that is not a party to this Agreement shall have any rights under this Agreement and (ii) no creditor of Seller shall have any rights under this Agreement.

**7.9 Amendments.** This Agreement may not be amended, modified, altered or supplemented other than by means of a written instrument duly executed and delivered on behalf of the parties hereto.

**7.10 Severability.** In the event that any provision of this Agreement, or the application of any such provision to any Person or set of circumstances, shall be determined to be invalid, unlawful, void or unenforceable to any extent, the remainder of this Agreement, and the application of such provision to Persons or circumstances other than those as to which it is determined to be invalid, unlawful, void or unenforceable, shall not be impaired or otherwise affected and shall continue to be valid and enforceable to the fullest extent permitted by law.

**7.11 Entire Agreement.** This Agreement and the Transaction Agreements forth the entire understanding of the parties relating to the subject matter thereof and supersede all prior agreements and understandings among or between any of the parties relating to the subject matter thereof.

*[Remainder of page intentionally left blank]*



The parties to this Agreement have caused this Agreement to be executed and delivered as of the date first written above.

**PURCHASER:**

**HARNESS INC.**

DocuSigned by:  
By: Jyoti Bansal  
Name: Jyoti Bansal  
Title: Chief Executive Officer

**SELLER:**

**ARMORY, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

The parties to this Agreement have caused this Agreement to be executed and delivered as of the date first written above.

**PURCHASER:**

**Harness Inc.**

By: \_\_\_\_\_

Name:  
Jyoti Bansal

Title:  
Chief Executive Officer

**SELLER:**

**ARMORY, Inc.**

By: James Douglas

Name:  
James Douglas

Title:  
Chief Executive Officer



## EXHIBIT A

### CERTAIN DEFINITIONS

For purposes of the Agreement (including this Exhibit A):

**Accounting Firm.** Accounting Firm shall mean any reputable independent public accounting firm that is mutually agreed to by Purchaser and Seller; *provided*, that if Purchaser and Seller are unable to agree on an independent public accounting firm that will accept such appointment, either party may request that a nationally recognized public accounting firm that has not had a material relationship with either of Purchaser and Seller in the preceding two years be appointed by JAMS and, upon such appointment, "Accounting Firm" shall mean such firm.

**Affiliate.** "Affiliate" shall mean, with respect to any specified Person, any other Person which, directly or indirectly, controls, is under common control with, or is controlled by, such specified Person, through one or more intermediaries or otherwise. For purposes of this definition, the term "control" means the possession, direct or indirect, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

**Business.** "Business" shall mean the business and operations of Seller, conducted as of the date hereof and consistent with the conduct of the business for the 12 consecutive months up to and including the date hereof, which involves, but is not limited to the design, development, manufacture, marketing, license, sale, and other provision or distribution of Seller Products.

**Business Day.** "Business Day" shall mean each day that is not a Saturday, Sunday or other day on which Purchaser is closed for business or any day on which the Federal Reserve Bank of San Francisco, California or New York, New York is closed.

**Closing Consideration.** "Closing Consideration" shall mean the Purchase Price *minus* the Indemnity Holdback Amount and *minus* the Special Holdback Amount.

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

**Confidential Information.** "Confidential Information" shall mean any nonpublic information, including data, statistics, prototypes, samples, facts, figures, material, or documents relating to the affairs of Seller, the Transferred Assets, the Business, Purchaser or the Transactions, that is disclosed, either directly or indirectly, to Seller in writing, orally or by inspection of tangible objects, including, but not limited to: (a) trade secrets, know-how, research, product plans, services, customers, markets, Software (including Source Code), inventions, processes, designs, drawings, marketing plans and financial information and (b) any discussions or negotiations amongst the parties hereto relating to this Agreement, the Transaction Agreements or the Transactions.

**Common Stock.** "Common Stock" shall mean shares of Armory, Inc.

**Consent.** "Consent" shall mean any approval, consent, ratification, permission, waiver or authorization (including any authorization from a Governmental Body).

**Contract.** "Contract" shall mean any legally binding contract, understanding, arrangement, instrument, note, guaranty, indemnity, representation, warranty, deed, assignment, power of attorney, certificate, purchase order, work order, insurance policy, benefit plan, commitment, covenant, assurance or undertaking of any nature.

**Conveyance Taxes.** “Conveyance Taxes” shall mean all sales (excluding bulk sales), use, transfer, stamp, stock transfer, recording, registration, documentary, filing, real property transfer and similar Taxes, fees or charges (together with any interest, penalties or additions in respect thereof) that become payable in connection with the Transactions.

**Encumbrance.** “Encumbrance” shall mean any lien, pledge, hypothecation, charge, mortgage, security interest, encumbrance, equity, trust, equitable interest, claim, preference, right of possession, lease, tenancy, license, encroachment, covenant, infringement, interference, order, proxy, option, right of first refusal, preemptive right, community property interest, legend, defect, impediment, exception, reservation, limitation, impairment, imperfection of title, condition or restriction of any nature (including any restriction on the transfer of any asset, any restriction on the receipt of any income derived from any asset, any restriction on the use of any asset and any restriction on the possession, exercise or transfer of any other attribute of ownership of any asset).

**ERISA.** “ERISA” shall mean the Employee Retirement Income Security Act of 1974.

**Excluded Taxes.** “Excluded Taxes” shall mean (i) all Taxes of Seller or any of its Affiliates or the Stockholders, or for which Seller or any of its Affiliates or the Stockholders or are liable (including as a transferee or successor, pursuant to Treasury Regulations Section 1.1502-6, by Contract, by operation of Legal Requirements (including any common law doctrine of de facto merger), or otherwise), for any taxable period (including any Tax of Seller or any of its Affiliates that becomes a Liability of Purchaser under any common law doctrine of de facto merger or transferee or successor liability or otherwise by operation of contract or Law); (ii) all Taxes related to the Excluded Assets or Excluded Liabilities for any taxable period; (iii) all Taxes relating to the Business, Transferred Assets, or Transferred Employees (including deferred Taxes of any nature), in each case in this clause (iii), (x) for any taxable period that ends on or before the Closing Date and (y) with respect to any taxable period beginning on or before and ending after the Closing Date, for the portion of such taxable period ending on the Closing Date, subject to Section 5.10(d); and (iv) all Taxes that arise out of the Transactions (including Conveyance Taxes and Taxes resulting from any failure to comply with any bulk transfer law or similar Legal Requirement in connection with the Transactions).

**Fraud.** “Fraud” shall mean common law fraud under Delaware law.

**Fundamental Representations.** “Fundamental Representations” shall mean the representations and warranties contained in Section 2.1 (Due Organization); Section 2.3(t) (Common Vulnerabilities and Exposures); Section 2.2 (Absence of Liabilities; Distribution of Consideration); Section 2.4 (Title to Transferred Assets); Section 2.5 (Tax Matters); Section 2.8 (Authority); Section 2.12 (Non-Contravention); and Section 2.16 (Brokers).

**Governmental Authorization.** “Governmental Authorization” shall mean any: (a) permit, license, certificate, franchise, permission, clearance, registration, qualification or authorization issued, granted, given or otherwise made available by or under the authority of any Governmental Body or pursuant to any Legal Requirement; or (b) right under any Contract with any Governmental Body.

**Governmental Body.** “Governmental Body” shall mean any: (a) nation, principality, state, commonwealth, province, territory, county, municipality, district or other jurisdiction of any nature; (b) federal, state, local, municipal, foreign or other government; (c) governmental or quasi-governmental authority of any nature (including any governmental division, subdivision, department, agency, bureau, branch, office, commission, council, board, instrumentality, officer, official, representative, organization, unit, body or entity and any court or other tribunal); (d) multi-national organization or body; or

(e) individual, entity or body exercising, or entitled to exercise, any executive, legislative, judicial, administrative, regulatory, police, military or taxing authority or power of any nature.

**Indebtedness.** “Indebtedness” means, with respect to any Person at any time, (a) any indebtedness for borrowed money or issued in substitution for or exchange of indebtedness for borrowed money, (b) any indebtedness evidenced by any note, bond, debenture or other debt security, (c) any indebtedness for the deferred purchase price of property or services with respect to which such Person is liable, contingently or otherwise, as obligor or otherwise, (d) any commitment by which such Person assures a creditor against loss (including, without limitation, contingent reimbursement Liability with respect to letters of credit), (e) any indebtedness guaranteed in any manner by such Person (including, without limitation, guarantees in the form of an agreement to repurchase or reimburse), (f) any Liabilities under capitalized leases with respect to which such Person is liable, contingently or otherwise, as obligor, guarantor or otherwise, (g) any indebtedness secured by a lien on such Person’s assets, and (h) any accrued and unpaid interest on, and any prepayment premiums, penalties or similar contractual charges in respect of, any of the foregoing obligations computed as though payment is being made in respect thereof on the Closing Date.

**Indemnity Holdback Amount.** “Indemnity Holdback Amount” shall mean \$1,572,180.

**Indemnity Holdback Period.** “Indemnity Holdback Period” shall mean the twelve (12) month period following the Closing Date.

**Indemnification Claim.** “Indemnification Claim” shall mean any claim for indemnification, compensation or reimbursement made under Article 4.

**Indemnified Party.** “Indemnified Parties” shall mean Purchaser and its Affiliates and Representatives.

**Intellectual Property Agreements.** “Intellectual Property Agreements” shall mean all licenses, sublicenses, development agreements, source code escrow agreements and other Contracts pertaining to the use, sale, exploitation, transfer, exploitation or other exercise of rights under any Intellectual Property Rights.

**Intellectual Property Registrations.** “Intellectual Property Registrations” shall mean all Intellectual Property Rights that are subject to any issuance, registration or application by, to or with any Governmental Body or authorized private registrar in any jurisdiction, including without limitation Patents and applications therefor, Trademark registrations and applications therefor, domain names and copyrights, and pending applications for any of the foregoing.

**Intellectual Property Rights.** “Intellectual Property Rights” shall mean all past, present, and future intellectual property and proprietary rights arising in or recognized in any jurisdiction throughout the world, including all rights in: (a) patents and applications therefor and all other rights corresponding thereto (“**Patents**”); (b) trade secret rights and all other rights in confidential business or technical information; (c) copyrights, copyrights registrations and applications therefor, moral rights, and all other rights corresponding thereto; (d) domain names, uniform resource locators, other names and locators associated with the Internet, and applications or registrations therefor; and (e) trade names, logos, common law trademarks, and service marks and trademark and service mark registrations, all related goodwill related thereto, and applications therefor (“**Trademarks**”); and (f) rights in or relating to registrations, renewals, extensions, combinations, divisions, and reissues of, and applications for, any of the rights referred to in clauses “(a)” through “(e)” above.

**IP Representation.** “IP Representation” shall mean the representations and warranties contained in Section 2.3 (Intellectual Property).

**IRS.** “IRS” shall mean the Internal Revenue Service of the United States.

**Knowledge.** “Knowledge” and correlative phrases means, with respect to any fact or matter, the knowledge (including the knowledge such individual would be expected to have after reasonable inquiry of such individuals’ respective direct reports with operational responsibility for the matter in question), as applied to Seller, of the officers of Seller, and the employees of Seller set forth in Schedule 1.1.

**Law.** “Law” shall mean any statute, law, treaty, ordinance, regulation, directive, rule, code, Order, notice, circular or other requirement, including any successor provisions thereof, of any Governmental Body.

**Legal Requirements.** “Legal Requirements” shall mean any federal, state, provincial, foreign, local, municipal or other law, statute, constitution, principle of common law, resolution, ordinance, code, edict, decree, rule, regulation, ruling or requirement issued, enacted, adopted, promulgated, implemented or otherwise put into effect by or under the authority of any Governmental Body and any orders, writs, injunctions, awards, judgments and decrees applicable to Seller or to any of its assets, properties or businesses.

**Liability.** “Liability” shall mean any debt, obligation, duty or liability of any nature (including any unknown, undisclosed, unmatured, unaccrued, unasserted, contingent, indirect, conditional, implied, vicarious, derivative, joint, several or secondary liability), regardless of whether such debt, obligation, duty or liability would be required to be disclosed on a balance sheet prepared in accordance with generally accepted accounting principles and regardless of whether such debt, obligation, duty or liability is immediately due and payable.

**Loss.** “Loss” shall mean any and all deficiencies, awards, judgments, settlements, Proceedings, assessments, Liabilities, losses, damages, Taxes, interest, fines, penalties, costs, and expenses (including legal, accounting and other costs and expenses of professionals) incurred in connection with investigating, defending, settling, enforcing or otherwise satisfying any of the foregoing or matters arising out of or relating to the foregoing, and in seeking indemnification therefor.

**Names and Marks.** “Names and Marks” shall mean all Trademarks owned or purported to be owned by Seller, including without limitation the Seller Products names and the corporate names of Seller listed on Schedule 1.1(e).

**Open Source Code.** “Open Source Code” shall mean any Software that is distributed subject to any: “open source,” “copyleft,” “source available,” or other similar types of license terms (including the GNU General Public License, GNU Lesser General Public License, the GNU Affero General Public License, the Server Side Public License, Mozilla License, Common Public License, Apache License, BSD License, Artistic License, or Sun Community Source License, and the like), including any license approved by the Open Source Initiative and referenced or linked to or through <http://www.opensource.org/licenses>.

**Ordinary Course of Business.** “Ordinary Course of Business” shall mean, with respect to Seller, the ordinary course of business consistent with Seller’s past practice.

**Organizational Documents.** “Organizational Documents” shall mean a party’s certificate of incorporate, business license, articles of association and bylaws, or equivalent organizational documents.

**Order.** "Order" shall mean any: (a) order, judgment, injunction, edict, decree, ruling, pronouncement, determination, decision, opinion, verdict, sentence, subpoena, writ or award issued, made, entered, rendered or otherwise put into effect by or under the authority of any court, administrative agency or other Governmental Body or any arbitrator or arbitration panel; or (b) Contract with any Governmental Body entered into in connection with any Proceeding.

**Permit.** "Permit" shall mean any permit, license, certification (including certificate of occupancy), approval, authority or other franchise granted by any Governmental Body or other Person.

**Person.** "Person" shall mean any individual, entity or Governmental Body.

**Personal Data.** "Personal Data" shall mean a natural person's name, street address, telephone number, e-mail address, photograph, social security number or tax identification number, driver's license number, passport number, credit card number, bank information, or customer or account number, or any other piece of information that allows the identification of a natural person.

**Proceeding.** "Proceeding" shall mean any action, suit, litigation, arbitration, proceeding (including any civil, criminal, administrative, investigative or appellate proceeding and any informal proceeding), prosecution, contest, hearing, inquiry, inquest, audit, examination or investigation commenced, brought, conducted or heard by or before, or otherwise involving, any Governmental Body or any arbitrator or arbitration panel.

**Pro Rata Share.** "Pro Rata Share" shall mean, with respect to Seller, 100%, unless and until any amount of the Purchase Price is distributed after Closing to any Seller Indemnitor. Following any distribution of any portion of the Purchase Price to the Seller Indemnitors, a Seller Indemnitor's Pro Rata Share shall equal the percentage set forth on Schedule 2.2(b) next to such Seller Indemnitor's name (as such schedule may be updated pursuant to Section 5.2(c)), which shall be the amount of the Purchase Price to be paid to such Seller Indemnitor *divided by* the amount of the Purchase Price to be paid to all Seller Indemnitors. In all cases, the aggregate percentage represented by the respective Pro Rata Shares of Seller and the Seller Indemnitors shall equal 100%. After the dissolution of Seller, the Pro Rata Share of Seller will equal 0%, and the aggregate Pro Rata Shares of all other Seller Indemnitors shall equal 100%.

**Purchase Price.** "Purchase Price" shall mean \$7,860,901.

**Representatives.** "Representatives" shall mean officers, directors, managers, employees, agents, attorneys, accountants and advisors.

**Seller Contract.** "Seller Contract" shall mean any Contract: (a) to which Seller or any of its Subsidiaries is a party; (b) by which Seller or any of its Subsidiaries or any of Seller's assets is or may become bound or under which Seller or any of its Subsidiaries has, or may become subject to, any obligation; or (c) under which Seller or any of its Subsidiaries has or may acquire any right or interest.

**Seller Employee Agreement.** "Seller Employee Agreement" shall mean each management, employment, severance, consulting, relocation, repatriation or expatriation agreement or other Seller Contract between Seller or any of its Subsidiaries and any current or former employee, independent contractor or director of Seller or its Subsidiaries, other than any IP Grant Agreement or any such contract that is terminable "at will" without any obligation on the part of Seller or its Subsidiaries to make any payments or provide any benefits in connection with such termination.

**Seller Employee Plan.** "Seller Employee Plan" shall mean any plan, program, policy, practice, Seller Contract or other arrangement providing for compensation, severance, termination pay, deferred

compensation, performance awards, stock or stock-related awards, fringe benefits or other employee benefits or remuneration of any kind, whether written, unwritten or otherwise, funded or unfunded, including each "employee benefit plan," within the meaning of Section 3(3) of ERISA (whether or not ERISA is applicable to such plan), that is or has been maintained, contributed to, or required to be contributed to, by Seller or any of its Subsidiaries for the benefit of any current or former employee, independent contractor or director of Seller or any of its Subsidiaries, or with respect to which a Seller or any of its Subsidiaries has or may have any liability or obligation, except such definition shall not include any Seller Employee Agreement.

**Seller Indemnitors.** "Seller Indemnitors" shall mean those equityholders and securityholders of the Seller that (i) are expected to receive any portion of the Purchase Price and (ii) execute a Joinder Agreement, which Persons shall be identified as "Seller Indemnitors" on Schedule 2.2(b).

**Seller Options.** "Seller Options" shall mean each outstanding and unexercised option to purchase Seller Shares granted pursuant to any Seller Employee Plan.

**Seller Privacy Policy.** "Seller Privacy Policy" shall mean each external and internal, past or present privacy policy of Seller or any of its Subsidiaries, including any policy relating to (i) the privacy of users of the Seller Products or any Seller Website that is owned or maintained by or on behalf of Seller or any of its Subsidiaries, (ii) the collection, storage, disclosure, and transfer of any Personal Data, and (iii) any employee information.

**Seller Product.** "Seller Product" shall mean each product and service currently, previously, or, in the six (6) month period following the date hereof, currently planned to be designed, developed, manufactured, marketed, licensed, sold, or otherwise provided or distributed by Seller or its Subsidiaries in connection with the Business, including any Software applications and platforms that are used or held for use by, for or on behalf of the Seller or its Subsidiaries in connection with the Business.

**Seller Software.** "Seller Software" means the Software that has been authored by or on behalf of Seller or its Subsidiaries and the Intellectual Property Rights embodied thereby that are owned by Seller or any of its Subsidiaries.

**Seller Websites.** "Seller Websites" shall mean all Internet websites, including content, text, graphics, images, audio, video, data, databases, software owned or licensed by Seller or its Subsidiaries and used in the operation of and maintenance thereof, and all documentation, ASP, HTML, DHTML, SHTML, and XML files, cgi and other scripts, subscriber data, archives, and server and traffic logs and all other tangible embodiments related to any of the foregoing.

**Software.** "Software" means any and all: (a) computer programs, including any and all software implementations of algorithms, heuristics, models and methodologies, whether in source code or object code; (b) testing, validation, verification and quality assurance materials; (c) databases, conversions, interpreters and compilations, including any and all data and collections of data, whether machine readable or otherwise; (d) descriptions, schematics, flow-charts and other work product used to design, plan, organize and develop any of the foregoing; (e) all documentation, including user manuals, web materials and architectural and design specifications and training materials, relating to any of the foregoing; (f) software development processes, practices, methods and policies recorded in permanent form, relating to any of the foregoing; and (g) performance metrics, sightings, bug and feature lists, build, release and change control manifests recorded in permanent form, relating to any of the foregoing.



**Source Code.** “Source Code” shall mean code in any programming language in a form intelligible to trained programmers, including all comments and procedural code as well as all related development documents.

**Special Holdback Amount.** “Special Holdback Amount” shall mean \$1,078,027.

**Stockholders.** “Stockholders” means the holder of Seller Shares.

**Subsidiary.** “Subsidiary” means any corporation, partnership, limited liability company or other Person of which a Person, either alone or together with one or more Subsidiaries or by one or more other Subsidiaries (a) directly or indirectly owns or purports to own, beneficially or of record securities or other interests representing more than fifty percent (50%) of the outstanding equity, voting power, or financial interests of such Person or (b) is entitled, by Contract or otherwise, to elect, appoint or designate directors constituting a majority of the members of such Person’s board of directors or other governing body.

**Systems.** “Systems” shall mean computer, information technology and data processing systems, facilities and services used by Seller in the Business, including all software, hardware, networks, communications facilities, platforms and related systems and services used therein.

**Tax.** “Tax” shall mean (a) any tax (including any income tax, franchise tax, capital gains tax, estimated tax, gross receipts tax, value-added tax, surtax, excise tax, ad valorem tax, transfer tax, stamp tax, sales tax, use tax, property tax, business tax, occupation tax, inventory tax, occupancy tax, withholding tax or payroll tax), escheat obligation, levy, assessment, tariff, impost, imposition, toll, duty (including any customs duty), deficiency or fee of any kind whatsoever, and any related charge or amount (including any fine, penalty or interest), whether disputed or not, and (b) any Liability of any amounts of the type described in clause (a) of this definition payable as a result of being a transferee or successor or pursuant to any tax-sharing agreement or similar Contract, operation of Legal Requirements, or otherwise.

**Tax Return.** “Tax Return” shall mean any return, statement, report, declaration, election, certificate or other document (including estimated Tax returns and reports, withholding Tax returns and reports, any schedule or attachment, and information returns and reports), in each case, filed or required by Law to be filed with respect to Taxes.

**Technology.** “Technology” shall mean all technology, documentation, and technical and other information, and tangible embodiments thereof, regardless of form, including without limitation: (a) published and unpublished works of authorship, including without limitation audiovisual works, collective works, computer programs, Software, compilations, databases, derivative works, literary works, mask works, and sound recordings; (b) inventions and discoveries, including without limitation articles of manufacture, business methods, compositions of matter, improvements, machines, methods, and processes and new uses for any of the preceding items; and (c) information that is not generally known or readily ascertainable through proper means, whether tangible or intangible, including without limitation algorithms, customer lists, ideas, designs, formulas, know-how, methods, processes, programs, prototypes, systems, and techniques.

**Third Party Components.** “Third Party Components” shall mean any Technology that is not exclusively owned by Seller and that is or has been embedded in, compiled with, incorporated into, or distributed by Seller in or with any Seller Product.

**Transaction Agreements.** “Transaction Agreements” shall mean this Agreement, including all exhibits and schedules hereto, and all other documents to be executed and delivered under this Agreement.

**Transactions.** “Transactions” shall mean (a) the execution and delivery of the Transaction Agreements, and (b) all of the transactions contemplated by the respective Transaction Agreements, including: (i) the sale of the Transferred Assets by Seller to Purchaser in accordance with the Agreement; and (ii) the performance by the parties to the Transaction Agreements of their respective obligations under the Transaction Agreements, and the exercise by the parties to the Transaction Agreements of their respective rights under the Transaction Agreements.

**Transaction Expenses.** “Transaction Expenses” shall mean (i) all fees, costs, expenses, payments, or expenditures of the Seller, whether incurred before the date of the Agreement, at or after the Closing, and whether or not invoiced before the Closing, that relate to the Agreement or any of the Transactions, (ii) any fees, costs or expenses payable by Seller or its Subsidiaries to the Seller’s or its Subsidiaries’ outside legal counsel or to any financial advisor, accountant or other Person who performed services for or on behalf of Seller or its Subsidiaries, (iii) any change of control payment, termination payment, severance payment, bonus payment or similar payment, including all employer-side payroll or employment Taxes and any other Taxes associated with the foregoing payments and (iv) any costs or expenses with respect to any Governmental Authorization required in connection with the consummation of the Transactions.

**Transferred Books and Records.** “Transferred Books and Records” shall mean originals, or where not available, copies, of all books and records, including, but not limited to, tax and accounting records, research and development files, and records (including all correspondence with any Governmental Body), material and research and files relating to the Transferred Technology.

**Transferred Employee.** “Transferred Employee” shall mean any employee or consultant of Seller who accepts an offer of employment from Purchaser and becomes an employee of Purchaser.

**Transferred IP.** “Transferred IP” shall mean all (a) Intellectual Property Rights owned by, purported to be owned by, or exclusively licensed to Seller or its Subsidiaries, including without limitation the Names and Marks and all Intellectual Property Rights listed or described on Schedule 1.1(a); and (b) the right to register, prosecute, maintain or record any of such Intellectual Property Rights, including rights to damages and payments for past, present and future infringements and misappropriations thereof, as well as all goodwill associated with such Intellectual Property Rights and the Business or any of the Transferred Assets.

**Transferred Technology.** “Transferred Technology” means all items of Technology that embody Transferred IP, including without limitation (a) any Technology of Seller or its Subsidiaries that comprise any Seller Product, including that which is otherwise used to design, develop, host, maintain, build, compile or make available the Seller Products; (b) all confidential information and know-how related to the past and present business of Seller or its Subsidiaries; (c) all other proprietary Technology of Seller or its Subsidiaries; and (d) any other items of Technology listed or described on Schedule 1.1(b). Notwithstanding the foregoing, “Transferred Technology”, and any subset thereof, does not include any items of confidential information of a third Person or any User Data or Personal Data.

**Treasury Regulations.** “Treasury Regulations” shall mean the regulations promulgated under the Code.

**User Data.** “User Data” shall mean any Personal Data or other data or information collected by or on behalf of Seller from users of Seller Website or otherwise.

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**EXHIBIT B**

Joinder Agreement

[See attached.]

## JOINDER AGREEMENT

This JOINDER AGREEMENT (this “Agreement”) is entered into as of December \_\_, 2023 (the “Agreement Date”), by and between Harness Inc., a Delaware corporation (“Purchaser”), Armory, Inc., a Delaware corporation (the “Seller”), and the undersigned holder (each such undersigned, as to, himself, herself or itself, “Holder”) of securities of Seller. Capitalized terms not otherwise defined herein shall have the respective meanings ascribed to them in the Purchase Agreement (as defined below). If the terms of this Agreement conflict in any way with the provisions of the Purchase Agreement, then the provisions of the Purchase Agreement shall control.

## RECITALS

A. Holder has executed and delivered this Agreement in connection with that certain Asset Purchase Agreement, dated on or around the date hereof (as amended from time to time, the “Purchase Agreement”), by and between Purchaser and the Seller, pursuant to which Purchaser will acquire intellectual property, certain contracts, and certain other assets of the Seller as set forth more fully therein (the “Transactions”).

B. As a condition to its willingness to enter into the Purchase Agreement, Purchaser has required, as a condition to Closing, that certain stockholders of Seller enter into a Joinder Agreement in connection with the execution of the Purchase Agreement.

C. Holder desires to be bound by the terms of the Purchase Agreement applicable to a Seller Stockholder or a Seller Indemnitor, including the indemnification provisions of the Purchase Agreement solely to the extent Holder is a Seller Indemnitor.

D. Holder understands and acknowledges that Purchaser is entitled to rely on (i) the truth and accuracy of Holder’s representations contained herein and (ii) Holder’s performance of the obligations set forth herein.

## AGREEMENT

NOW, THEREFORE, in consideration of the premises, representations, warranties, covenants and other agreements contained in the Purchase Agreement and herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Representations and Warranties of Holder. Holder hereby represents and warrants to Purchaser and Seller as follows, which representations and warranties are accurate in all respects as of the date of this Agreement and will be accurate in all respects as of the Closing as if made at that time:

1.1 Ownership of Securities. Holder is the sole record, legal and beneficial owner of that number and type of security interests of the Seller set forth on the signature page attached hereto (all such security interests beneficially owned by Holder on the Agreement Date, collectively, the “Securities”). The Securities constitute Holder’s only equity or security interest in the Seller and Holder has no rights (or hereby waives any such rights) to acquire other Seller securities or equity interests. No Person who is not a signatory to this Agreement or Appendix A to this Agreement (for purposes of applicable community property laws) has a beneficial interest in or a right to acquire any of the Securities or vote any of the Securities (other than, if Holder is a corporation, partnership or a limited liability company or other entity, the rights and interests of Persons that own, directly or indirectly, capital stock, partnership interests, limited liability company membership interests or units or other equity interests in Holder under the certificate or

articles of incorporation, partnership agreement, operating agreement or other organizational documents governing Holder and applicable corporate, partnership, limited liability company or other similar Law if applicable, or if Holder is a trust, the beneficiaries thereof). The Securities (a) are not, and as of the Closing will not be, subject to any liens, claims, options, charges, rights of first refusal or other encumbrances (any of the foregoing, a "Lien") (other than Liens created pursuant to this Agreement) and (b) have not been transferred, assigned or otherwise disposed of by Holder and Holder has not entered into any agreement to transfer, assign or otherwise dispose of the Securities. There are no outstanding loans or other Indebtedness owed to Holder from the Seller or any of its Affiliates or owed to the Seller or any of its Affiliates by Holder.

1.2 Power, Authorization and Validity. If Holder is an entity, Holder is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization. Holder has all requisite power and authority (if Holder is an entity) or legal capacity (if Holder is a natural person) to enter into this Agreement, and each other agreement, document or certificate to which he, she or it becomes a party pursuant to this Agreement or the Purchase Agreement (each, a "Holder Related Agreement"), and to perform his, her or its obligations under this Agreement and each Holder Related Agreement. The execution and delivery of this Agreement and each Holder Related Agreement by Holder and the consummation by Holder of the transactions contemplated hereby and thereby have been duly authorized by all necessary action, if any, on the part of Holder. Each Holder Related Agreement has been duly executed and delivered by Holder and constitutes a valid and binding obligation of Holder, enforceable against Holder in accordance with its terms, subject only to the effect, if any, of (i) applicable bankruptcy, insolvency, reorganization, moratorium and other similar Laws affecting the enforcement of the rights of creditors generally and (ii) rules of Law governing specific performance, injunctive relief and other equitable remedies.

1.3 No Consents. No consent, notice, approval, order, authorization, release or waiver of, or registration, declaration or filing with, any Governmental Body or other Person is necessary or required to be made or obtained by Holder to enable Holder to lawfully execute and deliver, enter into, and perform its, his or her obligations under this Agreement or any Holder Related Agreement.

1.4 No Conflict. Neither the execution and delivery by Holder of any Holder Related Agreement, nor the consummation of the Transactions or any other transaction contemplated by any Holder Related Agreement: (a) conflicts with, or, with or without notice or lapse of time (or both), results in a termination, breach, impairment or violation of, or constitutes a default under, or requires the consent, release, waiver or approval of, or notice to, any third party under, (i) if Holder is an entity, any provision of the organizational or governing documents of Holder, each as currently in effect, or (ii) any Law applicable to Holder, or (iii) any contract to which Holder is a party or by which Holder its, his or her assets are bound or otherwise affected that would be reasonably likely to prohibit or restrain the ability of Holder to enter into any Holder Related Agreement or consummate the transactions contemplated hereby or thereby; or (b) results in the creation of any Lien on any of the Securities.

1.5 Legal Proceedings. There is no private or governmental action, inquiry, claim, mediation, arbitration, counterclaim, proceeding, suit, hearing, litigation, audit or investigation, in each case whether civil, criminal, administrative, judicial or investigative, or any appeal therefrom (each of the foregoing, a "Legal Proceeding") to which Holder is a party (either directly or indirectly) and that relates in any way to the Securities, any Holder Related Agreement or any of the transactions contemplated hereby or thereby. To the knowledge of Holder, no such Legal Proceeding has been threatened and there is no reasonable basis for any such Legal Proceeding.

1.6 No Brokers. Holder is not obligated for the payment of any fees or expenses of any investment banker, broker, advisor, finder or similar party in connection with the origin, negotiation or

execution of the Purchase Agreement or in connection with the Transactions or any other transactions contemplated by any Holder Related Agreement.

1.7 Review. Holder has received each Holder Related Agreement, and Holder has had reasonable time and opportunity to discuss the requirements of such agreements with Holder's financial, legal and other advisors, to the extent Holder has determined necessary, prior to executing this Agreement or any other Holder Related Agreement to which Holder is a party. Holder has such knowledge and experience in business and financial matters to enable Holder to understand and evaluate the Holder Related Agreements and form an investment decision with respect thereto. Holder acknowledges that Purchaser is entering into this Agreement in reliance upon Holder's execution and delivery of this Agreement and agreement to be bound hereby and by the terms of the Purchase Agreement (including with respect to Holders' indemnification obligations hereunder and thereunder, if applicable).

1.8 Tax Matters. Holder understands that Holder (and not Purchaser) shall be responsible for any tax liability for Holder that may arise as a result of the Transactions or the transactions contemplated by the Purchase Agreement and any Holder Related Agreements.

1.9 Material Nonpublic Information. Holder hereby confirms that it is aware, and that its Representatives have been advised, that the United States securities laws prohibit any Person who has material nonpublic information about Seller from purchasing or selling securities of such Seller or from communicating such information to any other Person under circumstances in which it is reasonably foreseeable that such Person may purchase or sell such securities.

2. Covenants of Holder. Holder hereby covenants to Purchaser and Seller as follows:

2.1 Compliance. Holder shall not knowingly take any action that (a) would make any representation or warranty contained herein untrue or incorrect or (b) would reasonably be expected to have the effect of impairing the ability of Holder to perform its, his or her obligations under any Holder Related Agreement or preventing or materially delaying the consummation of any of the transactions contemplated by any Holder Related Agreement or the written consent of the Stockholders approving the Purchase Agreement and the transactions contemplated by the Purchase Agreement (the "Seller Stockholder Consent"), as applicable.

2.2 Irrevocable Consent. Holder agrees that it, he or she will not bring, commence, institute, maintain, prosecute, participate in or voluntarily aid any Legal Proceeding, in law or in equity, in any court or before any Governmental Body, which (i) challenges the validity of or seeks to enjoin the operation of any provision of the Seller Stockholder Consent or this Agreement or the execution and delivery of the Purchase Agreement and or any Holder Related Agreement or the consummation of the Transactions or any of the transactions contemplated by this Agreement, the Purchase Agreement or any Holder Related Agreement, or (ii) alleges that the execution and delivery of the Seller Stockholder Consent (if applicable), or this Agreement by Holder, either alone or together with the other Seller Stockholder consents or voting or stockholder agreements and proxies to be delivered in connection with this Agreement or the execution of the Purchase Agreement, breaches any fiduciary duty, whether of the Seller board of directors or any member thereof, of any officer of the Seller or of any holder of Seller Capital Stock or other Seller Securities.

2.3 Appraisal Rights. If appraisal or dissenters rights are available in connection with the Transactions, Holder hereby irrevocably and unconditionally acknowledges that, by execution of this Agreement and, as applicable, the Seller Stockholder Consent, such Holder has lost any rights Holder would have to dissent to the Transactions and request an appraisal of the fair market value or fair value of the Securities held by such Holder pursuant to the Delaware General Corporation Law ("Delaware Law") or



any other applicable law. Holder, on Holder's own behalf and on behalf of Holder's Affiliates, hereby voluntarily waives and agrees not to exercise any rights of appraisal, dissenters' rights or similar rights that Holder may have (whether under Delaware Law or other applicable Law or otherwise) or could potentially have or acquire in connection with the execution and delivery of the Purchase Agreement or the consummation of the Transactions or any other transaction contemplated by the Purchase Agreement.

2.4 No Transfers. Until after the Closing, Holder shall not, and shall cause each of its Affiliates not to, directly or indirectly, (i) transfer (whether by merger, consolidation, division, operation of law or otherwise) any Securities or any legal, economic or beneficial interest in any Securities, (ii) deposit any Securities into a voting trust or, except as expressly contemplated hereby, grant any proxies, enter into any voting agreement or voting trust or execute or provide any power-of-attorney with respect to any Securities, or (iii) agree (whether or not in writing) to do any of the foregoing, in each case without the prior written consent of Purchaser and Seller. Any action taken in contravention of this Section 2.4 shall be null and void *ab initio*.

2.5 Confidentiality. Except with the prior written consent of Purchaser and Seller, Holder agrees to keep confidential and not disclose to any Person (other than to its attorneys and other professional advisors, and, if Holder has direct or indirect third-party investors, to such investors, limited partners and other securityholders to the extent such disclosure is made in the ordinary course of such Holder's business and is required pursuant to contractual obligations of such Holder to such investors, limited partners and other securityholders (provided such Persons have agreed to confidentiality restrictions equivalent to those contained herein)): (a) the existence, or any terms or conditions, of this Agreement, the Holder Related Agreements, the Purchase Agreement or any of the agreements contemplated by the Purchase Agreement and the transactions contemplated hereby and thereby, (b) matters regarding the interpretation, performance, breach or termination hereof or thereof, and (c) all confidential and/or proprietary information of the Seller (including Intellectual Property Rights of the Seller) obtained by Holder or its Representatives, except to the extent that (i) such information has otherwise been made public (other than as a result of a breach by Holder or its Representatives of Holder's obligations under this Agreement) or (ii) such information is known by Holder prior to disclosure to Holder by or on behalf of the Seller and was received by Holder on a non-confidential basis, (iii) such information is independently developed by Holder without use of or reference to the Seller's or its Affiliates' information, or (iv) Holder is required to disclose such information to a Governmental Body under applicable Law; provided, that if Holder is required by Law to disclose any such information to any Governmental Body, then Holder will to the extent reasonably practicable promptly provide Purchaser and Seller with written notice of the applicable Law so that Purchaser or Seller may seek a protective order or other appropriate remedy and Holder will cooperate with Purchaser and Purchaser's Representatives in any attempt by Purchaser and Seller and Seller's Representatives in any attempt by Seller to obtain any such protective order or other remedy, and if Purchaser or Seller elects not to seek, or is unsuccessful in obtaining, any such protective order or other remedy in connection with any requirement that Holder disclose such information, and if Holder obtains advice of outside legal counsel confirming that the disclosure of such information is legally required, then Holder may disclose such information only to the extent legally required; provided, further, that Holder will use its commercially reasonable efforts to ensure that such information is treated confidentially by each Person to whom it is disclosed. Notwithstanding the foregoing, (i) if Holder is a venture capital fund, institutional investor or similar private investment fund, such Holder may disclose (A) the terms of this Agreement or the Purchase Agreement solely to the extent necessary to report the Transactions contemplated thereby to its members, limited partners or other investors pursuant to legal or contractual obligations or as reasonably necessary in the good faith exercise of the fiduciary duties on the part of such Holder and (B) such Holder's investment amount in the Seller and its return on such investment to prospective investors, provided in each such case of clauses (A) and (B), such members, limited partners, investors or prospective investors are subject to similar obligations of confidentiality with respect to the receipt of such information as imposed on the Holder hereunder and provided that Holder shall be liable to

Purchaser for any disclosure by such Persons that would be a breach of this Agreement if disclosed by Holder, and (ii) each Holder may disclose that it was a stockholder of the Seller.

2.6 Joinder and Indemnification.

(a) Holder hereby acknowledges and agrees that Holder has received the Purchase Agreement and exhibits and schedules thereto and agrees to be bound by the terms and conditions of those provisions of the Purchase Agreement purporting to bind the Seller or the Seller Indemnitors, as applicable, including any and all provisions relating to the indemnification obligations of the Seller Indemnitors.

(b) Holder hereby acknowledges and agrees that at the Closing, (i) Purchaser shall hold back the Indemnity Holdback Amount and Special Holdback Amount, pursuant to and subject to the terms and conditions of the Purchase Agreement, (ii) the Seller shall be entitled to and receive a portion of the Indemnity Holdback Amount and/or Special Holdback Amount, if any, only as and when such amount is payable to the Seller in accordance with the provisions of the Purchase Agreement, and (iii) Holder shall have no right to payment of any portion of the Purchase Price, including the Indemnity Holdback Amount or Special Holdback Amount, from Purchaser, and shall only receive such consideration as provided by the Seller pursuant to the Seller's Organizational Documents and other contracts of the Seller, and as further set forth in the Purchase Agreement.

2.7 Waiver of Notice. With respect to the Transactions and the other transactions contemplated by the Purchase Agreement and this Agreement, Holder hereby waives all of the notice requirements set forth in the Seller's Organizational Documents, in each case, as in effect as of the date hereof, or any agreements or other documents between the Seller and Holder, and any notice to which Holder may be entitled pursuant to Delaware Law and other state laws that may apply or purport to apply.

2.8 Release of Claims. Conditioned upon and effective for all purposes as of the Effective Time, as an inducement to Purchaser's entry into the Purchase Agreement and as a condition precedent to the consummation of the transactions contemplated thereby that certain Stockholders shall have delivered to Purchaser in connection with the execution of the Purchase Agreement and prior to the Closing a duly executed form of this Agreement, Holder hereby acknowledges and agrees, on behalf of itself (or, as applicable, himself or herself) and each of its (or, as applicable, his or her) current or former Affiliates, officers, directors, employees, managers, partners, principals, advisors, agents, stockholders, members, investors, equity holders or other Representatives, heirs, beneficiaries, estates, executors, administrators, trustees, successors or assigns (each a "Releasing Party") that:

(a) Releasing Party hereby irrevocably and unconditionally releases and forever discharges Purchaser and each of their Affiliates and subsidiaries and each of their respective current or former Affiliates, officers, directors, employees, managers, partners, principals, advisors, agents, stockholders, members, investors, equity holders or other Representatives, heirs, beneficiaries, estates, executors, administrators, trustees, successors or assigns (collectively, the "Released Parties") from any and all claims, demands, allegations, assertions, complaints, controversies, charges, duties, grievances, rights, causes of action, suits, liabilities, debts, obligations, promises, commitments, agreements, guarantees, endorsements, duties, damages, costs, losses, debts and expenses (including attorneys' fees and costs incurred) of any nature whatsoever (whether direct or indirect, known or unknown, disclosed or undisclosed, matured or unmatured, accrued or unaccrued, asserted or unasserted, absolute or contingent, determined or conditional, express or implied, fixed or variable and whether vicarious, derivative, joint, several or secondary) against or otherwise relating to the Transactions (including the receipt by Releasing Party of any portion of the Purchase Price), the Transferred Assets, the Transferred Contracts, or the employment or engagement by Purchaser or any of its Affiliates or designees of any employee, contractor,

consultant or other service provider of the Seller (collectively, "Claims"); provided, however, that the foregoing release shall not cover (i) rights of the Releasing Party under this Agreement or any Holder Related Agreements or (ii) any claims that may not be waived as a matter of Law.

(b) Releasing Party (i) has no Claims, (ii) has not transferred or assigned, or purported to transfer or assign, any Claims, and (iii) shall not transfer or assign, or purport to transfer or assign, any Claims, in each case, against the Seller, Purchaser, each of their respective subsidiaries, or any other Released Parties.

(c) Releasing Party acknowledges and agrees that it, he or she is familiar with Section 1542 of the Civil Code of the State of California ("Section 1542"), to the extent applicable to Holder, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Releasing Party hereby waives and relinquishes any rights and benefits that Releasing Party may have under Section 1542 or any similar statute or common law principle of any jurisdiction (other than as set forth in the proviso included in subsection (a) above). Releasing Party acknowledges that it, he or she may hereafter discover facts in addition to or different from those that Releasing Party now knows or believes to be true with respect to the subject matter of this release, but it is Releasing Party's intention to fully and finally and forever settle and release any and all Claims (other than as set forth in the proviso included in subsection (a) above) that do now exist, may exist or heretofore have existed with respect to the subject matter of this release. In furtherance of this intention, the releases contained herein shall be and remain in effect as full and complete releases notwithstanding the discovery or existence of any such additional or different facts.

(d) Releasing Party acknowledges and agrees that it, he or she (i) has read this release and understands its terms and has been given an opportunity to ask questions of the Seller's Representatives, (ii) does not rely, and has not relied, on any representation or statement not set forth in this release made by any Representative of the Seller or any other Person with regard to the subject matter, basis or effect of this release or otherwise, (iii) has had the opportunity to consult with counsel with respect to the execution and delivery of this Agreement and (iv) voluntarily enters into this Agreement with full knowledge of its terms and conditions.

3. Consent and Waiver. Holder hereby provides any consents, notice or waivers that are required for the consummation of the Transactions under the terms of any agreement or instrument to which Holder is a party or subject or in respect of any rights Holder may have in connection with the Transactions or the other transactions provided for in any Holder Related Agreement (whether such rights exist under the Seller's Organizational Documents or any contract of the Seller, under statutory or common law or otherwise). Without limiting the generality or effect of the foregoing, Holder hereby waives any and all rights to contest or object to the execution and delivery of the Purchase Agreement and the consummation of the Transactions and the other transactions contemplated thereby, or to the execution and delivery of the Seller Stockholder Consent by Holder (if applicable) or any other Seller Stockholder or to seek damages or other legal or equitable relief in connection therewith (except as otherwise provided in the Purchase Agreement).

4. Miscellaneous.

4.1 Notices. Any notice or other communication required or permitted to be delivered to any party under this Agreement shall be in writing and shall be deemed properly delivered, given and received (i) upon receipt when delivered by hand, (ii) upon transmission, if sent by electronic mail transmission (with receipt verified by electronic confirmation), or (iii) one (1) Business Day after being sent by courier or express delivery service, provided that in each case the notice or other communication is sent to the address or electronic mail address set forth beneath the name of such party below (or to such other address or electronic mail address as such party shall have specified in a written notice given to the other parties hereto):

(a) If to Purchaser, to:

Harness Inc.  
55 Stockton Street, 8th Floor  
San Francisco, CA 94108  
Attention: Chief Financial Officer  
Email: john.bonney@harness.io

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

Cooley LLP  
1333 2nd Street, Suite 400  
Santa Monica, CA 90401-4100  
Attention: Anne Lieberman  
Email: alieberman@cooley.com

(b) If to Seller, to:

NimbioTech, Inc.  
548 Market St, PMB 77458  
San Francisco, CA 94104-5401  
Attention: James Douglas  
Email: legal@nimbiotech.com

(c) If to Holder, at the address set forth below Holder's signature on the signature page executed by Holder.

4.2 Interpretation. When a reference is made herein to Sections, such reference shall be to 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 headings contained herein are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. Where a reference is made to a contract, instrument or Law, such reference is to such contract, instrument or law as amended, modified or supplemented, including (in the case of contracts or instruments) by waiver or consent and (in the case of Law) by succession of comparable successor Law and references to all attachments thereto and instruments incorporated therein. Unless the context of this Agreement otherwise requires: (a) words of any gender include each other gender; (b) words using the singular or plural number also include the plural or singular number, respectively; (c) the terms "hereof," "herein," "hereto" and "hereunder" and derivative or similar words refer to this entire Agreement; (d) the term "or" is not exclusive and shall be deemed to be "and/or"; (e) references to

clauses without a cross-reference to a Section or subsection are references to clauses within the same Section or, if more specific, subsection, (f) references to any person or Person include the successors and permitted assigns of that person or Person and (g) references from or through any date shall mean, unless otherwise specified, from and including or through and including, respectively. The word “extent” in the phrase “to the extent” means the degree to which a subject or other thing extends and such phrase shall not mean simply “if.”

4.3 Specific Performance; Injunctive Relief. The parties hereto agree that, in the event of any breach or threatened breach by the other party or parties hereto of any covenant, obligation or other agreement set forth in this Agreement, (a) 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 (b) 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 Legal Proceeding.

4.4 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 HelloSign or DocuSign shall be sufficient to bind the parties to the terms and conditions of this Agreement.

4.5 Entire Agreement; Nonassignability; Parties in Interest; Assignment. This Agreement and the documents, instruments and other agreements specifically referred to herein or delivered pursuant hereto (a) constitute the entire agreement among the parties with respect to the subject matter hereof and supersede all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof, and (b) are not intended to confer, and shall not be construed as conferring, upon any Person other than the parties hereto any rights or remedies hereunder; except the Released Parties are intended third party beneficiaries of Section 2.8, and shall be entitled to enforce this Agreement against the undersigned in accordance with its terms. The provisions of this Agreement shall survive the Effective Time and the Closing. Neither this Agreement, nor any of the rights, interests or obligations under this Agreement, may be assigned or delegated, in whole or in part, by operation of law or otherwise, by Holder without the prior written consent of Purchaser, and any such assignment or delegation that is not consented to shall be null and void. Purchaser may assign this Agreement to any Affiliate of Purchaser without the prior written consent of Holder. Subject to the preceding sentence, this Agreement shall be binding upon, inure to the benefit of, and be enforceable by and against, the parties hereto and their respective successors and assigns (including any Person to whom any Securities are sold, transferred or assigned).

4.6 Amendment; Waiver. Subject to applicable Law, the parties hereto may amend this Agreement as it applies to Holder at any time pursuant to an instrument in writing signed on behalf of each of Purchaser and Holder. At any time, either Purchaser, Seller or Holder may, to the extent legally allowed, waive any inaccuracies in the representations and warranties made to such party contained herein or in any document delivered pursuant hereto and waive compliance with any of the agreements or conditions for the benefit of such party contained herein. Any agreement on the part of Purchaser, Seller or Holder to any such waiver shall be valid only if set forth in an instrument in writing signed on behalf of the other. Without limiting the generality or effect of the preceding sentence, no delay in exercising any right under this Agreement shall constitute a waiver of such right, and no waiver of any breach or default shall be deemed a waiver of any other breach or default of the same or any other provision herein.

4.7 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 shall continue in full force and effect and shall 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.

4.8 Remedies Cumulative. Except as otherwise provided herein, any and all remedies herein expressly conferred upon a party hereto shall be deemed cumulative with and not exclusive of any other remedy conferred by this Agreement, or by law or equity upon such party hereto, and the exercise by a party hereto of any one remedy shall not preclude the exercise of any other remedy.

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

4.10 Exclusive Jurisdiction; Waiver of Jury Trial.

(a) ANY LEGAL SUIT, ACTION OR PROCEEDING ARISING OUT OF OR BASED UPON THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY MAY BE INSTITUTED FIRST, IN THE COURT OF CHANCERY WITHIN NEW CASTLE COUNTY IN THE STATE OF DELAWARE (AND ANY APPELLATE COURT THEREOF LOCATED WITHIN SUCH COUNTY) AND TO THE EXTENT SUCH COURT OF CHANCERY (OR APPELLATE COURT THEREOF LOCATED WITHIN SUCH COUNTY) LACKS JURISDICTION OVER THE MATTER, THE FEDERAL COURTS OF THE UNITED STATES OF AMERICA LOCATED WITHIN NEW CASTLE COUNTY IN THE STATE OF DELAWARE (OR APPELLATE COURT THEREOF LOCATED WITHIN SUCH COUNTY), AND EACH PARTY IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF SUCH COURTS IN ANY SUCH SUIT, ACTION OR PROCEEDING. SERVICE OF PROCESS, SUMMONS, NOTICE OR OTHER DOCUMENT BY MAIL TO SUCH PARTY'S ADDRESS SET FORTH HEREIN SHALL BE EFFECTIVE SERVICE OF PROCESS FOR ANY SUIT, ACTION OR OTHER PROCEEDING BROUGHT IN ANY SUCH COURT. THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY OBJECTION TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR ANY PROCEEDING IN SUCH COURTS AND IRREVOCABLY WAIVE AND AGREE NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

(b) EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE OTHER TRANSACTIONS CONTEMPLATED HEREBY. EACH PARTY TO THIS AGREEMENT CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF A LEGAL ACTION, (B) SUCH PARTY HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (C) SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (D) SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 4.10(b).

4.11 Additional Documents. Holder shall execute and deliver any additional documents necessary or desirable, in the reasonable opinion of Purchaser, to carry out the purpose and intent of this Agreement. Without limiting the generality or effect of the foregoing or any other obligation of Holder hereunder, Holder hereby authorizes Purchaser to deliver a copy of this Agreement to the Seller and hereby agrees that each of the Seller and Purchaser may rely upon such delivery as conclusively evidencing the consents, waivers and terminations of Holder referred to in Section 3, in each case for purposes of all agreements and instruments to which such elections, consents, waivers and/or terminations are applicable or relevant.

4.12 Rules of Construction. The parties hereto agree that they have been (or have had the opportunity to be) represented by counsel during the negotiation, preparation 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 shall be construed against the party drafting such agreement or document.

4.13 Acknowledgements. Each party to this Agreement acknowledges that (a) Silicon Legal Strategy, counsel for the Seller, represented the Seller in connection with the Transactions and related transactions, (b) Cooley LLP, counsel for Purchaser, represented Purchaser in connection with this Agreement, the Transactions and related transactions, and (c) none of the foregoing firms has represented Holder in connection with this Agreement, the Transactions or otherwise.

4.14 Spousal Consent. Holder acknowledges and agrees that if Holder has a spouse, this Agreement must be accompanied by a duly executed "Joinder Agreement and Written Consent of the Stockholders Spousal Consent" in the form attached hereto as Appendix A (the "Spousal Consent"). Holder understands and acknowledges that the completion and execution of such Spousal Consent, if applicable, is a part of completing this Agreement and is a condition to receiving the consideration payable to Holder pursuant to the Purchase Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this Joinder Agreement to be executed as of the date first above written.

HARNESS INC.:

By: \_\_\_\_\_

Name:

Its:

[SIGNATURE PAGE TO JOINDER AGREEMENT]



IN WITNESS WHEREOF, the parties hereto have caused this Joinder Agreement to be executed as of the date first above written.

ARMORY, INC.:

By: \_\_\_\_\_

Name:

Its:

[SIGNATURE PAGE TO JOINDER AGREEMENT]

IN WITNESS WHEREOF, the parties hereto have caused this Joinder Agreement to be executed as of the date first above written.

HOLDER:

\_\_\_\_\_  
(Print Name of Holder)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print name and title if signing on behalf of an entity)

\_\_\_\_\_  
(Print Address)

\_\_\_\_\_  
(Print Address)

Securities beneficially owned on the Agreement Date:

\_\_\_\_\_ shares of Seller Common Stock

\_\_\_\_\_ shares of Seller Series Seed Stock

\_\_\_\_\_ shares of Seller Series A Stock

\_\_\_\_\_ shares of Seller Series B Stock

\_\_\_\_\_ shares of Seller Series C Stock

\_\_\_\_\_ Seller Options to acquire shares of Seller Common Stock

\_\_\_\_\_ Seller Warrants to acquire shares of Seller Common Stock

[SIGNATURE PAGE TO JOINDER AGREEMENT]

**Appendix A**

**JOINDER AGREEMENT & WRITTEN CONSENT OF THE STOCKHOLDERS  
SPOUSAL CONSENT**

I \_\_\_\_\_, spouse of \_\_\_\_\_, have read and approve the foregoing Joinder Agreement (the "Agreement") and, if applicable, the written consent of the Stockholders (the "Consent"). In consideration of the terms and conditions as set forth in the Agreement and, if applicable, the matters set forth in the Consent, I hereby appoint my spouse as my attorney-in-fact with respect to the exercise of any rights and obligations under the Agreement and, if applicable, the Consent, and agree to be bound by the provisions of the Agreement and, if applicable, the Consent insofar as I may have any rights or obligations in the Agreement or, if applicable, in the Consent under the laws relating to marital or community property in effect in the state of our residence as of the date of the Agreement or, if applicable, the Consent.

Date \_\_\_\_\_

Signature of Spouse \_\_\_\_\_

Printed Name of Spouse \_\_\_\_\_

**EXHIBIT C**

Form Third Party Consent

[See attached.]

ARMORY, INC.

December [●], 2023

VIA EMAIL

[Consenting Party]

Email:[●]

Re: Consent pursuant to the [AGREEMENT NAME], dated as of [●], 20\_\_ (the “**Agreement**”), by and between Armory, Inc. (the “**Company**”) and [●] (“**Consenting Party**”).

To Whom It May Concern:

Please be advised that the Company has agreed to enter into a transaction (the “**Transaction**”) pursuant to which the Company will assign the Agreement (the “**Assignment**”) to a third-party purchaser (“**Assignee**”). Subject to timely satisfaction of customary closing conditions, we anticipate the consummation of the Transaction and the Assignment will occur on or about \_\_\_\_\_, 2023 (“**Closing**”).

In accordance with the terms of the Transaction documents, the Company will assign its rights and obligations under, and Assignee will accept and agree to be bound by, the terms of the Agreement, effective as of, and conditioned upon, the consummation of the Transaction. In reference to Section [●] of the Agreement, the Company hereby respectfully requests that Consenting Party consent to the Assignment effective upon Closing.

By executing below, Consenting Party hereby irrevocably (a) consents to the Assignment, effective upon the consummation of the Transaction, (b) agrees and acknowledges that the Agreement will remain in full force and effect following the Assignment and consummation of the Transaction, (c) waives any notice, consent or other procedural requirements relating to an assignment of the Agreement and (d) notwithstanding anything to the contrary contained in the Agreement, waives (i) any and all rights that Consenting Party may have to amend or terminate the Agreement, (ii) any automatic termination or modification of the terms of the Agreement and (iii) any rights that Consenting Party may have to remedies or acceleration of any obligations or rights under the Agreement, in each case only to the extent arising out of the Transaction or any related Assignment.

Upon Closing, Consenting Party’s relationship with Assignee will be governed by the terms of the Agreement, and Consenting Party’s rights and obligations thereunder will remain the same unless otherwise modified in accordance with the terms thereof. We note that the Company will continue to be bound by the terms of the Agreement prior to Closing. If the Transaction is not consummated, the Assignment shall not be effectuated, and Consenting Party’s consent to the Assignment shall have no force or effect.

As time is of the essence, **your prompt attention and response by December [●], 2023 would be greatly appreciated.** If you have any questions regarding the foregoing, please do not hesitate to contact me at [telephone number] or jim.douglas@armory.io.

Please indicate your consent to the aforementioned Assignment and waiver of your right to terminate the Agreement by having a duly authorized representative sign this letter in the space indicated below. We'll send you a DocuSign request that you can use to sign this letter electronically or you may sign below and return it via e-mail to [armory@siliconlegal.com](mailto:armory@siliconlegal.com), with copy to [jim.douglas@armory.io](mailto:jim.douglas@armory.io). We thank you in advance for your prompt attention to this matter.

Very truly yours,

**ARMORY, INC.**

By: \_\_\_\_\_

Name: James P. Douglas

Title: Chief Executive Officer

**ACKNOWLEDGED, AGREED, AND CONSENTED TO**  
this [●] day of December, 2023.

**[CONSENTING PARTY]**

By: \_\_\_\_\_

Name:

Title:

**APA Schedules**

**Schedule B**

**Key Stockholders**

<b>Key Stockholder</b>	<b>Percentage Outstanding Ownership</b>
B Capital Fund II, L.P.	10.633%
Bain Capital Venture Fund 2016, L.P.	4.167%
Benjamin Mappen	6.149%
Crosslink Bayview VIII, LLC	.902%
Crosslink Crossover Fund VIII, L.P.	1.467%
Crosslink Crossover Fund VIII-B, L.P.	.234%
Crosslink Endeavour Fund I, L.P.	2.552%
Crosslink Ventures VIII, L.P.	9.483%
Crosslink Ventures VIII-B, LP	5.618%
Daniel Odio	6.332%
Insight Venture Partners (Cayman) X, L.P.	8.527%
Insight Venture Partners (Delaware) X, L.P.	1.649%
Insight Venture Partners X (Co-Investors), L.P.	.247%
Insight Venture Partners X, L.P.	10.398%
Isaac Mosquera	4.891%
Javelin Venture Partners IV, L.P.	6.291%
Mango Capital 2018 LP	2.675%
Reading Railroad LLC	1.595%

The Marc R. Benioff Revocable Trust U/A/D 12/3/2004	1.063%
Y Combinator Investments, LLC Series W17	1.833%
YC Holdings II, LLC	2.261%
YCVF Fund I, L.P.	.396%



**Schedule 1.1**

**“Knowledge” Parties**

- Jim Douglas
- Ben Mappen
- Elaine Guan
- Nick Petrella
- Jane Funk
- Andrew Backes
- Adam Frank

**Schedule 1.1(a)**

**Intellectual Property Rights**

**Trademarks:**

The Seller has registered the following trademark (The “**Registered Trademark**”):

RECORD OWNER	COUNTRY	APPLICATION NUMBER	DATE FILED	MATTER TYPE	TITLE	STATUS	REGISTRATION NUMBER	GRANT DATE
Armory, Inc.	US	88979244	11/11/2019	Trademark - ORG	NOT AFRAID TO COMMIT	Registered	6382492	6/8/2021

**Domains:**

RECORD OWNER	COUNTRY	MATTER TYPE	DESCRIPTION	Registrar	Expiration Date
Armory, Inc.	US	Domain Name	<a href="http://Armory.io">Armory.io</a>	Namecheap	3/17/2026
Armory, Inc.	US	Domain Name	<a href="http://notafraidtocommit.com">notafraidtocommit.com</a>	Namecheap	10/31/2024
Armory, Inc.	US	Domain Name	<a href="http://notafraidtocommit.io">notafraidtocommit.io</a>	Namecheap	10/31/2024
Armory, Inc.	US	Domain Name	<a href="http://Armorymail.com">Armorymail.com</a>	Namecheap	8/28/2024
Armory, Inc.	US	Domain Name	<a href="http://cloudarmory.io">cloudarmory.io</a>	Namecheap	4/29/2024

**Patents:**

Title	Application Number/ Patent Number	Filing Date	Issue Date	Inventor(s)	Owner/ Assignee	Jurisdiction	Status
METHODS AND SYSTEMS FOR CONTINUOUS ASYNCHRONOUS CODE DEPLOYMENT	Application No. 18109005	2/13/2023	—	Jeffrey Hart, Andrew Backes, Alex Bello, Isaac Mosquera	Armory, Inc.	United States	Pending - waiting for examination

METHODS AND SYSTEMS FOR CONTINUOUS ASYNCHRONOUS CODE DEPLOYMENT	Application No. 2022270233 73	10/20/2020	—	Jeffrey Hart, Andrew Backes, Alex Bello, Isaac Mosquera	Armory, Inc.	India	Pending - waiting for examination
METHODS AND SYSTEMS FOR CONTINUOUS ASYNCHRONOUS CODE DEPLOYMENT	Application No. 17028691 Patent No. 11579862	9/22/2020	2/14/2023	Jeffrey Hart, Andrew Backes, Alex Bello, Isaac Mosquera	Armory, Inc.	United States	Issued
METHODS AND SYSTEMS FOR CONTINUOUS ASYNCHRONOUS CODE DEPLOYMENT	Application No. PCTUS2052 023	9/22/2020	—	Jeffrey Hart, Andrew Backes, Alex Bello, Isaac Mosquera	Armory, Inc.	WO	Pending
METHODS AND SYSTEMS FOR CONTINUOUS ASYNCHRONOUS CODE DEPLOYMENT	Application No. 3155256	9/22/2020	—	Jeffrey Hart, Andrew Backes, Alex Bello, Isaac Mosquera	Armory, Inc.	Canada	Pending - deadline to request examination is September 22, 2024
METHODS AND SYSTEMS FOR CONTINUOUS ASYNCHRONOUS CODE DEPLOYMENT	Application No. 2020354463	9/22/2020	—	Jeffrey Hart, Andrew Backes, Alex Bello, Isaac Mosquera	Armory, Inc.	Australia	Pending - deadline to place application in condition of acceptance is February 9, 2024
METHODS AND SYSTEMS FOR CONTINUOUS ASYNCHRONOUS CODE DEPLOYMENT	Application No. 787199	9/22/2020	—	Jeffrey Hart, Andrew Backes, Alex Bello, Isaac Mosquera	Armory, Inc.	New Zealand	Pending - deadline to request examination is September 22, 2025
METHODS AND SYSTEMS FOR CONTINUOUS ASYNCHRONOUS CODE DEPLOYMENT	Application No. 62904044	9/23/2019	—	Jeffrey Hart, Andrew Backes, Alex Bello, Isaac Mosquera	Armory, Inc.	United States	Expired - converted into U.S. non-provisional 17/028,691 and international application PCT/US20/52023
CONTINUOUS SOFTWARE DEPLOYMENT	Application No. 16385534 Patent No. 11030071	4/16/2019	6/8/2021	Issaac Mosquera, Ben Mappen, Andrew Backes, Alex Bello, Daniel Odio	Armory, Inc.	United States	Issued
CONTINUOUS SOFTWARE DEPLOYMENT	Application No. 62657933	4/16/2018	—	Issaac Mosquera, Ben Mappen, Andrew Backes, Alex Bello, Daniel Odio	Armory, Inc.	United States	Expired - converted into U.S. non-provisional 16/385,534
MULTI-CLUSTER DEPLOYMENT	Application No. 63288512	12/10/2021	—	Daniel Peach, Jacob Kobernik, Justin Field, Parth Srivastav, Todd Underwood	Armory, Inc.	United States	Expired - did not convert into non-provisional application

**Schedule 1.1(b)**

**Other Transferred Technology**

None.

**Schedule 1.1(d)**

**Other Transferred Assets**

- Seller's goodwill
- All rights of Seller under or pursuant to all warranties, representations and guarantees made by contractors to the extent relating to products sold or services provided to Seller or to the extent affecting any Purchased Assets
- All documents, emails, data, and other records not included in the books and records that are stored in vendor platforms including, but not limited to, records in Google Workspace, Slack, and Notion.
- Full administrator access to (including administrator account, login, and password) and transfer of ownership from Seller to Purchaser of Apple Business Manager, Drivestrike, Cookiebot, Google Ads, Google Analytics, and all social properties (including, but not limited to, LinkedIn, Twitter/X, Facebook, Instagram, Threads, and YouTube).
- Laptops with the following serial numbers:
  - K0G7L4PW4D
  - C02FD6WSMD6R
  - C02DF0C7MD6W
  - C02ZR225MD6X
  - G2CL24LWRM
  - C02X103AHTDH
  - KQGR60T1G0
  - C02CR19ZMD6T
  - MT6TK791NY
  - C02D10XQMD6R
  - VQGWMW076R
  - C02F80FQMD6R
  - C02FC09GMD6R
  - C02ZJ021LVDV
  - C02ZV66WMD6T
  - DQHJ2YP0QN
  - C02ZT48BMD6R
  - K16HN4F6V0
  - C02ZR1LLMD6X
  - VT75N7YR9V
  - JW0N41R3M2
  - J315W2H23G
  - C02DG5XHMD6T
  - G161RPH73V
  - V4RQCR721H
  - QDTW7K33LJ
  - C02ZM602MD6X
  - YGG61CD7GY
  - C2NM7Y7H6M
  - C9J34026VL
  - DDWTLFKX14
  - H23M2242YT

- HTV4NC94DK
- HY2KRRYTHK
- WCPQNQG6L2
- XPJG24CFMV
- C02ZK07YMD6X
- C02ZR28AMD6X
- C02ZM3MHMD6X
- 8M10SC208808
- C02CF8YAMD6T
- C02FR1TGMD6V

**Schedule 1.1(e)**

**Transferred Contracts**

Seller is assigning the following contracts (the “**Transferred Contracts**”) to Purchaser:

Pursuant to Section 6.1(f) of the Agreement, prior to the Closing, Seller shall obtain Consents to assign to Purchaser each of the Agreements marked with a single asterisk below, and shall provide notice to the counterparty to each of the Agreements marked with a double asterisk below.

**Customer Contracts**

1. Master Subscription Agreement, dated August 27, 2021, by and between Airtable, Inc. and Armory, Inc., including any purchase orders or order forms related thereto.
2. Services Agreement, dated August 22, 2019 and as amended on July 29, 2020, by and between Autodesk Inc, and Armory, Inc., including any purchase orders or order forms related thereto.\*
3. Software Agreement, dated April 16, 2018, by and between Apple, Inc, and Armory, Inc. including any purchase orders or order forms related thereto.\*
4. Master Agreement CW2672946 dated December 19, 2018, by and between JPMorgan Chase Bank, National Association and Armory, Inc., including any purchase orders or order forms related thereto.\*
5. Inbound Services Agreement, dated July 21, 2023, by and between Google LLC, and Armory Inc., including any purchase orders or order forms related thereto.\*
6. Master Services Agreement dated April 30, 2020, by and between DoorDash, Inc., and Armory, Inc., including any purchase orders or order forms related thereto.\*
7. Technology License Agreement dated August 1, 2019, as amended on July 21, 2023 by and between Discovery Communications, LLC, and Armory, Inc., including any purchase orders or order forms related thereto.\*
8. Master License and Services Agreement dated December 29, 2021, by and between Walmart Inc. and Armory, Inc., including any purchase orders or order forms related thereto.\*
9. Internal Use SAAS Agreement, dated January 28, 2022 by and between Dropbox, Inc., and Armory, Inc., including any purchase orders or order forms related thereto.\*
10. Master Subscription Agreement dated April 27, 2023, by and between Pure Storage, Inc., and Armory, Inc., including any purchase orders or order forms related thereto.\*
11. Master Subscription Agreement dated November 11, 2019, by and between Snap, Inc., and Armory, Inc., including any purchase orders or order forms related thereto.\*
12. Master Subscription Agreement dated June 11, 2020, by and between Primerica Financial Services, LLC, and Armory, Inc., including any purchase orders or order forms related thereto.\*\*
13. Master Subscription Agreement dated September 1, 2020, by and between Bank of New Zealand, and Armory, Inc., including any purchase orders or order forms related thereto.
14. Master Subscription Agreement dated April 15, 2021, by and between Citadel LLC, and Armory, Inc., including any purchase orders or order forms related thereto.
15. Professional Support Services Agreement, as amended, dated July 27, 2023, by and between CSX Technology, Inc., and Armory, Inc., including any purchase orders or order forms, and the Armory Terms and Conditions, related thereto.

16. Master Subscription Agreement dated February 26, 2020, by and between Activehours d/b/a Earnin, Inc. and Armory, Inc., including any purchase orders or order forms related thereto.
17. Master Subscription Agreement dated October 27, 2020, by and between Emirates, and Armory, Inc., including any purchase orders or order forms related thereto.
18. Master Subscription Agreement dated July 28, 2020, by and between First Republic Bank and Armory, Inc., including any purchase orders or order forms related thereto.
19. Master Subscription Agreement dated October 31, 2019, by and between Glovoapp23, S.A. and Armory, Inc., including any purchase orders or order forms related thereto.
20. Master Subscription Agreement dated October 31, 2019, by and between Informatica and Armory, Inc., including any purchase orders or order forms related thereto.
21. Master Subscription Agreement dated February 08, 2019, by and between LaunchDarkly, Inc. and Armory, Inc., including any purchase orders or order forms related thereto.
22. Master Subscription Agreement dated January 30, 2020, by and between OpenX Technologies, Inc. and Armory, Inc., including any purchase orders or order forms related thereto.
23. Master Subscription Agreement dated March 20, 2019, by and between Patreon, Inc. and Armory, Inc., including any purchase orders or order forms related thereto.
24. Armory, Inc. Spinnaker OSS Support Terms and Conditions dated October 31, 2022, by and between SAP and Armory, Inc., including any purchase orders or order forms related thereto.
25. Master Subscription Agreement dated May 08, 2020, by and between Scopely, Inc. and Armory, Inc., including any purchase orders or order forms related thereto.
26. Master Subscription Agreement dated April 15, 2019, by and between Sony Interactive Entertainment LLC and Armory, Inc., including any purchase orders or order forms related thereto.
27. Master Subscription Agreement dated April 09, 2021, by and between Synchronoss Technologies, Inc. and Armory, Inc., including any purchase orders or order forms related thereto.
28. Armory Terms and Conditions v. 1.1 dated July 06, 2023, by and between Topsort and Armory, Inc., including any purchase orders or order forms related thereto.
29. Master Subscription Agreement dated January 30, 2020, by and between Xero Limited and Armory, Inc., including any purchase orders or order forms related thereto.
30. Armory Terms and Conditions, v.1.1, dated July 6, 2023, by and between Cribl, Inc. and Armory, Inc., including any purchase orders or order forms related thereto.
31. Armory Terms and Conditions, v.1.2, dated March 29, 2023, by and between Spiff, Inc. and Armory, Inc., including any purchase orders or order forms related thereto.
32. Armory Terms and Conditions, v.1.2, dated March 29, 2023, by and between Bounti Labs, Inc. and Armory, Inc., including any purchase orders or order forms related thereto.
33. Armory Terms and Conditions, v.1.1, dated July 6, 2023, by and between Tesouro and Armory, Inc., including any purchase orders or order forms related thereto.
34. Armory Terms and Conditions, v.1.1, dated July 6, 2023, by and between Upwave Technologies AS and Armory, Inc., including any purchase orders or order forms related thereto.

#### **Vendor Contracts**

1. Aqua Security Software, Inc. End User License Agreement available at <https://www.aquasec.com/eula/>, last accessed December 13, 2023, including any purchase orders or order forms related thereto (the “**Aqua Security Agreement**”).



2. Atlassian Cloud Terms of Service available at <https://www.atlassian.com/legal/cloud-terms-of-service>, last accessed December 13, 2023, including any purchase orders or order forms related thereto (the “**Atlassian Agreement**”).
3. Identity Management Platform Subscription Agreement dated December 21, 2020, by and between Auth0, Inc. and Armory, Inc., including any purchase orders or order forms related thereto (the “**Auth0 Agreement**”).
4. SHI Resale Terms for Azure Services available at <https://www.shi.com/terms/azure-services-resale>, last accessed December 13, 2023, including any purchase orders or order forms related thereto (the “**Azure Agreement**”).
5. Catalyst SaaS Agreement available at <https://catalyst.io/legal/saas-agreement-12-1-2021>, last accessed December 13, 2023, including any purchase orders or order forms related thereto (the “**Catalyst Agreement**”).
6. Clearbit Master Services Agreement dated November 28, 2022 by and between APIHub, Inc. dba Clearbit and Armory, Inc., including any purchase orders or order forms related thereto (the “**Clearbit Agreement**”).
7. dbt Cloud Terms of Use available at <https://www.getdbt.com/terms-of-use>, last accessed December 13, 2023, including any purchase orders or order forms related thereto (the “**dbt Agreement**”).
8. Docker Subscription Service Agreement available at <https://www.docker.com/legal/docker-terms-service/>, last accessed December 13, 2023, including any purchase orders or order forms related thereto (the “**Docker Agreement**”).
9. Eplexity Master Services Agreement dated May 24, 2021 by and between Cloudhesive LLC, as successor in interest to Eplexity, LLC, and Armory, Inc., including any purchase orders or order forms related thereto (the “**Cloudhesive Agreement**”).
10. Master Security Services Agreement dated January 30, 2023, by and between eSentire, Inc. and Armory, Inc., including any purchase orders or order forms related thereto (the “**eSentire Agreement**”).
11. Master Service Agreement dated April 30, 2021, by and between CloudWerx, Inc and Armory, Inc., including that certain Statement of Work dated May 13, 2021, that certain Platform Addendum dated November 30, 2022, and any additional purchase orders, statements of work, or order forms related thereto (the “**GCP Agreement**”).
12. GitHub Customer Agreement and GitHub Enterprise Cloud Product Specific Terms available at <https://github.com/customer-terms>, last accessed December 13, 2023, including any purchase orders or order forms related thereto (the “**Github Agreement**”).
13. HighTouch Terms of Service available at <https://hightouch.com/terms-of-service>, last accessed December 13, 2023, including any purchase orders or order forms related thereto (the “**Hightouch Agreement**”).
14. JetBrains Toolbox Subscription Agreement for Businesses and Organizations available at <https://www.jetbrains.com/legal/docs/toolbox/license/>, last accessed December 13, 2023, including any purchase orders or order forms related thereto (the “**Jetbrains Agreement**”).
15. Jfrog Cloud Terms and Conditions available at <https://jfrog.com/cloud-terms-and-conditions/>, last accessed December 13, 2023, including any purchase orders or order forms related thereto (the “**Jfrog Agreement**”).

16. Looker (original) Terms of Service available at <https://cloud.google.com/terms/looker/msa>, last accessed December 13, 2023, including any purchase orders or order forms related thereto (the “**Looker Agreement**”).
17. Mergify Terms of Service available at <https://mergify.com/tos>, last accessed December 13, 2023, including any purchase orders or order forms related thereto (the “**Mergify Agreement**”).
18. Master Three-Party Depositor Escrow Service Agreement dated May 14, 2019 by and between NCC Group Software Resilience (NA) LLC and Armory, Inc., including any purchase orders or order forms related thereto (the “**NCC Agreement**”).
19. Netlify Self-Serve Subscription Agreement available at <https://www.netlify.com/pdf/self-serve-subscription-agreement.pdf/>, last accessed December 13, 2023, including any purchase orders or order forms related thereto (the “**Netlify Agreement**”).
20. New Relic Inc. Master Cloud Agreement available at <https://newrelic.com/termsandconditions/master-cloud-agreement>, last accessed December 13, 2023, including any purchase orders or order forms related thereto (the “**New Relic Agreement**”).
21. Notion Master Subscription Agreement available at <https://www.notion.so/notion/master-subscription-agreement>, last accessed December 13, 2023, including any purchase orders or order forms related thereto (the “**Notion Agreement**”).
22. PagerDuty Terms of Service available at <https://www.pagerduty.com/terms-of-service/>, last accessed December 13, 2023, including any purchase orders or order forms related thereto (the “**PagerDuty Agreement**”).
23. Pendo Software Services Agreement available at <https://www.pendo.io/legal/software-services-agreement/>, last accessed December 13, 2023, including any purchase orders or order forms related thereto (the “**Pendo Agreement**”).
24. ProsperOps Service Terms dated November 9, 2021 by and between ProsperOps, Inc. and Armory, Inc., including any purchase orders or order forms related thereto (the “**ProsperOps Agreement**”).
25. Salesforce Main Services Agreement available at [https://www.salesforce.com/content/dam/web/en\\_us/www/documents/legal/Salesforce\\_MSA.pdf](https://www.salesforce.com/content/dam/web/en_us/www/documents/legal/Salesforce_MSA.pdf), last accessed December 13, 2023, including any purchase orders or order forms related thereto (the “**Salesforce Agreement**”).
26. Salesforce Main Services Agreement available at [https://www.salesforce.com/content/dam/web/en\\_us/www/documents/legal/Salesforce\\_MSA.pdf](https://www.salesforce.com/content/dam/web/en_us/www/documents/legal/Salesforce_MSA.pdf), and that certain Order Form dated August 30, 2023, including any purchase orders or order forms related thereto (the “**Slack Agreement**”).
27. Twilio Terms of Service available at <https://www.twilio.com/en-us/legal/tos>, last accessed December 13, 2023, including any purchase orders or order forms related thereto (the “**Twilio Agreement**”).
28. Master Services Agreement dated November 10, 2020 by and between Solugenix Corporation and Armory, Inc., including any purchase orders or order forms related thereto (the “**Solugenix Agreement**”).
29. SonarQube Terms and Conditions available at [https://www.sonarsource.com/docs/sonarsource\\_terms\\_and\\_conditions.pdf](https://www.sonarsource.com/docs/sonarsource_terms_and_conditions.pdf), last accessed

- December 13, 2023, including any purchase orders or order forms related thereto (the “**Sonarsource Agreement**”).
30. Stitch Terms and Conditions available at <https://www.stitchdata.com/eula/>, last accessed December 13, 2023, including any purchase orders or order forms related thereto (the “**Stitch Agreement**”).
  31. SHI Online Customer Resale Terms and Conditions available at <https://www.shi.com/terms/online-resale-terms>, last accessed December 13, 2023, including any purchase orders or order forms related thereto (the “**Sumologic Agreement**”).
  32. WordPress Terms of Service available at <https://wordpress.com/tos/>, last accessed December 13, 2023, including any purchase orders or order forms related thereto (the “**WordPress Agreement**”).
  33. Cloudbakers Master Services Agreement dated September 09, 2021 by and between Cloudbakers Holdings, LLC, and Armory, Inc., including any purchase orders or order forms related thereto (the “**Cloudbakers Agreement**”).
  34. Okta, Inc. Master Subscription Agreement available at <https://www.okta.com/sites/default/files/2022-02/MasterSubscriptionAgreement-English-Q1%20FY23.pdf>, last accessed December 13, 2023, including any purchase orders or order forms related thereto (the “**Okta Agreement**”).
  35. Temporal Terms of Service available at <https://www.temporal.io/terms-of-service>, last accessed December 13, 2023, including any purchase orders or order forms related thereto (the “**Temporal Agreement**”).
  36. Hubspot Customer Terms of Service available at <https://legal.hubspot.com/terms-of-service>, last modified September 1, 2023, including any purchase orders or order forms related thereto (the “**Hubspot Agreement**”).
  37. Black Mountain Dynamics Services Agreement, dated August 12, 2019, including any purchase orders or order forms related thereto (Black Mountain Quote 717) (JAMF) (the “**JAMF Agreement**”).
  38. Black Mountain Dynamics Services Agreement, dated August 12, 2019, including any purchase orders or order forms related thereto (Black Mountain Quote 730)) (CrowdStrike) (the “**CrowdStrike Agreement**”).
  39. 1Password Terms of Service available at <https://1password.com/legal/terms-of-service/>, last updated September 23, 2021, including any purchase orders or order forms related thereto (the “**1Password Agreement**”).
  40. Apple Business Manager Agreement available at <https://www.apple.com/legal/enterprise/apple-business-manager/abm-us.pdf>, including any purchase orders or order forms related thereto (the “**Apple Business Manager Agreement**”).
  41. DriveStrike End User Subscription Agreement available at <https://drivestrike.com/about/drivestrike-support/end-user-subscription-agreement/>, including any purchase orders or order forms related thereto (the “**DriveStrike Agreement**”).

**Schedule 1.1(f)**

**Names and Marks**

Seller owns the following Names and Marks:

**Corporate Names:**

- Armory, Inc.
- Armory.io

**Product Names:**

- Continuous Deployment-as-a-Service
- CDaaS
- CD-as-a-Service
- Continuous Deployment Self Hosted
  - Free
  - Essentials
  - Enterprise
  - Premium
    - High Availability
    - Disaster Recovery
  - Managed
- Continuous Deployment Self Hosted powered by Spinnaker
  - Free
  - Essentials
  - Enterprise
  - Premium
    - High Availability
    - Disaster Recovery
  - Managed
- CDSH
  - Free
  - Essentials
  - Enterprise
  - Premium
    - High Availability
    - Disaster Recovery
  - Managed
- CDSH powered by Spinnaker
  - Free
  - Essentials
  - Enterprise
  - Premium

- High Availability
  - Disaster Recovery
  - Managed
- Armory Plugins for Spinnaker
  - Armory Essentials Plugins
    - Secrets Management
    - Observability
    - Armory CD-as-a-Service Plugin
  - Armory Premium Plugins
    - Advanced Pipelines-as-Code
    - Terraformer
    - Policy Engine
    - Scale Agent for Spinnaker and Kubernetes
- Historical Product Names
  - Armory Enterprise
  - Armory Managed
  - Armory Spinnaker
  - Enterprise Spinnaker

**Trademarks:**

The Registered Trademark.

## **Schedule 1.4**

### **Assumed Liabilities**

Purchaser shall assume the following liabilities (“**Assumed Liabilities**”):

- The following payment obligations owed under the Transferred Contracts listed below, solely to the extent related to post-Closing periods and not arising prior to or related to pre-Closing periods:
  - Seller shall pay amounts owed on the SumoLogic Agreement for the service period through January 31, 2024 and Purchaser will assume all payments owed under such contract for services after January 31, 2024 (except that Purchaser shall not assume any payments with respect to any pre-Closing periods or breaches of such contract prior to Closing or with respect to payments owed prior to January 31, 2024).
  - Purchaser shall assume the obligation to spend at least \$716,225.00 during the remainder of the term of the GCP Agreement, as set forth in Section 2 of that certain Platform Addendum dated November 30, 2022.
- The following payment obligations owed under the Transferred Contracts listed below:
  - Purchaser shall assume and pay all payments owed to Auth0 under the Auth0 Agreement for services provided after Dec. 20, 2023.
  - Seller shall pay and establish a credit of \$53,392.75, representing the minimum spend commitment for three months, for amounts due or payable under the New Relic Agreement for services provided through March 31, 2024; Purchaser shall pay all amounts under the New Relic Agreement above such established credit to New Relic.

Seller shall pay all amounts due or payable under the following Transferred Contracts for services provided after the Closing through the respective dates set forth below. Following such dates set forth below, Purchaser shall assume those payment obligations for such Transferred Contracts solely to the extent arising after the respective dates and not related to the period prior to Closing or breach of such Transferred Contracts prior to Closing or lack of Seller payments prior to the respective dates set forth below:

- Seller shall pay all amounts due or payable under the Atlassian Agreement for services related to Atlassian Access (Cloud) provided through February 05, 2024.
- Seller shall pay all amounts due or payable under the Atlassian Agreement for services related to Jira Software (Cloud) Standard, Custom Charts for Jira Reports and Time in Status Cloud for Jira Work Management (Cloud), Jira Misc Workflow Extensions (JMWE) Cloud for Jira Work Management (Cloud), Jira Service Management (Cloud) Standard Agents, Issue Checklist for Jira Pro Cloud for JIRA (Cloud), and Slack Connector for Jira Cloud for Jira Management (Cloud) provided through January 10, 2024.

- Seller shall pay all amounts due or payable under the Jfrog Agreement for services provided through December 31, 2023.
- Seller shall pay all amounts due or payable under the CloudHesive Agreement for services provided through December 31, 2023.
- Seller shall pay all amounts due or payable under the dbt Agreement for services provided through December 31, 2023.
- Seller shall pay all amounts due or payable under the ProsperOps Agreement for services provided through December 31, 2023.
- Seller shall pay all amounts due or payable under the Azure Agreement for services provided through December 31, 2023.
- Seller shall pay all amounts due or payable under the Docker Agreement for services provided through December 31, 2023.
- Seller shall pay all amounts due or payable under the Netlify Agreement for services provided through January 23, 2023.
- Seller shall pay all amounts due or payable under the Twilio Agreement for services provided through December 31, 2023.
- Seller shall pay all amounts due or payable under the Temporal Agreement for services provided through December 31, 2023.
- Seller shall pay all amounts due or payable under the Catalyst Agreement for services provided through November 06, 2024.
- Seller shall pay all amounts due or payable under the Solugenix Agreement for services provided through November 10, 2024.
- Seller shall pay all amounts due or payable under the Sonarsource Agreement for services provided through December 08, 2024.
- Seller shall pay all amounts due or payable under the Slack Agreement for services provided through September 10, 2024.
- Seller shall pay all amounts due or payable under the WordPress Agreement for services provided through November 21, 2024.
- Seller shall pay all amounts due or payable under the Notion Agreement for services provided through December 08, 2024.
- Seller shall pay all amounts due or payable under the Stitch Agreement for services provided through December 09, 2024.
- Seller shall pay all amounts due or payable under the Salesforce Agreement for services provided through December 04, 2024.
- Seller shall pay all amounts due or payable under the PagerDuty Agreement for services provided through September 10, 2024.
- Seller shall pay all amounts due or payable under the Cloudbakers Agreement for services related to Google Workspace Business Plus Monthly provided through December 29, 2023.
- Seller shall pay all amounts due or payable under the Cloudbakers Agreement for services related to GW Business Plus-Archived User Flex provided through December 31, 2023.
- Seller shall pay all amounts due or payable under the Okta Agreement for services provided through November 01, 2024.

- Seller shall pay all amounts due or payable under the Looker Agreement for services provided through January 03, 2024.
- Seller shall pay all amounts due or payable under the Pendo Agreement for services provided through January 15, 2024.
- Seller shall pay all amounts due or payable under the eSentire Agreement for services provided through February 13, 2024.
- Seller shall pay all amounts due or payable under the OpenVPN Agreement for services provided through January 28, 2024.
- Seller shall pay all amounts due or payable under the Github Agreement for services provided through April 29, 2024.
- Seller shall pay all amounts due or payable under the Hightouch Agreement for services provided through June 30, 2024.
- Seller shall pay all amounts due or payable under the Aqua Security Agreement for services provided through April 26, 2024.
- Seller shall pay all amounts due or payable under the JetBrains Agreement for services provided through May 02, 2024.
- Seller shall pay all amounts due or payable under the Mergify Agreement for services provided through June 17, 2024.
- Seller shall pay all amounts due or payable under the Ncc Group Software Resilience Agreement for services provided through May 19, 2024.
- Seller shall pay all amounts due or payable under the Clearbit Agreement for services provided through March 17, 2024.
- Seller shall pay all amounts due or payable under the Sumologic Agreement for services provided through January 31, 2024.
- Seller shall pay all amounts due or payable under the Hubspot Agreement for services provided through May 23, 2025.
- Seller shall pay all amounts due or payable under the JAMF Agreement for services provided through June 30, 2024.
- Seller shall pay all amounts due or payable under the Crowdstrike Agreement for services provided through October 28, 2024.
- Seller shall pay all amounts due or payable under the 1Password Agreement for services provided through the remainder of the term of the current Order Form (as applicable).



**Schedule 1.4(l)**

**Relevant Jurisdictions**

1. Arizona: \$960.00
2. Indiana: \$17,431.75
3. New Jersey: \$30,129.92
4. New York: \$77,137.42
5. Ohio: \$685,600.67
6. Pennsylvania: \$7,499.93
7. Tennessee: \$91,280.11
8. Texas: \$17,817.86
9. Utah: \$12,321.38
10. Washington: \$137,847.63

**Schedule 2.2(b)**

Post-Closing Distribution Waterfall

[See attached.]

Projected Closing Consideration Available for Distribution  
Projected Distribution of Indemnity Holdback Amount  
Projected Distribution of Special Holdback Amount

Example Distribution  
Actual Distribution (Example)

500,000.00

Projection based on waterfall									
Assumes full distribution of Indemnity Holdback									
Assumes full distribution of Special Holdback									
Seller Equityholder	Seller Indemnitors ("I" for each stockholder identified below who is a seller indemnitor)	% of liquidation Preference	Projected Distribution of Closing Consideration	Projected Indemnity Holdback Amount **	Projected Distribution of Special Holdback Amount **	Total Projected Distribution	Amount Distributed to seller indemnitor	Pro Rata Share	Liquidation Preference Distribution
3D Angels LLC		0.020%	\$	454.73	311.80	766.53	-	0.00%	\$
A-AED-22-Fund, a series of AngelList-EFF Funds, LLC		0.153%	\$	2,405.00	1,649.08	4,054.08	-	0.15%	\$
Apple Venture Capital International LLC		0.029%	\$	454.73	311.80	766.53	-	0.00%	\$
Alekey Bello		0.023%	\$	363.78	249.44	613.22	613.22	0.02%	\$
Andrew Niklas, as Trustee of the A. Niklas Revocable Trust created U/D/T dated August 8, 2016		0.012%	\$	181.89	124.72	306.61	-	0.00%	\$
Ankur Bulsara		0.029%	\$	454.73	311.80	766.53	-	0.00%	\$
AR Fund I, a series of Hack VC, LP		0.152%	\$	2,388.50	1,637.77	4,026.27	4,026.27	0.15%	\$
Avonlife Capital LLC		0.058%	\$	909.45	623.60	1,533.05	-	0.00%	\$
B Capital Fund II, L.P.		23.139%	\$	363,782.26	249,441.57	613,223.83	613,223.83	23.14%	\$
Bain Capital Venture Fund 2016, L.P.		3.933%	\$	61,836.20	42,400.42	104,236.62	104,236.62	3.93%	\$
Bao Venture Fund II, LP		0.116%	\$	1,818.91	1,247.21	3,066.12	3,066.12	0.12%	\$
BCP Venture Associates II, L.P.		0.401%	\$	6,308.97	4,325.99	10,634.96	10,634.96	0.40%	\$
BCP Venture Associates II-B, L.P.		0.025%	\$	389.93	267.37	657.30	657.30	0.02%	\$
Boyer Family Trust		0.029%	\$	454.73	311.80	766.53	-	0.00%	\$
Brian Flora and Jenny R. Lee Demo Day Fund W17, LP		0.058%	\$	909.45	623.60	1,533.05	1,533.05	0.06%	\$
Brian & Beth Elynn McClendon Living Trust		0.006%	\$	97.07	66.56	163.63	163.63	0.01%	\$
Carolyn Orlie		0.012%	\$	97.07	66.56	163.63	163.63	0.01%	\$
Christopher McLaughlin		0.007%	\$	11,110.50	7,618.35	18,728.85	18,728.85	0.21%	\$
Crosslink Bayview VIII, LLC		0.193%	\$	50,185.05	34,418.20	84,613.25	84,613.25	3.19%	\$
Crosslink Crossover Fund VIII, L.P.		0.509%	\$	8,010.08	5,492.43	13,502.51	13,502.51	0.51%	\$
Crosslink Endeavour Fund I, L.P.		5.553%	\$	87,307.76	59,865.99	147,173.75	147,173.75	5.55%	\$
Crosslink Ventures VIII, L.P.		7.431%	\$	116,831.57	80,110.14	196,941.71	196,941.71	7.43%	\$
Crosslink Ventures VIII-B, LP		4.402%	\$	69,211.76	47,457.76	116,669.52	116,669.52	4.40%	\$
Danuba Capital II, L.P.		0.116%	\$	1,818.91	1,247.21	3,066.12	-	0.00%	\$
David Hong		0.006%	\$	90.94	62.36	153.30	766.53	0.03%	\$
David J. Phillips		0.029%	\$	454.73	311.80	766.53	-	0.03%	\$
Dong Shin Kim		0.006%	\$	90.94	62.36	153.30	153.30	0.01%	\$
Ed Roman W17 Fund, a series of Echo Master Partnership, LP		0.046%	\$	727.56	498.88	1,226.44	1,226.44	0.05%	\$
Eric Ries		0.012%	\$	181.89	124.72	306.61	306.61	0.01%	\$
Evan Cheng		0.029%	\$	454.73	311.80	766.53	766.53	0.03%	\$
Frank Lloza		0.087%	\$	1,364.18	935.41	2,299.59	-	0.00%	\$
Gairiges Armony LLC		0.116%	\$	1,247.20	1,247.20	2,494.40	-	0.00%	\$
ICCA Labs, LLC		0.029%	\$	454.73	311.80	766.53	-	0.00%	\$
Insight Venture Partners (German) X, L.P.		13.166%	\$	206,987.91	141,929.38	348,917.29	348,917.29	13.17%	\$
Insight Venture Partners (Delaware) X, L.P.		2.547%	\$	40,039.78	27,454.84	67,494.62	67,494.62	2.55%	\$
Insight Venture Partners X (Go-Investors), L.P.		0.382%	\$	6,005.97	4,118.23	10,124.20	10,124.20	0.38%	\$
Insight Venture Partners X, L.P.		16.055%	\$	252,420.56	173,082.06	425,502.62	425,502.62	16.06%	\$
James L. Cavallieri, III and Susan E. Cavallieri, Trustees of the Cavallieri Family Trust dated May 21, 2002, as amended		0.116%	\$	1,818.90	1,247.20	3,066.10	3,066.10	0.12%	\$
Jason Polites		0.058%	\$	909.46	623.60	1,533.06	1,533.06	0.06%	\$
Javelin Venture Partners IV, L.P.		2.434%	\$	38,260.48	26,234.80	64,495.28	64,495.28	2.43%	\$
Jeffrey K. White		0.081%	\$	1,276.20	875.08	2,151.28	2,151.28	0.08%	\$
Jeremy Edberg		0.029%	\$	454.73	311.80	766.53	766.53	0.03%	\$
John Eisenhart		0.016%	\$	245.55	168.37	413.92	413.92	0.02%	\$
Joseph Jones		0.058%	\$	909.45	623.60	1,533.05	1,533.05	0.06%	\$
Kimberly S. Messersmith		0.016%	\$	245.55	168.37	413.92	413.92	0.02%	\$
Liquid 2 Ventures, L.P.		0.289%	\$	4,547.28	3,118.02	7,665.30	-	0.00%	\$
Louis Hong		0.006%	\$	90.94	62.36	153.30	153.30	0.01%	\$
LUMIA CAPITAL CONSTELLATION FUND, L.P.		0.116%	\$	1,818.91	1,247.21	3,066.12	-	0.00%	\$
Mango Capital 2018 LP		2.041%	\$	32,086.92	22,001.65	54,088.57	54,088.57	2.04%	\$
Millstone View Limited		0.231%	\$	3,637.82	2,494.41	6,132.23	6,132.23	0.23%	\$
Nahkoda Capital Management USA, LLC		0.058%	\$	909.45	623.60	1,533.05	1,533.05	0.06%	\$
NewDo Venture LLC		0.116%	\$	1,818.91	1,247.21	3,066.12	3,066.12	0.12%	\$
Pallak Seth		0.029%	\$	454.73	311.80	766.53	766.53	0.03%	\$
Pragma Ventures		0.029%	\$	454.73	311.80	766.53	-	0.00%	\$
PROOF II Javelin AI, LLC		1.334%	\$	20,975.23	14,382.49	35,357.72	-	0.00%	\$
PROOF II Javelin, LLC		1.157%	\$	18,189.12	12,472.08	30,661.20	-	0.00%	\$
Reading Railroad LLC		3.471%	\$	54,567.36	37,416.25	91,983.61	91,983.61	3.47%	\$
Risier Nicholson Revocable Trust dated August 5, 2016		0.012%	\$	181.89	124.72	306.61	306.61	0.01%	\$

Rising Tide Seed 2016, L.P.	1	0.029%	\$	-	\$	454.73	\$	311.80	\$	766.53	\$	766.53	0.03%	\$	144.61	\$144.61	0.03%
Ross Fubini	1	0.029%	\$	-	\$	454.73	\$	311.80	\$	766.53	\$	766.53	0.03%	\$	144.61	\$144.61	0.03%
Ryan Nunez		0.014%	\$	-	\$	227.36	\$	155.90	\$	383.26	\$	-	0.00%	\$	77.30	\$0.00	0.00%
Sam Odio		0.006%	\$	-	\$	90.94	\$	62.36	\$	153.30	\$	-	0.00%	\$	28.92	\$0.00	0.00%
Shawn-Lin Kung	1	0.029%	\$	-	\$	454.73	\$	311.80	\$	766.53	\$	766.53	0.03%	\$	144.61	\$144.61	0.03%
Starling Ventures, LLC	1	0.058%	\$	-	\$	909.45	\$	623.60	\$	1,533.05	\$	1,533.05	0.06%	\$	289.23	\$289.23	0.06%
The Marc R. Benhoff Revocable Trust U/A/D 12/3/2004	1	2.14%	\$	-	\$	36,378.22	\$	24,944.16	\$	61,322.38	\$	61,322.38	2.31%	\$	11,569.35	\$11,569.35	2.31%
Tikhon Bernstein	1	0.029%	\$	-	\$	454.73	\$	311.80	\$	766.53	\$	766.53	0.03%	\$	144.61	\$144.61	0.03%
Transmedia Capital II, L.P.		0.145%	\$	-	\$	2,273.64	\$	1,559.01	\$	3,832.65	\$	-	0.00%	\$	723.08	\$0.00	0.00%
UNIS Venture Fund LLC		0.029%	\$	-	\$	454.73	\$	311.80	\$	766.53	\$	-	0.00%	\$	144.61	\$0.00	0.00%
VI Capital Limited	1	0.174%	\$	-	\$	1,838.91	\$	1,247.21	\$	3,066.12	\$	3,066.12	0.12%	\$	578.46	\$578.46	0.12%
Weis Fund II LP		0.174%	\$	-	\$	2,728.37	\$	1,870.81	\$	4,599.18	\$	-	0.00%	\$	867.70	\$0.00	0.00%
XYZ Venture Capital Fund 1, LLC	1	0.058%	\$	-	\$	909.45	\$	623.60	\$	1,533.05	\$	1,533.05	0.06%	\$	289.23	\$289.23	0.06%
VC Holdings II, LLC	1	2.103%	\$	-	\$	33,068.49	\$	22,674.71	\$	55,743.20	\$	55,743.20	2.10%	\$	10,516.76	\$10,516.76	2.10%
VCVC Fund I, L.P.	1	0.065%	\$	-	\$	1,017.90	\$	697.97	\$	1,715.87	\$	1,715.87	0.06%	\$	323.72	\$323.72	0.06%
VCVC Fund I, LP	1	0.314%	\$	-	\$	4,931.17	\$	3,381.25	\$	8,312.42	\$	8,312.42	0.31%	\$	1,568.25	\$1,568.25	0.31%
Zillionee Pty Ltd	1	0.116%	\$	-	\$	1,818.91	\$	1,247.21	\$	3,066.12	\$	3,066.12	0.12%	\$	578.46	\$578.46	0.12%
Aaron Liao		0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Aaron Torgerson	1	0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Adam Frank		0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Adam Frankl		0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Aidan Grele		0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Almece Ulasick		0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Akshay Dayal		0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Alex Bello		0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Alice Chen	1	0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Alice Pettit		0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Anir Munraj		0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Anna Iqbal		0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Andrew Backes		0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Andrew Way		0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Austin Thao		0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Benjamin Mappen	1	0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Brandon Leach		0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Brian Le		0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Brian Newton		0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Cameron Metcassiani	1	0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Cameron Taborough		0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Chad Tripod		0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Chris Franey	1	0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Chris Hartley	1	0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Chris Tan		0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Christopher Gruel	1	0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Christopher Lyon	1	0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Christopher Stolt		0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Clay McCoy	1	0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Daniella Ohasa Mitchell		0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Daniel Johnston		0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Daniel Odio	1	0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Daniel Peach		0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Daniel Williams		0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Darrin Alves	1	0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
David Goudreau	1	0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
David Walker		0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Deepa Kumar		0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Deepak Giridharagopal		0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Devyan Dinov		0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Edward Lombardo		0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Eliane Guan		0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Ethan Rogers		0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Eummi Lee		0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Evan Beal		0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Evan Campbell		0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Felix Morales	1	0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Fernando Freire		0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Fernando Mora		0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Gabriel Belo	1	0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Gay Gattis		0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
George Eskrine		0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Gino Oliveto		0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Gowri Gish		0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Greg Dannon		0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Greg Henry		0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%
Hao (Brian) Tian		0.000%	\$	-	\$	-	\$	-	\$	-	\$	-	0.00%	\$	-	\$0.00	0.00%

[illegible]

Stacy Chen	1	0.000%	\$	-	\$	-	\$	-	-	0.00%	\$	-	\$0.00	0.00%
Stephen Arltz		0.000%	\$	-	\$	-	\$	-	-	0.00%	\$	-	\$0.00	0.00%
Stephen Atwell		0.000%	\$	-	\$	-	\$	-	-	0.00%	\$	-	\$0.00	0.00%
Stephen Kwan		0.000%	\$	-	\$	-	\$	-	-	0.00%	\$	-	\$0.00	0.00%
Stu Rodius	1	0.000%	\$	-	\$	-	\$	-	-	0.00%	\$	-	\$0.00	0.00%
Sucheta Chhabra		0.000%	\$	-	\$	-	\$	-	-	0.00%	\$	-	\$0.00	0.00%
Sue Bedl	1	0.000%	\$	-	\$	-	\$	-	-	0.00%	\$	-	\$0.00	0.00%
Sue Ko	1	0.000%	\$	-	\$	-	\$	-	-	0.00%	\$	-	\$0.00	0.00%
SVB Financial Group		0.000%	\$	-	\$	-	\$	-	-	0.00%	\$	-	\$0.00	0.00%
Telemachus Luu	1	0.000%	\$	-	\$	-	\$	-	-	0.00%	\$	-	\$0.00	0.00%
Todd Underwood		0.000%	\$	-	\$	-	\$	-	-	0.00%	\$	-	\$0.00	0.00%
Tom Abioti		0.000%	\$	-	\$	-	\$	-	-	0.00%	\$	-	\$0.00	0.00%
Traci Van Patten		0.000%	\$	-	\$	-	\$	-	-	0.00%	\$	-	\$0.00	0.00%
Venkata Sai Krishna Suddala		0.000%	\$	-	\$	-	\$	-	-	0.00%	\$	-	\$0.00	0.00%
Veronica Matini		0.000%	\$	-	\$	-	\$	-	-	0.00%	\$	-	\$0.00	0.00%
Vijith Bheemreddi	1	0.000%	\$	-	\$	-	\$	-	-	0.00%	\$	-	\$0.00	0.00%
Winston Crawford	1	0.000%	\$	-	\$	-	\$	-	-	0.00%	\$	-	\$0.00	0.00%
Y Combinator Investments, LLC Series W17	1	0.000%	\$	-	\$	-	\$	-	-	0.00%	\$	-	\$0.00	0.00%
Zach Smith	1	0.000%	\$	-	\$	-	\$	-	-	0.00%	\$	-	\$0.00	0.00%
Seller		0.000%	N/A	-	N/A	-	N/A	-	-	3.95%	\$	-	\$19,729.52	0.00%
TOTALS		100.000%	\$	-	\$ 1,572,180.20	\$ 1,078,026.98	\$ 2,650,207.18	\$ 2,650,207.18	104,575.33	100.000%	\$	499,999.58	\$ 499,999.58	100.00%