

A COMBINED HEARING TO CONSIDER THE ADEQUACY OF THIS DISCLOSURE STATEMENT ON A FINAL BASIS UNDER SECTION 1125 OF THE BANKRUPTCY CODE AND CONFIRMATION OF THE PREPACKAGED PLAN WILL BE SET BY THE BANKRUPTCY COURT AFTER THE PETITION DATE. THE DEBTOR RESERVES THE RIGHT TO AMEND, SUPPLEMENT OR OTHERWISE MODIFY THIS DISCLOSURE STATEMENT PRIOR TO AND UP TO THE DATE OF SUCH HEARING.

THIS DISCLOSURE STATEMENT IS BEING USED FOR THE SOLICITATION OF VOTES WITH RESPECT TO THE PREPACKAGED PLAN, INCLUDING THE SOLICITATION OF PRE-PETITION VOTES, BUT HAS NOT YET BEEN SUBMITTED FOR APPROVAL OR APPROVED BY THE BANKRUPTCY COURT; SUCH APPROVAL WILL BE SOUGHT AFTER THE PETITION DATE IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF THE BANKRUPTCY CODE. THE INFORMATION IN THIS DISCLOSURE STATEMENT IS SUBJECT TO CHANGE. THIS DISCLOSURE STATEMENT IS NOT AN OFFER TO SELL ANY SECURITIES AND IS NOT SOLICITING AN OFFER TO BUY ANY SECURITIES.

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

PRYSM, INC.,

Debtor.¹

Chapter 11

Case No. 20-_____ (___)

**DISCLOSURE STATEMENT FOR THE PREPACKAGED CHAPTER 11 PLAN OF
PRYSM, INC. DATED AUGUST 1, 2020**

**GELLERT SCALI BUSENKELL
& BROWN, LLC**

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Dated: August 1, 2020

DISCLAIMERS

This Disclosure Statement provides information regarding the Prepackaged Plan of Reorganization of Prysm, Inc. (the “Plan”) that the Debtor is seeking to have confirmed by the Bankruptcy Court. The information contained in this Disclosure Statement is included for purposes of soliciting acceptances to, and confirmation of, the Plan and may not be relied on for any other purpose. Approval of this Disclosure Statement does not constitute a determination or recommendation by the Bankruptcy Court as to the fairness or the merits of the Plan.

This Disclosure Statement contains summaries of certain provisions of the Plan, certain statutory provisions, certain documents relating to the Plan, and certain financial information. Although the Debtor believes that these summaries are fair and accurate and provide adequate information with respect to the documents summarized, such summaries are qualified to the extent that they do not set forth the entire text of, or are inconsistent with, such documents.

Distribution projections and other information contained herein and attached hereto are estimates only, and the timing and amount of actual distributions to holders of allowed claims may be affected by many factors that cannot be predicted. Therefore, any analyses, estimates or recovery projections may or may not turn out to be accurate. Although the Debtor has made every effort to be accurate, the financial information contained herein has not been the subject of an audit or other review by an accounting firm. In the event of any conflict, inconsistency, or discrepancy between the terms and provisions in the Plan, this Disclosure Statement, the exhibits annexed to this Disclosure Statement, or the financial information incorporated herein or therein by reference, the Plan shall govern for all purposes. All holders of claims should read this disclosure statement and the Plan in their entirety before voting on the Plan.

No legal or tax advice is provided to you by this Disclosure Statement. The Debtor urges each holder of a claim or an interest to consult with its own advisors with respect to any legal, financial, securities, tax or business advice in reviewing this disclosure statement, the plan and each of the proposed transactions contemplated thereby. Furthermore, the Bankruptcy Court’s approval of the adequacy of disclosure contained in this Disclosure Statement does not constitute the Bankruptcy Court’s approval of the merits of the Plan.

This Disclosure Statement does not constitute, and may not be construed as, an admission of fact, liability, stipulation, or waiver.

No reliance should be placed on the fact that a particular claim or projected objection to a particular claim is, or is not, identified in the Disclosure Statement. The Distribution Trustee and the Reorganized Debtor may seek to object to claims after the confirmation or Effective Date of the Plan irrespective of whether the Disclosure Statement identifies any such objections to claims. The Plan also reserves for the Reorganized Debtor to bring Rights of Action (as defined in the Plan) against any entity or party in interest except those specifically released.

This Disclosure Statement contains, among other things, summaries of the Plan, certain statutory provisions, certain anticipated events in the Debtor’s Chapter 11 Case and certain documents related to the Plan that are attached hereto and incorporated herein by reference. Although the Debtor believes that these summaries are fair and accurate, these summaries are qualified in their entirety to the extent that the summaries do not set forth the entire text of such documents or statutory provisions or every detail of such events. In the event of any inconsistency or discrepancy between a description in this disclosure statement and the terms and provisions of the Plan or any other documents incorporated herein by reference, the Plan or such other documents will govern for all purposes. The Debtor does not represent or warrant that the information contained herein or attached hereto is without any material inaccuracy or omission.

The statements and financial information contained herein have been made as of the date hereof unless otherwise specified. Holders of claims and equity interests reviewing this Disclosure Statement should not infer at the time of such review that there have been no changes in the facts set forth herein. Although the Debtor has made an effort to disclose where changes in present circumstances could reasonably be expected to affect materially the recovery under the Plan, this Disclosure Statement is qualified to the extent certain events do occur.

IRS Circular 230 Notice: To ensure compliance with IRS Circular 230, holders of claims and equity interests are hereby notified that: (a) any discussion of U.S. federal tax issues contained or referred to in this Disclosure Statement is not intended or written to be used, and cannot be used, by holders of claims or equity interests for the purpose of avoiding penalties that may be imposed on them under the Internal Revenue Code; (b) such discussion is written in connection with the promotion or marketing by the Plan proponents of the transactions or matters addressed herein; and (c) holders of claims and equity interests should seek advice based on their particular circumstances from an independent tax advisor.

This Disclosure Statement has been prepared in accordance with Bankruptcy Code Section 1125 and not necessarily in accordance with Federal or State securities laws or other non-bankruptcy law. This Disclosure Statement has not been approved or disapproved by the Securities and Exchange Commission (the “SEC”) or any Federal, State, local or foreign regulatory agency, nor has the SEC or any other such agency passed upon the accuracy or adequacy of the statements contained in this Disclosure Statement. Persons or entities holding or trading in, or otherwise purchasing, selling, or transferring, securities of or claims against the Debtor should evaluate this Disclosure Statement and the Plan in light of the purpose for which they were prepared.

The Debtor makes statements in this Disclosure Statement that are considered forward-looking statements under the Federal securities laws. Statements concerning these and other matters are not guarantees of the Debtor’s future performance. Such forward-looking statements represent the Debtor’s estimates and assumptions only as of the date such statements were made and involve known and unknown risks, uncertainties, and other unknown factors that could impact the Debtor’s restructuring plans or cause the actual results of the Debtor’s business to be materially different from the historical results or from

any future results expressed or implied by such forward-looking statements. In addition to statements that explicitly describe such risks and uncertainties, readers are urged to consider statements labeled with the terms “believes,” “belief,” “expects,” “intends,” “anticipates,” “plans,” or similar terms to be uncertain and forward-looking. There can be no assurance that the restructuring transaction described herein will be consummated. Creditors and other interested parties should see the section of this Disclosure Statement entitled “Risk Factors” for a discussion of certain factors that may affect the future financial performance of the Reorganized Debtor.

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ARTICLE I. INTRODUCTION

1.1. Purpose of the Disclosure Statement and the Plan.²

Prysm, Inc., the debtor and debtor-in-possession in the above-referenced case (the “Debtor”), submits this disclosure statement (as may be amended, modified or supplemented, the “Disclosure Statement”), pursuant to section 1125 and 1126 of the Bankruptcy Code, for the sole purpose of providing adequate information (as defined in section 1125) about the *Prepackaged Chapter 11 Plan of Prysm, Inc. Dated August [], 2020* (as may be amended, modified or supplemented, the “Plan”), which provides for the resolution of outstanding Claims against and Equity Interests in the Debtor pursuant to the Bankruptcy Code. The Debtor intends to submit the Disclosure Statement for approval, and the Plan for confirmation, by the Bankruptcy Court at a combined hearing after the Petition Date. The Debtor will consummate the Plan on the Effective Date. The summaries of the Plan contained herein shall not be relied upon for any other purpose. A copy of the Plan is attached hereto as Exhibit 1.

The purpose of this Disclosure Statement is to enable Creditors whose Claims are Impaired under the Plan and who are entitled to vote to make an informed decision in exercising their right to accept or reject the Plan. This Disclosure Statement sets forth certain information regarding the Debtor’s prepetition operating and financial history, its reasons for seeking protection under the Bankruptcy Code and the anticipated organization, operations, and financing of the Debtor upon its successful emergence from bankruptcy protection. This Disclosure Statement also describes certain terms and provisions of the Plan, certain effects of confirmation of the Plan, certain risk factors associated with the Plan, the business of the Debtor or Reorganized Debtor, and the securities that may be issued under the Plan, including the issuance of New Equity to ESW Capital, LLC (“ESW”), as the Plan Sponsor and the DIP Lender, and the manner in which Distributions will be made under the Plan. In addition, this Disclosure Statement discusses the confirmation process and the voting procedures that holders of Claims entitled to vote under the Plan must follow for their votes to be counted.

Additional copies of this Disclosure Statement can be accessed free of charge online at: <https://dm.epiq11.com/Prysm>.

1.2. Overview of the Transactions Contemplated by the Plan.

To implement a comprehensive financial restructuring (the “Restructuring”), the Debtor will, no later than August 5, 2020, commence a chapter 11 case (the “Chapter 11 Case”) in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”). Due to the prepackaged nature of the Plan, the Debtor intends to commence solicitation with respect to the Plan prior to the Petition Date. Immediately after the Petition date, the Debtor will file the Plan, this Disclosure Statement, and a motion (the “Procedures Motion”) seeking the setting of a combined hearing on approval of the Disclosure Statement, the Debtor’s solicitation process,

² Capitalized terms utilized within this Disclosure Statement which are not otherwise defined herein shall have the meanings ascribed to such terms in the attached Plan.

confirmation of the Plan and approval of various procedures related to the foregoing (the “Procedures Order”). The proposed sponsor of the Plan is ESW Capital, LLC, which is also the Debtor’s DIP Lender. On August [], 2020, the Debtor, ESW, GII and certain of the Secured Noteholders entered into the restructuring support agreement (together with all exhibits thereto, and as amended, restated, and supplemented from time to time, the “Restructuring Support Agreement”), the assumption of which is subject to a separate motion filed concurrently herewith, that sets forth the principal terms of the Restructuring and requires the parties thereto to support the Plan.

As set forth in the Plan, the Restructuring contemplates a comprehensive in-court restructuring of Claims against and Equity Interests in the Debtor that will preserve the going-concern value of the Debtor’s businesses, maximize recoveries available to all constituents, and provide for an equitable distribution to the Debtor’s stakeholders. The Plan Sponsor has offered to acquire the Debtor and its collaboration software business. Generally, the Plan provides for the following:

(1) the reorganization of the Debtor into two separate businesses consisting of (i) a hardware display business focused on the development, marketing and sale of large format displays based on the Debtor’s proprietary LPD technology, and (ii) a software business focused on the development, marketing and sale of cloud-hosted collaboration software solutions,

(2) the transfer of the hardware business, including the assets and contracts of the hardware business, on the Effective Date to a newly formed company referred to herein as Hardware NewCo, which will be owned by the Secured Noteholders (and by GII if it exercises the GII Election Option),

(3) the funding of the Cash Consideration by the Plan Sponsor on the Effective Date in exchange for 100% of the new equity of the Reorganized Debtor,

(4) the distribution of the Cash Consideration and other Cash held by the Debtor on the Effective Date to Hardware NewCo, to GII and to a Distribution Trust to pay allowed administrative claims and the distributions to holders of Allowed Claims other than the Secured Noteholders and GII (including the \$500,000 GUC Recovery to holders of General Unsecured Claims), all in accordance with the Plan; and

(5) the reorganization of the Debtor by retiring, cancelling, extinguishing and/or discharging the Debtor’s prepetition Equity Interests and issuing New Equity in the Reorganized Debtor to ESW, in its capacity as the Plan Sponsor or an affiliate and, to the extent that it exercises the Subscription Option, to ESW, in its capacity as the DIP Lender.

1.3. Summary of Treatment of Claims and Equity Interests and Description of Recoveries under the Plan.

The Plan organizes the Debtor’s creditor and equity constituencies into groups called “Classes.” For each Class, the Plan describes: (1) the underlying Claim or Equity Interest; (2) the recovery available to the Holders of Claims or Equity Interests in that Class under the Plan; (3) whether the Class is Impaired or Unimpaired under the Plan; (4) the form of consideration, if any, that Holders in such Class will receive on account of their respective Claims or Equity Interests;

and (5) whether the Holders of Claims and Equity Interests in such Class are entitled to vote to accept or reject the Plan.

The table below provides a summary of the classification, description, and treatment of Claims and Equity Interests under the Plan. This information is provided in summary form below for illustrative purposes only and is qualified in its entirety by reference to the provisions of the Plan. Any estimates of Claims or Equity Interests in this Disclosure Statement may vary from the final amounts allowed by the Bankruptcy Court. Your ability to receive distributions under the Plan depends upon the ability of the Debtor to obtain confirmation of the Plan and satisfy the conditions necessary to consummate the Plan. The recoveries available to Holders of Claims and Equity Interests are estimates and actual recoveries may materially differ. Indeed, the recoveries available to Holders of Allowed Claims and Equity Interests could be materially lower when compared to the estimates provided below. To the extent that any inconsistency exists between the summaries contained in this Disclosure Statement and the Plan, the terms of the Plan shall govern.

For a more detailed description of the treatment of Claims and Equity Interests under the Plan and the sources of satisfaction for Claims and Equity Interests, see Article IV of this Disclosure Statement, entitled “Summary of the Plan and Classification and Treatment of Claims and Interests Thereunder.”

Class	Designation	Impairment	Entitled to Vote	Projected Plan Recovery (%)
Class 1	GII Senior Secured Claim	Impaired	Yes	98.7% ³
Class 2	Secured Noteholder Claims	Impaired	Yes	5.96%
Class 3	Other Secured Claims	Unimpaired	No (deemed to accept)	100%
Class 4	Other Priority Claims	Unimpaired	No (deemed to accept)	100%
Class 5	General Unsecured Claims	Impaired	No (deemed to reject)	6.01%
Class 6	Equity Interests	Impaired	No (deemed to reject)	0%

1.4. Voting on the Plan.

Class 1 and Class 2 are impaired and entitled to vote on the Plan. Contemporaneous with the prepetition commencement of the Solicitation Process, this Disclosure Statement, the Plan and ballots related to the Plan will be sent to all creditors entitled to vote on the Plan. In addition, as required by the Procedures Order, required notices of the hearing on approval of the Disclosure

³ The holder of the Class 1 claim will receive 100% of the principal amount of their loan with interest at the non-default rate of interest set forth in the Note and Warrant Purchase Agreement dated December 11, 2019; the holder of the Class 1 claim is entitled to interest at the default rate from August 1, 2020 forward but will not receive such default interest as part of its treatment under the Plan and, therefore, Class 1 is impaired.

Statement and confirmation of the Plan will be sent to all known creditors and equity holders. In addition, notice shall be made by publication as approved by the Bankruptcy Court.

1.5. Confirmation and Consummation of the Plan.

Under section 1128(a) of the Bankruptcy Code, the Bankruptcy Court, after notice, may hold a hearing to confirm a plan of reorganization. When the Debtor files the Chapter 11 Case, it will file the Procedures Motion which, among other things will request the Bankruptcy Court to [approve the Disclosure Statement on a conditional basis and] set a date and time as soon as reasonably practicable after the Petition Date for a hearing (such hearing, the “Combined Hearing”) to determine on a final basis whether the Disclosure Statement contains adequate information under section 1125(a) of the Bankruptcy Code and whether the Plan should be confirmed in light of both the affirmative requirements of the Bankruptcy Code and objections, if any, that are timely filed, as permitted by section 105(d)(2)(B)(vi) of the Bankruptcy Code. The Combined Hearing, once set, may be continued from time to time without further notice other than an adjournment announced in open court or a notice of adjournment filed with the Bankruptcy Court and served on those parties who have requested notice under Bankruptcy Rule 2002 and the entities who have filed an objection to the Plan, if any, without further notice to parties in interest. The Bankruptcy Court, in its discretion and prior to the Combined Hearing, may put in place additional procedures governing the Combined Hearing. Subject to section 1127 of the Bankruptcy Code, the Plan may be modified, if necessary, prior to, during, or as a result of the Combined Hearing, without further notice to parties in interest.

Additionally, section 1128(b) of the Bankruptcy Code provides that any party in interest may object to confirmation of the Plan. In the Procedures Motion, the Debtor, will request that the Bankruptcy Court set a date and time for parties in interest to file objections to the adequacy of the Disclosure Statement and confirmation of the Plan. All such objections must be filed with the Bankruptcy Court and served on the Debtor and certain other parties in interest in accordance with the Procedures Order so that they are received before the deadline to file such objections.

(a) Combined Hearing.

At the Combined Hearing, the Bankruptcy Court will determine whether the Disclosure Statement contains adequate information under section 1125(a) of the Bankruptcy Code and the Plan should be confirmed in light of both the affirmative requirements of the Bankruptcy Code and objections, if any, that are timely filed and subject to satisfaction or waiver of each condition precedent in Article XIII of the Plan. For a more detailed discussion of the Combined Hearing, *see* Article VI of this Disclosure Statement, entitled “Confirmation of the Plan.”

(b) Effect of Confirmation and Consummation of the Plan.

Following entry of the Confirmation Order, and subject to satisfaction or waiver of each condition precedent in Section 13.2 of the Plan, the Plan will be consummated on the Effective Date. Among other things, on the Effective Date, certain release, injunction, exculpation, and discharge provisions set forth in Article XI of the Plan will become effective. Accordingly, it is important to read the provisions contained in Article XI of the Plan very carefully so that you understand how entry of the Confirmation Order and the occurrence of the Effective Date of the Plan—which effectuates such release, injunction, exculpation, and discharge provisions—will

affect you and any Claim or Equity Interest you may hold with respect to the Debtor. These provisions are described in Section 4.8 of this Disclosure Statement.

1.6. Additional Plan-Related Documents.

The Debtor will file certain documents that provide more details about implementation of the Plan in the Plan Supplement, which will be filed with the Bankruptcy Court no later than September 4, 2020. The Debtor will serve a notice that will inform all parties that the initial Plan Supplement was filed, list the information included therein, and explain how copies of the Plan Supplement may be obtained.

THE FOREGOING IS ONLY A GENERAL OVERVIEW OF THIS DISCLOSURE STATEMENT AND THE MATERIAL TERMS OF, AND TRANSACTIONS PROPOSED BY, THE PLAN AND IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO, AND SHOULD BE READ IN CONJUNCTION WITH, THE MORE DETAILED DISCUSSIONS APPEARING ELSEWHERE IN THIS DISCLOSURE STATEMENT AND THE EXHIBITS ATTACHED TO THIS DISCLOSURE STATEMENT, INCLUDING THE PLAN.

ARTICLE II. BUSINESS DESCRIPTION, PREPETITION INDEBTEDNESS AND EVENTS LEADING TO CHAPTER 11

2.1. The Debtor's Business.

The Debtor was formed in 2005 to develop, market and sell large-format displays using its proprietary Laser Phosphor Display or LPD technology. The Debtor introduced its first generation of tile-based LPD displays in 2010 and its second generation of single panel large-format displays in 2018. In 2014, the Debtor acquired the collaboration software business of Anacore, Inc. and began development of a collaboration software solution for large-format displays. From 2014 to 2018, the Debtor further developed the collaboration software and launched a cloud-based collaboration solution known as the Prysm Application Suite. Since 2018, the Debtor has further developed and commercialized large-format displays known as the LPD 6K Series and the Prysm Application Suite. The LPD 6K displays and the PAS collaboration service are sold together as a complete solution and separately as individual offerings. Together the LPD 6K and PAS solution enable individuals and teams to see and interact with all their data, content and applications on displays of all sizes. Customers using the LPD 6K Series benefit from interactive large-format single panel displays that offer a panoramic image uninterrupted by seams or bezels. Customers using the Prysm Application Suite software benefit from an open, enterprise-grade collaboration solution that integrates with existing tools and scales to hundreds or thousands of users.

The Debtor is headquartered in Milpitas California where it conducts product development, testing, service, support, management and administrative operations. The Debtor has a manufacturing facility in Concord Massachusetts where it develops, tests and manufactures front panels for its LPD 6K displays for the worldwide market. The Debtor has a wholly-owned subsidiary based in Bangalore, India and this subsidiary provides research and development, sales

and support services to the Debtor. The Debtor also has a wholly-owned subsidiary based in Dubai, UAE and this subsidiary provides sales and support services to the Debtor.

2.2. Debtor's Prepetition Capital Structure and Indebtedness.

The Debtor is a Delaware corporation with two classes of stock authorized and outstanding, Common Stock and Preferred Stock. The Preferred Stock is divided into seven series of Preferred Stock from Series AA Preferred Stock to Series EE-1 Preferred Stock. Each series of Preferred Stock has certain rights and preferences as set forth in the Amended and Restated Certificate of Incorporation of the Debtor.

A summary of the Capital Structure of the Debtor as of July 31, 2020 is set out below.

Prism, Inc.				
SUMMARY CAPITALIZATION				
Stock	Shares Outstanding	% Owned Outstanding as Converted	Shares Outstanding Fully Diluted	% Owned Fully Diluted Basis
	-		-	
COMMON STOCK	44,153,773	38.16%	44,153,773	27.04%
PREFERRED STOCK	-		-	
SERIES AA PREFERRED STOCK	9,115,816	7.88%	9,115,816	5.58%
SERIES BB PREFERRED STOCK	5,019,100	4.34%	5,019,100	3.07%
SERIES CC PREFERRED STOCK	3,465,054	2.99%	3,465,054	2.12%
SERIES CC-1 PREFERRED STOCK	-	0.00%	-	0.00%
SERIES DD PREFERRED STOCK	34,952,065	30.20%	34,952,065	21.40%
SERIES EE PREFERRED STOCK	19,012,799	16.43%	19,012,799	11.64%
SERIES EE-1 PREFERRED STOCK				
Total Stock :	115,718,607	100.00%	115,718,607	70.86%
RIGHTS TO ACQUIRE STOCK:				
Stock Plans				
Options Outstanding	-		13,962,568	8.55%
Options Available	-		8,249,512	5.05%
Plan Total :	-		22,212,080	13.60%
WARRANTS TO PURCHASE:				
COMMON STOCK			2,470,129	1.51%
SERIES DD PREFERRED STOCK			9,207,322	5.64%
SERIES EE-1 PREFERRED STOCK			13,693,309	8.39%
Total Rights:			47,582,840	29.14%
Total Diluted Shares:			163,301,447	100.00%

Since its formation in 2005, the Debtor has invested in research and development, marketing, sales, service and support with the objective of making LPD displays a leader in the global market for large-format displays. To date, the Debtor has not achieved profitability on a GAAP or cashflow basis. As of the Petition Date, the Debtor estimates that it may possess federal

net operating loss carryforwards in excess of \$300 million; provided that these net operating loss carryforwards are subject to numerous limitations and restrictions that may limit or even eliminate their availability.⁴ The Debtor has relied on outside funding in the form of equity investment and debt financing to continue operations and continue its efforts to build a profitable business. Since December 2015, the Debtor has financed its operations through the issuance of Senior Secured Promissory Notes. Senior Secured Promissory Notes (the “Secured Notes”) issued by the Debtor and outstanding as of June 30, 2020 are listed below.

Noteholder	Principal Amount	Accrued Interest	Total Principal and Interest
GII Prysm Investments	3,000,000.00	81,484.84	3,081,484.84
Other Secured Noteholders	\$178,391,617	\$84,308,243	\$262,699,860
TOTAL	\$181,391,617	\$84,389,728	\$265,781,345

These Secured Notes are secured by a first lien on all assets of the Debtor including bank accounts, accounts receivable, inventory, equipment, intellectual property and all other assets of the Debtor, including all products and proceeds of these assets. Secured Notes issued to GII Prysm Investments are senior in right of repayment to all other Secured Notes issued by the Company.

2.3. Events Leading to Chapter 11 Filing.

(a) Since 2017, the Debtor has been actively seeking investments to continue operations and fund the expansion of its research and development, sales and marketing, customer support and customer success efforts. When the company’s internal efforts did not yield any serious investment offers, the Debtor engaged a global investment banking firm to lead a dual track process. This investment bank was engaged in July 2017 to simultaneously pursue both potential investors and potential acquirors for the company. After conducting an extensive search in 2017 and early 2018, this firm conducted a second search marketing the display business and the collaboration business as separate investment or acquisition opportunities. In December 2017, the Debtor engaged a second investment bank to conduct a more focused and directed search for potential investors and acquirors in the Greater China region. Search efforts continued throughout

⁴ Nothing in this Disclosure Statement shall be construed as or constitute a representation or warranty by the Debtor as to the amount or availability of any tax attribute, including without limitation net operating losses, or the extent to which any such tax attribute may be impacted by consummation of the Plan.

2018 and 2019. Many prospects in China, the United States and Europe engaged in exploratory discussions and some prospects even proceeded to negotiate terms of a possible investment. However, these discussions did not result in any credible offers to invest in or acquire the Debtor, either in its current form or as a stand-alone hardware or software business.

During this search process, the Debtor was able to continue operations using funds raised through the issuance of additional Secured Promissory Notes in June 2017, March 2018, October 2018 and December 2019. However, these funds were not sufficient to maintain or grow the business as planned and the Debtor was forced to significantly reduce its headcount and operations in June 2017, January 2018 and again in February 2019. During this period, the Debtor permanently closed offices in Ghent, Belgium, London, England, Carmel, Indiana, New York, New York and Chicago, Illinois. These reductions in headcount, office closures and reductions in development, sales and marketing resources were done to conserve funds and better align operations with available budgets. However, these cost cutting efforts also resulted in a significant reduction in product development, sales and business momentum.

During the search for potential investors and potential acquirors, the Debtor did engage in advanced discussions with potential strategic partners about transactions that would involve a combination of joint development, manufacturing partnerships and strategic investments. While these discussions were serious and promising, they did not lead to any binding commitments for new investment.

Ultimately, after three years of searching for acquirers and/or additional investors, the only credible offer received by the Debtor is that of ESW Capital LLC (“ESW”). ESW submitted a letter of intent on May 20, 2020 to acquire the Debtor and reorganize around its software business, while contributing the Debtor’s hardware business and certain related assets into a newly formed

entity for the benefit of the Debtor's secured lenders. The Debtor determined in its business judgment to proceed with a transaction with ESW, subject to agreement on definitive terms. The Debtor then vigorously negotiated with ESW, its first priority senior lender, and the majority of its secured noteholders, at arms-length and represented by separate counsel, the terms of a comprehensive restructuring (the "Restructuring") and entered into the Restructuring Support Agreement (the "RSA").

The Debtor's Board of Directors believes the proposed Plan, including the reorganization of the Debtor and issuance of 100% of the new equity of the Reorganized Debtor to ESW Capital, and the transfer of the Debtor's hardware display business to a newly formed company, Hardware NewCo, which will be wholly-owned by the Secured Noteholders (and GII, if it exercises the GII Election Option) on a Pro Rata basis, is in the best interests of the Debtor and its creditors. The proposed restructuring described in the Plan is expected to give the display business the opportunity to continue operations and continue development of its LPD displays, and the software business the opportunity to grow and take advantage of the scale and resources of the ESW platform.

ARTICLE III. ADMINISTRATION OF THE CHAPTER 11 CASE

3.1. Overview of Chapter 11.

Chapter 11 is the principal business reorganization chapter of the Bankruptcy Code. In addition to permitting debtor rehabilitation, chapter 11 promotes equality of treatment for similarly situated holders of claims and equity interests, subject to the priority of distributions prescribed by the Bankruptcy Code.

The commencement of a chapter 11 case creates an estate that is comprised of all of the legal and equitable interests of the debtor as of the filing of a chapter 11 petition. The Bankruptcy Code provides that the debtor may continue to operate its business and remain in possession of its property as a "debtor in possession."

The consummation of a plan is the principle objective of a chapter 11 case. A plan sets forth the means for satisfying claims against and interests in a debtor. Confirmation of a plan by

the Bankruptcy Court makes the plan binding upon the debtor, any entity acquiring property under the plan, any holder of a claim against or equity interest in a debtor and all other entities as may be ordered by the Bankruptcy Court in accordance with the applicable provisions of the Bankruptcy Code. Subject to certain limited exceptions, the order approving confirmation of a plan discharges a debtor, to the fullest extent permitted by applicable law, from any debt that arose prior to the date of confirmation of the plan and substitutes therefor the obligations specified under the confirmed plan.

Pursuant to section 1125 of the Bankruptcy Code, acceptance or rejection of a plan may not be solicited after the commencement of a chapter 11 case until such time as a bankruptcy court has approved a disclosure statement as containing adequate information. Pursuant to section 1125(a) of the Bankruptcy Code, “adequate information” is information of a kind, and in sufficient detail, to enable a hypothetical reasonable investor to make an informed judgment regarding the plan. The Debtor is submitting this Disclosure Statement in satisfaction of the applicable disclosure requirements under section 1125 of the Bankruptcy Code.

3.2. Debtor’s First Day Pleadings.

On or before August 5, 2020, the Debtor will commence the Chapter 11 Case by filing a voluntary petition for relief under Chapter 11 of the Bankruptcy Code. Shortly thereafter, the Debtor will file various “first day” motions seeking, among other things: (i) authority to pay prepetition compensation, benefits, and reimbursable employee expenses; (ii) authority to continue certain insurance policies and programs; (iii) authority to substantially maintain their existing bank accounts and continue the Debtor’s integrated cash management system that was in place prior to the Petition Date; (iv) to prohibit utility companies from discontinuing, altering or refusing service; (v) to establish a deadline for parties to file claims and interests against the Debtor’s estate; (vi) to approve Epiq Corporate Restructuring LLC as the Bankruptcy Court-appointed claims and noticing agent; (vii) authority to incur post-petition financing and (viii) entry of an order scheduling a combined hearing on this Disclosure Statement and Plan, establishing various deadlines in connection therewith, and granting certain other related relief.

3.3. Debtor’s Second Day Pleadings.

Contemporaneously with, or shortly following, the filing of the “first day pleadings,” the Debtor will file certain “second day pleadings” with the Bankruptcy Court. In particular, the Debtor will file (i) a motion seeking authority to enter into and approval of the Restructuring Support Agreement; and (ii) an application to approve the retention of Gellert Scali Busenkell & Brown LLC as counsel for the Debtor.

ARTICLE IV. SUMMARY OF PLAN AND CLASSIFICATION AND TREATMENT OF CLAIMS AND INTERESTS THEREUNDER

This Article provides a summary of the structure and means for implementation of the Plan and the classification and treatment of Claims and Equity Interests under the Plan and is qualified in its entirety by reference to the Plan (as well as the Exhibits thereto and definitions therein).

The statements contained in this Disclosure Statement do not purport to be precise or complete statements of all the terms and provisions of the Plan or documents referred to therein,

and reference is made to the Plan and to such documents for the full and complete statement of such terms and provisions.

The Plan itself and the documents referred to therein control the actual treatment of Claims against and Equity Interests in the Debtor under the Plan and will, upon the occurrence of the Effective Date, be binding upon all holders of Claims against and Equity Interests in the Debtor, the Debtor's estate, the Reorganized Debtor, all parties receiving property under the Plan, and other parties in interest. In the event of any conflict, inconsistency, or discrepancy between this Disclosure Statement and the Plan, the Plan Supplement, and/or any other operative document, the terms of the Plan, Plan Supplement, and/or such other operative document, as applicable, shall govern and control; provided that, in any event, the terms of the Plan shall govern and control over all other related documents.

4.1 Treatment of Unclassified Claims

In accordance with Bankruptcy Code section 1123(a)(1), Administrative Claims (including Ordinary Course Liabilities), US Trustee Fees and Priority Tax Claims have not been classified and the respective treatment of such unclassified Claims is set forth in Article IV of the Plan.

In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Claims, U.S. Trustee Fees and Priority Tax Claims of the Debtor have not been classified and the holders thereof are not entitled to vote on the Plan.

(a) Administrative Claims

i. General: Except with regards to Ordinary Course Liabilities (the treatment of which is described below and in Section 4.5 of the Plan, subject to the bar date provisions in the Plan, unless otherwise agreed to by the parties, each holder of an Allowed Administrative Claim shall receive Cash equal to the unpaid portion of such Allowed Administrative Claim within ten (10) days after the later of (a) the Effective Date, (b) the Allowance Date, or (c) such other date as is mutually agreed upon by the Debtor, the Plan Sponsor and the holder of such Claim.

ii. Bar Date for Administrative Claims: Except as otherwise provided in Article IV of the Plan, requests for payment of Administrative Claims must be included within an application (setting forth the amount of, and basis for, such Administrative Claims, together with documentary evidence) and Filed and served on respective counsel for the Debtor, the Distribution Trust and Plan Sponsor no later than the Administrative Claim Bar Date or by such earlier deadline governing a particular Administrative Claim contained in an order of the Bankruptcy Court entered before the Effective Date. Holders of Administrative Claims that are required to File a request for payment of such Claims and that do not File such requests by the applicable bar date shall be forever barred from asserting such Claims against the Debtor or any of its property, absent order of the Bankruptcy Court to the contrary.

(b) Professional Compensation Claims

All Professional Compensation Claims must be filed with the Bankruptcy Court and served on the Reorganized Debtor, the Distribution Trust, the U.S. Trustee and the Post-Confirmation Service

List, no later than thirty (30) days after the Effective Date. **FAILURE TO FILE AND SERVE FINAL FEE APPLICATIONS TIMELY AND PROPERLY SHALL RESULT IN THE UNDERLYING PROFESSIONAL FEE CLAIMS BEING FOREVER BARRED AND DISCHARGED.** Objections to Professional Compensation Claims, if any, must be filed and served pursuant to the procedures set forth in the Confirmation Order no later than forty-five (45) days after the Effective Date or such other date as may be established by the Bankruptcy Court. After notice and a hearing in accordance with the procedures established by the Bankruptcy Code and prior orders of the Bankruptcy Court in the Chapter 11 Case, the Allowed amounts of such Professional Fee Claims shall be determined by the Bankruptcy Court. All holders of Professional Compensation Claims shall be paid in full, in Cash from the Distribution Reserve, in such amounts as are Allowed by the Bankruptcy Court. The Reorganized Debtor and the Distribution Trustee are authorized to pay compensation for professional services rendered and reimbursement of expenses incurred after the Effective Date in the ordinary course and without the need for Bankruptcy Court approval.

Each holder of a Professional Compensation Claim shall provide the Debtor with an estimate of the unpaid amount of such Professional Compensation Claim not later than seven (7) calendar days prior to the anticipated Effective Date; provided, however, that such estimates shall be used solely for administrative purposes and determining the amount of the Distribution Reserve, shall not be binding on the holders of Professional Compensation Claims and shall not in any way limit, cap, or reduce the amount of the Professional Compensation Claims.

Any professional fees and reimbursements or expenses incurred by the Reorganized Debtor subsequent to the Effective Date may be paid by the Reorganized Debtor without application to the Bankruptcy Court. Any professional fees and reimbursements or expenses incurred by the Distribution Trustee subsequent to the Effective Date may be paid by the Distribution Trustee without application to the Bankruptcy Court.

(c) **U.S. Trustee Fees**

On or before the Effective Date, all fees payable pursuant to 28 U.S.C. § 1930 shall be paid in Cash from the DIP Financing, up to the amount set forth in the Approved Budget, and otherwise from the Consideration equal to the amount of such Administrative Claim when due or no later than the Effective Date. Post-Effective Date U.S. Trustee fees shall be paid and post-confirmation reports shall be filed as required by 28 U.S.C. § 1930 until the Chapter 11 Case is closed, converted or dismissed, and failure to do either timely is a material default pursuant to section 1112 of the Bankruptcy Code.

(d) **Allowed Priority Tax Claims**

Each Holder of an Allowed Priority Tax Claim against Debtor shall receive in full satisfaction, settlement, release and discharge of, and in exchange for, such Allowed Priority Tax Claim (i) Cash equal to the amount of such Allowed Priority Tax Claim on the Effective Date, (ii) payment in full through the fifth anniversary of the Petition Date, plus interest at a rate determined in accordance with section 511 of the Bankruptcy Code, or (iii) such other less favorable treatment to the Holders of an Allowed Priority Tax Claim as to which the Debtor, the Plan Sponsor, and the Holder of such Allowed Priority Tax Claim shall have agreed upon in writing.

(e) Ordinary Course Liabilities

All Ordinary Course Liabilities are deemed to be Allowed Claims to the extent set forth in the Approved Budget. Holders of Administrative Claims on account of Ordinary Course Liabilities are not required to file or serve any request for payment of the Ordinary Course Liability. The Debtor shall continue to pay each Ordinary Course Liability accrued prior to the Effective Date, pursuant to the payment terms and conditions of the particular transaction giving rise to the Ordinary Course Liability and the Approved Budget. To the extent that a holder of an Administrative Claim, on account of Ordinary Course Liability which accrued prior to the Effective Date, did not submit an invoice for the Ordinary Course Liability to the Debtor prior to the Effective Date, the holder must submit the invoice to the Distribution Trustee in the ordinary course of business, pursuant to the terms and conditions of the particular transaction giving rise to the Ordinary Course Liability. The Distribution Trustee shall remit payment on the Ordinary Course Liability within fifteen (15) days of receipt of the invoice. In the event that the Reorganized Debtor pays any Ordinary Course Liability accrued prior to the Effective Date, the Distribution Trust shall reimburse the Reorganized Debtor for such payment promptly upon request.

The DIP Lender Claim is Allowed in full. Pursuant to the Subscription Option, the DIP Lender shall have the option, on account of being the holder of the Allowed DIP Lender Claim, to convert a portion of the outstanding Allowed DIP Lender Claim into shares of New Equity at a rate of 10% of the Allowed DIP Lender Claim for 60 shares of New Equity, up to a maximum of 100% of the Allowed DIP Lender Claim for 600 shares out of the total 1000 shares of New Equity. To the extent any amount of Allowed DIP Lender Claim remains after the DIP Lender exercises the Subscription Option, the remainder of its Allowed DIP Lender Claim shall be repaid in Cash funded and paid by the Plan Sponsor on the Effective Date, separately and in addition to the Consideration being paid by the Plan on the Effective Date, or reduced on a dollar-for-dollar basis by agreement between the DIP Lender and the Plan Sponsor. For the avoidance of doubt, in no event will the partial exercise of the Subscription Option reduce the amount of the Consideration paid by Plan Sponsor. On the Effective Date, all liens and interests granted in exchange for or in connection with the DIP Note and/or under the DIP Order shall be deemed discharged, cancelled, and released and shall be of no further force and effect.

4.2 Classification and Treatment of Claims and Equity Interests

Pursuant to sections 1122 and 1123 of the Bankruptcy Code, a Claim or Equity Interest is placed in a particular Class for all purposes, including without limitation, voting, confirmation and receiving Distributions under the Plan only to the extent (i) the Claim or Equity Interest qualifies within the description of that Class; (ii) the Claim or Equity Interest is an Allowed Claim or Allowed Equity Interest (or temporarily allowed Claim or Equity Interest for voting purposes) in that Class, and is classified in another Class or Classes to the extent that any remainder of the Claim or Equity Interest qualifies within the description of such other Class or Classes; and (iii) the Claim or Equity Interest has not been paid, released, or otherwise compromised before the Effective Date. A Claim or Equity Interest which is not an Allowed Claim or Allowed Equity Interest, including a Disputed Claim, is not in any Class, and, notwithstanding anything to the contrary contained in the Plan, no Distribution shall be made on account of any Claim or Equity Interest which is not an Allowed Claim or Allowed Equity Interest.

Class 1: GII Senior Secured Claim

- (a) Classification: Class 1 consists of the GII Senior Secured Claim against the Debtor.
- (b) Treatment: On account of the GII Senior Secured Claim, GII shall receive on or about the Effective Date, on account of and in full and complete settlement, release and discharge of, and in exchange for, the GII Senior Secured Claim the GII Cash Recovery unless, prior to confirmation of the Plan GII exercises the GII Election Option, in which case GII shall forgo the GII Cash Recovery and instead receive a Pro Rata Share of the Secured Lenders Recovery and in which case the GII Senior Secured Claim shall be treated pari passu with, and not senior to, the Secured Noteholder Claims and as if it is included in Class 2.
- (c) Impairment and Voting: The GII Senior Secured Claim is impaired, and accordingly GII, in its capacity as the holder of such Claim is entitled to vote to accept or reject the Plan on account of such Claims pursuant to section 1126(a) of the Bankruptcy Code.

Class 2: Secured Noteholder Claims

- (d) Classification: Class 2 consists of all Secured Noteholder Claims against the Debtor.
- (e) Treatment: Each holder of an Allowed Secured Noteholder Claim against the Debtor shall receive on or about the Effective Date, on account of and in full and complete settlement, release and discharge of, and in exchange for, such Allowed Secured Noteholder Claim, its Pro Rata Share of the Secured Lenders Recovery, subject to the GII Election Option.
- (f) Impairment and Voting: Allowed Secured Noteholder Claims are impaired, and the holders of such Claims are entitled to vote to accept or reject the Plan on account of such Claims pursuant to section 1126(a) of the Bankruptcy Code.

Class 3: Other Secured Claims

- (a) Classification: Class 3 consists of all Allowed Other Secured Claims, if any, against the Debtor.
- (b) Treatment: Each holder of an Allowed Other Secured Claims against the Debtor shall receive on or about the Effective Date, on account of and in full and complete settlement, release and discharge of, and in exchange for, such Allowed Other Secured Claims, at the option of the Plan Sponsor and, if related to the Hardware Assets, the Debtor: (i) payment in full in Cash; (ii) the collateral securing its Allowed Other Secured Claim

and payment of any interest required under section 506(b) of the Bankruptcy Code; (iii) reinstatement of such Allowed Other Secured Claim; or (iv) such other treatment rendering such Allowed Other Secured Claim unimpaired.

- (c) Impairment and Voting: Allowed Other Secured Claims are unimpaired, and the holders of such Claims are not entitled to vote to accept or reject the Plan on account of such Claims and will be conclusively deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code.

Class 4: Other Priority Claims

- (a) Classification: Class 4 consists of all Other Priority Claims against the Debtor.
- (b) Treatment: Each holder of an Allowed Other Priority Claim against the Debtor shall receive on or about the Effective Date, on account of and in full and complete settlement, release and discharge of, and in exchange for, such Allowed Other Priority Claim, (i) Cash equal to the amount of such Allowed Other Priority Claim on the Effective Date, or (ii) such other treatment to the holder of an Allowed Other Priority Claim as to which the Plan Sponsor and the holder of such Allowed Other Priority Claim shall have agreed upon in writing.
- (c) Impairment and Voting: Allowed Other Priority Claims are unimpaired, and the holders of such Claims are not entitled to vote to accept or reject the Plan on account of such Claims and will be conclusively deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code.

Class 5: General Unsecured Claims

- (a) Classification: Class 5 consists of all General Unsecured Claims against the Debtor.
- (b) Treatment: On or about the Effective Date, each holder of an Allowed General Unsecured Claim shall receive, on account of and in full and complete settlement, release and discharge of, and in exchange for its Allowed General Unsecured Claim, its Pro Rata Share of the GUC Recovery.
- (c) Impairment and Voting: Allowed General Unsecured Claims are impaired and, as Class 5 is not being paid in full but no junior class is to receive any distribution under the Plan, the Plan deems Class 5 to reject the Plan, and the holders of such Claims are not entitled to vote to accept or reject the Plan. The Debtor intends to confirm the Plan over the

deemed rejection of Class 5 under the provisions of section 1129(b) of the Bankruptcy Code.

Class 6: Equity Interests

- (a) Classification: Class 6 consists of all Equity Interests in the Debtor.
- (b) Treatment: No Distributions will be made to holders of Equity Interests. On the Effective Date, all Equity Interests shall be deemed automatically cancelled, released, and extinguished without further action by the Debtor or the Reorganized Debtor, and any and all obligation of the Debtor and the Reorganized Debtor thereunder shall be discharged.
- (c) Impairment and Voting: Allowed Equity Interests are impaired, and the holders of such Equity Interests are not entitled to vote to accept or reject the Plan on account of such Equity Interests and will be conclusively deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code.

4.3 Acceptance or Rejection of the Plan

(a) Impaired Classes Entitled to Vote

Holders of Claims in Classes 1 and 2 are impaired and entitled to vote as a Class to accept or reject the Plan. Accordingly, only the Holders of Claims in Classes 1 and 2 shall be solicited with respect to the Plan.

(b) Acceptance by Classes 1 and 2

In accordance with Bankruptcy Code section 1126(c), and except as provided in Bankruptcy Code section 1126(e), an impaired Class of Claims shall have accepted the Plan if the Plan is accepted by the holders of at least two-thirds ($\frac{2}{3}$) in dollar amount and more than one-half ($\frac{1}{2}$) in number of the Allowed Claims in such Class, not including insiders, that have timely and properly voted to accept or reject the Plan.

(c) Presumed Acceptances by Classes 3 and 4

Holders of Claims in Classes 3 and 4 are unimpaired. Under Bankruptcy Code section 1126(f), holders of such unimpaired Claims are conclusively presumed to have accepted the Plan, and the votes of such unimpaired Claim Holders shall not be solicited.

(d) Deemed Rejection by Classes 5 and 6

Classes 5 and 6 are impaired under the Plan. Class 6 is receiving no distribution under the Plan and is deemed to reject the Plan under section 1126(g) of the Bankruptcy Code. The holders of Claims in Class 5 are receiving their Pro Rata Share of the GUC Recovery. However, to avoid the expense of soliciting the votes of holders in Class 5, the Plan deems such Class to have rejected the Plan and the holders of Claims in such Class are not entitled to vote to accept or reject the Plan.

As no class junior to Class 5 is to receive any distribution under the Plan, the Debtor intends to confirm the Plan over the deemed rejection of Classes 5 and 6 under the provisions of section 1129(b) of the Bankruptcy Code.

(e) Elimination of Classes for Voting Purposes

Any Class of Claims or Equity Interests that is not occupied as of the date of the commencement of the Confirmation Hearing by an Allowed Claim, an Allowed Equity Interest, or a Claim or Equity Interest temporarily allowed under Rule 3018 of the Bankruptcy Rules shall be deemed deleted from the Plan for purposes of voting on acceptance or rejection of the Plan by such Class under section 1129(a)(8) of the Bankruptcy Code.

(f) Voting Classes; Deemed Acceptance by Non-Voting Classes

If a Class contains Claims or Equity Interests eligible to vote and no holders of Claims or Equity Interests eligible to vote in such Class vote to accept or reject the Plan, the Plan shall be deemed accepted by such Class. For clarification, the only impaired classes eligible to vote are Class 1 (GII) and Class 2 (Secured Noteholders).

(g) Intercompany Claims and Equity Interests

The Debtor has the wholly-owned subsidiaries as listed below.

Prysm Displays (India) Private Limited was incorporated on March 22, 2007 under the Indian Companies Act of 1956. Prysm India provides sales and support for Prysm customers in India and conducts very limited R&D activity on Prysm displays and software. The Debtor pays Prysm India for its services on a cost-plus basis. All IP developed by Prysm India is assigned to the Debtor pursuant to an Intercompany Agreement. Equity interests in this subsidiary are expected to be assigned to the Hardware Newco.

Prysm Europe Ltd was incorporated in London, United Kingdom (UK) as a 100% owned subsidiary of the Debtor. Prysm Europe Ltd has been inactive since December 2018 and has no operations, offices, employees or activity. Equity interests in this subsidiary are expected to be abandoned by the Debtor.

Prysm Europe BVBA was incorporated in Ghent, Belgium as a 100% owned subsidiary of the Debtor. Prysm Europe BVBA has been inactive since December 2018 and has no operations, assets, offices, employees or activity. Equity interests in this subsidiary are expected to be abandoned by the Debtor.

Prysm Middle East JLT was duly formed as a Free Zone Company in Dubai, United Arab Emirates (UAE) and registered under Registration number JLT2470 on May 24, 2011 as a 100% owned subsidiary of the Debtor. As of October 9, 2014, the name (suffix) of this subsidiary was changed to Prysm Middle East DMCC in accordance with the regulations of Dubai Multi Commodities Centre (DMCC) where the subsidiary is located. Prysm Middle East is used for sales and support of Prysm displays in EMEA. It has no material assets and no intellectual property. The Debtor pays Prysm Middle East for its services on a cost basis pursuant to an Intercompany Agreement. Equity interests in this subsidiary are expected to be assigned to the Hardware Newco.

Anacore, Inc. was acquired by Prysm in May 2014 as a 100% owned subsidiary of the Company and the name of the subsidiary was changed to Anacore LLC. Anacore LLC is incorporated under the laws of the state of Indiana. The assets and personnel of Anacore were assigned to the Debtor. Anacore has been inactive since December 2014 and currently has no operations, assets, offices, employees or activity. Equity interests in this subsidiary are expected to be abandoned by the Debtor on or before the Effective Date.

Kaybus, Inc. was acquired by Prysm in January 2017 and is a 100% owned subsidiary of the Debtor. Kaybus, Inc. is incorporated under the laws of the state of Delaware. Kaybus has been inactive since January 2017 and currently has no operations, assets, offices, employees or activity. Equity interests in this subsidiary are expected to be abandoned by the Debtor on or before the Effective Date.

Kaybus India Private Limited was acquired by Prysm in January 2017 and is a 100% owned subsidiary of Kaybus, Inc. Kaybus India is a company formed under the laws of the India. Kaybus India has been inactive since January 2017 and currently has no operations, assets, offices, employees or activity. Equity interests in this subsidiary are expected to be abandoned by the Debtor on or before the Effective Date.

Prysm Hong Kong Limited was duly formed under the laws of Hong Kong. Prysm Hong Kong is 100% owned by the Debtor. Prysm Hong Kong does not have any operations, assets or employees. Prysm Hong Kong is used for shipping and storage of Prysm hardware displays. Equity interests in this subsidiary are expected to be assigned to the Hardware Newco.

As of the Petition Date, the Debtor does not believe it has any material intercompany claims. Rather, payments are made for services provided by its subsidiaries and these amounts are settled monthly.

(h) Controversy Concerning Classification, Impairment or Voting Rights

In the event a controversy or dispute should arise involving issues related to the classification, impairment or voting rights of any Creditor or Equity Interest Holder under the Plan, whether before or after the Confirmation Date, the Bankruptcy Court may, after notice and a hearing, determine such controversy. Without limiting the foregoing, the Bankruptcy Court may estimate for voting purposes (i) the amount of any contingent or unliquidated Claim the fixing or liquidation of, as the case may be, would unduly delay the administration of the Chapter 11 Case and (ii) any right to payment arising from an equitable remedy for breach of performance.

4.4 Means for Implementation of the Plan

(a) Continued Corporate Existence

Except as otherwise provided in the Plan, the Reorganized Debtor will continue to exist after the Effective Date as a corporate entity, with all of the powers of a corporation under applicable law in the jurisdiction in which the Debtor is incorporated and pursuant to its Charter Documents in effect before the Effective Date, as such documents are amended by or pursuant to the Plan.

Upon the Effective Date, and without any further action by the shareholders, directors, or officers of the Reorganized Debtor, the Reorganized Debtor's Charter Documents shall be deemed amended (a) to the extent necessary, to incorporate the provisions of the Plan, and (b) to prohibit the issuance by the Reorganized Debtor of nonvoting securities to the extent required under section 1123(a)(6) of the Bankruptcy Code, subject to further amendment of such Charter Documents as permitted by applicable law, and to the extent such documents are amended, such documents are deemed to be amended pursuant to the Plan and require no further action or approval other than any requisite filings required under applicable state, provincial or federal law. The Charter Documents shall be filed with the Plan Supplement.

(b) Management and Board of Directors

The Plan Sponsor shall nominate and elect new members for the board of directors of the Reorganized Debtor in accordance with the Reorganized Debtor's Charter Documents. The identity of such new members shall be disclosed in the Plan Supplement prior to the Plan Supplement Deadline. Upon the Effective Date, the current members of the Debtor's board of directors shall no longer serve in such capacity and shall be discharged of all duties in connection therewith.

The board of directors of Hardware Newco shall be set forth in the Charter Documents for Hardware Newco. Such Charter Documents shall provide that there shall be five directors, two of whom shall be appointed by the Investor (as defined in Exhibit A, Glossary of Defined Terms, to the Plan), one of whom shall be appointed by majority vote of the other shareholders of Hardware Newco, one of whom shall be the CEO of Hardware Newco, and the final one who shall be an independent director approved by the other four directors and chosen from a slate of three nominees – two of which shall be nominated by the Investor and one of which shall be nominated by majority vote of the other shareholders of Hardware Newco.

(c) Arrangements with the Distribution Trustee

By the Plan Supplement Deadline, the Debtor shall file with the Bankruptcy Court a disclosure identifying the Distribution Trustee under the Distribution Trust. At the Confirmation Hearing, the Bankruptcy Court shall ratify such Distribution Trustee. All compensation for the Distribution Trustee shall be paid from the Distribution Trust Assets in accordance with the Distribution Trust Agreement. The approved person shall serve as the Distribution Trustee on execution of the Distribution Trust Agreement at the Closing.

(d) The Closing

The Closing of the transactions required and contemplated under the Plan shall take place on the Effective Date at the offices of Goulston & Storrs PC, 885 Third Avenue, 18th Floor, New York, New York 10022, or at such other place identified in a notice provided to those parties listed in Section 13.12 of the Plan. The Debtor and Plan Sponsor may reschedule the Closing by making an announcement at the originally scheduled Closing of the new date for the Closing. A notice of the rescheduled Closing shall be filed with the Bankruptcy Court and served on the parties identified in Section 13.12 of the Plan within two (2) days after the originally scheduled Closing.

All documents to be executed and delivered by any party as provided in Article VI of the Plan and all actions to be taken by any party to implement the Plan as provided therein shall be in form and substance satisfactory to the Debtor and Plan Sponsor. The following actions shall occur at or before the Closing (unless otherwise specified), and shall be effective on the Effective Date:

(i) Execution of Documents and Corporate Action. The Debtor shall deliver all documents and perform all actions reasonably contemplated with respect to implementation of the Plan. The Debtor, or its designee, is authorized (i) to execute on behalf of the Debtor, in a representative capacity and not individually, any documents or instruments after the Confirmation Date or at the Closing that may be necessary to consummate the Plan and (ii) to undertake any other action on behalf of the Debtor to consummate the Plan. Each of the matters provided for under the Plan involving the corporate structure of the Debtor or corporate action to be taken by or required of the Debtor will, as of the Effective Date, be deemed to have occurred and be effective as provided herein, and shall be authorized, approved, and (to the extent taken before the Effective Date) ratified in all respects without any requirement of further action by stockholders, creditors, or directors of the Debtor. On the Effective Date, all matters provided for in the Plan involving the corporate structure of the Reorganized Debtor, and all corporate actions required by the Debtor and the Reorganized Debtor in connection with the Plan, shall be deemed to have occurred and shall be in effect, without any requirement of further action by the Debtor or the Reorganized Debtor. For purposes of effectuating the Plan, none of the transactions contemplated in the Plan shall constitute a change of control under any agreement, contract, or document of the Debtor.

(ii) Release of Liens. Upon request by the Debtor, the Reorganized Debtor or the Plan Sponsor, any Person holding a Lien in any of the Debtor's Property shall execute any lien release or similar document(s) required to implement the Plan or reasonably requested by the Debtor, the Reorganized Debtor or the Plan Sponsor in a prompt and diligent manner. Notwithstanding the foregoing, the Debtor, the Reorganized Debtor or the Plan Sponsor is authorized to execute any lien release or similar document(s) required to implement the Plan.

(iii) Cancellation of Equity Interests. On the Effective Date, all existing Equity Interests of Debtor shall be retired, cancelled, extinguished and/or discharged in accordance with the terms of the Plan. Except as otherwise provided in the Plan or the Plan Supplement, on the Effective Date: (1) the obligations of the Debtor under any certificate, share, note, bond, indenture, purchase right, option, warrant, or other instrument or document, directly or indirectly, evidencing or creating any indebtedness or obligation of or ownership interest in the Debtor giving rise to any Claim or Equity Interest shall be cancelled as to the Debtor and the Reorganized Debtor shall not have any continuing obligations thereunder and (2) the obligations of the Debtor pursuant, relating, or pertaining to any agreements, indentures, certificates of designation, bylaws, or certificate or articles of incorporation or similar documents governing the shares, certificates, notes, bonds, purchase rights, options, warrants or other instruments or documents evidencing or creating any indebtedness or obligation of the Debtor shall be released and discharged.

(iv) Issuance of New Equity of Reorganized Debtor. On the Effective Date, 1,000 shares of New Equity of the Reorganized Debtor, representing 100% of the equity of the Reorganized Debtor, shall be issued to the Plan Sponsor or an affiliate, in consideration for the Consideration and, to the DIP Lender, to the extent that it exercises the Subscription Option. The New Equity

shall be free and clear of all Liens, Claims, interests, and encumbrances of any kind, except as otherwise provided in the Plan. All the shares of the New Equity issued pursuant to the Plan shall be duly authorized, validly issued, fully paid, and non-assessable. On the Effective Date, none of the New Equity will be listed on a national securities exchange. The Reorganized Debtor may take all necessary actions, if applicable, after the Effective Date to suspend any requirement to (i) be a reporting company under the Securities Exchange Act, and (ii) file reports with the Securities and Exchange Commission or any other entity or party.

(v) Formation of Hardware NewCo and Contributions to Hardware NewCo. On or before the Effective Date, the Debtor shall form Hardware NewCo. On the Effective Date, in furtherance of the Secured Lenders Recovery, a total of 20,000,000 shares of Hardware NewCo Equity shall be issued to the Secured Noteholders (and, if GII exercises the GII Election Option, GII), free and clear of all Liens, Claims, interests, and encumbrances of any kind, (except as otherwise provided in the Plan). All the shares of the Hardware NewCo Equity issued pursuant to the Plan shall be duly authorized, validly issued, fully paid, and non-assessable. On the Effective Date, none of the shares of the Hardware NewCo Equity will be listed on a national securities exchange. On the Effective Date, the Debtor shall contribute and assign (or, in the case of Hardware Assets that are executory contracts or unexpired leases, assume and assign) the Hardware Assets, including without limitation, the Hardware Rights of Action but excluding the Remaining Cash, to Hardware NewCo, and the Plan Sponsor shall pay the Remaining Cash to Hardware NewCo, all for the benefit of the Secured Noteholders (and, if GII exercises the GII Election Option, GII); on the Effective Date, the Reorganized Debtor and Hardware NewCo shall execute the Software License and Reseller Agreement. On the Effective Date, the Debtor shall wire the Employee Vacation Cash Reserve to Hardware NewCo and the Cash-on-Hand to the Distribution Trust, provided, however, that if Cash-on-Hand on the Effective Date exceeds the Distribution Trust Plan Distribution Obligations such excess Cash-on-Hand shall be deemed to be a Hardware Asset and shall be transferred to Hardware NewCo and not the Distribution Trust on the Effective Date.

(vi) Funding of the Cash Consideration. On the Effective Date, the Plan Sponsor shall, as directed by the Debtor, wire the Cash Consideration as follows: (i) provided that GII has not exercised the GII Election Option, to GII in an amount equal to the GII Cash Recovery in payment in full of the GII Secured Claim, (ii) to the Distribution Trust in an amount equal to the Distribution Trust Plan Distribution Obligations less Cash-on-Hand; and (iii) to Hardware NewCo an amount equal to the Remaining Cash. Plan Sponsor shall be entitled to rely on the accuracy and correctness of the directions of the Debtor in connection with the foregoing wire transfers. In no event shall Plan Sponsor or the Reorganized Debtor be liable or responsible to the Debtor, the Distribution Trust or Hardware NewCo for any wire transfer made at the direction of the Debtor. The Distribution Trust and Hardware NewCo shall resolve any inaccuracy, discrepancy or dispute amongst themselves, including through a post-Closing adjustment. Funding of the Cash Consideration is not subject to any financing contingency. The Distribution Trust Assets shall be used by the Distribution Trust to fund all Distribution Trust Plan Distribution Obligations. To the extent any amount of Allowed DIP Lender Claim remains after the DIP Lender exercises the Subscription Option, the remainder of its Allowed DIP Lender Claim shall be repaid in Cash funded and paid by the Plan Sponsor on the Effective Date, separately and in addition to the Consideration on the Effective Date, or reduced on a dollar-for-dollar basis by agreement between

the DIP Lender and the Plan Sponsor. For the avoidance of doubt, in no event will the DIP Lender's exercise of the Subscription Option reduce the amount of the Consideration paid by Plan Sponsor.

(vii) Execution and Ratification of the Distribution Trust Agreement. On the Effective Date, the Distribution Trust Agreement shall be executed by all parties thereto. The Distribution Trust Agreement shall be provided in the Plan Supplement. Each holder of a Claim shall be deemed to have ratified and become bound by the terms and conditions of the Distribution Trust Agreement.

(viii) Transfer of Distribution Trust Assets. All property of the Debtor constituting the Distribution Trust Assets shall be conveyed and transferred by the Debtor to the Distribution Trust, free and clear of all Liens, Claims, Equity Interests, and encumbrances. Any funds remaining in the Distribution Trust after completion of all distributions under the Distribution Trust Agreement shall be assigned and transferred to Hardware NewCo.

(ix) Abandonment of Abandoned Assets. Any Abandoned Assets shall be deemed abandoned as of the Effective Date pursuant to Bankruptcy Code section 554 without further order of the Bankruptcy Court. The filing of this Plan shall constitute the filing of a motion to abandon pursuant to 11 U.S.C. § 554 and relinquish the Abandoned Assets. Entry of the Confirmation Order shall constitute (i) approval, pursuant to Bankruptcy Code section 554, of the abandonment of the Abandoned Assets and (ii) authorization to relinquish any interest the Debtor holds in the Abandoned Assets.

(e) Tax Treatment of the Distribution Trust

The Distribution Trust established under the Plan is established for the purpose of making Distributions to holders of Allowed Claims from the Distribution Trust Assets transferred to the Distribution Trust (or from the proceeds of such Distribution Trust Assets, as applicable) and performing related and incidental functions referenced in the Distribution Trust Agreement. The Distribution Trust shall have no objective of continuing or engaging in any trade or business except to the extent reasonably necessary to, and consistent with, the liquidating purpose of the trust. The purpose of the Distribution Trust is to distribute the Distribution Trust Assets with respect to the Distribution Trust Plan Distribution Obligations and remit any balance to Hardware NewCo. Other than distributions with respect to the Distribution Trust Plan Distribution Obligations, no business activities will be conducted by the Distribution Trust. It is intended that the Distribution Trust be classified for federal income tax purposes as a "liquidating trust" within the meaning of the Treasury Regulations Section 301.7701-4(d). All parties and Beneficiaries shall treat the transfers in trust described herein as transfers to the Beneficiaries for all purposes of the Internal Revenue Code of 1986, as amended (including Sections 61(a)(12), 483, 1001, 1012, and 1274 thereof). All the parties and Beneficiaries shall treat the transfers in trust as if the Distribution Trust Assets had been first transferred to the Beneficiaries and then transferred by the Beneficiaries to the Distribution Trust. The Beneficiaries shall be treated for all purposes of the Internal Revenue Code of 1986, as amended, as the grantors of the Distribution Trust and the owners of the Distribution Trust. The Distribution Trustee shall file returns for the Distribution Trust as a grantor trust pursuant to Treasury Regulations Section 1.671-4(a) or (b). Beneficiaries may wish to consult

with a tax professional regarding the tax consequences of holding a Beneficial Interest in or receiving a Distribution from the Distribution Trust.

(f) Preservation of Rights of Action

Unless any Rights of Action against a Person are expressly waived, relinquished, exculpated, released, compromised, transferred or settled in the Plan or by a Final Order, in accordance with section 1123(b) of the Bankruptcy Code, the Reorganized Debtor subject to the following proviso, shall retain and may enforce all rights to commence and pursue any and all Rights of Action; provided that, on the Effective Date, Hardware NewCo shall be assigned, and only it may thereafter enforce, all Hardware Rights of Action and the rights to commence and pursue any and all Hardware Rights of Action, except as otherwise provided in the definition of Hardware Rights of Action. Subject to the foregoing, the Reorganized Debtor's and Hardware NewCo's respective rights to commence, prosecute or settle such Rights of Action shall be preserved notwithstanding the occurrence of the Effective Date. Hardware NewCo shall be the sole beneficiary of any contested matters, claims objections, proceedings or similar actions in connection with the Hardware Rights of Action, and the Reorganized Debtor shall be the sole beneficiary of any other contested matters, claim objections, proceeding or similar actions in connection with all other Rights of Action. For the avoidance of doubt, and notwithstanding anything to the contrary in Section 7.1 of the Plan, (a) the Reorganized Debtor shall retain and shall have the exclusive right to enforce any and all of the Debtor's Rights of Action arising from or related to the Software Assets, (b) Rights of Action that are claims and causes of action under chapter 5 of the Bankruptcy Code (including, without limitation, claims related to Eligible Accounts Receivable and claims for turnover of Cash of the Debtor being held in escrow or on deposit by third parties) shall be deemed to be Hardware Rights of Action, except to the extent that such claims and causes of action specifically relate to or arise from the Software Assets, and (c) Claims and Causes of Action under chapter 5 of the Bankruptcy Code against GII and the Secured Noteholders, if any, that have not been expressly waived, relinquished, exculpated, released, compromised, transferred or settled by a Final Order prior to the Effective Date shall be released on the Effective Date.

(g) Vesting of Property in Reorganized Debtor and Hardware NewCo.

On the Effective Date, except as otherwise expressly provided in the Plan or Confirmation Order, all Estate Property, other than the Distribution Trust Assets, the Hardware Assets, the Hardware Rights of Action, and the Abandoned Assets, shall vest in the Reorganized Debtor free and clear of all Liens, Claims, interests, and encumbrances of any kind, except as otherwise provided in the Plan. On the Effective Date, except as otherwise expressly provided in the Plan or Confirmation Order, the Hardware Assets and the Hardware Rights of Action shall vest in Hardware NewCo free and clear of all Liens, Claims, interests, and encumbrances of any kind, except as otherwise provided in the Plan. Moreover, pursuant to Bankruptcy Code section 1141(d), the effect of confirmation of the Plan shall be to discharge the Debtor from any debt that arose before the Effective Date, and any debt of a kind specified in Bankruptcy Code sections 502(g), 502(h), or 502(i).

Neither the issuance of New Equity or Hardware NewCo equity nor transfer of assets through the Plan shall result in the Reorganized Debtor or Hardware NewCo (a) having any liability or responsibility for any Claim against or Equity Interest in the Debtor, the Debtor's estate, or Insider of the Debtor, or (b) having any liability or responsibility to the Debtor. Without limiting the effect or scope of the foregoing, and to the fullest extent permitted by applicable laws, neither the issuance of the New Equity or Hardware NewCo Equity nor transfer of assets contemplated in the Plan shall subject the Reorganized Debtor or Hardware NewCo, or their respective properties or assets or affiliates, successors, or assigns to any liability for Claims against the Debtor's interests in such assets by reason of such issuance of New Equity, Hardware NewCo Equity or transfer of assets under any applicable laws, including, without limitation, any successor liability.

On the Effective Date, except as otherwise provided in the Plan, the Reorganized Debtor and Hardware NewCo may operate their respective businesses and may use, acquire, or dispose of any and all Estate Property, without supervision of or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules.

(h) Tax Exemption

The Plan and the Confirmation Order provide for (a) the issuance, transfer or exchange of notes, debt instruments and equity securities under or in connection with the Plan; (b) the creation, assignment, recordation or perfection of any lien, pledge, other security interest or other instruments of transfer; (c) the making or assignment of any lease; (d) the creation, execution and delivery of any agreements or other documents creating or evidencing the formation of the Reorganized Debtor or the issuance or ownership of any interest in the Reorganized Debtor; or (e) the making or delivery of any deed or other instrument of transfer under the Plan in connection with the vesting of the Estate's assets in the Reorganized Debtor or the Distribution Trust pursuant to or in connection with the Plan, including, without limitation, merger agreements, stock purchase agreement, agreements of consolidation, restructuring, disposition, liquidation or dissolution, and transfers of tangible property. Pursuant to section 1146 of the Bankruptcy Code and the Plan, any such act described or contemplated herein will not be subject to any stamp tax, transfer tax, filing or recording tax, or other similar tax.

(i) No Successor Liability

Pursuant to Bankruptcy Code section 1141 and Article X of the Plan, the property of the Debtor's estate shall vest in the Reorganized Debtor and Hardware NewCo, as applicable, free and clear of all claims and interests of creditors and equity holders of the Debtor. Moreover, pursuant to Bankruptcy Code section 1141(d), the effect of confirmation of the Plan shall be to discharge the Debtor from any debt that arose before the Effective Date, and any debt of a kind specified in Bankruptcy Code sections 502(g), 502(h), or 502(i).

The issuance of New Equity or Hardware NewCo Equity through the Plan shall not result in ESW, Hardware NewCo or the Reorganized Debtor (a) having any liability or responsibility for any Claim against or Equity Interest in the Debtor, the Debtor's estate, or Insider of the Debtor, or (b) having any liability or responsibility to the Debtor. Without limiting the effect or scope of the

foregoing, and to the fullest extent permitted by applicable laws, neither the issuance of the New Equity, Hardware NewCo Equity nor transfer of assets contemplated in the Plan shall subject the Reorganized Debtor or Hardware NewCo, or any of their properties or assets or affiliates, successors, or assigns to any liability for Claims against the Debtor's interests in such assets by reason of such issuance of New Equity, Hardware NewCo Equity or transfer of assets under any applicable laws, including, without limitation, any successor liability.

4.5 Treatment of Executory Contracts and Unexpired Leases

(a) Assumption of Executory Contracts

On the Effective Date, and subject to Section 8.3 of the Plan, all Executory Contracts identified on the Schedule of Assumed Contracts and Unexpired Leases, to be attached to the Plan as Exhibit B, shall be deemed (i) assumed by the Reorganized Debtor or (ii) assumed by the Debtor and assigned to Hardware NewCo, as the case may be. The Debtor (with the consent of the Investor as to Hardware Contracts or Leases or the Plan Sponsor with respect to Reorganized Debtor Contracts or Leases) may amend the Schedule of Assumed Contracts and Unexpired Leases at any time prior to the Effective Date. Entry of the Confirmation Order shall constitute approval of the assumption and/or assignment of such Executory Contracts under sections 365 and 1123 of the Bankruptcy Code.

(b) Rejection of Executory Contracts

All Executory Contracts not identified on the Schedule of Assumed Contracts and Unexpired Leases (or assumed by the Debtor previously) shall be deemed rejected on the Effective Date. Entry of the Confirmation Order shall constitute approval of such rejections under sections 365 and 1123 of the Bankruptcy Code. Notwithstanding the rejection of an Executory Contract, the terms of any confidentiality agreement or covenant not to compete contained therein shall survive and remain in full force and effect for the term thereof.

The Debtor will assume and assign the existing 401(k) Plan to Hardware NewCo. The Reorganized Debtor will not assume, any employment, severance, bonus, incentive, commission, compensation or similar agreement or plan, including the 401(k) (or any agreement outside the ordinary course of business) with any employees, officers or directors. Any employee handbook or policy manual, if any, shall, immediately upon the Effective Date, be terminated without any action of the Debtor, the Reorganized Debtor or the Plan Sponsor and shall be deemed rejected as of the Effective Date.

On the Effective Date, any and all equity-based incentive plans or stock ownership plans of the Debtor, including all agreements related thereto, entered into before the Effective Date, or other plans, agreements or documents giving rise to Equity Interests, including the contingent cash components of any such plans, agreements, or documents, shall be immediately terminated without any action of the Debtor, the Reorganized Debtor or the Plan Sponsor. To the extent such plans, agreements or documents are considered to be Executory Contracts, such plans, agreements or documents shall be deemed to be, and shall be treated as though they are, Executory Contracts that are rejected pursuant to section 365 of the Bankruptcy Code under the Plan. From and after the Effective Date, all warrants, stock options and other equity awards outstanding or issued at such

time, whether included in a warrant, plan, contract, agreement or otherwise, will have no value, shall be cancelled and extinguished and thus will not entitle any holder thereof to purchase or otherwise acquire any equity interests in the Reorganized Debtor.

(c) Procedures Related to Assumption of Executory Contracts and Unexpired Leases

i) Establishment of Cure Claim Amounts

The Cure Amounts associated with the assumption of the Executory Contracts pursuant to Section 8.1 of the Plan are specified in the Schedule of Assumed Contracts and Unexpired Leases. The Debtor shall serve counterparties to the Executory Contracts with a Notice of (I) Possible Assumption of Contracts and Leases, (II) Fixing of Cure Amounts, and (III) Deadline to Object Thereto (the “Cure Notice”). The Debtor and the Plan Sponsor reserve the right to amend or supplement the Cure Notice.

Any Objection to Cure Notice including (i) an objection to the applicable Cure Amount (a “Cure Objection”) and (ii) an objection to the adequate assurance of future performance (a “Adequate Assurance Objection”) to be provided by the (x) Plan Sponsor on behalf of the Reorganized Debtor or (y) Hardware NewCo, as the case may be, must be in writing, filed with the Bankruptcy Court, and served upon (a) the Debtor, (b) counsel to the Debtor, (c) counsel to the Plan Sponsor, and (d) the U.S. Trustee, by no later than September 11, 2020 (the “Objection Deadline”). The objection must set forth the specific default alleged under the applicable Executory Contract and claim a specific monetary amount that differs from the applicable Cure Amount, if any, and/or further information required of the Reorganized Debtor or Hardware NewCo, as the case may be, with respect to adequate assurance of future performance.

If no Cure Objection or Adequate Assurance Objection is received by the Objection Deadline to an Executory Contract, then the assumption and/or assignment of such Executory Contract shall be authorized pursuant to sections 365 and 1123 of the Bankruptcy Code and the applicable Cure Amount, if any, shall be binding upon the non-Debtor counterparty to such Executory Contract for all purposes and shall constitute a final determination of the Cure Amount required to be paid to such Executory Contract counterparty, and such Executory Contract counterparty shall be deemed to have waived its right to object to, contest, condition, or otherwise restrict the assumption and/or assignment of such Executory Contract (including, without limitation, from asserting any additional cure or other amounts with respect to the Executory Contract arising prior to such assumption and/or assignment). Furthermore, upon the assumption and/or assignment of such Executory Contract, the Reorganized Debtor or Hardware NewCo, as the case may be, shall enjoy all of the Debtor’s rights and benefits thereunder without the necessity of obtaining any party’s written consent to the Debtor’s assumption and/or assignment of such rights and benefits.

ii) Objection to Disputed Cure Amounts

The Plan Sponsor shall have the right to examine any Objection to Cure Amount filed by any party, and shall have the right to object to and contest the Disputed Cure Amount asserted therein.

If an objection to a Disputed Cure Amount has not been resolved by the Bankruptcy Court or agreement of the parties by the Effective Date, the Executory Contract related to such Disputed Cure Amount shall be deemed assumed by the Reorganized Debtor and/or assigned to Hardware NewCo, as the case may be, effective on the Effective Date; provided, however, the Reorganized Debtor or Hardware NewCo, as appropriate, may revoke an assumption and/or assignment of any such Executory Contract within ten (10) days after entry of an order by the Bankruptcy Court adjudicating the objection to the Disputed Cure Amount related to the Executory Contract by filing a notice of such revocation with the Bankruptcy Court and serving a copy on the party(ies) whose Executory Contract is rejected. Any Executory Contract identified in a revocation notice shall be deemed rejected retroactively to the Effective Date. As provided in the Plan, any Allowed Cure Amount in excess of (i) the Reorganized Debtor Cure Cap shall be paid by the Plan Sponsor, and shall not reduce the Plan Consideration payable by Plan Sponsor or result in a reduction of the Remaining Cash Requirement; and (ii) the Hardware Cure Cap shall be paid from the Consideration, and shall result in a dollar-for-dollar reduction of the Remaining Cash Requirement, provided, however that as to this subsection (ii), the following provisions shall apply: (1) the Debtor shall not, without the consent of the Investor, seek to assume Hardware Contracts or Leases whose Cure Amounts if Allowed would, in the aggregate, exceed the Hardware Cure Cap; and (2) to the extent that the Debtor seeks to assume Hardware Contracts or Leases that are the subject of a Disputed Cure Amount and the Allowed Cure Amount for such Hardware Contract or Leases would cause the Hardware Cure Cap to be exceeded, the Debtor, at the direction of the Investor, shall issue a notice of revocation for those Hardware Contracts or Leases selected by the Debtor (with the consent of the Investor) whose Allowed Cure Amounts, in combination with other Allowed Cure Amounts, would cause the Hardware Cure Cap to be exceeded.

iii) Payment of Cure Amounts

Within ten (10) Business Days after the Effective Date, the Distribution Trustee shall pay all Cure Amounts related to Executory Contracts listed on the Cure Notice, other than Disputed Cure Amounts, from out of the Consideration.

Subject to Section 8.3(b) of the Plan, the Distribution Trustee shall pay all Cure Amounts that are subject to an objection on the later of (i) within ten (10) Business Days after the Effective Date or (ii) within ten (10) Business Days after entry of an order by the Bankruptcy Court resolving the objection or approving an agreement between the parties concerning the Cure Amount.

iv) No Admission of Liability

Neither the inclusion nor exclusion of any Executory Contract by the Debtor and the Plan Sponsor on the Cure Notice, nor anything contained in the Plan, shall constitute an admission by

the Debtor or the Plan Sponsor that any such contract or unexpired lease is in fact an Executory Contract or that the Debtor has any liability thereunder.

v) Reservation of Rights

Nothing in the Plan shall waive, excuse, limit, diminish, or otherwise alter any of the defenses, claims, causes of action, or other rights of the Debtor under any executory or non-executory contract or any unexpired or expired lease, nor shall any provision of the Plan increase, augment, or add to any of the duties, obligations, responsibilities, or liabilities of the Debtor or Hardware NewCo under any such contract or lease.

(d) Rejection Claim

Each Claim resulting from the rejection of an Executory Contract, pursuant to Section 8.2 of the Plan, shall be filed with the Bankruptcy Court no later than the Rejection Claim Bar Date; provided, however, any party whose Executory Contract is rejected pursuant to a revocation notice, pursuant to Section 8.3(b) of the Plan, may file a rejection damage Claim arising out of such rejection within thirty (30) days after the filing of the revocation notice with the Bankruptcy Court. Any Claim resulting from the rejection of an Executory Contract not filed by the applicable deadline shall be discharged and forever barred, and shall not be entitled to any Distributions under the Plan. The Distribution Trustee shall have the right to object to any rejection damage Claim.

(e) Indemnification Obligations

Any obligation or agreement of the Debtor to indemnify, reimburse, or limit the liability of any Person, including any officer or director of the Debtor, or any agent, professional, financial advisor, or underwriter of any securities issued by the Debtor, relating to any acts or omissions occurring before the Effective Date, whether arising pursuant to charter, bylaws, contract or applicable state law, shall be deemed to be, and shall be treated as, a General Unsecured Claim and/or Executory Contract and shall be deemed to be rejected, canceled, and discharged pursuant to the Plan as of the Effective Date and any and all Claims resulting from such obligations are disallowed under section 502(e) of the Bankruptcy Code or other applicable grounds, including section 502(d), or if any court of applicable jurisdiction rules to the contrary, such Claim shall be estimated pursuant to section 502(c) of the Bankruptcy Code in the amount of \$0 or such other amount as the Bankruptcy Court shall determine.

4.6 Provisions Governing Distributions of Property

(a) Distribution Procedures Regarding Allowed Claims

(i) In General. The Distribution Trustee shall make all Distributions on account of Allowed Claims to be made by the Distribution Trust. For the avoidance of doubt, the Distribution Trustee shall not be responsible to pay or make, as applicable, the GII Cash Recovery to GII, the transfer of the Hardware Assets to Hardware NewCo, or the distribution of the Hardware NewCo Equity to the Secured Noteholders (and, if GII exercises the GII Election Option, the holder of the GII Senior Secured Claim) based on their Pro Rata Share.

(ii) Distributions on Allowed Claims Only. Distributions from Available Cash shall be made only to the holders of Allowed Claims. Unless and until a Disputed Claim becomes an Allowed Claim, the holder of that Disputed Claim shall not receive a Distribution from Available Cash. For the avoidance of doubt, no Distributions shall be made to holders of Allowed Equity Interests.

(iii) Place and Manner of Payments of Distributions. Except as otherwise specified in the Plan, Distributions from Available Cash shall be made by mailing such Distribution to the Creditor at the address listed in any proof of claim filed by the Creditor or at such other address as such Creditor shall have specified for payment purposes in a written notice received by the Distribution Trustee at least twenty (20) days before a Distribution Date. If a Creditor has not filed a proof of claim or sent the Distribution Trustee a written notice of payment address, then the Distribution(s) for such Creditor will be mailed to the address identified in the Schedules of Assets and Liabilities. The Distribution Trustee shall distribute any Cash by wire, check, or such other method as it deems appropriate under the circumstances. Before receiving any Distributions, all Creditors, at the request of the Distribution Trustee, must provide written notification of their respective Federal Tax Identification Numbers or Social Security Numbers to the Distribution Trustee; otherwise, the Distribution Trustee may suspend Distributions to any Creditors who have not provided their Federal Tax Identification Numbers or Social Security Numbers.

(iv) Undeliverable Distributions. If a Distribution made from Available Cash to any Creditor is returned as undeliverable, the Distribution Trustee shall use reasonable efforts to determine the then current address for such Creditor. If the Distribution Trustee cannot determine, or is not notified of, a then current address for such Creditor within six (6) months after the Effective Date, the Distribution reserved for such Creditor shall be deemed an unclaimed Distribution, and Section 7.5(e) of the Plan shall be applicable thereto.

(v) Unclaimed Distributions. If the current address for a Creditor entitled to a Distribution from Available Cash on account of an Allowed Claim under the Plan has not been determined or such Creditor has otherwise not been located within six months after the Effective Date or a Creditor has not submitted a valid Federal Tax Identification Number or Social Security Number to the Distribution Trustee within three months after the Distribution Trustee made a request therefor, then in each case such Creditor shall forfeit the Distribution on the Claim and any amounts to which the Creditor would have otherwise been entitled shall become Available Cash to pay other Allowed Claims.

(vi) Withholding. The Distribution Trustee may, but shall not be required to, at any time withhold from a Distribution from Available Cash to any Person (except the Internal Revenue Service) amounts sufficient to pay any tax or other charge that has been or may be imposed on such Person with respect to the amount distributable or to be distributed under the income tax laws of the United States or of any state or political subdivision or entity by reason of any

Distribution provided for in the Plan, whenever such withholding is determined by the Distribution Trustee (in its sole discretion) to be required by any law, regulation, rule, ruling, directive, or other governmental requirement. The Distribution Trustee, in the exercise of its sole discretion and judgment, may enter into agreements with taxing or other authorities for the payment of such amounts that may be withheld in accordance with the provisions of this section.

(b) Dissolution

(i) The Distribution Trustee shall be discharged and Distribution Trust shall be dissolved at such time as all of the Distribution Trust Assets have been liquidated and distributed pursuant to the Plan and the Distribution Trust Agreement; provided, however, that in no event shall the Distribution Trust be dissolved later than three (3) years from the creation of the Distribution Trust unless the Bankruptcy Court, upon motion within the six-month period prior to the third (3rd) anniversary (or within the six-month period prior to the end of an extension period), determines that a fixed period extension is necessary to facilitate or complete the liquidation of the Distribution Trust Assets. Such extensions in aggregate shall not exceed three (3) years without a favorable private letter ruling from the Internal Revenue Service or an opinion of counsel satisfactory to the Distribution Trustee that any further extension would not adversely affect the status of the trust as a liquidating trust for United States federal income tax purposes)

(ii) If at any time the Distribution Trustee determines, in reliance upon such professionals as a Distribution Trustee may retain, that the expense of administering the Distribution Trust so as to make a final distribution to Distribution Trust Beneficiaries is likely to exceed the value of the assets remaining in the Distribution Trust, the Distribution Trustee may (i) reserve any amount necessary to dissolve the Distribution Trust, (ii) donate any balance to a charitable organization (A) described in section 501(c)(3) of the Internal Revenue Code, (B) exempt from United States federal income tax under section 501(a) of the Internal Revenue Code, (C) not a “private foundation,” as defined in section 509(a) of the Internal Revenue Code, and (D) that is unrelated to the Debtor, the Distribution Trust, and any insider of the Distribution Trustee, and (iii) dissolve the Distribution Trust.

(c) Procedures Regarding Distributions from the Distribution Trust.

Procedures regarding Distributions from the Distribution Trust shall be governed by the Distribution Trust Agreement.

4.7 Procedures for Resolution of Disputed Claims

(a) Right to Object to Claims

Notwithstanding anything to the contrary herein, subject to the terms and conditions set forth in the Distribution Trust Agreement, and notwithstanding any requirements that may be imposed pursuant to Bankruptcy Rule 9019, except insofar as a Claim is Allowed under the Plan on and after the Effective Date, the Distribution Trustee, with the consent of Hardware NewCo, shall have the authority, but not the obligation, to: (1) file, withdraw or litigate to judgment objections to and requests for estimation of Claims; (2) settle or compromise any Disputed Claim

without any further notice to or action, order or approval by the Bankruptcy Court; and (3) administer and adjust the Claims register to reflect any such settlements or compromises without any further notice to or action, order or approval by the Bankruptcy Court. The Distribution Trustee shall succeed to any pending objections to Claims filed by the Debtor prior to the Effective Date, and shall have and retain any and all rights and defenses the Debtor had immediately prior to the Effective Date with respect to any Disputed Claim. The Reorganized Debtor and Hardware NewCo shall provide commercially reasonable assistance and cooperation to the Distribution Trustee, at the Distribution Trustee's cost, in connection with the Distribution Trustee's prosecution of objections to Claims, including, without limitation, reasonable access to the books and records of the Debtor, the Reorganized Debtor and Hardware NewCo (as the case may be) and other information reasonably requested by the Distribution Trustee to enable the Distribution Trustee to perform its obligations under the Distribution Trust Agreement; provided that the Distribution Trustee will keep all such information confidential and will not disclose any information provided by the Reorganized Debtor or Hardware NewCo without express written consent of the Reorganized Debtor. Further, notwithstanding anything to the contrary, no provision by the Reorganized Debtor or Hardware NewCo of any privileged or confidential information to the Distribution Trustee shall result in the waiver of any privilege, confidentiality or other protections held by the Reorganized Debtor or Hardware NewCo. The Distribution Trustee will cooperate fully with the Reorganized Debtor and Hardware NewCo in preserving privilege and confidentiality of any information provided by the Reorganized Debtor or Hardware NewCo to the Distribution Trustee. Notwithstanding the foregoing, nothing herein shall impose upon or require the Reorganized Debtor or Hardware NewCo to preserve or maintain the Debtor's books and records for any purpose beyond twelve months following the Effective Date unless the Distribution Trustee notifies the Reorganized Debtor or Hardware NewCo in writing before that time that the Distribution Trustee has no further need to have access to such books and records, in which case the Distribution Trust shall bear the costs of such preservation and/or maintenance.

(b) Deadline for Objecting to Claims

Objections to Claims must be filed with the Bankruptcy Court, and a copy of the objection must be served on the subject Creditor before the expiration of the Claim Objection Deadline (unless such period is further extended by subsequent orders of the Bankruptcy Court); otherwise such Claims shall be deemed Allowed in accordance with section 502 of the Bankruptcy Code. The objection shall notify the Creditor of the deadline for responding to such objection.

(c) Deadline for Responding to Claim Objections

No later than seven (7) days prior to a hearing scheduled with respect to the objection to a Claim, or such other date as is indicated on such objection or the accompanying notice thereof, the Creditor whose Claim was objected to must file a written response to the objection with the Bankruptcy Court and serve a copy on the Distribution Trustee and Hardware NewCo. Failure to file a written response within the applicable deadline may cause the Bankruptcy Court to enter a default judgment against the non-responding Creditor or otherwise grant the relief requested in the claim objection.

(d) Right to Request Estimation of Claims

Pursuant to section 502(c) of the Bankruptcy Code, each of the Debtor, the Reorganized Debtor, Hardware NewCo and the Distribution Trustee may request estimation or liquidation of any Disputed Claim that is contingent, disputed or unliquidated or any Disputed Claim arising from a right to an equitable remedy or breach of performance. The amount reserved for any Disputed or undetermined General Unsecured Claims shall not exceed such Claim's Pro Rata Share of the GUC Recovery.

4.8 Injunctions, Releases, and Discharge

(a) Discharge and Release

The Plan contains a release of the Debtor which provides:

To the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code, except as otherwise expressly provided by the Plan or the Confirmation Order, all Distributions under the Plan will be in exchange for, and in complete satisfaction, settlement, discharge, and release of, all Claims and causes of action, whether known or unknown, including any interest accrued on such Claims from and after the Petition Date, against, liabilities of, Liens on, obligations of, rights against, and Equity Interests in, the Debtor or any of its assets or properties, and regardless of whether any property will have been distributed or retained pursuant to the Plan on account of such Claims or Equity Interests. Except as otherwise expressly provided by the Plan or the Confirmation Order, upon the Effective Date, the Debtor and its estate will be deemed discharged and released under and to the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code from any and all Claims and Equity Interests of any kind or nature whatsoever, including, but not limited to, demands and liabilities that arose before the Confirmation Date, and all debts of the kind specified in section 502(g), 502(h), or 502(i) of the Bankruptcy Code. The Confirmation Order shall be a judicial determination of the discharge of all Claims against, and Equity Interests in, the Debtor, subject to the occurrence of the Effective Date.

(b) Discharge Injunction

The Plan contains a discharge injunction which provides:

Except as otherwise expressly provided in the Plan, the discharge and releases set forth in Section 11.1 of the Plan shall also operate as an injunction permanently prohibiting and enjoining the commencement or continuation of any action or the employment of process with respect to, or any act to collect, recover from, or offset (a) any Claim discharged and released in Section 11.1 of the Plan, or (b) any cause of action, whether known or unknown, based on the same subject matter as any Claim discharged and released in Section 11.1 of the Plan. Except as otherwise expressly provided in the Plan, all Persons shall be precluded and forever barred from asserting against the Debtor and the Reorganized Debtor, their successors or assigns, or their assets, properties, or interests in property, any other or further Claims, or any other right to legal or equitable relief, regardless of whether such right can be reduced to a right to payment, based upon any act or omission, transaction, or other activity of any kind or nature that occurred prior to the Effective Date, whether or not the facts of or legal bases therefor were known or existed prior to the Effective Date.

(c) **Exculpation and Limitation of Liability**

The Plan contains an exculpation in favor of the Debtor and its representatives and professionals with respect to post-petition and pre-Effective Date acts which provides:

The Exculpated Parties will neither have nor incur any liability to any entity for any claims or causes of action arising on or after the Petition Date and prior to or on the Effective Date for any act taken or omitted to be taken in connection with, or related to formulating, negotiating, preparing, disseminating, implementing, administering, confirming or effecting the consummation of the Plan, the Disclosure Statement, or any other contract, instrument, release or other agreement or document created or entered into in connection with the Plan or any other prepetition or postpetition act taken or omitted to be taken in connection with or in contemplation of the restructuring of the Debtor, the approval of the Disclosure Statement or confirmation or consummation of the Plan; provided, however, that the foregoing provisions will have no effect on the liability of any entity that results from any such act or omission that is determined in a Final Order of the Bankruptcy Court or other court of competent jurisdiction to have constituted gross negligence or willful misconduct; provided, further, that the Debtor will be entitled to rely upon the advice of counsel concerning their duties pursuant to, or in connection with, the above referenced documents, actions or inactions.

(d) **Releases by the Debtor**

The Plan contains the Debtor's release of the Released Parties which provides:

Notwithstanding anything to the contrary in the Plan or the Confirmation Order, effective as of the Effective Date, for good and valuable consideration provided by each of the Released Parties, the adequacy of which is hereby acknowledged and confirmed, the Debtor will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever provided a full discharge, waiver and release to the Released Parties and their respective related parties (and each such Released Party and their respective related parties so released shall be deemed forever released by the Debtor) and their respective properties from any and all claims that the Debtor or any of their respective related parties would have been legally entitled to assert in their own right, on their own behalf, or on behalf of another party, against the Released Parties or their respective related parties; provided, however, that the foregoing provisions of this release shall not operate to waive or release (i) the rights of the Debtor to enforce the Plan and the contracts, instruments, releases and other agreements or documents delivered under or in connection with the Plan or assumed pursuant to the Plan or assumed pursuant to final order of the Bankruptcy Court; and/or (ii) any defenses against a third party.

The foregoing release shall be effective as of the Effective Date without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person and the Confirmation Order will permanently enjoin the commencement or prosecution by any person, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action, or liabilities released pursuant to this release.

(e) **Releases by Third Parties**

The Plan also contains a release by third parties, including Creditors, in favor of the Reorganized Debtor, the Plan Sponsor, the DIP Lender, the Noteholders and their respective representatives, professionals and affiliates which provides:

To the extent allowed by applicable law, on, and as of, the Effective Date and for good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Debtor and the Released Parties shall be forever released from any and all claims, obligations, actions, suits, rights, debts, accounts, causes of action, remedies, avoidance actions, agreements, promises, damages, judgments, demands, defenses, or claims in respect of equitable subordination, and liabilities throughout the world under any law or court ruling through the Effective Date (including all claims based on or arising out of facts or circumstances that existed as of or prior to the Effective Date, including claims based on negligence or strict liability, and further including any derivative claims asserted on behalf of the Debtor, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity or otherwise, that the Debtor, its Estate, or the Reorganized Debtor would have been legally entitled by applicable law to assert in its own right, whether individually or collectively) which the Debtor, its Estate, the Reorganized Debtor, Creditors or other persons receiving or who are entitled to receive Distributions under the Plan may have against any of them in any way related to the Chapter 11 Case or the Debtor (or its predecessors); provided however that the foregoing release of the Released Parties is granted only by the (a) Creditors who are unimpaired, (b) Creditors who returned a Ballot and did not check the opt-out box on the Ballot, and (c) Creditors who were sent a solicitation package but did not vote and did not return a Ballot with the opt-out box checked; provided further, however that the release provided in Section 11.5 of the Plan shall not apply to any Creditor in category (c) above if the solicitation package was returned to the Debtor as undelivered, and that such Creditor did not otherwise file a ballot; and provided further, however, that the release provided in Section 11.5 of the Plan shall not extend to any claims by any Governmental Unit with respect to criminal liability under applicable law, willful misconduct or bad faith under applicable law, or *ultra vires* acts under applicable law.

With regard to all Released Parties, releases are appropriate for several reasons: (1) the Plan is expected to be overwhelmingly accepted by creditors; (2) each Released Party has made substantial contributions in exchange for the releases provided for its benefit under the Plan; (3) each Released Party shared an identity of interest in the common goal of confirmation of the Plan; and (4) the Debtor believes that the releases provided in the Plan are of little or no value to its estate as the Debtor does not believe that any claims exist against any Released Party at this time. ESW is entitled to releases under the Plan. As the Plan Sponsor, ESW has made substantial contributions to the Plan. Without ESW, the Plan would not be possible and ESW would not serve as Plan Sponsor.

4.9 Conditions to Confirmation and Effectiveness

(a) **Conditions to Confirmation**

The Confirmation Order will not be effective unless (a) the Confirmation Order shall be in form and substance acceptable to the Plan Sponsor, in its reasonable discretion, and, solely with respect to those issues materially impacting the economic treatment of its claims and/or the treatment of Hardware NewCo, acceptable to the Investor in its reasonable discretion, shall provide for the Plan Sponsor and the DIP Lender to acquire the New Equity subject to the Subscription Option, free and clear of all Liens, Claims, Equity Interests and encumbrances of any kind, except as otherwise provided in the Plan, (b) the final version of the Plan, Plan Supplement, and any other documents, or schedules thereto, shall have been filed in form and substance acceptable to the Plan Sponsor in its reasonable discretion, and solely with respect to issues materially impacting the economic treatment of its claims and/or treatment of Hardware NewCo, acceptable to the Investor in its reasonable discretion, and (c) no breach or failure to comply with the terms of the DIP Order, the DIP Note, the RSA, the Plan or any other material order of the Bankruptcy Court shall have occurred and be continuing.

(b) Conditions to Effectiveness

The Plan will not be effective unless (a) the conditions to confirmation above have been either satisfied, or waived, by the Plan Sponsor or, solely with respect to issues materially impacting the economic treatment of its claims and/or the treatment of Hardware NewCo, waived by the Investor in its reasonable discretion, (b) the Confirmation Order has become a Final Order, (c) no breach or failure to comply with the terms of the DIP Order, the DIP Note, the RSA, the Plan, the Confirmation Order or any other material order of the Bankruptcy Court shall have occurred and be continuing; (d) the Plan Sponsor and the DIP Lender shall acquire the New Equity subject to the Subscription Option, free and clear of all Liens, Claims, Equity Interests and encumbrances of any kind, except as otherwise provided in the Plan, (e) the Debtor has not caused, or as to Insiders, permitted to occur, from and after the Petition Date, (i) a Material Adverse Change with respect to the Debtor's Intellectual Property or (ii) an "ownership change" as such term is used in section 382 of title 26 of the United States Code and (f) the Remaining Cash to be paid to Hardware Newco on the Effective Date shall not be less than the Remaining Cash Requirement. The conditions to effectiveness set forth in subparagraphs (a) through (c) of this subsection 13.2 may be waived with the consent of the Debtor, the Plan Sponsor and the Investor; the conditions to effectiveness set forth in subparagraphs (d) through (e) of this subsection 13.2 may be waived by the Plan Sponsor, and the condition to effectiveness set forth in subparagraph (f) of this subsection 13.2 may be waived by the Investor.

4.10 Modification, Revocation or Withdrawal of the Plan

(a) Defects, Omissions, and Amendments of the Plan

The Debtor may, with the consent of the Plan Sponsor and the Investor, solely to the extent such amendment, modification or supplement would materially impact the recovery of the Investor under the Plan, and the approval of the Bankruptcy Court and without notice to other holders of Claims and Equity Interests, insofar as it does not materially and adversely affect holders of Claims and Equity Interests, correct any defect, omission, or inconsistency in the Plan in such a manner and to such extent necessary or desirable to expedite the execution of the Plan. The Debtor may, with the consent of the Plan Sponsor, and the Investor, solely to the extent such amendment, modification or supplement would materially impact the recovery of the Investor under the Plan,

propose amendments or alterations to the Plan before the Confirmation Hearing as provided in section 1127 of the Bankruptcy Code if, in the opinion of the Bankruptcy Court, the modification does not materially and adversely affect the interests of holders of Claims and Equity Interests, so long as the Plan, as modified, complies with sections 1122 and 1123 of the Bankruptcy Code and the Debtor has complied with section 1125 of the Bankruptcy Code. The Debtor may, with the consent of the Plan Sponsor, and the Investor, solely to the extent such amendment, modification or supplement would materially impact the recovery of the Investor under the Plan, propose amendments or alterations to the Plan after the Confirmation Date but prior to substantial consummation, in a manner that, in the opinion of the Bankruptcy Court, does not materially and adversely affect holders of Claims and Equity Interests, so long as the Plan, as modified, complies with sections 1122 and 1123 of the Bankruptcy Code, the Debtor has complied with section 1125 of the Bankruptcy Code, and after notice and a hearing, the Bankruptcy Court confirms such Plan, as modified, under section 1129 of the Bankruptcy Code.

(b) Withdrawal of the Plan

The Debtor reserves the right to withdraw the Plan, provided that the Plan Sponsor and the Investor consents, at any time prior to the Confirmation Date. If the Debtor withdraws the Plan prior to the Confirmation Date, or if the Confirmation Date does not occur by September 21, 2020, unless otherwise extended by mutual agreement of the Debtor, the Plan Sponsor and the Investor, or the Effective Date does not occur by October 2, 2020, unless otherwise extended by mutual agreement of the Debtor, the Plan Sponsor and the Investor, then the Plan shall be deemed null and void. In such event, nothing contained herein shall be deemed to constitute an admission, waiver or release of any claims by or against the Debtor or any other person, or to prejudice in any manner the rights of the Debtor, the Debtor's Estate, or any person in any further proceedings involving the Debtor. Notwithstanding the foregoing, this Section 13.6 shall be subject in all respects to the RSA. In the event of an ESW Termination Event (as defined in the RSA), ESW shall not be required to continue to act as Plan Sponsor under the Plan.

4.11 Retention of Jurisdiction

(a) Bankruptcy Court Jurisdiction

Notwithstanding the entry of the Confirmation Order or the occurrence of the Effective Date, the Bankruptcy Court shall retain and have such jurisdiction over the Chapter 11 Case to the maximum extent as is legally permissible, including, without limitation, for the following purposes:

- i. To allow, disallow, determine, liquidate, classify or establish the priority or secured or unsecured status of or estimate any Claim or Equity Interest, including, without limitation, the resolution of any request for payment of any Administrative Claim and the resolution of any and all objections to the allowance or priority of Claims or Equity Interests;
- ii. To ensure that Distributions to holders of Allowed Claims are accomplished pursuant to the provisions of the Plan;

iii. To determine any and all applications or motions pending before the Bankruptcy Court on the Effective Date of the Plan, including without limitation any motions for the rejection, assumption or assumption and assignment of any Executory Contract;

iv. To consider and approve any modification of the Plan, remedy any defect or omission, or reconcile any inconsistency in the Plan, or any order of the Bankruptcy Court, including the Confirmation Order;

v. To determine all controversies, suits and disputes that may arise in connection with the interpretation, enforcement or consummation of the Plan or any Plan Documents or any entity's obligations in connection with the Plan or any Plan Documents, or to defend any of the rights, benefits, Estate Property transferred, created, or otherwise provided or confirmed by the Plan or the Confirmation Order or to recover damages or other relief for violations thereof;

vi. To consider and act on the compromise and settlement of any claim or cause of action by or against the Debtor, the Estate, the Reorganized Debtor, Hardware NewCo, or the Distribution Trustee;

vii. To decide or resolve any and all applications, motions, adversary proceedings, contested or litigated matters, and any other matters, or grant or deny any applications involving the Debtor, or the Estate that may be pending on the Effective Date or that may be brought by the Debtor, the Reorganized Debtor, Hardware NewCo or the Distribution Trustee (as applicable), or any other related proceedings by the Reorganized Debtor, and to enter and enforce any default judgment on any of the foregoing;

viii. To decide or resolve any and all applications for compensation;

ix. To issue orders in aid of execution and implementation of the Plan or any Plan Documents to the extent authorized by section 1142 of the Bankruptcy Code or provided by the terms of the Plan;

x. To decide issues concerning the federal or state tax liability of the Debtor which may arise in connection with the confirmation or consummation of the Plan or any Plan Documents;

xi. To interpret and enforce any orders entered by the Bankruptcy Court in the Chapter 11 Case; and

xii. To enter an order closing this Chapter 11 Case when all matters contemplating the use of such retained jurisdiction have been resolved and satisfied.

(b) Limitations on Jurisdiction

In no event shall the provisions of the Plan be deemed to confer in the Bankruptcy Court jurisdiction greater than that established by the provisions of 28 U.S.C. §§ 157 and 1334, as well as the applicable circumstances that continue jurisdiction for defense and enforcement of the Plan

and Plan Documents. For the avoidance of doubt, however, such jurisdiction shall be deemed, by the entry of the Confirmation Order, to:

i. Permit entry of a final judgment by the Bankruptcy Court in any core proceeding referenced in 28 U.S.C. § 157(b) and to hear and resolve such proceedings in accordance with 28 U.S.C. § 157(c) and any and all related proceedings, including, without limitation, (i) all proceedings concerning disputes with, or Rights of Action or Claims against, any Person that the Debtor, the Estate, Hardware NewCo, the Distribution Trust or the Reorganized Debtor or any of their successors or assigns, may have, and (ii) any and all Rights of Action or other Claims against any Person for harm to or with respect to (x) any Estate Property, including any infringement of Intellectual Property or conversion of Estate Property, or (y) any Estate Property liened or transferred by the Debtor to any other Person;

ii. Include jurisdiction over the recovery of any Estate Property (or property transferred by the Debtor with Bankruptcy Court approval) from any Person wrongfully asserting ownership, possession or control of the same, whether pursuant to sections 542, 543, 549, 550 of the Bankruptcy Code or otherwise, as well as to punish any violation of the automatic stay under section 362 of the Bankruptcy Code or any other legal rights of the Debtor or the Estate under or related to the Bankruptcy Code; and

iii. Permit the taking of any default judgment against any Person who has submitted himself or herself to the jurisdiction of the Bankruptcy Court.

ARTICLE V. RISK FACTORS

A. Risks Related to Bankruptcy

1. Parties May Object to the Plan's Classification of Claims and Equity Interests

Bankruptcy Code section 1122 provides that a plan may place a claim or an interest in a particular class only if such claim or interest is substantially similar to the other claims or interests in such class. The Debtor believes that the classification of the Claims and Equity Interests under the Plan complies with the requirements set forth in the Bankruptcy Code because the Debtor created Classes of Claims and Equity Interests, each encompassing Claims or Equity Interests, as applicable, that are substantially similar to the other Claims or Equity Interests in each such Class. Nevertheless, there can be no assurance that the Bankruptcy Court will reach the same conclusion.

2. The Debtor May Not Be Able to Obtain Confirmation of the Plan

With regard to any proposed plan of reorganization, the Bankruptcy Court might not confirm the Plan as proposed if the Bankruptcy Court finds that any of the statutory requirements for confirmation under Bankruptcy Code section 1129 have not been met.

3. The Conditions Precedent to the Effective Date of the Plan May Not Occur

As more fully set forth in the Plan, the Effective Date is subject to certain conditions precedent. If such conditions precedent are not met or waived, the Effective Date will not occur.

4. Allowed Claims May Exceed Estimates

The projected distributions set forth in this Disclosure Statement are based upon, among other things, good faith estimates of the total amounts of Claims and Equity Interests that will ultimately be Allowed. The actual amount of Allowed Claims, could be materially greater than anticipated, which could impact the distributions to be made to holders of Claims .

B. Risks Related to Financial Information

The financial information contained in this Disclosure Statement has not been audited. In preparing this Disclosure Statement, the Debtor relied on financial data derived from the Debtor's books and records and schedules and statements that was available at the time of such preparation. Although the Debtor has used reasonable efforts to assure the accuracy of the financial information provided in this Disclosure Statement the Debtor is unable to warrant or represent that the financial information contained herein and attached hereto is without inaccuracies.

ARTICLE VI.
CONFIRMATION OF THE PLAN

A. The Confirmation Hearing

Bankruptcy Code section 1128(a) requires the Bankruptcy Court, after notice, to hold a hearing on Confirmation of the Plan. Bankruptcy Code section 1128(b) provides that any party in interest may object to Confirmation of the Plan.

Immediately after the Petition Date, the Debtor will file the Procedures Motion requesting, among other things, the Bankruptcy Court to schedule a Confirmation Hearing no later than thirty-five (35) days after the Petition Date. The hearing will be held before the United States Bankruptcy Judge assigned to the Chapter 11 Case in the United States Bankruptcy Court for the District of Delaware, 824 North Market Street, 6th Floor, Wilmington, Delaware 19801. The Confirmation Hearing may be adjourned from time to time without further notice except for an announcement of the adjourned date made at the Confirmation Hearing or any adjournment thereof.

Objections to Confirmation of the Plan must be filed and served as provided in the Procedures Order. **Unless objections to Confirmation of the Plan are timely served and filed in compliance with the Procedures Order, they may not be considered by the Bankruptcy Court.**

B. Requirements for Confirmation of the Plan

Among the requirements for the Confirmation of the Plan is that the Plan (i) is accepted by all Impaired Classes of Claims or Equity Interests, or, if rejected by an Impaired Class of Claims or Equity Interests, that the Plan “does not discriminate unfairly” and is “fair and equitable” as to such Impaired Class of Claims or Equity Interests; (ii) is feasible; and (iii) is in the “best interests” of Holders of Claims or Equity Interests.

At the Confirmation Hearing, the Bankruptcy Court will determine whether the Plan satisfies the requirements of Bankruptcy Code section 1129. The Debtor believes that: (i) the Plan satisfies or will satisfy all of the necessary statutory requirements of chapter 11 of the Bankruptcy Code; (ii) the Debtor has complied or will have complied with all of the necessary requirements of chapter 11 of the Bankruptcy Code; and (iii) the Plan has been proposed in good faith. Specifically, in addition to other applicable requirements, the Debtor believes that the Plan satisfies or will satisfy the following applicable Confirmation requirements of Bankruptcy Code section 1129:

- The Plan complies with the applicable provisions of the Bankruptcy Code.
- The Debtor, as a plan proponent, has complied with the applicable provisions of the Bankruptcy Code.
- The Plan has been proposed in good faith and not by any means forbidden by law.
- Any payment made or promised under the Plan for services or for costs and expenses in, or in connection with, the Chapter 11 Case, or in connection with the Plan and incident to the Chapter 11 Case, has been disclosed to the Bankruptcy Court, and any such payment: (1) made before the Confirmation of the Plan is reasonable; or (2) is subject to the approval of the Bankruptcy Court as reasonable, if it is to be fixed after Confirmation of the Plan.
- Either each holder of a Claim in an Impaired Class has accepted the Plan, or will receive or retain under the Plan on account of such Claim or Equity Interest property of a value, as of the Effective Date of the Plan, that is not less than the amount that such holder would receive or retain if the Debtor were liquidated on the Effective Date of the Plan under chapter 7 of the Bankruptcy Code.
- Each Class of Claims that is entitled to vote on the Plan will have accepted the Plan.
- Except to the extent a different treatment is agreed to, the Plan provides that all Administrative Claims and Allowed Priority Tax Claims will be paid in full on the Effective Date, or as soon thereafter as is reasonably practicable.
- At least one Class of Impaired Claims will have accepted the Plan, determined without including any acceptance of the Plan by any insider holding a Claim in that Class.

- Confirmation of the Plan is not likely to be followed by the liquidation or the need for further financial reorganization of the Debtor or any successors thereto.
- All accrued and unpaid fees of the type described in 28 U.S.C. § 1930, including the fees of the U.S. Trustee, will be paid as of the Effective Date.

C. Best Equity Interests of Creditors / Liquidation Analysis

To make these findings, the Bankruptcy Court must: (a) estimate the cash liquidation proceeds that a chapter 7 trustee would generate if the Chapter 11 Case was converted to a chapter 7 case on the Effective Date and the assets of the Debtor's Estate were liquidated; (b) determine the liquidation distribution that each non-accepting holder of a Claim or an Equity Interest would receive from such liquidation proceeds under the priority scheme dictated in chapter 7; and (c) compare the holder's liquidation distribution to the distribution under the Plan that the holder would receive if the Plan were confirmed and consummated.

As further support, the Debtor has attached hereto as Exhibit 2 a liquidation analysis prepared by its chief financial officer. Based on the foregoing and the liquidation analysis, the Debtor believes that holders of Claims will receive greater value as of the Effective Date under the Plan than such holders would receive in a chapter 7 liquidation.

D. Feasibility

Bankruptcy Code section 1129(a)(11) requires that confirmation of the plan is not likely to be followed by the liquidation, or the need for further financial reorganization of the Debtor, or any successor to the Debtor (unless such liquidation or reorganization is proposed in the plan). To determine whether the Plan meets this feasibility requirement, the Debtor and Plan Sponsor have analyzed the ability of the Reorganized Debtor to meet its obligations under the Plan. Further, as discussed herein, the Debtor and Plan Sponsor believe that the Reorganized Debtor will be viable following the Effective Date, and that the Plan therefore meets the feasibility requirements of the Bankruptcy Code. The Debtor shall present further information and evidence regarding feasibility as may be necessary in connection with Confirmation of the Plan. In any event, the Plan contemplates the funding of all Consideration by the Plan Sponsor on the Effective Date, and therefore creditor recoveries are not impacted by the Reorganized Debtor's post-Effective Date feasibility.

E. Acceptance by Impaired Classes

The Bankruptcy Code requires, as a condition to confirmation, that, except as described in the following section, each class of claims or interests that is impaired under a plan accept the plan. A class that is not "impaired" under a plan is deemed to have accepted the plan and, therefore, solicitation of acceptances with respect to such class is not required.

A class is "impaired" unless a plan: (a) leaves unaltered the legal, equitable and contractual rights to which the claim or the interest entitles the holder of such claim or interest; or (b) cures any default, reinstates the original terms of such obligation, compensates the holder for certain damages or losses, as applicable, and does not otherwise alter the legal, equitable or contractual rights to which such claim or interest entitles the holder of such claim or interest.

Bankruptcy Code section 1126(c) defines acceptance of a plan by a class of claims as acceptance by holders of at least two-thirds in dollar amount and more than one-half in number of allowed claims in that class, counting only those claims that actually voted to accept or reject the plan. Thus, a Class of impaired Claims will have voted to accept the Plan only if two-thirds in amount and a majority in number actually voting cast their Ballots in favor of acceptance. Here, Classes 1 and 4 are impaired under the Plan.

Bankruptcy Code section 1126(d) defines acceptance of a plan by a class of interests as acceptance by holders of such interests, other than any entity designated under subsection Bankruptcy Code section 1126(e), that hold at least two-thirds in amount of the allowed interests of such class held by holders of such interests, other than any entity designated under Bankruptcy Code section 1126(e), that have accepted or rejected such plan.

F. Confirmation Without Acceptance by All Impaired Classes

Bankruptcy Code Section 1129(b) allows a Bankruptcy Court to confirm a plan even if all impaired classes have not accepted it, provided that if there is an impaired class of claims, the plan has been accepted by at least one impaired class of claims, determined without including the acceptance of the plan by any insider. Notwithstanding an impaired class's rejection or deemed rejection of the plan, such plan will be confirmed, at the plan proponent's request, in a procedure commonly known as "cramdown," so long as the plan does not "discriminate unfairly" (as discussed below) and is "fair and equitable" (as discussed below) with respect to each class of claims or interests that is impaired under, and has not accepted, the plan.

To the extent that any impaired Class rejects the Plan or, as is the case with Classes 5 and 6 of the Plan, is deemed to have rejected the Plan, the Debtor shall request Confirmation of the Plan under Bankruptcy Code section 1129(b). The Debtor reserves the right to alter, amend, modify, revoke, or withdraw the Plan, the Plan Supplement, or any schedule or exhibit, including to amend or modify it to satisfy the requirements of Bankruptcy Code section 1129(b), if necessary, subject to the written approval of the Plan Sponsor.

1. No Unfair Discrimination

The "unfair discrimination" test applies to classes of claims or interests that reject or are deemed to have rejected a plan and that are of equal priority with another class of claims or interests that is receiving different treatment under such plan. The test does not require that the treatment of such classes of claims or interests be the same or equivalent, but that such treatment be "fair." In general, bankruptcy courts consider whether a plan discriminates unfairly in its treatment of classes of claims of equal rank (*e.g.*, classes of the same legal character). Bankruptcy courts will take into account a number of factors in determining whether a plan discriminates unfairly, and, accordingly, a plan could treat two classes of unsecured creditors differently without unfairly discriminating against either class. The Debtor submits that if the Debtor "crams down" the Plan pursuant to Bankruptcy Code section 1129(b), the Plan is structured such that it does not "discriminate unfairly" against any rejecting Class.

2. Fair and Equitable Test

The "fair and equitable" test applies to classes that reject or are deemed to have rejected a

plan and are of different priority and status vis-à-vis another class (*e.g.*, secured versus unsecured claims, or unsecured claims versus equity interests), and includes the general requirement that no class of claims receive more than 100% of the amount of the allowed claims in such class, including interest. As to the rejecting class, the test sets different standards depending upon the type of claims or interests in such rejecting class. The Debtor submits that if the Debtor “crams down” the Plan pursuant to Bankruptcy Code section 1129(b), the Plan is structured such that the applicable “fair and equitable” standards are met.

ARTICLE VII.
TAX CONSEQUENCES OF THE PLAN

THE FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN ARE COMPLEX. ALL HOLDERS OF CLAIMS AGAINST AND EQUITY INTERESTS IN THE DEBTOR SHOULD CONSULT WITH THEIR TAX ADVISORS AS TO THE PARTICULAR TAX CONSEQUENCES TO THEM OF THE TRANSACTIONS CONTEMPLATED BY THE PLAN, INCLUDING THE APPLICABILITY AND EFFECT OF ANY STATE, LOCAL OR FOREIGN TAX LAWS AND OF ANY CHANGE IN APPLICABLE TAX LAWS.

ARTICLE VIII. CERTAIN SECURITIES LAW MATTERS

A. In General

As provided in Section 13.4 of the Plan, the Debtor believes that the offering and issuance of any rights by any party, including without limitation ESW or the Estate, under, pursuant to or in effecting the Plan, including, without limitation, the New Equity in the Reorganized Debtor or Hardware NewCo Equity, shall be exempt from the registration requirements of Section 5 of the Securities Act of 1933 (the “Securities Act”), if applicable, and from any state or federal securities laws requiring registration for offer or sale of a security or registration or licensing of an issuer of, underwriter of, or broker or dealer in, a security, and shall otherwise enjoy all exemptions available for Distributions of securities under a plan of reorganization in accordance with all applicable law, including without limitation section 1145 of the Bankruptcy Code. If the issuance of the New Equity or Hardware NewCo Equity does not qualify for an exemption under section 1145 of the Bankruptcy Code, the New Equity or Hardware NewCo Equity, as the case may be, shall be issued in a manner which qualifies for any other available exemption from registration, whether as a private placement, pursuant to Section 4(2) of the Securities Act and/or safe harbor provisions promulgated thereunder, including Rule 506 under the Securities Act.

B. Distribution Trust Related Matters

1. Initial Issuance of Beneficial Interests

Unless an exemption is available, the offer and sale of a security generally is subject to registration with the United States Securities and Exchange Commission (the “SEC”) under Section 5 of the Securities Act of 1933, as amended (the “Securities Act”). In the opinion of the Debtor, and based on “no action” letters by the SEC, the Beneficial Interests will not be considered

“securities” within the definition of Section 2(11) of the Securities Act and corresponding definitions under state securities laws and regulations (“Blue Sky Laws”) because the Beneficial Interests will be uncertificated and non-transferable other than by operation of law. Accordingly, the Beneficial Interests should be issuable in accordance with the Plan without registration under the Securities Act or any Blue Sky Law.

Alternatively, in the event that the Beneficial Interests are deemed to constitute securities, Bankruptcy Code section 1145(a)(1) of the Bankruptcy Code exempts the offer and sale of securities under a plan of reorganization from registration under the Securities Act and Blue Sky Laws if three principal requirements are satisfied:

- A. the securities are offered and sold under a plan of reorganization and are securities of the debtor, of an affiliate of the debtor participating in a joint plan with the debtor, or of a successor to the debtor under the plan;
- B. the recipients of the securities hold a pre-petition or administrative claim against the debtor or an interest in the debtor; and
- C. the securities are issued entirely in exchange for recipient’s claim against or interest in the debtor, or principally in such exchange and partly for cash or property.

If and to the extent that the Beneficial Interests may constitute securities, the Debtor believes that these beneficial interests issued in respect of certain Allowed Claims will qualify as securities “of the debtor ... or of a successor to the debtor” pursuant to Bankruptcy Code section 1145(a)(1). In addition, the Beneficial Interests will be issued entirely in exchange for such Claims and Equity Interests. Thus, the Debtor believes that the issuance of the Beneficial Interests pursuant to the Plan will satisfy the applicable requirements of Bankruptcy Code section 1145(a)(1), and that such issuance should be exempt from registration under the Securities Act and any applicable Blue Sky Law.

The Debtor believes that their reliance upon the foregoing exemptions in respect of the issuance of the Beneficial Interests is consistent with positions taken by the SEC with respect to similar transactions and arrangements by other chapter 11 trustees. However, the Debtor has not sought any “no-action” letter by the SEC with respect to any such matters, and therefore no assurance can be given regarding the availability of any exemptions from registration with respect to any securities, if any, issued pursuant to the Plan.

2. Resales

The Beneficial Interests will be subject to transfer restrictions under the terms of the Distribution Trust Agreement. As provided in said agreement, generally, the Beneficial Interests cannot be assigned or transferred other than by operation of law, and will not be represented by certificates.

3. Exchange Act Compliance

Section 12(g) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), applies only to a company that has both (i) total assets in excess of \$10.0 million and (ii) a class of equity securities held of record by more than 2,000 persons or 500 persons who are not accredited investors (within 120 days after the last day of the company’s fiscal year). The Debtor believes it unlikely condition (i) will be deemed satisfied in respect to the Distribution Trust and Beneficial Interests, and in any event, the Distribution Trust should not be required to register under Section 12(g) of the Exchange Act. The Debtor understands that the staff of the SEC has issued no-action letters with respect to the non-necessity of Exchange Act registration of a bankruptcy plan trust when the following are true:

- A. the beneficial interests in the trust are not represented by certificates or, if they are, the certificates bear a legend stating that the certificates are transferable only upon death or by operation of law;
- B. the trust exists only to effect a liquidation and will terminate within a reasonable period of time; and
- C. the trust will issue annual unaudited financial information to all beneficiaries.

Based on the foregoing, the Debtor believes that the Distribution Trust will not be subject to registration under the Exchange Act. However, the views of the SEC on the matter have not been sought by the Debtor and, therefore, no assurance can be given regarding this matter.

4. Compliance if Required

Notwithstanding the preceding discussion, if the Distribution Trustee, in relation to the Distribution Trust, determines, with the advice of counsel, that the Distribution Trust is required to comply with the registration and reporting requirements of the Exchange Act, then prior to the registration of the Distribution Trust under the Exchange Act, the Distribution Trustee (subject to the terms of the Distribution Trust Agreement) will seek to amend the Distribution Trust Agreement, to make such changes as are deemed necessary or appropriate to ensure that the Distribution Trust is not subject to registration or reporting requirements of the Exchange Act. The Distribution Trust Agreement, as so amended, will be effective after notice and opportunity for a hearing, and the entry of an order of the Bankruptcy Court.

If the Distribution Trust Agreement, as amended, is not approved by the Bankruptcy Court or the Bankruptcy Court otherwise determines in a Final Order that registration under the Exchange Act (or any other related or similar federal laws) is required, then the Distribution Trustee will take such actions as may be required to satisfy the registration and reporting requirements of the Exchange Act (or any other related or similar federal laws).

ARTICLE IX. POSITION OF THE DEBTOR.

In the opinion of the Debtor, the Plan is preferable to the alternatives described in this Disclosure Statement because it provides for a larger distribution to Holders of Allowed Claims and Equity Interests than would otherwise result in a liquidation under chapter 7 of the Bankruptcy Code. In addition, any alternative other than confirmation of the Plan could result in extensive delays and increased administrative expenses resulting in smaller distributions to Holders of Allowed Claims and Equity Interests than proposed under the Plan.

Respectfully submitted,

PRYSM, INC.

By: /s/ Amit Jain

Name: Amit Jain

Title: Chief Executive Officer

EXHIBIT 1

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

-----X
In re: :
: : **Chapter 11**
PRYSM, INC.,¹ : **Case No. 20-[] ()**
: :
Debtor. :
-----X

PREPACKAGED CHAPTER 11 PLAN OF PRYSM, INC. DATED AUGUST 1, 2020

**GELLERT SCALI BUSENKELL
& BROWN, LLC**

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*Proposed Attorneys for
Debtor and Debtor in Possession*

Dated: August 1, 2020
Wilmington, Delaware

¹ The last four digits of the Debtor’s federal tax identification numbers are 4348. The location of the Debtor’s corporate headquarters is 513 Fairview Way, Milpitas, CA 95035.

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Glossary of Defined Terms Exhibit A
Schedule of Assumed Contracts and Unexpired Leases Exhibit B
Schedule of Hardware Assets Exhibit C
Software License and Reseller Agreement Exhibit D

Prysm, Inc. proposes this Plan for the resolution of outstanding Claims against, and Equity Interests in, the Debtor pursuant to the Bankruptcy Code. Reference is made to the Disclosure Statement, filed contemporaneously with the Plan, for a discussion of the Debtor's history, business, property and results of operations, and for a summary and description of the Plan and certain related matters. The Debtor is a proponent of the Plan within the meaning of section 1129 of the Bankruptcy Code. The Debtor reserves the right to alter, amend, modify, revoke or withdraw this Plan prior to its substantial consummation.

ALL ARE ENCOURAGED TO READ THE PLAN AND THE DISCLOSURE STATEMENT IN THEIR ENTIRETY BEFORE VOTING TO ACCEPT OR REJECT THE PLAN. NO MATERIALS, OTHER THAN THE DISCLOSURE STATEMENT AND ANY EXHIBITS AND SCHEDULES ATTACHED THERETO OR REFERENCED THEREIN, HAVE BEEN APPROVED BY THE PROPONENTS FOR USE IN SOLICITING ACCEPTANCES OR REJECTIONS OF THE PLAN.

FOR AVOIDANCE OF DOUBT, THE PLAN APPLIES AND PRESERVES THE MAXIMUM GLOBAL JURISDICTION POSSIBLE UNDER APPLICABLE U.S. LAW, INCLUDING, WITHOUT LIMITATION, OVER THE ASSETS OF THE DEBTOR WHEREVER LOCATED.

ARTICLE I SUMMARY OF THE PLAN

An overview of the Plan is set forth in the Disclosure Statement. Generally, the Plan provides for (1) the reorganization of the Debtor by retiring, cancelling, extinguishing and/or discharging the Debtor's prepetition Equity Interests and issuing New Equity in the Reorganized Debtor to ESW, in its capacity as the Plan Sponsor or an affiliate and, to the extent that it exercises the Subscription Option, to ESW, in its capacity as the DIP Lender; and (2) the treatment of the holders of Allowed Claims in accordance with the priority scheme established by the Bankruptcy Code or as otherwise agreed.

ARTICLE II DEFINITIONS, RULES OF INTERPRETATION, AND CONSTRUCTION OF TERMS

2.1 All capitalized terms not defined elsewhere in the Plan shall have the meanings assigned to them in the Glossary of Defined Terms attached as Exhibit A to the Plan. Any capitalized term used in the Plan that is not defined herein has the meaning ascribed to that term in the Bankruptcy Code and/or Bankruptcy Rules.

2.2 For purposes of the Plan: (1) whenever from the context it is appropriate, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, feminine and the neuter gender; (2) unless otherwise specified, any reference in the Plan to a contract, instrument, release, indenture, or other agreement or document being in a particular form or on particular terms and conditions means that such document shall be substantially in such form or substantially on such terms and conditions; (3) unless otherwise specified, any

reference in the Plan to an existing document, schedule, or exhibit, whether or not filed with the Bankruptcy Court, shall mean such document, schedule, or exhibit, as it may have been or may be amended, modified, or supplemented; (4) any reference to an entity as a holder of a Claim or Interest includes that entity's successors and assigns; (5) unless otherwise specified, all references in the Plan to articles or sections are references to the articles or sections of the Plan; (6) the words "herein," "hereof," and "hereto" and other words of similar import refer to the Plan in its entirety rather than to any particular section, subsection, clause or portion of the Plan, unless the context requires otherwise; (7) subject to the provisions of any contract, certificate of incorporation, bylaw, formation document, instrument, release, or other agreement or document entered into in connection with the Plan, the rights and obligations arising pursuant to the Plan shall be governed by, and construed and enforced in accordance with applicable federal law, including the Bankruptcy Code and Bankruptcy Rules; (8) captions and headings to articles of the Plan are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation of the Plan; (9) unless otherwise set forth in the Plan, the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; (10) any term used in capitalized form in the Plan that is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to such term in the Bankruptcy Code or the Bankruptcy Rules, as applicable; (11) all references to docket numbers of documents filed in the Chapter 11 Case are references to the docket numbers under the Bankruptcy Court's CM/ECF system; (12) all references to statutes, regulations, orders, rules of courts, and the like shall mean such statutes, regulations, orders, rules of courts and the like as applicable to the Chapter 11 Case, unless otherwise stated; (13) any immaterial effectuating provisions may be interpreted by the Reorganized Debtor after the Effective Date in such a manner that is consistent with the overall purpose and intent of the Plan all without further order of the Bankruptcy Court; (14) any act required to be taken on the Effective Date, or any other applicable date, shall be deemed timely taken if taken as soon as reasonably practicable after such date; and (15) all references in the Plan to monetary figures refer to currency of the United States of America, unless otherwise expressly provided; and (16) references to "holders of Claims," and the like shall include "holders of Equity Interests," and the like, as applicable.

2.3 All Plan Documents and exhibits to the Plan are incorporated into the Plan by reference and are a part of the Plan as if set forth in full herein. Holders of Claims and Equity Interests may inspect a copy of the Plan Documents, to the extent Filed, in the Office of the Clerk of the Bankruptcy Court during normal business hours, or obtain a copy of such Plan Documents online at <https://dm.epiq11.com/Prysm> or by a request sent to:

Prysm@epiqglobal.com

Or:

Prysm, Inc.
c/o Epiq Corporate Restructuring LLC
10300 SW Alien Blvd.
Beaverton, OR 97005

ARTICLE III DESIGNATION OF CLAIMS AND EQUITY INTERESTS

3.1 Summary

Pursuant to section 1122 of the Bankruptcy Code, a Claim or Equity Interest is placed in a particular Class for purposes of voting on the Plan and receiving Distributions under the Plan only to the extent (i) the Claim or Equity Interest qualifies within the description of that Class; (ii) the Claim or Equity Interest is an Allowed Claim or Allowed Equity Interest (or temporarily allowed Claim or Equity Interest for voting purposes) in that Class, and is classified in another Class or Classes to the extent that any remainder of the Claim or Equity Interest qualifies within the description of such other Class or Classes; and (iii) the Claim or Equity Interest has not been paid, released, or otherwise compromised before the Effective Date. A Claim or Equity Interest which is not an Allowed Claim or Allowed Equity Interest, including a Disputed Claim, is not in any Class, and, notwithstanding anything to the contrary contained in the Plan, no Distribution shall be made on account of any Claim or Equity Interest which is not an Allowed Claim or Allowed Equity Interest. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Claims, Professional Compensation Claims, and Priority Tax Claims are not classified under the Plan and are excluded from the following Classes.

3.2 Identification of Classes

The following table designates the Classes of Claims against and Equity Interests in the Debtor and specifies which Classes are (a) Impaired or unimpaired by this Plan, (b) entitled to vote to accept or reject this Plan in accordance with section 1126 of the Bankruptcy Code, or (c) deemed to accept or reject this Plan.

Class	Designation	Impairment	Entitled to Vote
Class 1	GII Senior Secured Claim	Impaired	Yes
Class 2	Secured Noteholder Claims	Impaired	Yes
Class 3	Other Secured Claims	Unimpaired	No (deemed to accept)
Class 4	Other Priority Claims	Unimpaired	No (deemed to accept)
Class 5	General Unsecured Claims	Impaired	No (deemed to reject)
Class 6	Equity Interests	Impaired	No (deemed to reject)

3.3 Elimination of Classes for Voting Purposes

Any Class of Claims or Equity Interests that is not occupied as of the date of the commencement of the Confirmation Hearing by an Allowed Claim, an Allowed Equity Interest, or a Claim or Equity Interest temporarily allowed under Rule 3018 of the Bankruptcy Rules shall be deemed deleted from the Plan for purposes of voting on acceptance or rejection of the Plan by such Class under section 1129(a)(8) of the Bankruptcy Code.

3.4 Voting Classes; Deemed Acceptance by Non-Voting Classes

If a Class contains Claims or Equity Interests eligible to vote and no holders of Claims or Equity Interests eligible to vote in such Class vote to accept or reject the Plan, the Plan shall be deemed accepted by such Class. For clarification, only Claim holders in Class 1 and Class 2 are eligible to vote on the Plan.

3.5 Controversy Concerning Classification, Impairment or Voting Rights

In the event a controversy or dispute should arise involving issues related to the classification, impairment or voting rights of any Creditor or Interest Holder under the Plan, whether before or after the Confirmation Date, the Bankruptcy Court may, after notice and a hearing, determine such controversy. Without limiting the foregoing, the Bankruptcy Court may estimate for voting purposes (i) the amount of any contingent or unliquidated Claim the fixing or liquidation of, as the case may be, would unduly delay the administration of the Chapter 11 Case and (ii) any right to payment arising from an equitable remedy for breach of performance.

ARTICLE IV TREATMENT OF UNCLASSIFIED CLAIMS

4.1 Administrative Claims

(a) General: Except with regards to the Ordinary Course Liabilities (the treatment of which is described in Section 4.3 (below)), subject to the bar date provisions herein, unless otherwise agreed to by the parties, each holder of an Allowed Administrative Claim shall receive Cash equal to the unpaid portion of such Allowed Administrative Claim within ten (10) days after the later of (a) the Effective Date, (b) the Allowance Date, or (c) such other date as is mutually agreed upon by the Debtor, the Plan Sponsor and the holder of such Claim.

(b) Bar Date for Administrative Claims. Except as otherwise provided in this Article II, requests for payment of Administrative Claims must be included within an application (setting forth the amount of, and basis for, such Administrative Claims, together with documentary evidence) and Filed and served on respective counsel for the Debtor, the Distribution Trust and Plan Sponsor no later than the Administrative Claim Bar Date or by such earlier deadline governing a particular Administrative Claim contained in an order of the Bankruptcy Court entered before the Effective Date. Holders of Administrative Claims that are required to File a request for payment of such Claims and that do not File such requests by the applicable bar date shall be forever barred from asserting such Claims against the Debtor or any of its property, absent order of the Bankruptcy Court to the contrary.

4.2 Professional Compensation Claims

All Professional Compensation Claims must be filed with the Bankruptcy Court and served on the Reorganized Debtor, the Distribution Trust, the U.S. Trustee and the Post-Confirmation Service List, no later than thirty (30) days after the Effective Date. **FAILURE TO FILE AND SERVE FINAL FEE APPLICATIONS TIMELY AND PROPERLY SHALL RESULT IN THE UNDERLYING PROFESSIONAL FEE CLAIMS BEING FOREVER BARRED AND DISCHARGED.** Objections to Professional Compensation Claims, if any, must be filed and served pursuant to the procedures set forth in the Confirmation Order no later than forty-five (45) days after the Effective Date or such other date as may be established by the Bankruptcy Court. After notice and a hearing in accordance with the procedures established by the Bankruptcy Code and prior orders of the Bankruptcy Court in the Chapter 11 Case, the Allowed amounts of such Professional Fee Claims shall be determined by the Bankruptcy Court. All holders of Professional Compensation Claims shall be paid in full, in Cash from the Distribution Reserve, in such amounts as are Allowed by the Bankruptcy Court. The Reorganized Debtor and the Distribution Trustee are authorized to pay compensation for professional services rendered and reimbursement of expenses incurred after the Effective Date in the ordinary course and without the need for Bankruptcy Court approval.

Each holder of a Professional Compensation Claim shall provide the Debtor with an estimate of the unpaid amount of such Professional Compensation Claim not later than seven (7) calendar days prior to the anticipated Effective Date; provided, however, that such estimates shall be used solely for administrative purposes and determining the amount of the Distribution Reserve, shall not be binding on the holders of Professional Compensation Claims and shall not in any way limit, cap, or reduce the amount of the Professional Compensation Claims.

Any professional fees and reimbursements or expenses incurred by the Reorganized Debtor subsequent to the Effective Date may be paid by the Reorganized Debtor without application to the Bankruptcy Court. Any professional fees and reimbursements or expenses incurred by the Distribution Trustee subsequent to the Effective Date may be paid by the Distribution Trustee without application to the Bankruptcy Court.

4.3 U.S. Trustee Fees

All fees payable pursuant to 28 U.S.C. § 1930 shall be paid in Cash from the DIP Financing, up to the amount set forth in the Approved Budget, or other Cash in the amount of such Administrative Claim when due or no later than the Effective Date. Post-petition U.S. Trustee fees shall be paid and post-confirmation reports shall be filed as required by 28 U.S.C. § 1930 until the Chapter 11 Case is closed, converted or dismissed, and failure to do either timely is a material default pursuant to section 1112 of the Bankruptcy Code.

4.4 Allowed Priority Tax Claims

Each Holder of an Allowed Priority Tax Claim against Debtor shall receive in full satisfaction, settlement, release and discharge of, and in exchange for, such Allowed Priority Tax Claim (i) Cash equal to the amount of such Allowed Priority Tax Claim on the Effective Date,

(ii) payment in full through the fifth anniversary of the Petition Date, plus interest at a rate determined in accordance with section 511 of the Bankruptcy Code, or (iii) such other less favorable treatment to the Holders of an Allowed Priority Tax Claim as to which the Debtor, the Plan Sponsor, and the Holder of such Allowed Priority Tax Claim shall have agreed upon in writing.

4.5 Ordinary Course Liabilities

(a) All Ordinary Course Liabilities are deemed to be Allowed Claims to the extent set forth in the Approved Budget. Holders of Administrative Claims on account of Ordinary Course Liabilities are not required to file or serve any request for payment of the Ordinary Course Liability. The Debtor shall continue to pay each Ordinary Course Liability accrued prior to the Effective Date, pursuant to the payment terms and conditions of the particular transaction giving rise to the Ordinary Course Liability, and the Approved Budget. To the extent that a holder of an Administrative Claim, on account of Ordinary Course Liability which accrued prior to the Effective Date, did not submit an invoice for the Ordinary Course Liability to the Debtor prior to the Effective Date, the holder must submit the invoice to the Distribution Trustee in the ordinary course of business pursuant to the terms and conditions of the particular transaction giving rise to the Ordinary Course Liability. The Distribution Trustee shall remit payment on the Ordinary Course Liability within fifteen (15) days of receipt of the invoice. In the event that the Reorganized Debtor pays any Ordinary Course Liability accrued prior to the Effective Date, the Distribution Trust shall reimburse the Reorganized Debtor for such payment promptly upon request.

(b) Allowed DIP Lender Claim: The DIP Lender Claim is Allowed in full. Pursuant to the Subscription Option, the DIP Lender shall have the option, on account of being the holder of the Allowed DIP Lender Claim, to convert a portion of the outstanding Allowed DIP Lender Claim into shares of New Equity at a rate of 10% of the Allowed DIP Lender Claim for 60 shares of New Equity, up to a maximum of 100% of the Allowed DIP Lender Claim for 600 shares out of the total 1000 shares of New Equity. To the extent any amount of Allowed DIP Lender Claim remains after the DIP Lender exercises the Subscription Option, the remainder of its Allowed DIP Lender Claim shall, at the option of the DIP Lender, either be repaid in Cash funded and paid by the Plan Sponsor on the Effective Date, separately and in addition to the Cash Consideration being paid under the Plan on the Effective Date, or reduced on a dollar-for-dollar basis by agreement between the DIP Lender and the Plan Sponsor. For the avoidance of doubt, in no event will the exercise of the Subscription Option, either in whole or in part, reduce the amount of the Cash Consideration paid by the Plan Sponsor. On the Effective Date, all liens and interests granted in exchange for or in connection with the DIP Note and/or under the DIP Order shall be deemed discharged, cancelled, and released and shall be of no further force and effect.

ARTICLE V TREATMENT OF CLASSIFIED CLAIMS AND EQUITY INTERESTS

The following is a summary of the proposed distributions and treatment of all classified Allowed Claims and Equity Interests under the Plan.

5.1 Treatment of Allowed Claims and Equity Interests

5.1.1 GII Senior Secured Claim (Class 1).

(a) Classification: Class 1 consists of the GII Senior Secured Claim against the Debtor.

(b) Treatment: On the Effective Date the Plan Sponsor shall pay the GII Cash Recovery to GII, on account of and in full and complete settlement, release and discharge of, and in exchange for, the GII Senior Secured Claim, unless, prior to confirmation of the Plan GII exercises the GII Election Option, in which case GII shall forgo the GII Cash Recovery and instead receive its Pro Rata Share of the Secured Lenders Recovery and in which case the GII Senior Secured Claim shall be treated pari passu with, and not senior to, the Secured Noteholder Claims and as if it is included in Class 2.

(c) Impairment and Voting: The GII Senior Secured Claim is impaired, and accordingly GII, in its capacity as the holder of such Claim, is entitled to vote to accept or reject the Plan on account of such Claims pursuant to section 1126(a) of the Bankruptcy Code.

5.1.2 Secured Noteholder Claims (Class 2).

(a) Classification: Class 2 consists of all Secured Noteholder Claims against the Debtor.

(b) Treatment: Each holder of an Allowed Secured Noteholder Claim (and, if the GII Election Option is exercised, the holder of the GII Claim) against the Debtor shall receive on or about the Effective Date, on account of and in full and complete settlement, release and discharge of, and in exchange for, such Allowed Secured Noteholder Claim, its Pro Rata Share of the Secured Lenders Recovery, subject to GII Election Option,.

(c) Impairment and Voting: Allowed Secured Noteholder Claims are impaired, and the holders of such Claims are entitled to vote to accept or reject the Plan on account of such Claims pursuant to section 1126(a) of the Bankruptcy Code.

5.1.3 Other Secured Claims (Class 3).

(a) Classification: Class 3 consists of all Allowed Other Secured Claims, if any, against the Debtor.

(b) Treatment: Each holder of an Allowed Other Secured Claims against the Debtor shall receive on or about the Effective Date, on account of and in full and complete settlement, release and discharge of, and in exchange for, such Allowed Other Secured Claims, at the option of the Plan Sponsor or, if related to the Hardware Assets, the Debtor: (i)

payment in full in Cash; (ii) the collateral securing its Allowed Other Secured Claim and payment of any interest required under section 506(b) of the Bankruptcy Code; (iii) reinstatement of such Allowed Other Secured Claim; or (iv) such other treatment rendering such Allowed Other Secured Claim unimpaired.

(c) Impairment and Voting: Allowed Other Secured Claims are unimpaired, and the holders of such Claims are not entitled to vote to accept or reject the Plan on account of such Claims and will be conclusively deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code.

5.1.4 Other Priority Claims (Class 4).

(a) Classification: Class 4 consists of all Other Priority Claims against the Debtor.

(b) Treatment: Each holder of an Allowed Other Priority Claim against the Debtor shall receive on or about the Effective Date, on account of and in full and complete settlement, release and discharge of, and in exchange for, such Allowed Other Priority Claim, (i) Cash equal to the amount of such Allowed Other Priority Claim on the Effective Date, or (ii) such other treatment to the holder of an Allowed Other Priority Claim as to which the Plan Sponsor and the holder of such Allowed Other Priority Claim shall have agreed upon in writing.

(c) Impairment and Voting: Allowed Other Priority Claims are unimpaired, and the holders of such Claims are not entitled to vote to accept or reject the Plan on account of such Claims and will be conclusively deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code.

5.1.5 General Unsecured Claims (Class 5).

(a) Classification: Class 5 consists of all General Unsecured Claims against the Debtor.

(b) Treatment: On or about the Effective Date, each holder of an Allowed General Unsecured Claim shall receive, on account of and in full and complete settlement, release and discharge of, and in exchange for its Allowed General Unsecured Claim, its Pro Rata Share of the GUC Recovery.

(c) Impairment and Voting: Allowed General Unsecured Claims are impaired and, as Class 5 is not being paid in full but no junior class is to receive any distribution under the Plan, the Plan deems Class 5 to reject the Plan and the holders of such Claims are not entitled to vote to accept or reject the Plan. The Debtor intends to confirm the Plan over the deemed rejection of Class 5 under the provisions of section 1129(b) of the Bankruptcy Code.

5.1.6 Equity Interests (Class 6).

(a) Classification: Class 6 consists of all Equity Interests in the Debtor.

(b) Treatment: No Distributions will be made to holders of Equity Interests. On the Effective Date, all Equity Interests shall be deemed automatically cancelled, released, and extinguished without further action by the Debtor or the Reorganized Debtor, and any and all obligation of the Debtor and the Reorganized Debtor thereunder shall be discharged.

(c) Impairment and Voting: Allowed Equity Interests are impaired, and the holders of such Equity Interests are not entitled to vote to accept or reject the Plan on account of such Equity Interests and will be conclusively deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code.

ARTICLE VI MEANS FOR IMPLEMENTATION OF THE PLAN

6.1 Continued Corporate Existence

Except as otherwise provided in the Plan, the Reorganized Debtor will continue to exist after the Effective Date as a corporate entity, with all of the powers of a corporation under applicable law in the jurisdiction in which the Debtor is incorporated and pursuant to its Charter Documents in effect before the Effective Date, as such documents are amended by or pursuant to the Plan.

Upon the Effective Date, and without any further action by the shareholders, directors, or officers of the Reorganized Debtor, the Reorganized Debtor's Charter Documents shall be deemed amended (a) to the extent necessary, to incorporate the provisions of the Plan, and (b) to prohibit the issuance by the Reorganized Debtor of nonvoting securities to the extent required under section 1123(a)(6) of the Bankruptcy Code, subject to further amendment of such Charter Documents as permitted by applicable law, and to the extent such documents are amended, such documents are deemed to be amended pursuant to the Plan and require no further action or approval other than any requisite filings required under applicable state, provincial or federal law. The Charter Documents shall be filed with the Plan Supplement.

6.2 Management and Board of Reorganized Debtor and Hardware Newco and Discharge of Debtor

The Plan Sponsor shall nominate and elect new members for the board of directors of the Reorganized Debtor in accordance with the Reorganized Debtor's Charter Documents. The identity of such new members shall be disclosed in the Plan Supplement prior to the Plan Supplement Deadline. Upon the Effective Date, the current members of the Debtor's board of directors shall no longer serve in such capacity and shall be discharged of all duties in connection therewith.

The board of directors of Hardware Newco shall be set forth in the Charter Documents for Hardware Newco. Such Charter Documents shall provide that there shall be five directors, two of whom shall be appointed by the Investor (as defined in Exhibit A, Glossary of Defined Terms, to this Plan), one of whom shall be appointed by majority vote of the other shareholders of Hardware Newco, one of whom shall be the CEO of Hardware Newco, and the final one who

shall be an independent director approved by the other four directors and chosen from a slate of three nominees – two of which shall be nominated by the Investor and one of which shall be nominated by majority vote of the other shareholders of Hardware Newco.

6.3 Arrangements with the Distribution Trustee

By the Plan Supplement Deadline, the Debtor shall file with the Bankruptcy Court a disclosure identifying the Distribution Trustee under the Distribution Trust. At the Confirmation Hearing, the Bankruptcy Court shall ratify such Distribution Trustee. All compensation for the Distribution Trustee shall be paid from the Distribution Trust Assets in accordance with the Distribution Trust Agreement. The approved person shall serve as the Distribution Trustee on execution of the Distribution Trust Agreement at the Closing.

6.4 The Closing

The Closing of the transactions required and contemplated under the Plan shall take place on the Effective Date at the offices of Goulston & Storrs PC, 885 Third Avenue, 18th Floor, New York, New York 10022, or at such other place identified in a notice provided to those parties listed in Section 13.12 of the Plan. The Debtor and Plan Sponsor may reschedule the Closing by making an announcement at the originally scheduled Closing of the new date for the Closing. A notice of the rescheduled Closing shall be filed with the Bankruptcy Court and served on the parties identified in Section 13.12 of the Plan within two (2) days after the originally scheduled Closing. All documents to be executed and delivered by any party as provided in this Article VI and all actions to be taken by any party to implement the Plan as provided herein shall be in form and substance satisfactory to the Debtor and Plan Sponsor. The following actions shall occur at or before the Closing (unless otherwise specified), and shall be effective on the Effective Date:

(a) Execution of Documents and Corporate Action. The Debtor shall deliver all documents and perform all actions reasonably contemplated with respect to implementation of the Plan. The Debtor, or its designee, is authorized (i) to execute on behalf of the Debtor, in a representative capacity and not individually, any documents or instruments after the Confirmation Date or at the Closing that may be necessary to consummate the Plan and (ii) to undertake any other action on behalf of the Debtor to consummate the Plan. Each of the matters provided for under the Plan involving the corporate structure of the Debtor or corporate action to be taken by or required of the Debtor will, as of the Effective Date, be deemed to have occurred and be effective as provided herein, and shall be authorized, approved, and (to the extent taken before the Effective Date) ratified in all respects without any requirement of further action by stockholders, creditors, or directors of the Debtor. On the Effective Date, all matters provided for in the Plan involving the corporate structure of the Reorganized Debtor, and all corporate actions required by the Debtor and the Reorganized Debtor in connection with the Plan, shall be deemed to have occurred and shall be in effect, without any requirement of further action by the Debtor or the Reorganized Debtor. For purposes of effectuating the Plan, none of the transactions contemplated in the Plan shall constitute a change of control under any agreement, contract, or document of the Debtor. On the Effective Date, the Debtor shall wire the Cash-on-Hand to the Distribution Trust, provided, however, that if Cash-on-Hand on the Effective Date exceeds the Distribution Trust Plan Distribution Obligations such excess Cash-on-Hand shall be deemed to

be a Hardware Asset and shall be transferred to Hardware Newco and not the Distribution Trust on the Effective Date..

(b) Release of Liens. Upon request by the Debtor, the Reorganized Debtor or the Plan Sponsor, any Person holding a Lien in any of the Debtor's Property shall execute any lien release or similar document(s) required to implement the Plan or reasonably requested by the Debtor, the Reorganized Debtor or the Plan Sponsor in a prompt and diligent manner. Notwithstanding the foregoing, the Debtor, the Reorganized Debtor or the Plan Sponsor is authorized to execute any lien release or similar document(s) required to implement the Plan.

(c) Cancellation of Equity Interests. On the Effective Date, all existing Equity Interests of Debtor shall be retired, cancelled, extinguished and/or discharged in accordance with the terms of the Plan. Except as otherwise provided in the Plan or the Plan Supplement, on the Effective Date: (1) the obligations of the Debtor under any certificate, share, note, bond, indenture, purchase right, option, warrant, or other instrument or document, directly or indirectly, evidencing or creating any indebtedness or obligation of or ownership interest in the Debtor giving rise to any Claim or Equity Interest shall be cancelled as to the Debtor and the Reorganized Debtor shall not have any continuing obligations thereunder and (2) the obligations of the Debtor pursuant, relating, or pertaining to any agreements, indentures, certificates of designation, bylaws, or certificate or articles of incorporation or similar documents governing the shares, certificates, notes, bonds, purchase rights, options, warrants or other instruments or documents evidencing or creating any indebtedness or obligation of the Debtor shall be released and discharged.

(d) Issuance of New Equity of Reorganized Debtor. On the Effective Date, 1,000 shares of New Equity of the Reorganized Debtor, representing 100% of the equity of the Reorganized Debtor, shall be issued to the Plan Sponsor or an affiliate, in consideration for the Cash Consideration and, to the DIP Lender, to the extent that it exercises the Subscription Option. The New Equity shall be free and clear of all Liens, Claims, interests, and encumbrances of any kind, except as otherwise provided in the Plan. All the shares of the New Equity issued pursuant to the Plan shall be duly authorized, validly issued, fully paid, and non-assessable. On the Effective Date, none of the New Equity will be listed on a national securities exchange. The Reorganized Debtor may take all necessary actions, if applicable, after the Effective Date to suspend any requirement to (i) be a reporting company under the Securities Exchange Act, and (ii) file reports with the Securities and Exchange Commission or any other entity or party.

(e) Formation of Hardware NewCo and Contributions to Hardware NewCo. On or before the Effective Date, the Debtor shall form Hardware NewCo. On the Effective Date, in furtherance of the Secured Lenders Recovery, a total of 20,000,000 shares of Hardware NewCo Equity shall be issued to the Secured Noteholders (and, if GII exercises the GII Election Option, GII), free and clear of all Liens, Claims, interests, and encumbrances of any kind (except as otherwise provided in the Plan). All the shares of the Hardware NewCo Equity issued pursuant to the Plan shall be duly authorized, validly issued, fully paid, and non-assessable. On the Effective Date, none of the shares of the Hardware NewCo Equity will be listed on a national securities exchange. On the Effective Date, (i) the Debtor shall contribute and assign (or, in the case of

Hardware Assets that are executory contracts or unexpired leases, assume and assign) the Hardware Assets, including without limitation the Hardware Rights of Action to Hardware NewCo but excluding the Remaining Cash, (ii) the Plan Sponsor shall pay the Remaining Cash to Hardware NewCo, all for the benefit of the Secured Noteholders (and, if GII exercises the GII Election Option, GII); provided that if and to the extent Hardware NewCo receives any Excess Remaining Cash prior to the payment in full of all Distribution Trust Plan Distribution Obligations, and the Distribution Trust subsequently determines that all or a portion of such Excess Remaining Cash is required to permit the Distribution Trust to make distributions or other payments on account of its Distribution Trust Plan Distribution Obligations, then promptly upon written request by the Distribution Trust, Hardware NewCo shall pay to the Distribution Trust such portion of the Excess Remaining Cash as may be necessary to permit the Distribution Trust to make such distributions or payments, and (iii) on the Effective Date, the Reorganized Debtor and Hardware NewCo shall execute the Software License and Reseller Agreement.

(f) Funding of the Cash Consideration. On the Effective Date, the Plan Sponsor shall, as directed by the Debtor, wire the Cash Consideration as follows: (i) provided that GII has not exercised the GII Election Option, to GII in an amount equal to the GII Cash Recovery in payment in full of the GII Senior Secured Claim, (ii) to the Distribution Trust in an amount equal to the Distribution Trust Plan Distribution Obligations *less* Cash-on-Hand; and (iii) to Hardware NewCo an amount equal to the Remaining Cash. Plan Sponsor shall be entitled to rely on the accuracy and correctness of the directions of the Debtor in connection with the foregoing wire transfers. In no event shall Plan Sponsor or the Reorganized Debtor be liable or responsible to the Debtor, the Distribution Trust or Hardware NewCo for any wire transfer made at the direction of the Debtor. The Distribution Trust and Hardware NewCo shall resolve any inaccuracy, discrepancy or dispute amongst themselves, including through a post-Closing adjustment. Funding of the Cash Consideration is not subject to any financing contingency. The Distribution Trust Assets shall be used by the Distribution Trust to fund all Distribution Trust Plan Distribution Obligations. To the extent any amount of Allowed DIP Lender Claim remains after the DIP Lender exercises the Subscription Option, the remainder of its Allowed DIP Lender Claim shall be repaid in Cash funded and paid by the Plan Sponsor on the Effective Date, separately and in addition to the Cash Consideration payable on the Effective Date, or reduced on a dollar-for-dollar basis by agreement between the DIP Lender and the Plan Sponsor. For the avoidance of doubt, in no event will the DIP Lender's exercise or non-exercise of the Subscription Option reduce the amount of the Cash Consideration paid by Plan Sponsor.

(g) Execution and Ratification of the Distribution Trust Agreement. On the Effective Date, the Distribution Trust Agreement shall be executed by all parties thereto. The Distribution Trust Agreement shall be provided in the Plan Supplement. Each holder of a Claim shall be deemed to have ratified and become bound by the terms and conditions of the Distribution Trust Agreement.

(h) Transfer of Cash-on-Hand to Distribution Trust. All property of the Debtor constituting Cash-on-Hand shall be conveyed and transferred by the Debtor to the Distribution Trust, free and clear of all Liens, Claims, Equity Interests, and encumbrances. Any funds remaining in the Distribution Trust after completion of all distributions under the Distribution Trust Agreement shall be assigned and transferred to Hardware NewCo.

(i) Abandonment of Abandoned Assets. Any Abandoned Assets shall be deemed abandoned as of the Effective Date pursuant to Bankruptcy Code section 554 without further order of the Bankruptcy Court. The filing of this Plan shall constitute the filing of a motion to abandon pursuant to 11 U.S.C. § 554 and relinquish the Abandoned Assets. Entry of the Confirmation Order shall constitute (i) approval, pursuant to Bankruptcy Code section 554, of the abandonment of the Abandoned Assets and (ii) authorization to relinquish any interest the Debtor holds in the Abandoned Assets.

6.5 Tax Treatment of the Distribution Trust

The Distribution Trust established under the Plan is established for the purpose of making Distributions to holders of Allowed Claims from the Distribution Trust Assets transferred to the Distribution Trust (or from the proceeds of such Distribution Trust Assets, as applicable) and performing related and incidental functions referenced in the Distribution Trust Agreement. The Distribution Trust shall have no objective of continuing or engaging in any trade or business except to the extent reasonably necessary to, and consistent with, the liquidating purpose of the trust. The purpose of the Distribution Trust is to distribute the Distribution Trust Assets with respect to the Distribution Trust Plan Distribution Obligations and remit any balance to Hardware NewCo. Other than distributions with respect to the Distribution Trust Plan Distribution Obligations, no business activities will be conducted by the Distribution Trust. It is intended that the Distribution Trust be classified for federal income tax purposes as a “liquidating trust” within the meaning of the Treasury Regulations Section 301.7701-4(d). All parties and Beneficiaries shall treat the transfers in trust described herein as transfers to the Beneficiaries for all purposes of the Internal Revenue Code of 1986, as amended (including Sections 61(a)(12), 483, 1001, 1012, and 1274 thereof). All the parties and Beneficiaries shall treat the transfers in trust as if the Distribution Trust Assets had been first transferred to the Beneficiaries and then transferred by the Beneficiaries to the Distribution Trust. The Beneficiaries shall be treated for all purposes of the Internal Revenue Code of 1986, as amended, as the grantors of the Distribution Trust and the owners of the Distribution Trust. The Distribution Trustee shall file returns for the Distribution Trust as a grantor trust pursuant to Treasury Regulations Section 1.671-4(a) or (b). Beneficiaries may wish to consult with a tax professional regarding the tax consequences of holding a Beneficial Interest in or receiving a Distribution from the Distribution Trust.

6.6 Preservation of Rights of Action

Unless any Rights of Action against a Person are expressly waived, relinquished, exculpated, released, compromised, transferred or settled in the Plan or by a Final Order, in accordance with section 1123(b) of the Bankruptcy Code, the Reorganized Debtor, subject to the following proviso, shall retain and may enforce all rights to commence and pursue any and all Rights of Action; provided that, on the Effective Date, Hardware NewCo shall be assigned, and only it may thereafter enforce, all Hardware Rights of Action and the rights to commence and pursue any and all Hardware Rights of Action, except as otherwise provided in the definition of Hardware Rights of Action. Subject to the foregoing, the Reorganized Debtor’s and Hardware Newco’s respective rights to commence, prosecute or settle such Rights of Action shall be

preserved notwithstanding the occurrence of the Effective Date. Hardware Newco shall be the sole beneficiary of any contested matters, claims objections, proceedings or similar actions in connection with the Hardware Rights of Action, and the Reorganized Debtor shall be the sole beneficiary of any other contested matters, claim objections, proceeding or similar actions in connection with all other Rights of Action. For the avoidance of doubt, and notwithstanding anything to the contrary in Section 7.1 of the Plan, (a) the Reorganized Debtor shall retain and shall have the exclusive right to enforce any and all of the Debtor's Rights of Action arising from or related to the Software Assets, (b) Rights of Action that are claims and causes of action under chapter 5 of the Bankruptcy Code (including, without limitation, claims related to Eligible Accounts Receivable and claims for turnover of Cash of the Debtor being held in escrow or on deposit by third parties) shall be deemed to be Hardware Rights of Action, except to the extent that such claims and causes of action specifically relate to or arise from the Software Assets, and (c) Claims and Causes of Action under chapter 5 of the Bankruptcy Code against GII and the Secured Noteholders, if any, that have not been expressly waived, relinquished, exculpated, released, compromised, transferred or settled by a Final Order prior to the Effective Date shall be released on the Effective Date.

ARTICLE VII
PROVISIONS GOVERNING RESOLUTION OF CLAIMS
AND DISTRIBUTIONS OF PROPERTY UNDER THE PLAN

7.1 Right to Object to Claims

Notwithstanding anything to the contrary herein, subject to the terms and conditions set forth in the Distribution Trust Agreement, and notwithstanding any requirements that may be imposed pursuant to Bankruptcy Rule 9019, except insofar as a Claim is Allowed under the Plan on and after the Effective Date, the Distribution Trustee, with the consent of Hardware NewCo, shall have the authority, but not the obligation, to: (1) file, withdraw or litigate to judgment objections to and requests for estimation of Claims; (2) settle or compromise any Disputed Claim without any further notice to or action, order or approval by the Bankruptcy Court; and (3) administer and adjust the Claims register to reflect any such settlements or compromises without any further notice to or action, order or approval by the Bankruptcy Court. The Distribution Trustee shall succeed to any pending objections to Claims filed by the Debtor prior to the Effective Date, and shall have and retain any and all rights and defenses the Debtor had immediately prior to the Effective Date with respect to any Disputed Claim. The Reorganized Debtor and Hardware NewCo shall provide commercially reasonable assistance and cooperation to the Distribution Trustee, at the Distribution Trustee's cost, in connection with the Distribution Trustee's prosecution of objections to Claims, including, without limitation, reasonable access to the books and records of the Debtor, the Reorganized Debtor and Hardware Newco (as the case may be) and other information reasonably requested by the Distribution Trustee to enable the Distribution Trustee to perform its obligations under the Distribution Trust Agreement; provided that the Distribution Trustee will keep all such information confidential and will not disclose any information provided by the Reorganized Debtor or Hardware NewCo without express written consent of the Reorganized Debtor. Further, notwithstanding anything to the contrary, no provision by the Reorganized Debtor or Hardware NewCo of any privileged or confidential information to the Distribution Trustee shall result in the waiver of any privilege, confidentiality or other protections held by the Reorganized Debtor or Hardware NewCo. The Distribution

Trustee will cooperate fully with the Reorganized Debtor and Hardware NewCo in preserving privilege and confidentiality of any information provided by the Reorganized Debtor or Hardware NewCo to the Distribution Trustee. Notwithstanding the foregoing, nothing herein shall impose upon or require the Reorganized Debtor or Hardware NewCo to preserve or maintain the Debtor's books and records for any purpose beyond twelve months following the Effective Date unless the Distribution Trustee notifies the Reorganized Debtor or Hardware NewCo in writing before that time that the Distribution Trustee has no further need to have access to such books and records, in which case the Distribution Trust shall bear the costs of such preservation and/or maintenance.

7.2 Deadline for Objecting to Claims

Objections to Claims must be filed with the Bankruptcy Court, and a copy of the objection must be served on the subject Creditor before the expiration of the Claim Objection Deadline (unless such period is further extended by subsequent orders of the Bankruptcy Court); otherwise such Claims shall be deemed Allowed in accordance with section 502 of the Bankruptcy Code. The objection shall notify the Creditor of the deadline for responding to such objection.

7.3 Deadline for Responding to Claim Objections

No later than seven (7) days prior to a hearing scheduled with respect to the objection to a Claim, or such other date as is indicated on such objection or the accompanying notice thereof, the Creditor whose Claim was objected to must file a written response to the objection with the Bankruptcy Court and serve a copy on the Distribution Trustee and Hardware NewCo. Failure to file a written response within the applicable deadline may cause the Bankruptcy Court to enter a default judgment against the non-responding Creditor or otherwise grant the relief requested in the claim objection.

7.4 Right to Request Estimation of Claims

Pursuant to section 502(c) of the Bankruptcy Code, each of the Debtor, the Reorganized Debtor, Hardware NewCo and the Distribution Trustee may request estimation or liquidation of any Disputed Claim that is contingent or unliquidated or any Disputed Claim arising from a right to an equitable remedy or breach of performance.

7.5 Distribution Procedures Regarding Allowed Claims

(a) In General

Except as otherwise set forth herein (including, without limitation the payment of the GII Cash Recovery by the Plan Sponsor to GII unless GII exercises the GII Election Option, and the distribution of the Hardware NewCo Equity to the Secured Noteholders and, if GII exercises the GII Election Option, the holder of the GII Senior Secured Claim based on their Pro Rata Share), the Distribution Trustee shall make all Distributions required to be made under the Plan, including Distributions from the Distribution Trust.

(b) Distributions on Allowed Claims Only

Distributions from Available Cash shall be made only to the holders of Allowed Claims. Unless and until a Disputed Claim becomes an Allowed Claim, the holder of that Disputed Claim shall not receive a Distribution from Available Cash. For the avoidance of doubt, no Distributions shall be made to holders of Allowed Equity Interests.

(c) Place and Manner of Payments of Distributions

Except as otherwise specified in the Plan, Distributions from Available Cash shall be made by mailing such Distribution to the Creditor at the address listed in any proof of claim filed by the Creditor or at such other address as such Creditor shall have specified for payment purposes in a written notice received by the Distribution Trustee at least twenty (20) days before a Distribution Date. If a Creditor has not filed a proof of claim or sent the Distribution Trustee a written notice of payment address, then the Distribution(s) for such Creditor will be mailed to the address identified in the Schedules of Assets and Liabilities. The Distribution Trustee shall distribute any Cash by wire, check, or such other method as it deems appropriate under the circumstances. Before receiving any Distributions, all Creditors, at the request of the Distribution Trustee, must provide written notification of their respective Federal Tax Identification Numbers or Social Security Numbers to the Distribution Trustee; otherwise, the Distribution Trustee may suspend Distributions to any Creditors who have not provided their Federal Tax Identification Numbers or Social Security Numbers.

(d) Undeliverable Distributions

If a Distribution made from Available Cash to any Creditor is returned as undeliverable, the Distribution Trustee shall use reasonable efforts to determine the then current address for such Creditor. If the Distribution Trustee cannot determine, or is not notified of, a then current address for such Creditor within six months after the Effective Date, the Distribution reserved for such Creditor shall be deemed an unclaimed Distribution, and Section 7.5(e) of the Plan shall be applicable thereto.

(e) Unclaimed Distributions

If the current address for a Creditor entitled to a Distribution from Available Cash under the Plan has not been determined or such Creditor has otherwise not been located within six months after the Effective Date or a Creditor has not submitted a valid Federal Tax Identification Number or Social Security Number to the Distribution Trustee within three months after the Distribution Trustee made a request therefor, then in each case such Creditor shall forfeit the Distribution on the Claim and any amounts to which the Creditor would have otherwise been entitled shall become Available Cash to pay other Allowed Claims.

(f) Withholding

The Distribution Trustee may, but shall not be required to, at any time withhold from a Distribution from Available Cash to any Person (except the Internal Revenue Service) amounts sufficient to pay any tax or other charge that has been or may be imposed on such Person with respect to the amount distributable or to be distributed under the income tax laws of the United States or of any state or political subdivision or entity by reason of any Distribution provided for in the Plan, whenever such withholding is determined by the Distribution Trustee (in its sole discretion) to be required by any law, regulation, rule, ruling, directive, or other governmental requirement. The Distribution Trustee, in the exercise of its sole discretion and judgment, may enter into agreements with taxing or other authorities for the payment of such amounts that may be withheld in accordance with the provisions of this section.

(g) Dissolution

- (i) The Distribution Trustee shall be discharged and Distribution Trust shall be dissolved at such time as all of the Distribution Trust Assets have been liquidated and distributed pursuant to the Plan and the Distribution Trust Agreement; provided, however, that in no event shall the Distribution Trust be dissolved later than three (3) years from the creation of the Distribution Trust unless the Bankruptcy Court, upon motion within the six-month period prior to the third (3rd) anniversary (or within the six-month period prior to the end of an extension period), determines that a fixed period extension is necessary to facilitate or complete the liquidation of the Distribution Trust Assets. Such extensions in aggregate shall not exceed three (3) years without a favorable private letter ruling from the Internal Revenue Service or an opinion of counsel satisfactory to the Distribution Trustee that any further extension would not adversely affect the status of the trust as a liquidating trust for United States federal income tax purposes)
- (ii) If at any time the Distribution Trustee determines, in reliance upon such professionals as a Distribution Trustee may retain, that the expense of administering the Distribution Trust so as to make a final distribution to Distribution Trust Beneficiaries is likely to exceed the value of the assets remaining in the Distribution Trust, the Distribution Trustee may (i) reserve any amount necessary to dissolve the Distribution Trust and (ii) distribute any remaining balance of the Distribution Trust to Hardware NewCo.

7.6 Procedures Regarding Distributions from the Distribution Trust

Procedures regarding Distributions from the Distribution Trust shall be consistent with the Plan and set forth in more detail, if necessary, in the Distribution Trust Agreement.

ARTICLE VIII EXECUTORY CONTRACTS

8.1 Assumption of Executory Contracts

On the Effective Date, and subject to Section 8.3 hereof, all Executory Contracts identified on the Schedule of Assumed Contracts and Unexpired Leases, to be attached as Exhibit B, shall be deemed (i) assumed by the Debtor and vest in the Reorganized Debtor or (ii) assumed by the Debtor and assigned to Hardware NewCo, as the case may be. The Debtor (with the consent of the Investor as to Hardware Contracts or Leases and with the consent of the Plan Sponsor as to Reorganized Debtor Contracts or Leases) may amend the Schedule of Assumed Contracts and Unexpired Leases at any time prior to the Effective Date. Entry of the Confirmation Order shall constitute approval of the assumption and/or assignment of such Executory Contracts under sections 365 and 1123 of the Bankruptcy Code.

8.2 Rejection of Executory Contracts

All Executory Contracts not identified on the Schedule of Assumed Contracts and Unexpired Leases (or assumed by the Debtor previously) shall be deemed rejected on the Effective Date. Entry of the Confirmation Order shall constitute approval of such rejections under sections 365 and 1123 of the Bankruptcy Code. Notwithstanding the rejection of an Executory Contract, the terms of any confidentiality agreement or covenant not to compete contained therein shall survive and remain in full force and effect for the term thereof.

The Debtor assume and assign the existing 401(k) Plan to Hardware NewCo. The Reorganized Debtor will not assume, any employment, severance, bonus, incentive, commission, compensation or similar agreement or plan, including the 401(k) (or any agreement outside the ordinary course of business) with any employees, officers or directors. Any employee handbook or policy manual, if any, shall, immediately upon the Effective Date, be terminated without any action of the Debtor, the Reorganized Debtor or the Plan Sponsor and shall be deemed rejected as of the Effective Date.

On the Effective Date, any and all equity-based incentive plans or stock ownership plans of the Debtor, including all agreements related thereto, entered into before the Effective Date, or other plans, agreements or documents giving rise to Equity Interests, including the contingent cash components of any such plans, agreements, or documents, shall be immediately terminated without any action of the Debtor, the Reorganized Debtor or the Plan Sponsor. To the extent such plans, agreements or documents are considered to be Executory Contracts, such plans, agreements or documents shall be deemed to be, and shall be treated as though they are, Executory Contracts that are rejected pursuant to section 365 of the Bankruptcy Code under the Plan. From and after the Effective Date, all warrants, stock options and other equity awards outstanding or issued at such time, whether included in a warrant, plan, contract, agreement or otherwise, will have no value, shall be cancelled and extinguished and thus will not entitle any holder thereof to purchase or otherwise acquire any equity interests in the Reorganized Debtor.

8.3 Procedures Related to Assumption of Executory Contracts

(a) Establishment of Cure Claim Amounts

The Cure Amounts associated with the assumption of the Executory Contracts pursuant to Section 8.1 hereof are specified in the Schedule of Assumed Contracts and Unexpired Leases. The Debtor shall serve counterparties to the Executory Contracts with a Notice of (I) Possible Assumption of Contracts and Leases, (II) Fixing of Cure Amounts, and (III) Deadline to Object Thereto (the “Cure Notice”). The Debtor and the Plan Sponsor reserve the right to amend or supplement the Cure Notice.

Any Objection to Cure Notice including (i) an objection to the applicable Cure Amount (a “Cure Objection”) and (ii) an objection to the adequate assurance of future performance (a “Adequate Assurance Objection”) to be provided by the (x) Plan Sponsor on behalf of the Reorganized Debtor or (y) Hardware NewCo, as the case may be, must be in writing, filed with the Bankruptcy Court, and served upon (a) the Debtor, (b) counsel to the Debtor, (c) counsel to the Plan Sponsor, and (d) the U.S. Trustee, by no later than Friday, September 11, 2020 (the “Objection Deadline”). The objection must set forth the specific default alleged under the applicable Executory Contract and claim a specific monetary amount that differs from the applicable Cure Amount, if any, and/or further information required of the Reorganized Debtor or Hardware NewCo, as the case may be, with respect to adequate assurance of future performance.

If no Cure Objection or Adequate Assurance Objection is received by the Objection Deadline to an Executory Contract, then the assumption and/or assignment of such Executory Contract shall be authorized pursuant to sections 365 and 1123 of the Bankruptcy Code and the applicable Cure Amount, if any, shall be binding upon the non-Debtor counterparty to such Executory Contract for all purposes and shall constitute a final determination of the Cure Amount required to be paid to such Executory Contract counterparty, and such Executory Contract counterparty shall be deemed to have waived its right to object to, contest, condition, or otherwise restrict the assumption and/or assignment of such Executory Contract (including, without limitation, from asserting any additional cure or other amounts with respect to the Executory Contract arising prior to such assumption and/or assignment). Furthermore, upon the assumption and/or assignment of such Executory Contract, the Reorganized Debtor or Hardware NewCo, as the case may be, shall enjoy all of the Debtor’s rights and benefits thereunder without the necessity of obtaining any party’s written consent to the Debtor’s assumption and/or assignment of such rights and benefits.

(b) Objection to Disputed Cure Amounts

The Reorganized Debtor or, in the case of Executory Contracts that is a Hardware NewCo Asset, Hardware NewCo, shall have the right to examine any Objection to Cure Amount filed by any party and to object to and contest the Disputed Cure Amount asserted therein.

If an objection to a Disputed Cure Amount has not been resolved by the Bankruptcy Court or agreement of the parties by the Effective Date, the Executory Contract related to such

Disputed Cure Amount shall be deemed assumed by the Debtor and vest in the Reorganized Debtor or, in the case of an Executory Contract that is a Hardware Asset, assumed by the Debtor and assigned to Hardware NewCo, as the case may be, effective on the Effective Date; provided, however, the Reorganized Debtor or Hardware NewCo, as appropriate, may revoke an assumption and/or assignment of any such Executory Contract within ten (10) days after entry of an order by the Bankruptcy Court adjudicating the objection to the Disputed Cure Amount related to the Executory Contract by filing a notice of such revocation with the Bankruptcy Court and serving a copy on the party(ies) whose Executory Contract is rejected. Any Executory Contract identified in a revocation notice shall be deemed rejected retroactively to the Effective Date. Notwithstanding anything herein to the contrary, any Allowed Cure Amount in excess of (i) the Reorganized Debtor Cure Cap shall be paid by the Plan Sponsor, and shall not reduce the Plan Consideration payable by Plan Sponsor or result in a reduction of the Remaining Cash Requirement; and (ii) the Hardware Cure Cap shall be paid from the Consideration, and shall result in a dollar-for-dollar reduction of the Remaining Cash Requirement, provided, however that as to this subsection (ii), the following provisions shall apply: (1) the Debtor shall not, without the consent of the Investor, seek to assume Hardware Contracts or Leases whose Cure Amounts if Allowed would, in the aggregate, exceed the Hardware Cure Cap; and (2) to the extent that the Debtor seeks to assume Hardware Contracts or Leases that are the subject of a Disputed Cure Amount and the Allowed Cure Amount for such Hardware Contract or Leases would cause the Hardware Cure Cap to be exceeded, the Debtor, at the direction of the Investor, shall issue a notice of revocation for those Hardware Contracts or Leases selected by the Debtor (with the consent of the Investor) whose Allowed Cure Amounts, in combination with other Allowed Cure Amounts, would cause the Hardware Cure Cap to be exceeded.

(c) Payment of Cure Amounts

Within ten (10) Business Days after the Effective Date, the Distribution Trustee shall pay all Cure Amounts related to Executory Contracts listed on the Cure Notice, other than Disputed Cure Amounts, from out of the Distribution Trust Assets.

Subject to Section 8.3(b) hereof, the Distribution Trustee shall pay all Cure Amounts that are subject to an objection on the later of (i) within ten (10) Business Days after the Effective Date or (ii) within ten (10) Business Days after entry of an order by the Bankruptcy Court resolving the objection or approving an agreement between the parties concerning the Cure Amount.

(d) No Admission of Liability

Neither the inclusion nor exclusion of any Executory Contract by the Debtor and the Plan Sponsor on the Cure Notice, nor anything contained in the Plan, shall constitute an admission by the Debtor or the Plan Sponsor that any such contract or unexpired lease is in fact an Executory Contract or that the Debtor has any liability thereunder.

(e) Reservation of Rights

Nothing in the Plan shall waive, excuse, limit, diminish, or otherwise alter any of the defenses, claims, causes of action, or other rights of the Debtor or Hardware NewCo under any executory or non-executory contract or any unexpired or expired lease, nor shall any provision of the Plan increase, augment, or add to any of the duties, obligations, responsibilities, or liabilities of the Debtor or Hardware NewCo under any such contract or lease.

8.4 Rejection Claim Bar Date

Each Claim resulting from the rejection of an Executory Contract, pursuant to Section 8.2 hereof, shall be filed with the Bankruptcy Court no later than the Rejection Claim Bar Date; provided, however, any party whose Executory Contract is rejected pursuant to a revocation notice, pursuant to Section 8.3(b) hereof, may file a rejection damage Claim arising out of such rejection within thirty (30) days after the filing of the revocation notice with the Bankruptcy Court. Any Claim resulting from the rejection of an Executory Contract not filed by the applicable deadline shall be discharged and forever barred, and shall not be entitled to any Distributions under the Plan. The Distribution Trustee shall have the right to object to any rejection damage Claim.

8.5 Indemnification Obligations

Any obligation or agreement of the Debtor to indemnify, reimburse, or limit the liability of any Person, including any officer or director of the Debtor, or any agent, professional, financial advisor, or underwriter of any securities issued by the Debtor, relating to any acts or omissions occurring before the Effective Date, whether arising pursuant to charter, bylaws, contract or applicable state law, shall be deemed to be, and shall be treated as, a General Unsecured Claim and/or Executory Contract and shall be deemed to be rejected, canceled, and discharged pursuant to the Plan as of the Effective Date and any and all Claims resulting from such obligations are disallowed under section 502(e) of the Bankruptcy Code or other applicable grounds, including section 502(d), or if any court of applicable jurisdiction rules to the contrary, such Claim shall be estimated pursuant to section 502(c) of the Bankruptcy Code in the amount of \$0 or such other amount as the Bankruptcy Court shall determine.

**ARTICLE IX
EFFECT OF REJECTION BY ONE OR MORE CLASSES**

9.1 Impaired Classes Entitled to Vote

Each impaired Class other than any impaired Class deemed to reject the Plan shall be entitled to vote separately to accept or reject the Plan. A holder of a Disputed Claim which has not been temporarily allowed for purposes of voting on the Plan may vote only such Disputed Claim in an amount equal to the portion, if any, of such Claim shown as fixed, liquidated, and undisputed in the Debtor's Schedules of Assets and Liabilities.

9.2 Acceptance by Class

A Class of Claims shall have accepted the Plan if the Plan is accepted by at least two thirds (2/3) in amount and more than one half (1/2) in number of the Allowed Claims of such Class that have voted to accept or reject the Plan.

9.3 Cramdown; Reservation of Cramdown Rights

The Debtor requests the Bankruptcy Court to confirm the Plan over the deemed rejection of Classes 5 and 6 in accordance with section 1129(b) of the Bankruptcy Code. In the event that any other impaired Class shall fail to accept the Plan in accordance with section 1129(a) of the Bankruptcy Code, the Debtor and Plan Sponsor reserve the right to request that the Bankruptcy Court confirm the Plan in accordance with the provisions of the section 1129(b) of the Bankruptcy Code.

ARTICLE X EFFECT OF CONFIRMATION

10.1 Legally Binding Effect

The provisions of the Plan shall bind all Creditors and Interest Holders, whether or not they accept the Plan and wherever located.

10.2 Vesting of Property of Debtor in Reorganized Debtor and Hardware NewCo

On the Effective Date, except as otherwise expressly provided in the Plan or Confirmation Order, all Estate Property, other than the Distribution Trust Assets, the Hardware Assets, the Hardware Rights of Action and the Abandoned Assets, shall vest in the Reorganized Debtor free and clear of all Liens, Claims, interests, and encumbrances of any kind, except as otherwise provided in the Plan. On the Effective Date, except as otherwise expressly provided in the Plan or Confirmation Order, the Hardware Assets and the Hardware Rights of Action shall vest in Hardware NewCo free and clear of all Liens, Claims, interests, and encumbrances of any kind, except as otherwise provided in the Plan. Moreover, pursuant to Bankruptcy Code section 1141(d), the effect of confirmation of the Plan shall be to discharge the Debtor from any debt that arose before the Effective Date, and any debt of a kind specified in Bankruptcy Code sections 502(g), 502(h), or 502(i).

Neither the issuance of the New Equity or Hardware NewCo Equity nor transfer of assets through the Plan shall result in the Reorganized Debtor or Hardware NewCo (a) having any liability or responsibility for any Claim against or Equity Interest in the Debtor, the Debtor's estate, or Insider of the Debtor, or (b) having any liability or responsibility to the Debtor, except as expressly provided in the Plan. Without limiting the effect or scope of the foregoing, and to the fullest extent permitted by applicable laws, neither the issuance of the New Equity or Hardware NewCo Equity nor transfer of assets contemplated in the Plan shall subject the Reorganized Debtor or Hardware NewCo, or their respective properties or assets or affiliates, successors, or assigns to any liability for Claims against the Debtor's interests in such assets by reason of such issuance of New Equity, Hardware NewCo Equity or transfer of assets under any

applicable laws, including, without limitation, any successor liability, except as expressly provided in the Plan.

On the Effective Date, except as otherwise provided in the Plan, the Reorganized Debtor and Hardware NewCo may operate their respective businesses and may use, acquire, or dispose of any and all Estate Property, without supervision of or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules, except as expressly provided in the Plan.

ARTICLE XI INJUNCTIONS, RELEASES, AND DISCHARGE

11.1 Discharge of the Debtor

To the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code, except as otherwise expressly provided by the Plan or the Confirmation Order, all Distributions under the Plan will be in exchange for, and in complete satisfaction, settlement, discharge, and release of, all Claims and causes of action, whether known or unknown, including any interest accrued on such Claims from and after the Petition Date, against, liabilities of, Liens on, obligations of, rights against, and Equity Interests in, the Debtor or any of its assets or properties, and regardless of whether any property will have been distributed or retained pursuant to the Plan on account of such Claims or Equity Interests. Except as otherwise expressly provided by the Plan or the Confirmation Order, upon the Effective Date, the Debtor and its estate will be deemed discharged and released under and to the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code from any and all Claims and Equity Interests of any kind or nature whatsoever, including, but not limited to, demands and liabilities that arose before the Confirmation Date, and all debts of the kind specified in section 502(g), 502(h), or 502(i) of the Bankruptcy Code. The Confirmation Order shall be a judicial determination of the discharge of all Claims against, and Equity Interests in, the Debtor, subject to the occurrence of the Effective Date.

11.2 Discharge Injunction

Except as otherwise expressly provided in the Plan, the discharge and releases set forth in Section 11.1 hereof shall also operate as an injunction permanently prohibiting and enjoining the commencement or continuation of any action or the employment of process with respect to, or any act to collect, recover from, or offset (a) any Claim discharged and released in Section 11.1 hereof, or (b) any cause of action, whether known or unknown, based on the same subject matter as any Claim discharged and released in Section 11.1 hereof. Except as otherwise expressly provided in the Plan, all Persons shall be precluded and forever barred from asserting against the Debtor and the Reorganized Debtor, their successors or assigns, or their assets, properties, or interests in property, any other or further Claims, or any other right to legal or equitable relief, regardless of whether such right can be reduced to a right to payment, based upon any act or omission, transaction, or

other activity of any kind or nature that occurred prior to the Effective Date, whether or not the facts of or legal bases therefor were known or existed prior to the Effective Date.

11.3 Exculpation and Limitation of Liability

The Exculpated Parties will neither have nor incur any liability to any entity for any claims or causes of action arising on or after the Petition Date and prior to or on the Effective Date for any act taken or omitted to be taken in connection with, or related to formulating, negotiating, preparing, disseminating, implementing, administering, confirming or effecting the consummation of the Plan, the Disclosure Statement, or any other contract, instrument, release or other agreement or document created or entered into in connection with the Plan or any other prepetition or postpetition act taken or omitted to be taken in connection with or in contemplation of the restructuring of the Debtor, the approval of the Disclosure Statement or confirmation or consummation of the Plan; provided, however, that the foregoing provisions will have no effect on the liability of any entity that results from any such act or omission that is determined in a Final Order of the Bankruptcy Court or other court of competent jurisdiction to have constituted gross negligence or willful misconduct; provided, further, that the Debtor will be entitled to rely upon the advice of counsel concerning their duties pursuant to, or in connection with, the above referenced documents, actions or inactions.

11.4 Releases by the Debtor

Notwithstanding anything to the contrary in the Plan or the Confirmation Order, effective as of the Effective Date, for good and valuable consideration provided by each of the Released Parties, the adequacy of which is hereby acknowledged and confirmed, the Debtor will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever provided a full discharge, waiver and release to the Released Parties and their respective related parties (and each such Released Party and their respective related parties so released shall be deemed forever released by the Debtor) and their respective properties from any and all claims that the Debtor or any of their respective related parties would have been legally entitled to assert in their own right, on their own behalf, or on behalf of another party, against the Released Parties or their respective related parties; provided, however, that the foregoing provisions of this release shall not operate to waive or release (i) the rights of the Debtor to enforce the Plan and the contracts, instruments, releases and other agreements or documents delivered under or in connection with the Plan or assumed pursuant to the Plan or assumed pursuant to final order of the Bankruptcy Court; and/or (ii) any defenses against a third party.

The foregoing release shall be effective as of the Effective Date without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person and the Confirmation Order will permanently enjoin the commencement or prosecution by any person, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action, or liabilities released pursuant to this release.

11.5 Releases by Third Parties

To the extent allowed by applicable law, on, and as of, the Effective Date and for good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Debtor and the Released Parties shall be forever released from any and all claims, obligations, actions, suits, rights, debts, accounts, causes of action, remedies, avoidance actions, agreements, promises, damages, judgments, demands, defenses, or claims in respect of equitable subordination, and liabilities throughout the world under any law or court ruling through the Effective Date (including all claims based on or arising out of facts or circumstances that existed as of or prior to the Effective Date, including claims based on negligence or strict liability, and further including any derivative claims asserted on behalf of the Debtor, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity or otherwise, that the Debtor, its Estate, or the Reorganized Debtor would have been legally entitled by applicable law to assert in its own right, whether individually or collectively) which the Debtor, its Estate, the Reorganized Debtor, Creditors or other persons receiving or who are entitled to receive Distributions under the Plan may have against any of them in any way related to the Chapter 11 Case or the Debtor (or its predecessors); provided however that the foregoing release of the Released Parties is granted only by the (a) Creditors who are unimpaired, (b) Creditors who returned a Ballot and did not check the opt-out box on the Ballot, and (c) Creditors who were sent a solicitation package but did not vote and did not return a Ballot with the opt-out box checked; provided further, however that the release provided in this Section 11.5 shall not apply to any Creditor in category (c) above if the solicitation package was returned to the Debtor as undelivered, and that such Creditor did not otherwise file a ballot; and provided further, however, that the release provided in this Section 11.5 shall not extend to any claims by any Governmental Unit with respect to criminal liability under applicable law, willful misconduct or bad faith under applicable law, or *ultra vires* acts under applicable law.

For the avoidance of doubt, nothing in this Article XI shall prevent the enforcement of the terms of the Plan.

ARTICLE XII RETENTION OF JURISDICTION

12.1 Bankruptcy Court Jurisdiction

Notwithstanding the entry of the Confirmation Order or the occurrence of the Effective Date, the Bankruptcy Court shall retain and have such jurisdiction over the Chapter 11 Case to the maximum extent as is legally permissible, including, without limitation, for the following purposes:

(a) To allow, disallow, determine, liquidate, classify or establish the priority or secured or unsecured status of or estimate any Claim or Equity Interest, including, without limitation, the resolution of any request for payment of any Administrative Claim and the resolution of any and all objections to the allowance or priority of Claims or Equity Interests;

(b) To ensure that Distributions to holders of Allowed Claims are accomplished pursuant to the provisions of the Plan;

(c) To determine any and all applications or motions pending before the Bankruptcy Court on the Effective Date of the Plan, including without limitation any motions for the rejection, assumption or assumption and assignment of any Executory Contract;

(d) To consider and approve any modification of the Plan, remedy any defect or omission, or reconcile any inconsistency in the Plan, or any order of the Bankruptcy Court, including the Confirmation Order;

(e) To determine all controversies, suits and disputes that may arise in connection with the interpretation, enforcement or consummation of the Plan or any Plan Documents or any entity's obligations in connection with the Plan or any Plan Documents, or to defend any of the rights, benefits, Estate Property transferred, created, or otherwise provided or confirmed by the Plan or the Confirmation Order or to recover damages or other relief for violations thereof;

(f) To consider and act on the compromise and settlement of any claim or cause of action by or against the Debtor, the Estate, the Reorganized Debtor, Hardware NewCo or the Distribution Trustee;

(g) To decide or resolve any and all applications, motions, adversary proceedings, contested or litigated matters, and any other matters, or grant or deny any applications involving the Debtor, or the Estate that may be pending on the Effective Date or that may be brought by the Debtor, the Reorganized Debtor, Hardware NewCo or the Distribution Trustee (as applicable), or any other related proceedings by the Reorganized Debtor, and to enter and enforce any default judgment on any of the foregoing;

(h) To decide or resolve any and all applications for compensation;

(i) To issue orders in aid of execution and implementation of the Plan or any Plan Documents to the extent authorized by section 1142 of the Bankruptcy Code or provided by the terms of the Plan;

(j) To decide issues concerning the federal or state tax liability of the Debtor which may arise in connection with the confirmation or consummation of the Plan or any Plan Documents;

(k) To interpret and enforce any orders entered by the Bankruptcy Court in the Chapter 11 Case; and

(l) To enter an order closing this Chapter 11 Case when all matters contemplating the use of such retained jurisdiction have been resolved and satisfied.

12.2 Limitation on Jurisdiction

In no event shall the provisions of the Plan be deemed to confer in the Bankruptcy Court jurisdiction greater than that established by the provisions of 28 U.S.C. §§ 157 and 1334, as well as the applicable circumstances that continue jurisdiction for defense and enforcement of the Plan and Plan Documents. For the avoidance of doubt, however, such jurisdiction shall be deemed, by the entry of the Confirmation Order, to:

(a) Permit entry of a final judgment by the Bankruptcy Court in any core proceeding referenced in 28 U.S.C. § 157(b) and to hear and resolve such proceedings in accordance with 28 U.S.C. § 157(c) and any and all related proceedings, including, without limitation, (i) all proceedings concerning disputes with, or Rights of Action or Claims against, any Person that the Debtor, the Estate, [Hardware NewCo], the Distribution Trust or the Reorganized Debtor or any of their successors or assigns, may have, and (ii) any and all Rights of Action or other Claims against any Person for harm to or with respect to (x) any Estate Property, including any infringement of Intellectual Property or conversion of Estate Property, or (y) any Estate Property lien or transferred by the Debtor to any other Person;

(b) Include jurisdiction over the recovery of any Estate Property (or property transferred by the Debtor with Bankruptcy Court approval) from any Person wrongly asserting ownership, possession or control of the same, whether pursuant to sections 542, 543, 549, 550 of the Bankruptcy Code or otherwise, as well as to punish any violation of the automatic stay under section 362 of the Bankruptcy Code or any other legal rights of the Debtor or the Estate under or related to the Bankruptcy Code; and

(c) Permit the taking of any default judgment against any Person who has submitted himself or herself to the jurisdiction of the Bankruptcy Court.

ARTICLE XIII MISCELLANEOUS PROVISIONS

13.1 Conditions to Confirmation

The Confirmation Order will not be effective unless (a) the Confirmation Order shall be in form and substance acceptable to the Plan Sponsor, in its reasonable discretion, and, solely with respect to issues materially impacting the economic treatment of its claims and/or the treatment of Hardware NewCo, acceptable to the Investor in its reasonable discretion, shall provide for the Plan Sponsor and the DIP Lender to acquire the New Equity subject to the Subscription Option, free and clear of all Liens, Claims, Equity Interests and encumbrances of any kind, except as otherwise provided in the Plan, (b) the final version of the Plan, Plan Supplement, and any other documents, or schedules thereto, shall have been filed in form and substance acceptable to the Plan Sponsor in its reasonable discretion and, solely with respect to issues materially impacting the economic treatment of its claims and/or the treatment of

Hardware NewCo, acceptable to the Investor in its reasonable discretion, and (c) no breach or failure to comply with the terms of the DIP Order, the DIP Note, the RSA, the Plan or any other material order of the Bankruptcy Court shall have occurred and be continuing.

13.2 Conditions to Effectiveness

The Plan will not be effective unless (a) the conditions to confirmation above have been either satisfied, or waived, by the Plan Sponsor or, solely with respect to issues materially impacting the economic treatment of its claims and/or the treatment of Hardware NewCo, waived by the Investor in its reasonable discretion, (b) the Confirmation Order has become a Final Order, (c) no breach or failure to comply with the terms of the DIP Order, the DIP Note, the RSA, the Plan, the Confirmation Order or any other material order of the Bankruptcy Court shall have occurred and be continuing; (d) the Plan Sponsor and the DIP Lender shall acquire the New Equity subject to the Subscription Option, free and clear of all Liens, Claims, Equity Interests and encumbrances of any kind, except as otherwise provided in the Plan, (e) the Debtor has not caused, or as to Insiders, permitted to occur, from and after the Petition Date, (i) a Material Adverse Change with respect to the Debtor's Intellectual Property or (ii) an "ownership change" as such term is used in section 382 of title 26 of the United States Code and (f) the Remaining Cash to be paid to Hardware Newco on the Effective Date shall not be less than the Remaining Cash Requirement. The conditions to effectiveness set forth in subparagraphs (a) through (c) of this subsection 13.2 may be waived with the consent of the Debtor, the Plan Sponsor and the Investor; the conditions to effectiveness set forth in subparagraphs (d) through (e) of this subsection 13.2 may be waived by the Plan Sponsor, and the condition to effectiveness set forth in subparagraph (f) of this subsection 13.2 may be waived by the Investor.

13.3 Exemption from Taxes

The Plan and the Confirmation Order provide for (a) the issuance, transfer or exchange of notes, debt instruments and equity securities under or in connection with the Plan; (b) the creation, assignment, recordation or perfection of any lien, pledge, other security interest or other instruments of transfer; (c) the making or assignment of any lease; (d) the creation, execution and delivery of any agreements or other documents creating or evidencing the formation of the Reorganized Debtor or the issuance or ownership of any interest in the Reorganized Debtor; or (e) the making or delivery of any deed or other instrument of transfer under the Plan in connection with the vesting of the Estate's assets in the Reorganized Debtor or the Distribution Trust pursuant to or in connection with the Plan, including, without limitation, merger agreements, stock purchase agreement, agreements of consolidation, restructuring, disposition, liquidation or dissolution, and transfers of tangible property. Pursuant to section 1146 of the Bankruptcy Code and the Plan, any such act described or contemplated herein will not be subject to any stamp tax, transfer tax, filing or recording tax, or other similar tax.

13.4 Securities Exemption

Any rights issued under, pursuant to or in effecting the Plan, including, without limitation, the New Equity in the Reorganized Debtor and the Hardware NewCo Equity, and the offering and issuance thereof by any party, including without limitation the Proponents or the

Estate, shall be exempt from Section 5 of the Securities Act of 1933, if applicable, and from any state or federal securities laws requiring registration for offer or sale of a security or registration or licensing of an issuer of, underwriter of, or broker or dealer in, a security, and shall otherwise enjoy all exemptions available for Distributions of securities under a plan of reorganization in accordance with all applicable law, including without limitation section 1145 of the Bankruptcy Code. If the issuance of the New Equity or the Hardware NewCo Equity do not qualify for an exemption under section 1145 of the Bankruptcy Code, the New Equity shall be issued in a manner, which qualifies for any other available exemption from registration, whether as a private placement under Rule 506 of the Securities Act, Section 4(2) of the Securities Act, and/or the safe harbor provisions promulgated thereunder.

13.5 Defects, Omissions and Amendments of the Plan

The Debtor may, with the consent of the Plan Sponsor and the Investor, solely to the extent such amendment, modification or supplement would materially impact the recovery of the Investor under the Plan, and the approval of the Bankruptcy Court and without notice to other holders of Claims and Equity Interests, insofar as it does not materially and adversely affect holders of Claims and Equity Interests, correct any defect, omission, or inconsistency in the Plan in such a manner and to such extent necessary or desirable to expedite the execution of the Plan. The Debtor may, with the consent of the Plan Sponsor and the Investor, solely to the extent such amendment, modification or supplement would materially impact the recovery of the Investor under the Plan, propose amendments or alterations to the Plan before the Confirmation Hearing as provided in section 1127 of the Bankruptcy Code if, in the opinion of the Bankruptcy Court, the modification does not materially and adversely affect the interests of holders of Claims and Equity Interests, so long as the Plan, as modified, complies with sections 1122 and 1123 of the Bankruptcy Code and the Debtor has complied with section 1125 of the Bankruptcy Code. The Debtor may, with the consent of the Plan Sponsor and the Investor, solely to the extent such amendment, modification or supplement would materially impact the recovery of the Investor under the Plan, propose amendments or alterations to the Plan after the Confirmation Date but prior to substantial consummation, in a manner that, in the opinion of the Bankruptcy Court, does not materially and adversely affect holders of Claims and Equity Interests, so long as the Plan, as modified, complies with sections 1122 and 1123 of the Bankruptcy Code, the Debtor has complied with section 1125 of the Bankruptcy Code, and after notice and a hearing, the Bankruptcy Court confirms such Plan, as modified, under section 1129 of the Bankruptcy Code.

13.6 Withdrawal of Plan

The Debtor reserves the right to withdraw the Plan, provided that the Plan Sponsor and the Investor, consent, at any time prior to the Confirmation Date. If the Debtor withdraws the Plan prior to the Confirmation Date, or if the Confirmation Date does not occur within [60] days of the Petition Date, unless otherwise extended by mutual agreement of the Debtor, the Plan Sponsor and the Investor or the Effective Date does not occur within [60] days of the Petition Date, unless otherwise extended by mutual agreement of the Debtor and the Plan Sponsor, then the Plan shall be deemed null and void. In such event, nothing contained herein shall be deemed to constitute an admission, waiver or release of any claims by or against the Debtor or any other person, or to prejudice in any manner the rights of the Debtor, the Debtor's Estate, or any person in any further proceedings involving the Debtor. Notwithstanding the foregoing, this Section 13.6 shall be subject in all respects to the RSA. In the event of an ESW Termination Event (as defined in the RSA), ESW shall not be required to continue to act as Plan Sponsor under the Plan.

13.7 Due Authorization By Holders of Claims

Each and every holder of a Claim who elects to participate in the Distributions provided for herein warrants that such holder is authorized to accept in consideration of its Claim against the Debtor the Distributions provided for in the Plan, and that there are no outstanding commitments, agreements, or understandings, express or implied, that may or can in any way defeat or modify the rights conveyed or obligations undertaken by such holder under the Plan.

13.8 Filing of Additional Documentation

By the Plan Supplement Deadline, the Debtor may file with the Bankruptcy Court such Plan Supplement, agreements and other documents as may be reasonably necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan or any Plan Document, which shall also constitute "Plan Documents."

13.9 Governing Law

Except to the extent the Bankruptcy Code or the Bankruptcy Rules are applicable, the rights and obligations arising under the Plan shall be governed by, and construed and enforced in accordance with the laws of the State of Delaware, without giving effect to the principles of conflicts of law thereof.

13.10 Successors and Assigns

The rights, benefits and obligations of any entity named or referred to in the Plan or any Plan Document shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor or assign of such entity.

13.11 Transfer of Claims and Equity Interests

Any transfer of a Claim shall be in accordance with Bankruptcy Rule 3001(e) and the terms of this Section 13.11. Notice of any such transfer shall be forwarded to the Debtor by

registered or certified mail, as set forth in Section 13.12 hereof. Both the transferee and transferor shall execute any notice, and the signatures of the parties shall be acknowledged before a notary public. The notice must clearly describe the interest in the Claim to be transferred. No transfer of a partial interest shall be allowed. All transfers must be of one hundred percent (100%) of the transferor's interest in the Claim.

No transfer of Equity Interests shall be allowed after the Voting Record Date.

13.12 Notices

Any notice required to be given under the Plan or any Plan Document shall be in writing. Any notice that is allowed or required hereunder except for a notice of change of address shall be considered complete on the earlier of (a) three (3) days following the date the notice is sent by United States mail, postage prepaid, or by overnight courier service, or in the case of mailing to a non-United States address, air mail, postage prepaid, or personally delivered; or (b) the date the notice is actually received by the Persons on the Post-Confirmation Service List by email transmission; such notice shall be sent to those Persons on the Post-Confirmation Service List as it is adopted by the Bankruptcy Court at the hearing on confirmation of the Plan, as such list may be amended from time-to-time by written notice from the Persons on the Post-Confirmation Service List.

- (a) If to the Debtor, at:

Prysm, Inc.
513 Fairview Way, Milpitas, CA 95035
Attention: Prysm Legal
Email: akharal@prysm.com

and

Gellert Scali Busenkell & Brown, LLC
1201 N. Orange Street, Suite 300
Wilmington, Delaware 19801
Attention: Ronald S. Gellert
Email: rgellert@gsbblaw.com
Fax: 302-425-5815

- (b) If to the Plan Sponsor, at:

ESW Capital, LLC
401 Congress Ave., Suite 2650
Austin, Texas 78701
Attention: Neeraj Gupta
Email: neeraj.gupta@eswcapital.com

and

Goulston & Storrs, P.C.
885 Third Avenue, 18th Floor
New York, New York 10022
Attention: Trevor R. Hoffmann
Email: thoffmann@goulstonstorrs.com
Fax: 212-878-6911

- (c) If to the DIP Lender, at:

ESW Capital, LLC
401 Congress Ave., Suite 2650
Austin, Texas 78701
Attention: Neeraj Gupta
Email: neeraj.gupta@eswcapital.com

and

Goulston & Storrs, P.C.
885 Third Avenue, 18th Floor
New York, New York 10022

Attention: Trevor R. Hoffmann
Email: thoffmann@goulstonstorrs.com
Fax: 212-878-6911

- (d) If to the Investor, at

Kuwait Investment Authority For and On Behalf of
the Government of the State of Kuwait
Ministries Complex, AlMurqab, Kuwait
P.O. Box 64, Safat, 13001
Kuwait City
Kuwait
Attention: Khaled A A Albader
Email: KhaledB@kia.gov.kw

and

Gibson Dunn & Crutcher LLP
200 Park Avenue
New York, New York 10166
Attention: Michael A Rosenthal
Email: mrosenthal@gibsondunn.com

- (e) If to GII Prysm Investments, at

Patrick Costello
Vectis Law
1900 S. Norfolk Street, Suite 250
San Mateo, California 94403
Email: pcostello@vectislawgroup.com

- (f) If to the U.S. Trustee, at:

844 King Street
Suite 2207
Lockbox 35
Wilmington, Delaware 19801
Attn: Richard Schepacarter

13.13 U.S. Trustee Fees

The Debtor will pay pre-confirmation fees owed to the U.S. Trustee on or before the Effective Date of the Plan. After the Effective Date, the Distribution Trustee will file with the Bankruptcy Court and serve on the U.S. Trustee quarterly financial reports in a format prescribed by the U.S. Trustee, and the Distribution Trustee will pay post-Effective Date quarterly fees to the U.S. Trustee until a final decree is entered or the case is converted or dismissed as provided in 28 U.S.C. § 1930(a)(6).

13.14 Implementation

The Debtor, the Reorganized Debtor, the Plan Sponsor, Hardware NewCo and the Distribution Trustee shall be authorized to perform all reasonable, necessary and authorized acts to consummate the terms and conditions of the Plan and the Plan Documents, without further order from the Bankruptcy Court.

13.15 No Admissions

Notwithstanding anything herein to the contrary, nothing contained in the Plan shall be deemed an admission by the Debtor, or the Estate with respect to any matter set forth herein, including, without limitation, liability on any Claim or Equity Interest or the propriety of the classification of any Claim or Equity Interest.

ARTICLE XIV SUBSTANTIAL CONSUMMATION

14.1 Substantial Consummation

The Plan shall be deemed substantially consummated on the Effective Date.

14.2 Final Decree

Upon compliance with Bankruptcy Rule 3022, the Distribution Trustee and/or the Reorganized Debtor and/or Hardware NewCo may request the Bankruptcy Court to enter a final decree closing the Chapter 11 Case and such other orders that may be necessary and appropriate.

Dated: August 5, 2020

Charles J. Brown, III (DE 3368)
Michael Busenkell (DE 3933)

Ronald S. Gellert (DE 4259)
Amy D. Brown (DE 4077)
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Proposed Counsel to Debtor and
Debtor in Possession

EXHIBIT A

EXHIBIT A
Glossary of Defined Terms

“401(k) Plan” means the Prysm, Inc. 401(k) Plan.

“Abandoned Assets” means (i) the Debtor’s equity interests in each of the following subsidiaries: Anacore LLC, Kaybus, Inc., Kaybus India Private Limited, Prysm Europe Ltd and Prysm Europe BVBA; and (ii) any assets designated as such on a notice of abandonment filed by the Debtor with the Bankruptcy Court (with the prior written consent of the Plan Sponsor and the Investor) on or before the Effective Date. Any asset designated as an Abandoned Asset may be de-designated as an Abandoned Asset by the Debtor (with the prior written consent of the Plan Sponsor and the Investor) by filing a notice of de-designation with the Bankruptcy Court on or before the Effective Date.

“Administrative Claim” means any cost or expense of administration of the Chapter 11 Case incurred on or before the Effective Date entitled to priority under section 507(a)(1) and allowed under section 503(b) of the Bankruptcy Code, including without limitation, any actual and necessary expenses of preserving the Debtor’s Estate, including wages, salaries or commissions for services rendered after the commencement of the Chapter 11 Case, certain taxes, fines and penalties, any actual and necessary post-petition expenses of operating the business of the Debtor, certain post-petition indebtedness or obligations incurred by or assessed against the Debtor in connection with the conduct of its business, or for the acquisition or lease of property, or for providing of services to the Debtor, including all allowances of compensation or reimbursement of expenses to the extent allowed by the Bankruptcy Court under the Bankruptcy Code, and any fees or charges assessed against the Debtor’s Estate under Chapter 123, Title 28 of the United States Code. With respect to quarterly U.S. Trustee fees, the Debtor shall pay any accrued such fees on the Effective Date. The Distribution Trustee shall timely pay all post-confirmation quarterly fees as they accrue until the date of the closing of the Chapter 11 Case. Professional Compensation Claims shall only be Allowed for duly employed Professionals in the Chapter 11 Case in accordance with applicable law. For the avoidance of doubt, the Allowed DIP Lender Claim and Administrative Tax Claims shall be deemed to be Administrative Claims for all purposes hereunder.

“Administrative Claim Bar Date” means the first Business Day that is thirty (30) days after the Effective Date.

“Administrative Tax Claim” means an Administrative Claim of a Governmental Unit.

“Allowance Date” means the date that a Claim or Equity Interest becomes an Allowed Claim or Allowed Equity Interest.

“Allowed” means, (1) with respect to any Claim, a Claim allowable under 11 U.S.C. § 502 (a) for which a proof of claim was filed on or before, as applicable, the General Bar Date, the Governmental Unit Bar Date, the Administrative Claim Bar Date or the Rejection Claim Bar Date, and as to which no objection or other challenge to the allowance thereof has been timely

Filed, or if an objection or challenge has been timely Filed, such Claim is allowed by a Final Order; or (b) for which a proof of claim is not filed and that has been listed in the Schedules of Assets and Liabilities and is not listed as disputed, contingent, or unliquidated; or (c) that is deemed allowed by the terms of the Plan; or (2) with respect to any Equity Interest, such Equity Interest is reflected as outstanding in the stock transfer ledger or similar register or record of the Debtor on the Petition Date. For purposes of determining the amount of an Allowed Claim (other than a Claim specifically Allowed under the Plan), there shall be deducted therefrom an amount equal to the amount of any Claim that the Debtor may hold against the Creditor under 11 U.S.C. § 553. Notwithstanding anything to the contrary in the Plan, the Debtor may, in its discretion, treat a Claim as an Allowed Claim to the extent it is allowed by an order that is not a Final Order.

“Approved Budget” means the budget agreed to by the Debtor and the DIP Lender and attached as Exhibit A to the DIP Note (as may be amended or otherwise modified from time to time pursuant to the terms of the DIP Order).

“Available Cash” means all of the Cash held by the Distribution Trust including Cash deposited or held in the Distribution Reserve on account of disputed or undetermined Claims, to the extent that those Claims are disallowed in whole or in part after the Effective Date, less the Distribution Reserve.

“Ballot” means the form of ballot which the Debtor will transmit to Creditors who are, or may be, entitled to vote on the Plan.

“Bankruptcy Code” means the Bankruptcy Reform Act of 1978, as amended, Title 11, United States Code, as applicable to this Chapter 11 Case.

“Bankruptcy Court” means the United States Bankruptcy Court for the District of Delaware, together with the District Court as to matters as to which the reference is withdrawn under 11 U.S.C. § 157(d).

“Bankruptcy Rules” means the Federal Rules of Bankruptcy Procedure.

“Beneficial Interest” means an interest in the Distribution Trust that entitles the holder thereof to a Distribution from the Distribution Trust as a Distribution Trust Plan Distribution Obligation.

“Beneficiary” means the holder of a Beneficial Interest, whether individually or as agent on behalf of other entities.

“Business Day” means any day other than a Saturday, Sunday, or a “legal holiday” (as defined in Bankruptcy Rule 9006(a)).

“Cash” means Cash, wire transfer, certified check, cash equivalents and other readily marketable securities or instruments, including, without limitation, readily marketable direct

obligations of the United States of America, certificates of deposit issues by banks, and commercial paper of any Person, including interest accrued or earned thereon.

“Cash Consideration” means (i) \$12,000,000 in Cash to be funded by the Plan Sponsor on the Effective Date, *plus* (ii) additional Cash to be funded by the Plan Sponsor in an amount equal to the Undrawn DIP Note Amount as of the Effective Date. For the avoidance of doubt, the Cash Consideration shall not include any Eligible Accounts Receivable of the Debtor as of the Effective Date or any amounts paid on the Effective Date to the DIP Lender if it does not elect the Subscription Option.

“Cash-on-Hand” means all Cash reflected on the Debtor’s balance sheet as of the Effective Date, if any; provided that the Employee Vacation Cash Reserve shall not be deemed to be Cash-on-Hand. For the avoidance of doubt, Cash-on-Hand shall not include the Cash Consideration.

“Chapter 11 Case” means *In re Prysm, Inc.*, Case No. 20-_____ in the United States Bankruptcy Court for the District of Delaware Debtor under Chapter 11 of the Bankruptcy Code.

“Charter Documents” means, as the context requires, (a) the articles of incorporation and the bylaws of the Debtor or Reorganized Debtor, as applicable, and any amendments to the foregoing, or (b) the articles of incorporation and the bylaws of Hardware Newco, and any amendments to the foregoing.

“Claim” has the meaning assigned to such term by section 101(5) of the Bankruptcy Code.

“Claim Objection Deadline” means the first Business Day that is 180 days after the Effective Date, as may be extended by order of the Bankruptcy Court.

“Class” means one of the classes of Claims or Equity Interests defined in Article III of the Plan.

“Clerk” means the Clerk of the Bankruptcy Court.

“Closing” means the closing of the transactions contemplated under Article VI of the Plan.

“Confirmation Date” means the date upon which the Clerk of the Bankruptcy Court enters the Confirmation Order on the docket of the Bankruptcy Court.

“Confirmation Hearing” means the hearing held by the Bankruptcy Court pursuant to section 1128 of the Bankruptcy Code to consider confirmation of this Plan, as such hearing may be adjourned or continued from time to time.

“Confirmation Order” means the Order of the Bankruptcy Court approving and confirming the Plan in accordance with the provisions of Chapter 11 of the Bankruptcy Code.

“Creditor” means any person that holds a Claim against the Debtor that arose on or before the Effective Date, or a Claim against the Debtor of any kind specified in sections 502(f), 502(g), 502(h) or 502(i) of the Bankruptcy Code.

“Cure Amount” means the amount of Cash required to cure defaults necessary to assume an Executory Contract under 11 U.S.C. § 365(b) as determined by the Bankruptcy Court or pursuant to any agreement among the Debtor, Reorganized Debtor or Hardware NewCo (as applicable) and the other party(ies) to the Executory Contract and as listed in the Schedule of Assumed Contracts and Unexpired Leases.

“Cure Amount Objection Bar Date” means September 7, 2020, at 4:00 p.m. (ET).

“Debtor” means Prysm, Inc. a Delaware corporation and a debtor and debtor in possession in the Chapter 11 Case.

“DIP Financing” means the post-petition financing in the amount of up to \$3 million provided by the DIP Lender pursuant to the DIP Order.

“DIP Order” means the Order approving the DIP Financing on an interim basis (Doc. No. [__]), and on a final basis.

“DIP Lender” means ESW Capital, LLC or an affiliate, in its capacity as post-petition lender under the DIP Note.

“DIP Lender Claim” means the Administrative Claim of the DIP Lender under the DIP Note. The DIP Lender Claim is Allowed in full.

“DIP Note” means the Senior Secured Super-Priority DIP Financing Note, dated as of August 5, 2020, by and between the Debtor and the DIP Lender and approved under the DIP Order, as amended, supplemented or otherwise modified.

“Disallowed Claim” means a Claim, or any portion thereof, that (a) has been disallowed by either a Final Order or pursuant to a settlement, or (b)(i) is listed in the Schedules of Assets and Liabilities at zero or as contingent, disputed or unliquidated, including by amendment hereby of such Schedules of Assets and Liabilities and as to which no proof of claim has been filed such Claim, and (ii) as to which a bar date has been established but no proof of claim has been filed or deemed timely filed with the Bankruptcy Court pursuant to either the Bankruptcy Code, any Final Order, or applicable law, or which is not deemed allowed by the terms of the Plan.

“Disclosure Statement” means the *Disclosure Statement for the Prepackaged Chapter 11 Plan of Prysm, Inc. Dated August 5, 2020*, filed by the Debtor with the Bankruptcy Court, as may be amended or supplemented.

“Disclosure Statement Approval Date” means the date the Order Approving Disclosure Statement is entered on the docket of the Chapter 11 Case.

“Disputed Claim” means a Claim as to which a proof of claim or interest has been Filed or deemed Filed under applicable law, as to which an objection has been and which objection, if timely Filed, has not been withdrawn on or before any date fixed for Filing such objections by the Plan or Order of the Bankruptcy Court and has not been overruled or denied by a Final Order. Prior to the time that an objection has been or may be timely Filed, for the purposes of the Plan, a Claim shall be considered a Disputed Claim to the extent that: (i) the Claim has been scheduled in the Schedules of Assets and Liabilities as contingent, disputed or unliquidated or in the amount of \$0.

“Disputed Cure Amount” means, with respect to an Executory Contract for which a Cure Objection is filed, the amount that the counterparty to such Executory Contract asserts is necessary to assume such Executory Contract under 11 U.S.C. § 365(b).

“Distribution” means, except as otherwise provided in the Plan, the property required by the Plan to be distributed to the holders of Allowed Claims.

“Distribution Date” means any date that a Distribution is made under the Plan or the Distribution Trust Agreement.

“Distribution Reserve” means a reserve established to hold Cash equal to the aggregate of (a) Cash that would have been distributed on the Distribution Date on account of Disputed or undetermined Distribution Trust Plan Distribution Obligations, including (i) Administrative Claims, provided, however, that with respect to Administrative Claims for which applications for compensation of professionals or other persons retained or to be compensated pursuant to sections 327, 328, 330, 331 and 503(b) of the Bankruptcy Code are or will be pending but are then undetermined, the amount of Cash deposited shall be the amount sought by such persons, in each case less any monies already received by such professional or person, but in no event more than the amount to be paid to such professional or person pursuant to the Approved Budget, (ii) Other Priority Claims, (iii) Other Secured Claims (iv) Cure Amounts, and (v) General Unsecured Claims, provided, however, that the amount reserved for any Disputed or undetermined General Unsecured Claims will not exceed such Claim’s Pro Rata Share of the GUC Recovery; plus (b) Cash in the amount of all taxes incurred by the Debtor prior to the Effective Date (and not paid or otherwise provided for as an Allowed Priority Tax Claim under the Plan).

“Distribution Trust” means the trust established under the Plan and the Distribution Trust Agreement.

“Distribution Trust Account” means the segregated interest-bearing account established by the Distribution Trust into which shall be deposited the Distribution Trust Assets.

“Distribution Trust Agreement” means the trust agreement that establishes the Distribution Trust and governs the powers, duties, and responsibilities of the Distribution Trustee. The Distribution Trust Agreement shall be Filed as part of the Plan Supplement.

“Distribution Trust Assets” means (a) Cash, payable from the Cash Consideration and the Cash-on-Hand, in that amount sufficient to satisfy all Distribution Trust Plan Distribution Obligations plus (b) Cash attributable to interest that accrues on the Distribution Trust Assets; provided, however, that any Distribution Trust Assets in excess of the amount at any time necessary for the payment of then remaining Distribution Trust Plan Trust Obligations shall be deemed to be Hardware Newco Assets and shall promptly be paid by the Distribution Trust to Hardware Newco.

“Distribution Trust Plan Distribution Obligations” means all payment obligations of the Distribution Trust pursuant to the Plan and the Distribution Trust Agreement, which shall include without limitation, the payment of (a) all Allowed Administrative Claims, Allowed Priority Tax Claims, Allowed Other Secured Claims and Allowed Other Priority Claims, (b) the GUC Recovery, (c) all Allowed Cure Amounts, (d) the amounts necessary to fund the Distribution Trust Operating Reserve and the Distribution Reserve, and (e) post-confirmation quarterly fees pursuant to 28 U.S.C. § 1930(a)(6). For the avoidance of doubt, payment of the Allowed GII Senior Secured Claim shall not be a Distribution Trust Plan Distribution Obligation but shall instead be satisfied by the payment by the Plan Sponsor of the GII Cash Recovery to GII on the Effective Date as provided in Section 5.1.1 hereof; similarly, the issuance of the Hardware NewCo Equity to the Secured Noteholders shall not be a Distribution Trust Plan Distribution Obligation and such Hardware NewCo Equity shall be issued directly to the Secured Noteholders on the Effective Date

“Distribution Trust Operating Expenses” means the reasonable costs and expenses, including professional fees, of the Distribution Trustee in administering the Distribution Trust, including (a) the fees and expenses of the Distribution Trustee; (c) all fees and expenses of professionals retained by the Distribution Trust; and (d) all other estimated costs and expenses of the Distribution Trust.

“Distribution Trust Operating Reserve” means such reserve of Cash determined from time to time by the Distribution Trustee pursuant to the Distribution Trust Agreement to be reasonably necessary to pay Distribution Trust Operating Expenses.

““Distribution Trustee” means the Person appointed by the Debtor, with the consent of the Plan Sponsor and the Investor, to administer the Distribution Trust with such rights, duties, and obligations as set forth in the Distribution Trust Agreement.

“District Court” means the United States District Court for the District of Delaware.

“Effective Date” means the first Business Day on which (a) the Confirmation Date has occurred, (b) the Confirmation Order is not stayed, (c) all conditions to the effectiveness of the

Plan have been satisfied or waived as provided in the Plan, and (d) the Reorganized Debtor has Filed a notice of the Effective Date.

“Eligible Accounts Receivable” means all accounts receivable of the Debtor as reflected on the balance sheet of the Debtor on the Effective Date.

“Employee Vacation Cash Reserve” means the employee vacation Cash reserves being held by the Debtor, which Cash reserves total approximately \$249,452 as of the Petition Date.

“Equity Interest” means any interest in the Debtor represented by ownership of common or preferred stock, including, to the extent provided by applicable law, any purchase right, warrant, stock option or other equity or debt security (convertible or otherwise) evidencing or creating any right or obligation to acquire or issue any of the foregoing.

“Estate” means the estate created upon the filing of the Chapter 11 Case pursuant to section 541 of the Bankruptcy Code, together with all rights, claims and interests appertaining thereto.

“Estate Property” means all right, title, and interest in and to any and all property of every kind or nature owned by the Debtor or its Estate on the Effective Date as defined by 11 U.S.C. § 541.

“ESW” means ESW Capital, LLC.

“Excess Remaining Cash” means Remaining Cash in excess of the Remaining Cash Requirement.

“Exculpated Parties” (each one, an “Exculpated Party”) means the Debtor, the Plan Sponsor, the DIP Lender, the Consenting Secured Lenders (as defined in the RSA), including the Investor, and the directors, officers, agents, attorneys, accountants, consultants, equity holders, financial advisors, investment bankers, professionals, experts, and employees of each of the foregoing, in their respective capacities as such. Any affiliate or other party related to any Exculpated Party shall also be an Exculpated Party to the extent that such affiliate or related party is alleged or charged to be directly or indirectly liable on any derivative, vicarious liability, alter ego or other theory for imposing liability on an affiliate or related party for the conduct or liability of the Exculpated Party.

“Executory Contracts” means executory contracts and unexpired leases as such terms are used in 11 U.S.C. § 365, including all operating leases, capital leases, and contracts to which the Debtor is a party or beneficiary on the Confirmation Date.

“File or Filed” means a request for relief encompassed within a pleading or other document is Filed when and on such date as such pleading or other document is entered on the docket of the Bankruptcy Court in this Chapter 11 Case. A proof of claim is Filed when and on such date as such proof of claim is entered on the claims register in this Chapter 11 Case.

“Final Order” means an order or judgment which has not been reversed, stayed, modified, or amended and as to which the time for appeal has expired and no stay has been obtained.

“General Bar Date” means the deadline for filing proofs of claim as established by the Bankruptcy Court as [], 2020 at 4:00 p.m. prevailing Eastern time.

“General Unsecured Claim” means an unsecured Claim other than an Administrative Claim, an Other Priority Claim or a Priority Tax Claim.

“GII” means GII Prysm Investments.

“GII Cash Recovery” means \$3,000,000.00 plus allowable unpaid interest accrued at the non-default rate on the GII Principal through the Effective Date and GII’s reasonable and documented legal expenses and costs, payable in Cash.

“GII Election Option” means the written election of GII to forgo the GII Cash Recovery and instead receive its Pro Rata Share of the Secured Lenders Recovery based on its Allowed GII Senior Secured Claim relative to the total Secured Noteholder Claims and Allowed GII Senior Secured Claim (treated as a single class), along with the Secured Noteholders.

“GII Senior Secured Claim” means the claim of GII arising from the Senior Secured Convertible Promissory Notes issued pursuant to the Note and Warrant Purchase Agreement dated December 11, 2019 and secured pursuant to senior first priority liens.

“Governmental Unit” has the meaning assigned to such term by section 101(27) of the Bankruptcy Code.

“Governmental Unit Bar Date” means the deadline for Governmental Units to file proofs of claim as established by the Bankruptcy Court as [], 2021 at 4:00 p.m. prevailing Eastern time.

“GUC Recovery” means \$500,000, *less* any amount required to pay Allowed Non-Budgeted Committee Professional Compensation Claims.

“Hardware Assets” means (i) the Remaining Cash, (ii) the Software License and Reseller Agreement, (iii) the Hardware Assets described on the Schedule of Hardware Assets attached as Exhibit C to the Plan, subject to the Software License and Reseller Agreement, (iv) the Hardware NewCo Equity; (v) the equity interests in any and all subsidiaries of the Debtor, including all subsidiaries identified on Exhibit C to the Plan, other than any such subsidiary that is an Abandoned Asset, (vi) the Eligible Accounts Receivable, (vii) the Hardware Rights of Action, and (viii) the Employee Vacation Cash Reserve; (ix) the Hardware Contracts or Leases that are assumed and assigned to Hardware NewCo in accordance with the provisions of this Plan, and (x) any assets remaining in the Distribution Trust, including any unused portion of the Distribution Reserve and Distribution Trust Operating Reserve, after payment of all Distribution

Trust Plan Distribution Obligations. The Debtor may amend Exhibit C at any time prior to the Effective Date with the consent of Plan Sponsor and the Investor.]

“Hardware Contracts or Leases” means those executory contracts and unexpired leases that are identified as a Hardware Contract or Lease on the Schedule of Assumed Contracts and Unexpired Leases attached hereto as Exhibit B.

“Hardware Cure Cap” means a cap of \$1,750,000 on account of Cure Amounts, including Disputed Cure Amounts, related to Hardware Contracts or Leases. The Hardware Cure Cap shall not be modified absent written consent of the Investor and the Plan Sponsor.

“Hardware NewCo” means a Delaware C-corp formed by the Debtor on or prior to the Effective Date, into which the Debtor shall contribute all of the Hardware Assets on the Effective Date consistent with the terms of this Plan and the Restructuring Support Agreement. For the avoidance of doubt, on the Effective Date, 100% of the Hardware NewCo Equity shall be issued or transferred to the Secured Noteholders (subject to the GII Election Option).

“Hardware NewCo Equity” means 100% of the common stock of Hardware NewCo.

“Hardware Rights of Action” means all Rights of Action relating to the Hardware Assets and the business of Debtor that relates to the Hardware Assets, which Hardware Rights of Action shall be assigned to Hardware NewCo on the Effective Date; provided, for the avoidance of doubt, that under no circumstances will Hardware Rights of Action include Rights of Action relating to the Software Assets and the business of Debtor as it relates to the Software Assets, and provided, further, that if any Rights of Action relate both to the Hardware Assets and the Software Assets, and the respective businesses of Debtor related to those Assets, such Rights of Action shall be assertible by both Hardware NewCo and the Reorganized Debtor.

“Insider” has the meaning set forth in section 101(31) of the Bankruptcy Code.

“Interest Holder” means any record or beneficial holder or owner of an Equity Interest.

“Intellectual Property” means intellectual property, including, without limitation, the following: (i) all patents and patent applications, domestic or foreign, all licenses relating to any of the foregoing and all income and royalties with respect to any licenses, all rights to sue for past, present or future infringement thereof, all rights arising therefrom and pertaining thereto and all reissues, divisions, continuations, renewals, extensions and continuations-in-part thereof; (ii) all copyrights and applications for copyright, domestic or foreign, together with the underlying works of authorship (including titles), whether or not the underlying works of authorship have been published and whether said copyrights are statutory or arise under the common law, and all other rights and works of authorship, all computer programs, computer databases, computer program flow diagrams, source codes, object codes and all tangible property embodying or incorporating any copyrights, all licenses relating to any of the foregoing and all income and royalties with respect to any licenses, and all other rights, claims and demands in any way relating to any such copyrights or works, including royalties and rights to sue for past,

present or future infringement, and all rights of renewal and extension of copyright; (iii) all state (including common law), federal and foreign trademarks, service marks and trade names, and applications for registration of such trademarks, service marks and trade names, all licenses relating to any of the foregoing and all income and royalties with respect to any licenses, whether registered or unregistered and wherever registered, all rights to sue for past, present or future infringement or unconsented use thereof, all rights arising therefrom and pertaining thereto and all reissues, extensions and renewals thereof; (iv) all trade secrets, trade dress, trade styles, logos, other source of business identifiers, mask-works, mask-work registrations, mask-work applications, software, confidential and proprietary information, customer lists, license rights, advertising materials, operating manuals, methods, processes, know-how, algorithms, formulae, databases, quality control procedures, product, service and technical specifications, operating, production and quality control manuals, sales literature, drawings, specifications, blue prints, descriptions, inventions, name plates, catalogs, internet websites, and internet domain names and associated URL addresses; (v) the entire goodwill of or associated with the businesses now or hereafter conducted by the Debtor connected with and symbolized by any of the aforementioned properties and assets; and (vi) all accounts, payment intangibles, commercial tort claims and other rights to payment, all other proprietary rights or other intellectual or other similar property, and all other general intangibles associated with or arising out of any of the aforementioned properties and assets and not otherwise described above, and all proceeds of any Intellectual Property.

“Investor” means Kuwait Investment Authority, a Kuwaiti public authority established under Kuwaiti Law No. 47/1982 solely for the purpose of managing, in the name and for the account of the Government of the State of Kuwait, the investments of the State of Kuwait.

“Lien” means a charge against or interest in property to secure payment of a debt or performance of an obligation which has not been avoided or invalidated under any provision of the Bankruptcy Code or other applicable law.

“Management Incentive Plan” means a management incentive plan which shall be implemented on the Effective Date, shall be acceptable to the Board of Hardware Newco, and shall provide for management incentives of [15%] of the Hardware Newco Equity on a fully diluted basis, which management incentives shall be allocated by the Board of Directors of Hardware Newco after the Effective Date; in addition, the Board of Directors of Hardware Newco shall have authority to implement a performance-based management incentive plan pursuant to which an additional 5% of the Hardware Newco Equity may be allocated based on the achievement of performance goals established by the Board.

“Material Adverse Change” means any material adverse change or the occurrence of any fact or circumstance which materially and adversely affects the rights, remedies or benefits of, or conferred by, the transactions contemplated by the RSA, including without limitation, strike, lockout, war, terrorism, act of God, fire or other casualty, unusually adverse weather conditions, inability to obtain labor or materials or governmental restriction or other act or thing, provided, however, for the avoidance of doubt, no Material Adverse Change shall be deemed to have occurred as a result of: (i) the filing of the Chapter 11 Case; (ii) the actions required to be taken

by the Debtor to conform to and comply with the RSA, the documents entered into in connection with the DIP Financing, the Budget, or the Plan; and (iii) any actions the Debtor takes at the request of or with the consent of the Plan Sponsor.

“New Equity” means the all of the equity interest in the Reorganized Debtor, issued on the Effective Date, to the Plan Sponsor in exchange for the Cash Consideration, and to the DIP Lender under and subject to the Subscription Option, if exercised, in the total amount of 1,000 shares, free and clear of all Liens, Claims, Equity Interests and encumbrances of any kind, except as provided in the Plan.

“Non-Budgeted Committee Professional Compensation Claim” means any and all Professional Compensation Claims by any official committee of unsecured creditors (if any) or the member(s) of any such committee, approved by the Bankruptcy Court in an amount exceeding [\$150,000] in the aggregate.

“Ordinary Course Creditor(s)” means a Creditor with an Ordinary Course Liability.

“Ordinary Course Liability” means an Administrative Claim (other than a Professional Compensation Claim or an Administrative Tax Claim), including Allowed DIP Lender Claims, based on liabilities incurred in the ordinary course of the Debtor’s business operations solely to the extent provided for in the Approved Budget.

“Other Priority Claim” means any Claim other than an Administrative Claim or a Priority Tax Claim entitled to priority in right of payment under section 507(a) of the Bankruptcy Code.

“Other Secured Claims” means any Secured Claim other than the GII Senior Secured Claim and the Secured Noteholder Claims.

“Person” means an individual, a corporation, a partnership, an association, a joint stock company, a joint venture, an estate, a trust, an unincorporated association or organization, a governmental unit or any agency or subdivision thereof or any other entity, the Debtor and the Released Parties.

“Petition Date” means August 5, 2020, the date on which the Debtor filed its voluntary Chapter 11 petition commencing the Chapter 11 Case.

“Plan” means this *Prepackaged Chapter 11 Plan of Prysm, Inc. Dated August 5, 2020*, as it may be amended or modified.

“Plan Documents” means, collectively, those material documents executed or to be executed in order to consummate the transactions contemplated under the Plan, which will be filed with the Bankruptcy Court on or before the Plan Supplement Deadline, including the Distribution Trust Agreement and any other documents that make up the Plan Supplement.

“Plan Sponsor” means ESW Capital, LLC or an affiliate, in such capacity.

“Plan Supplement” means, collectively, any such documents as are referenced as such in this Plan to be Filed hereafter to supplement or clarify aspects of the Plan, which documents shall be reasonably acceptable to the Plan Sponsor and, solely with respect to issues materially impacting the economic treatment of its claims and/or the treatment of Hardware NewCo, reasonably acceptable to the Investor.

“Plan Supplement Deadline” means September 4, 2020.

“Post-Confirmation Service List” means the list of those parties who have notified the Reorganized Debtor in writing, at or following the Confirmation Hearing, of their desire to receive electronic notice of all pleadings filed by the Reorganized Debtor and have provided the e-mail address to which such notices shall be sent.

“Priority Tax Claim” means any Claim held by a Governmental Unit entitled to priority in payment under section 507(a)(8) of the Bankruptcy Code.

“Pro Rata Share” means as to a particular holder of a particular Claim, the ratio that the amount of such Claim held by such Claimholder bears to the aggregate amount of all Claims in the particular Class or category. Such ratio shall be calculated as if all Claims in the particular Class or category asserted against Debtor are Allowed Claims as of the Effective Date, unless specifically provided otherwise in the Plan.

“Professional” means a professional employed in the Chapter 11 Case pursuant to Final Order under sections 327, 328, 363, or 1103 of the Bankruptcy Code; provided that for the purposes of any bar dates, duties or other requirements imposed by the Plan (as distinguished from benefits or rights provided by or pursuant to the Plan), any professional not so employed in the Chapter 11 Case, but asserting any right or claim like a Professional on account of any service for or engagement by any foreign representative or foreign proceeding, shall have to comply with such same bar dates, duties and requirements as a Professional as one condition precedent to seeking any standing in the Chapter 11 Case, any Allowance of any Claim or any other right under the Plan like a Professional, with the Reorganized Debtor and other parties in interest reserving all other challenges and defenses thereto.

“Professional Compensation Claim” means a Claim for compensation or reimbursement of expenses of a Professional retained in the Chapter 11 Case, and requested in accordance with the provisions of 11 U.S.C. §§ 326, 327, 328, 330, 331, 503(b) and 1103.

“Qualified Ordinary Course Creditor” means of the Ordinary Course Creditors, the DIP Lender.

“Rejection Claim Bar Date” means either (as applicable) (i) in respect to Executory Contracts rejected pursuant to a revocation notice filed pursuant to Section 8.3(b) of the Plan, the date that is thirty (30) days after the filing of such revocation notice, or (ii) as to all other Executory Contracts, the date that is thirty (30) days after the Effective Date.

“Released Parties” (each one, a “Released Party”) means (a) the Debtor and the Reorganized Debtor; (b) the Plan Sponsor and its affiliates; (c) the DIP Lender; (d) the Secured Noteholders, (e) GII, and (f) directors, officers, agents, attorneys, accountants, consultants, equity holders, financial advisors, investment bankers, professionals, experts, and employees of any of the foregoing, in their respective capacities as such. Any affiliate or other party related to any Released Party shall also be a Released Party to the extent that such affiliate or related party is alleged or charged to be directly or indirectly liable on any derivative, vicarious liability, alter ego or other theory for imposing liability on an affiliate or related party for the conduct or liability of the Released Party; provided that any holder of a Claim or Interest that (x) validly opts out of the releases contained in the Plan or (y) files an objection to the releases contained in the Plan shall not be a “Released Party.”

“Remaining Cash” means all Cash Consideration *plus* Cash-on-Hand *less* the GII Cash Recovery *less* the Distribution Trust Plan Distribution Obligations.

“Remaining Cash Requirement” means \$6,000,000; provided that any and all (i) payment, or claims for reimbursement, of prepetition or post-petition professional fees or expenses by GII or any of the Secured Noteholders made after the Petition Date and on or before the Effective Date, and (ii) Cure Amounts in excess of the Hardware Cure Cap paid with respect to Hardware Contracts or Leases, shall result in a dollar-for-dollar reduction of the Remaining Cash Requirement; and provided further that the Employee Vacation Cash Reserve shall not be included in the calculation of the Remaining Cash Requirement.

“Reorganized Debtor Contracts or Leases” means those executory contracts and unexpired leases that are identified as a Reorganized Debtor Contract or Lease on the Schedule of Assumed Contracts and Unexpired Leases attached hereto as Exhibit B.

“Reorganized Debtor Cure Cap” means a cap of \$250,000 on account of Cure Amounts, including Disputed Cure Amounts, related to Reorganized Debtor Contracts or Leases. The Reorganized Debtor Cure Cap shall not be modified absent written consent of the Investor and the Plan Sponsor.

“Reorganized Debtor” means the Debtor as it exists after the Effective Date.

“Rights of Action” means any and all claims, debts, demands, rights, defenses, actions, causes of action, suits, contracts, agreements, obligations, accounts, defenses, offsets, powers, privileges, licenses and franchises of any kind or character whatsoever, known or unknown, suspected or unsuspected, whether arising before, on, or after the Petition Date, in contract or in tort, at law or in equity, or under any other theory of law, of the Debtor or its Estate, including without limitation claims or causes of action under chapter 5 of the Bankruptcy Code.

“RSA” means the Restructuring Support Agreement, dated August 5, 2020 (as amended, supplemented or otherwise modified from time to time).

“Schedule of Assumed Contracts and Unexpired Leases” means the schedule identifying the Executory Contracts and Unexpired Leases to be assumed by the Reorganized Debtor under the Plan. The Schedule of Assumed Contracts and Unexpired Leases is attached as Exhibit B to the Plan.

“Schedules of Assets and Liabilities” means the Debtor’s Schedules of Assets and Liabilities, as may be amended or supplemented, and filed with the Bankruptcy Court in accordance with section 521(a)(1) of the Bankruptcy Code, including as amended by the Plan or any Plan Supplement.

“Secured Claim” means a Claim: (a) secured by a Lien on property in which the Estate has an interest, which Lien is valid, perfected, and enforceable pursuant to applicable law or by Final Order of the Bankruptcy Court, or that is subject to setoff pursuant to section 553 of the Bankruptcy Code, to the extent of the value of the creditor’s interest in the Estate’s interest in such property or to the extent of the amount subject to setoff, as applicable, as determined pursuant to section 506(a) of the Bankruptcy Code or (b) otherwise Allowed pursuant to the Plan or Final Order of the Bankruptcy Court as a secured claim.

“Secured Lenders Recovery” shall mean 100% of the outstanding Hardware NewCo Equity, which will be allocated among the Secured Noteholders and, if GII exercises the GII Election Option, the holder of the GII Senior Secured Claim based on their Pro Rata Share. The Secured Lenders Recovery shall be subject to dilution only to the extent of the Management Incentive Plan. For the avoidance of doubt, on the Effective Date, (i) the Debtor shall contribute the Hardware Assets to Hardware NewCo; and (ii) Plan Sponsor shall pay the Remaining Cash to Hardware NewCo.

“Secured Noteholders” means the holders of Senior Secured Convertible Promissory Notes issued pursuant to the Note and Warrant Purchase Agreement dated October 8, 2018 among the Debtor and the Investors (as defined therein) listed on Schedule I thereto, as amended.

“Secured Noteholder Claims” means the Secured Noteholders’ Secured Claims in the aggregate amount of, as of the Petition Date, \$178.4M in principal plus interest and all claims and rights to payment; notwithstanding the foregoing, no Secured Noteholder shall be entitled to any claim or right of payment, whether such claim or right of payment arises or accrues prepetition or post-petition, for professional fees and expenses. Each of the Secured Noteholder Claims is deemed Allowed for purposes of the Plan. Each Secured Noteholder agrees that its sole recovery shall be the Secured Lenders Recovery.

“Software Assets” means all assets of the Debtor other than Hardware Assets, Distribution Trust Assets and Abandoned Assets.

“Software License and Reseller Agreement” means that certain Software License and Reseller Agreement attached as Exhibit D to the Plan.

“Subscription Option” means the ability of the Qualified Ordinary Course Creditor to, at its option, convert a portion of the outstanding Allowed DIP Lender Claim into shares of New Equity at a rate of 10% of the Allowed DIP Lender Claim for 60 shares of New Equity, up to a maximum of 100% of the Allowed DIP Lender Claim for 600 shares out of the total 1000 shares of New Equity. The Plan Sponsor reserves the right to modify the Subscription Option, provided that (i) no such modification shall adversely impact the Plan treatment of other creditors and (ii) such modification is approved by the DIP Lender.

“Treasury Regulations” means the regulations promulgated under the Internal Revenue Code by the Department of the Treasury of the United States.

“Undrawn DIP Note Amount” means the amount, if any, which remains undrawn under the DIP Note as of the Effective Date. For the avoidance of doubt, and subject to funding of the Undrawn DIP Note Amount by the Plan Sponsor on the Effective Date, undrawn amounts under the DIP Note shall not comprise estate property, or be drawn by the Debtor for any purpose other than pursuant to the Budget.

“U.S. Trustee” means the Office of the United States Trustee for Region 3.

“Voting Record Date” means August 10, 2020.

EXHIBIT B

Category	Contract name	Counterparty	Date	Description	Business Unit	Executory/Ongoing	Assumed By	Past Due Amount
Contractor Agreements	Consulting Agreement	Adaptive systems	9/22/2017	Software Development	Software	No	Software	-
Contractor Agreements	Consulting Agreement	Aspire Systems	9/29/2014	Software Development	Software	No	Software	-
Contractor Agreements	Consulting Agreement	CinTech services	9/11/2013	On Site Service	Hardware	No	Not Assumed	-
Contractor Agreements	Contractor Agreement	Herman Integration Services	11/7/2017	On Site Service	Hardware	No	Not Assumed	-
Contractor Agreements	Consulting Agreement	Kahn International	3/11/2013	Strategic Consulting	Hardware	No	Not Assumed	-
Contractor Agreements	Consulting Agreement	MCK Consulting	10/3/2016	Sales Consulting	Software	No	Not Assumed	-
Contractor Agreements	Business Associate Contract	NFP	1/25/2017	Insurance Broker	Hardware	Yes	Not Assumed	-
Contractor Agreements	Specific Consulting and Services Agreement	Pinkerton Consulting & Investigations	2/27/2018	Building Security	Hardware	No	Not Assumed	-
Contractor Agreements	Consulting Agreement	PixelParse, Inc.	7/1/2013	Hardware Development	Hardware	No	Hardware	-
Contractor Agreements	Consulting Agreement	R&D Technical services	4/30/2020	Contractor Agency	Both	Yes	Hardware	-
Contractor Agreements	Consulting Agreement	Wilson Programming	9/9/2013	Software to Connect Devices	Both	No	Software	-
Contractor Agreements	Master Services Agreement	Lohika Systems	1/1/17	Software Development	Software	Yes	Software	\$ 219,871.00
Contractor Agreements	Consulting agreement	TEK Systems	8/16/2016	Software Development	Software	No	Software	-
Contractor Agreements	Services Proposal	Appfire	4/11/17	Atlassian Deployment	Software	No	Not Assumed	-
Contractor Agreements	Master Services Agreement	Canidium	8/31/17	Callidus Cloud Implement	Both	No	Not Assumed	-
Contractor Agreements	Consulting Agreement	Competegy	7/1/16	Sales Strategy	Both	No	Not Assumed	-
Contractor Agreements	Services Agreement	ESR	7/20/16	Employment Screening	Both	No	Hardware	-
Contractor Agreements	ServiceNow Phase 1 Implementation	Kloves	12/20/16		Both	No	Not Assumed	-
Contractor Agreements	Consulting Agreement	Moser Consulting LLC	10/24/16	Software Development	Software	No	Software	-
Contractor Agreements	Consulting Agreement	OnTarget	7/18/16	Marketing	Both	No	Not Assumed	-
Contractor Agreements	Consulting Agreement	Driva Solutions LLC - James Bartz	7/23/10	Hardware	Both	No	Hardware	-
Contractor Agreements	Consulting Agreement	digital-X	1/1/12		Hardware	No	Hardware	-
Contractor Agreements	JIRA and Confluence Consulting	Appfire	4/11/2017		Hardware	No	Software	-
Contractor Agreements	Master Services Agreement	Leaf Software	8/27/2015		Software	No	Software	-
Contractor Agreements	Master Professional Services Agreement	Software Engineering Professionals	9/11/2015		Software	No	Software	-
Contractor Agreements	Statement of Work (SOW)	Software Engineering Professionals	9/22/15		Software	No	Software	-
Contractor Agreements	Consulting Agreement	Context, Inc.	10/23/2014	Technical Writing	Hardware	No	Hardware	-
Contractor Agreements	Maintenance agreement	Sharp	2/25/2020		Hardware	Yes	Hardware	-
Contractor Agreements - Other	All other contractor/consulting agreements relating to Prysm Display Hardware or Prysm Display Software	Various			Hardware	No	Hardware	-
Contractor Agreements - Other	All other contractor/consulting agreements relating to Cloud Software, CHS Software, Client Software and all other software except the Display Software	Various			Software	No	Software	-
Current CHC Customers - All	See CHC Tab				Hardware	Yes	Hardware	-
Current Hardware Customers - All	See HW Tab				Hardware	Yes	Hardware	-
Current PHC Customers - All	See PHC Tab				Software	Yes	Software	-
Customer Contracts	Service and Support	900 North Michigan	4/6/2017	Display Support	Hardware	Yes	Hardware	-
Customer Contracts	Terms of service - Cloud	ABB Global Industries	1/9/2018	Cloud	Software	Yes	Software	-
Customer Contracts	Customer Confirmation	ABB Global Industries	12/18/2017	Cloud	Software	Yes	Software	-
Customer Contracts	Master SaaS Services Agreement	ABBVIE, Inc.	10/31/2017	Cloud	Software	Yes	Software	-
Customer Contracts	End User License Agreement	Accenture	6/29/2016	Cloud	Software	Yes	Software	-
Customer Contracts	EULA and SOW	Amgen	9/28/2018	Cloud	Software	Yes	Software	-
Customer Contracts	SaaS Addendum	AstraZeneca	3/8/2017	Cloud	Software	No	Not Assumed	-
Customer Contracts	End User License Agreement	ATT	6/17/2016	Cloud	Software	Yes	Software	-
Customer Contracts	Terms of Service	Audi	2/23/2016	Cloud	Software	Yes	Software	-
Customer Contracts	Subscription agreement	Barrick	9/20/2016	Cloud	Software	Yes	Software	-
Customer Contracts	Subscription License and Services Agreement	Bayer	4/28/2017	Cloud	Software	Yes	Software	-
Customer Contracts	End User License Agreement	BCG	5/31/2016	Cloud	Software	No	Not Assumed	-
Customer Contracts	Master Purchase Agreement	Carrier	5/1/2018	Cloud	Software	No	Not Assumed	-
Customer Contracts	Prysm Loaner Agreement	Cellworks	4/10/2019		Hardware	No	Not Assumed	-
Customer Contracts	Master Software as a Service Agreement	Coca Cola	12/16/2016	Cloud	Software	Yes	Software	-
Customer Contracts	General Terms and Conditions	Dart	11/10/2016	Cloud	Software	No	Not Assumed	-
Customer Contracts	Eula	Dart	9/29/2016	Cloud	Software	No	Not Assumed	-
Customer Contracts	Indemnity/Insurance Agreement	Dentsu	4/23/2020	Installation - Buidling	Hardware	No	Not Assumed	-
Customer Contracts	SaaS agreement	Disney	9/29/2016	Cloud	Software	No	Not Assumed	-
Customer Contracts	EU Standard Contractual Clauses	GE	10/19/2016	Cloud	Software	Yes	Software	-
Customer Contracts	Master Purchase and Services Agreement	GE	10/19/2016	Cloud	Software	Yes	Software	-
Customer Contracts	EULA	Genpact	12/29/2016	Cloud	Software	No	Not Assumed	-
Customer Contracts	Purchase and License Agreement	HCL	6/27/2017	Cloud	Software	No	Not Assumed	-
Customer Contracts	EULA	JLL	7/6/2016	Cloud	Software	No	Not Assumed	-
Customer Contracts	Master Software as a Service Agreement	Johnson	4/12/2017	Cloud	Software	Yes	Software	-
Customer Contracts	EULA	Johnson Controls	8/16/2016	Cloud	Software	Yes	Software	-
Customer Contracts	Master Purchase, License, Maintenance and Service Agt	JP Morgan Chase	1/1/2013		Both	No	Not Assumed	-
Customer Contracts	Packaging, Delivery and Set Up Agreement	K&N	2/15/2017	Hardware Demos	Hardware	No	Not Assumed	-
Customer Contracts	Cloud Services Agreement	Kerry	5/10/2016		Software	Yes	Software	-
Customer Contracts	Master Purchase Agreement	Lennar	5/13/2016		Software	Yes	Software	-
Customer Contracts	EULA	Meridian Health	6/14/2016		Software	No	Not Assumed	-
Customer Contracts	EULA	Nalco	6/30/2016		Software	Yes	Software	-
Customer Contracts	Subscription Agreement - VM license	Nomura India	11/9/2017	CHC	Hardware	Yes	Hardware	-
Customer Contracts	Master Purchase Agreement	Pfizer	10/17/2017		Software	Yes	Software	-
Customer Contracts	Subscription Agreement - VM License	SAP	12/15/2016	CHC	Software	No	Not Assumed	-
Customer Contracts	EULA	Sealed Air	6/23/2016		Software	Yes	Software	-
Customer Contracts	EULA	Siemens	8/31/2016		Software	Yes	Software	-
Customer Contracts	Master Software Purchase Agreement	State Farm	8/29/2017	CHC	Hardware	Yes	Hardware	-

Category	Contract name	Counterparty	Date	Description	Business Unit	Executory/Ongoing	Assumed By	Past Due Amount
Customer Contracts	Master Services Agreement	Uber	5/4/2016	Support	Hardware	No	Not Assumed	-
Customer Contracts	EULA	Under Armor	8/29/2016	Cloud	Software	Yes	Software	-
Customer Contracts	Subscription Agreement	Univ. of Cincinnati	3/2/2017	Cloud	Software	No	Not Assumed	-
Customer Contracts	EULA	Uol	3/3/2016	Cloud	Software	Yes	Software	-
Customer Contracts	Purcashe Agreement	UTAS	2/20/2017	Cloud	Software	No	Not Assumed	-
Customer Contracts	Master Purchase Agreement	Walgreens	8/23/2017	Cloud	Software	No	Not Assumed	-
Customer Contracts	EULA	WalMart	9/30/2016	Cloud	Software	Yes	Software	-
Customer Contracts	EULA	Wipro	5/25/2016	Cloud	Software	Yes	Software	-
Customer Contracts	Maintenance Support Agreement	Burberry	3/31/15	Support	Hardware	No	Not Assumed	-
Development Agreements	Development Agreement	Pentax Corporation	2/2/2007		Hardware	No	Hardware	-
Development Agreements	Collaboration agreement	Logitech	9/11/2017		Hardware	No	Hardware	-
Development Agreements	Development Agreement	Asia Optical International, Ltd.			Hardware	No	Hardware	-
Development Agreements	Development Agreement	Acorn Product Development	12/21/11	Frame Development	Hardware	No	Hardware	-
Development Agreements	Development Agreement	RP Visual Solutions	11/5/10	Frame Development	Hardware	No	Hardware	-
Development Agreements	Development Agreement	QD Light	3/13/13		Hardware	No	Hardware	-
Development Agreements	Joint Development Agreement	Alps Electric Co, Ltd (ALPS)	10/27/09		Hardware	No	Hardware	-
Development Agreements	Confidentiality and IP Agreements	Andes Electric Co, Ltd	11/17/2008		Hardware	No	Hardware	-
Development Agreements	IP & Productization Agreement	Dai Nippon Printing Co. Ltd	3/1/09		Hardware	No	Hardware	-
Development Agreements	IP & Productization Agreement	Dai Nippon Printing Co. Ltd	3/1/09		Hardware	No	Hardware	-
Development Agreements	Development Agreement	Fusion Design	9/11/12		Hardware	No	Hardware	-
Development Agreements	Design and Collaboration Agreement	Industrial Oragami	3/1/09		Hardware	No	Hardware	-
Development Agreements	Development Agreement	CMP Advanced Mechanical Solutions	11/25/10		Hardware	No	Hardware	-
Development Agreements	Development Agreement, as amended	RealD, Inc.	10/19/2012		Hardware	No	Hardware	-
Development Agreements	Work Order	Idean	4/15/16		Hardware	No	Hardware	-
Development Agreements	Development Agreement	RAAD Systems, Inc.	3/30/16		Hardware	No	Hardware	-
Development Agreements	Research and Patent Agreement	Leuchtstoffwerk Breitung GmbH	1/28/10		Hardware	No	Hardware	-
Development Agreements	Research Agreement	Leuchtstoffwerk Breitung GmbH	7/9/09		Hardware	No	Hardware	-
Development Agreements	Joint Development Agreement	Alps Electric Co, Ltd (ALPS)	10/27/08		Hardware	No	Hardware	-
Development Agreements	Development Agreement	Premier Mounts	10/27/10		Hardware	No	Hardware	-
Development Agreements	Development Agreement	RP Visual Solutions	11/5/2010		Hardware	No	Hardware	-
Development Agreements	Development Agreement	Audio-Technica	4/11/11		Hardware	No	Hardware	-
Development Agreements	Development Agreement	StrawberryTree, Inc., Voler Systems Div	2/1/12		Hardware	No	Hardware	-
Development Agreements	IP & Productization Agreement	Toshiba Corporation	9/1/2008		Hardware	No	Hardware	-
Development Agreements	Development Agreement and Patent Assignment	Hoya	12/30/09		Hardware	No	Hardware	-
Development Agreements - Other	All other agreements with parties who have contributed to the development of Prysm Display Hardware or Prysm Display Software				Hardware	No	Hardware	-
Development Agreements - Other	All other agreements with parties who have contributed to the development of Prysm Cloud Software, CHS Software, Client Software and all other software except the Display Software				Software	No	Software	-
IP & Licensing	License and Assignment Agreement	Vidcie, Inc.	12/29/2017		Software	No	Software	-
IP & Licensing	Software Developer Kit License Agreement	Coherent Labs AD	08/26/2014		Software	No	Software	-
IP & Licensing	AVObjects License Agreement	AVObjects	11/28/2014		Software	No	Software	-
IP & Licensing	Enterprise license	JW Player	11/3/2016		Software	Yes	Software	-
IP & Licensing	Master Subscription Agreement	Apttus 2014	5/2/2014	Quote Gen Software	Hardware	No	Not Assumed	-
IP & Licensing	AVC Patent Portfolio License	MPEG LA, LLC	2/14/2017		Software	Yes	Software	-
IP & Licensing	Patent License Agreement	National Institute for Materials Science	10/01/2019		Hardware	No	Hardware	-
IP & Licensing	Master Software License and Services Agreement	Flexera	9/24/2015	Lic mgmt - no longer used	Software	No	Rejected	-
IP & Licensing	Software License Agreement	Optical Research Associates (ORA)	2/11/2010	Tools License	Hardware	No	Hardware	-
IP & Licensing	Silicon Image Software License Agreement	Silicon Image	8/7/2007		Hardware	Yes	Hardware	-
IP & Licensing	Systems Integrator Agreement	Squirrels, LLC	4/19/2016	Connectivity Software	Software	Yes	Software	-
IP & Licensing	License Agreement	David Humphrey	9/23/2014		Software	Yes	Software	-
IP & Licensing	Asset Purchase Agreement	Nitor	9/25/05		Hardware	No	Hardware	-
IP & Licensing	Master Services Agreement Agreement #8096	Leaf Software Solutions	8/27/15		Software	No	Software	-
IP & Licensing - Employees	All confidentiality and invention assignment agreements with current and former employees who worked on Prysm Display Hardware or Prysm Display Software	Various			Hardware		Hardware	-
IP & Licensing - Employees	All confidentiality and invention assignment agreements with current and former employees who worked on Cloud Software, CHS Software, Client Software and all other software except the Display Software	Various			Software		Software	-
IP & Licensing - NDAs	All confidentiality agreements and NDAs relating to Prysm Display Hardware or Prysm Display Software and all other NDAs that do not relate specifically to Prysm's software business	Various			Hardware		Hardware	-
IP & Licensing - NDAs	All confidentiality agreements and NDAs relating to Cloud Software, CHS Software, Client Software and all other software except the Display Software	Various			Software		Software	-
IP & Licensing - Other	All other inbound IP and Licensing Agreements relating to Prysm Display Hardware or Prysm Display Software				Hardware		Hardware	-
IP & Licensing - Other	All other inbound IP and Licensing Agreements relating to Cloud Software, CHS Software, Client Software and all other software except the Display Software				Hardware		Hardware	-

Category	Contract name	Counterparty	Date	Description	Business Unit	Executory/Ongoing	Assumed By	Past Due Amount
Real Estate	Lease Agreement - 180 Baytech, San Jose	DivcoWest Real Estate Services, Inc.	3/2/2009		Both	Yes	Rejected	-
Real Estate	Lease Agreement - Carmet IN	11711 North College LLC	3/1/2011	Closed	Software	No	Not Assumed	-
Real Estate	Lease Agreement - Concord MA	Whale Rock LLC	6/1/2009	Expired	Hardware	Yes	Not Assumed	-
Real Estate	Lease Agreement - Bartlett Ave, MA	Loje Realty Holdings LLC	7/2020	Pending	Hardware	Yes	Hardware	-
Real Estate	Commercial Lease Agreement - Fairview Milpitas CA	Winston Chang	5/27/2020		Hardware	Yes	Hardware	-
Real Estate	Agreement of Lease - NYC Demo Center	NYC (ESRT 1350 Broadway, LLC)	1/26/2015	Closed	Hardware	No	Not Assumed	-
Real Estate	Lease Agreement - Rosemont IL	Spire HRA One O'Hare, LP	02/28/2014	Closed	Hardware	No	Not Assumed	-
Reseller Agreements	See HW Reseller Tab			Audio Visual Resellers	Hardware	Yes	Hardware	-
Strategic Agreements	Agreement and Plan of Merger	Anacore, Inc.	05/19/2014		Software	No	Software	-
Strategic Agreements	Agreement and Plan of Merger	Kaybus, Inc.	12/31/2017		Software	No	Software	-
Strategic Agreements	Asset Purchase Agreement	Mammoth Works, Inc.	7/11/2016		Software	No	Software	-
Strategic Agreements	Amended and Restated Integration Agreement	Drastin, Inc.	05/02/2017		Software	No	Software	-
Supplier Agreements	Manufacturing Agreement	3M	1/20/2009		Hardware	No	Hardware	-
Supplier Agreements	Purchase Orders	Aavid			Hardware	No	Not Assumed	-
Supplier Agreements	Purchase Orders	Advantex			Hardware	No	Not Assumed	-
Supplier Agreements	Supply Agreement	Agile Display Solutions Co, Ltd	2/1/2017		Hardware	No	Not Assumed	-
Supplier Agreements	Manufacturing and Purchase Agreement	Asia Optical International Ltd.	10/1/2009		Hardware	Yes	Hardware	\$ 1,585,394.84
Supplier Agreements	Supply Agreement	Avocor Technologies USA, Inc.	11/1/2017		Hardware	No	Not Assumed	-
Supplier Agreements	Purchase Agreement	ALPS Electric (North America), Inc.			Hardware	Yes	Hardware	-
Supplier Agreements	Purchase Orders	Denka Phosphor			Hardware	Yes	Hardware	-
Supplier Agreements	Purchase Orders	Audio-Technica			Hardware	Yes	Hardware	-
Supplier Agreements	Leyard Planar Channel Partner Agreement	Planar	7/26/2018		Hardware	No	Not Assumed	-
Supplier Agreements	Purchase Orders	United Sheetmetal Inc.			Hardware	Yes	Hardware	\$ 21,474.81
Supplier Agreements	Purchase Orders	Panasonic			Hardware	Yes	Hardware	-
Supplier Agreements	Purchase Orders	MinAik and Eyesaver			Hardware	Yes	Hardware	-
Supplier Agreements	Purchase Orders	Nichia			Hardware	Yes	Hardware	-
Supplier Agreements	Purchase Orders	Sharp, Shinko North, Copal			Hardware	Yes	Hardware	-
Supplier Agreements	Purchase Orders	Sun Strong Precision Metal International Ltd.			Hardware	Yes	Hardware	\$ 18,190.42
Supplier Agreements	Purchase Orders	ENL Electronics Corp			Hardware	Yes	Hardware	\$ 8,930.00
Supplier Agreements	Purchase Orders	PQ Labs			Hardware	Yes	Hardware	\$ 91,700.28
Supplier Agreements	Manufacturing Services Agreement	Unigen Corporation	4/4/2018		Hardware	Yes	Hardware	\$ 21,579.19
Supplier Agreements	Purchase Agreement	Focuz Manufacturing Co, Ltd	4/14/2011		Hardware	Yes	Hardware	-
Supplier Agreements	Confidentiality and IP Addendum	Fujimori Kogyo Co, Ltd	12/28/2008		Hardware	No	Hardware	-
Supplier Agreements	Purchase Agreement for Semi-Finished or Finished Goods	Leuchtstoffwerk Breitung GmbH LWB	3/1/2011		Hardware	Yes	Hardware	-
Supplier Agreements	Purchase Agreement for Semi-Finished or Finished Goods	Exxact Corporation	12/1/2014		Hardware	Yes	Hardware	-
Vendor Agreements	Master Subscription Agreement	Apttus	5/2/14	Quote Generation	Both	No	Not Assumed	-
Vendor Agreements	Subscription Order Form	Brainshark	9/30/16	Sales Learning Cloud	Both	No	Not Assumed	-
Vendor Agreements	Terms of Service	CooperFitch	12/12/16	Credit Reporting	Both	No	Not Assumed	-
Vendor Agreements	Order Form	Egnyte	3/28/18	SW data to be transferred	Mostly Hardware	Yes	Hardware	-
Vendor Agreements	Terms and Conditions	Euler	4/3/19	Credit Reporting	Both	No	Hardware	-
Vendor Agreements	Services Agreement	Groupware	8/31/16	Customer Support	Hardware	No	Not Assumed	-
Vendor Agreements	Membership Agreement	Law Room	9/7/16	Employee Training	Both	Yes	Hardware	-
Vendor Agreements	Lessononly Software Licence	Lessononly	8/1/17	Employee Training	Mostly Hardware	Yes	Hardware	-
Vendor Agreements	Services Contract	LinkedIn	12/10/17	Recruiting	Both	No	Not Assumed	-
Vendor Agreements	Order Form	Logmein	2/20/18	Remote Support Tool	Hardware	Yes	Hardware	-
Vendor Agreements	Microsoft Volume Licensing - Sharepoint, Office, OneDrive	Microsoft	1/1/19	SW data to be transferred	Mostly Hardware	Yes	Hardware	-
Vendor Agreements	Renewal	Netsuite	12/12/19	SW data to be transferred	Both	Yes	Hardware	-
Vendor Agreements	Supplemental Agreement	Paycom	6/15/16	HR	Both	No	Not Assumed	-
Vendor Agreements	API License	Polycom	1/19/17		Software	Yes	Software	-
Vendor Agreements	Subscription Order Form	Salesforce	7/24/2020	SW data to be transferred	Both	Yes	Hardware	-
Vendor Agreements	Order Form	SecureDocs	12/7/17	Legal Dataroom	Hardware	Yes	Hardware	-
Vendor Agreements	Order Form	ServiceNow	1/1/20	SW data to be transferred	Both	Yes	Hardware	-
Vendor Agreements	SOW	SHI Microsoft 365	1/24/10	Office Software	Both	Yes	Hardware	-
Vendor Agreements	Equipment Evaluation Agreement	Thinklogical	8/16/16		Hardware	No	Hardware	-
Vendor Agreements	Business Plus Account Holder Terms of Service	Workato	5/31/18		Hardware	No	Not Assumed	-
Vendor Agreements	Xactly Express Statement of Work B	Xactly	6/26/15		Hardware	No	Not Assumed	-
Vendor Agreements	Corporate Services Agreement	EAN enterprise	10/1/13		Hardware	No	Not Assumed	-
Vendor Agreements	Services Agreement	EMS	12/2/15		Hardware	Yes	Hardware	-
Vendor Agreements	Maintenance Support Agreement	JMB	3/13/13		Hardware	No	Not Assumed	-
Vendor Agreements	Cloud Services Agreement	Egnyte	3/27/2019	Database	Hardware	Yes	Hardware	-
Vendor Agreements	Microsoft Volume Licensing	Microsoft	1/7/19	Azure Cloud Services	Software	Yes	Software	-
Vendor Agreements	Vendor Services Agreement	Ocular	12/9/16		Hardware	No	Not Assumed	-
Vendor Agreements	Consulting Agreement	ePlus Technology	2/21/17		Hardware	No	Not Assumed	-
Vendor Agreements	Master Services Agreement	Alien Vault	8/28/17		Hardware	No	Not Assumed	-
Vendor Agreements	Subscription Order Form	Arena Solutions, Inc.	5/20/2020		Hardware	Yes	Hardware	-
Vendor Agreements	Subscription Agreement	Channellivity	5/22/2018	SW data to be transferred	Both	Yes	Hardware	-
Vendor Agreements	Subscription Order Form	Amazon Web Services			Software	Yes	Software	-
Vendor Agreements	Subscription Order Form	HubSpot	11/21/2019	Website and SW data to be transferred	Hardware	Yes	Hardware	-
Vendor Agreements	Subscription Order Form - Jira, Confluence, Bitbucket	Atlassian		SW data to be transferred	Hardware	Yes	Hardware	-
Vendor Agreements	Subscription Order Form - Online Videos	Wistia		HW data to be transferred	Software	Yes	Software	-
Vendor Agreements	Subscription Order Form	Bomgar		Remote HW Support	Hardware	Yes	Hardware	-

Category	Contract name	Counterparty	Date	Description	Business Unit	Executory/Ongoing	Assumed By	Past Due Amount
Vendor Agreements	Subscription Order Form - AdobeSign	Adobe			Hardware	Yes	Hardware	-
Vendor Agreements	Subscription Order Form	Concur		Expense Reimbursement	Hardware	Yes	Hardware	-
Vendor Agreements	Subscription - Online Media Accounts	FB/Goog/Linked/Twitter/Youtube			Hardware	Yes	Hardware	-
Vendor Agreements	Subscription Order Form	Slack			Software	Yes	Software	-
Vendor Agreements	Domain Name Agreements	GoDaddy		See Domain Name Allocation	Both	Yes	Both	-
Vendor Agreements	Order Form	AOI DB			Hardware	Yes	Hardware	-
Vendor Agreements	Order Form	Avalara		Tax	Hardware	Yes	Hardware	-
Vendor Agreements	Order Form	Solidworks			Hardware	Yes	Hardware	-
Vendor Agreements	Order Form	Orcad			Hardware	Yes	Hardware	-
Vendor Agreements	Order Form - LabView/MathCAD/MathLab/Minitab	Labview			Hardware	Yes	Hardware	-
Human Resources	Service Agreement	ADP			Hardware	Yes	Hardware	-
Human Resources	401K Service Agreement	Fidelity			Hardware	Yes	Hardware	-
Human Resources	Workers Compensation Insurance	ADP			Hardware	Yes	Hardware	-
Insurance	Commercial Insurance Policies	NFP Broker			Hardware	Yes	Hardware	-

EXHIBIT C

PRYSM, INC.

**Schedule of Hardware Assets
Exhibit C to Plan of Reorganization**

Tangible Assets

All tangible assets of Prysm, Inc. as of the Effective Date, including

- All assets listed on list of Tangible Hardware Assets attached hereto, which is intended to include
 - All manufacturing equipment and tools
 - All inventory
 - All furniture and fixtures
 - All laptops, desktops, servers, displays and other IT equipment
- All other tangible assets of Prysm, Inc.

For the avoidance of doubt, no tangible assets will remain with Prysm Reorg

Software

- Display Software in source code and object code form, including all intellectual property rights therein, are transferred and assigned to Hardware Newco
- “Display Software” means software that permits the operation of Prysm Display Hardware on a stand-alone or in-room basis, including the serving of content and/or data using such Prysm Display Hardware, but excluding the features and functionality of the Prysm Application Suite.
- “Prysm Display Hardware” means Laser Phosphor Displays (LPD), other displays, appliances or other hardware sold or offered for sale by Hardware Newco from time to time.
- All other software, including PHS Software, CHS Software and Client Software remains with Prysm Reorg

Intellectual Property

- See attached listing of registered intellectual property rights
- Registered LPD IP assigned to Hardware Newco
- Registered Software IP remains with Prysm Reorg
- Patents, patent applications and copyrights
 - Those relating to the Prysm Application Suite, the PHS Software, the CHS Software and Client Software will remain with Prysm Reorg
 - Those relating to Prysm LPD, Prysm Displays and the Display Software will be assigned to Hardware Newco
- Trademarks
 - Prysm and Prysm Application Suite to be retained by Prysm Reorg (subject to limited license back to Hardware Newco per the License and Resale Agreement)
 - Prysm Visual Workplace to be assigned to Hardware Newco
 - Prysm trademark in EU and China to be assigned to Hardware Newco
- Trade Secrets, know-how and other intellectual property rights
 - Hardware Newco – all trade secrets, know-how and other intellectual property rights relating to the Prysm Display Hardware and Prysm Display Software

- Prysm Reorg – all trade secrets, know-how and other intellectual property rights relating to all Prysm software, including the PHS Software, CHS Software and Client Software, but excluding the Prysm Display Software
- Domain Names
 - Prysm Reorg
 - Prysm.com
 - Prysm.co.in
 - Prysm.in
 - Prysm.info
 - Prysmgov.com
 - Prysmgov.info
 - Prysmgov.net
 - Prysmgov.org
 - Synthesize.com
 - Anacore.com
 - kaybus.com
 - kaybus.info
 - kaybus.net
 - kaybus.org
 - mammothhq.com
 - Hardware Newco
 - Laserphosphordisplay.info
 - Laserphosphordisplay.net
 - Laserphosphordisplay.org
 - Mediastation.com
 - Prysmdisplays.com
 - Prysmttech.org
 - Prysmttechnologies.com
 - Prysmttechnologies.net
 - Prysmttechnologies.org
 - Prsymtechnology.org
 - Sitesting.com
 - Spudnikinc.com
 - Spudnikinc.info
 - Spudnikinc.net
 - Spudnikinc.org
 - Spudnikinc.tv
 - Velocescooters.com

Subsidiaries

- Hardware Newco – receives all equity interests in the following subsidiaries unless otherwise elected by Hardware Newco
 - Prysm Displays (India) Private Limited incorporated under the Indian Companies Act of 1956.
 - Prysm Middle East DMCC formed as a Free Zone Company in Dubai, United Arab Emirates (UAE) and registered under Registration number JLT2470.
 - Prysm Hong Kong Limited formed under the laws of Hong Kong.

- Prysm Reorg – receives all equity interests in the following subsidiaries unless otherwise elected by Prysm Reorg
 - Anacore LLC incorporated under the laws of the state of Indiana.
 - Kaybus, Inc. incorporated under the laws of the state of Delaware.
 - Kaybus India Private Limited, a wholly-owned subsidiary of Kaybus, Inc.
- Abandoned
 - Prysm Europe Ltd incorporated in London, United Kingdom (UK)
 - Prysm Europe BVBA incorporated in Ghent, Belgium

Attachments

- List of Tangible Assets – Hardware Newco
- Registered LPD IP – Hardware Newco
- Registered Software IP – Prysm Reorg

EXHIBIT D

LICENSE AND RESALE AGREEMENT

THIS LICENSE AND RESALE AGREEMENT (this “Agreement”), dated as of _____, 2020 (the “Effective Date”) is entered into, effective as of the Effective Date, by and between Prysm, Inc., a Delaware corporation, with a principal place of business at 401 Congress Ave., Suite 2560, Austin, TX 78701 (“Prysm Reorg”), and Prysm Technologies, Inc., a Delaware corporation, with a principal place of business at 513 Fairview Way, Milpitas, CA 95035 (“Prysm Technologies”) (each, a “Party,” collectively, the “Parties”).

WHEREAS, pursuant to Chapter 11 of the U.S. Bankruptcy Code, Prysm Technologies was formed as part of a reorganization of Prysm, Inc., a Delaware corporation located at 513 Fairview Way, Milpitas, CA 95035 (the “Debtor”) in which the assets and business of Debtor relating solely to large format displays (including the Display Software and related Intellectual Property Rights (each as defined below)) were transferred from Debtor into Prysm Technologies and whereby Debtor was reorganized as Prysm Reorg, which assumed all other assets and business of Debtor (including the Prysm name and Marks (as defined below)) effective on the closing of the reorganization (the “Closing”).

WHEREAS, Prysm Reorg has developed certain software relating to Provider Hosted Services and Customer Hosted Services (each as defined below) and Prysm Technologies has developed certain large format displays using laser phosphor technology;

WHEREAS, Prysm Reorg owns the Cloud Software, CHS Software and the Client Software (each as defined below) and related tangible and intangible Intellectual Property Rights and Prysm Technologies owns the Display Software and related tangible and intangible Intellectual Property Rights; and

WHEREAS, Prysm Reorg wishes to grant to Prysm Technologies rights to resell the Provider Hosted Services, rights to further develop the CHS Software and Client Software and rights to sell Customer Hosted Services (as defined below) as further described in this Agreement.

NOW, THEREFORE, the Parties agree, for the mutual promises and good and valuable consideration, as follows:

1. Definitions

In addition to any other definitions set forth in this Agreement, the following terms shall have the following meanings:

“Basic Support” means that Prysm Reorg will use its commercially reasonable efforts to make appropriate staff reasonably available to discuss and work through issues with engineers of Prysm Technologies. Prysm Reorg will not have bug-fix or feature-fix responsibility for CHS Software.

“Change of Control” has the meaning set forth in Section 8.4.

“CHS Software” means the source code, tools and scripts for infrastructure, services, orchestration, devops pipeline, security, administration and monitoring that together implement the Customer Hosted Services.

“Client Software” means the software used to connect to the Services and provide an appropriate UI for the user of the Services. Examples are Room Clients, Desktop Clients, Mobile Clients and Web Clients.

“Cloud Software” means the source code, tools and scripts for infrastructure, services, orchestration, devops pipeline, security, administration and monitoring that together implement a fully functional, manageable set of Provider Hosted Services

“Customer Hosted Services” means a set of Services for which the customer is responsible for providing the resources for hosting and maintaining the Services as a single tenancy (either directly or through third parties engaged by the customer).

“Display Software” means software that permits the operation of Prysm Display Hardware on a stand-alone or in-room basis, including the serving of content and/or data using such Prysm Display Hardware, but excluding the features and functionality of the Prysm Application Suite .

“Intellectual Property Right(s)” or “IPR” means any or all of the following rights, existing wherever or under whatever law, anywhere in the world: (a) all rights in and to inventions and invention disclosures, and all patents, patent applications, provisional patents and patent disclosures, together with all reissues, continuations, continuations-in-part, divisionals, revisions, extensions and reexaminations thereof, and all foreign and international counterparts (“Patent”), (b) all copyrights, statutory or common law rights in any copyrightable work, works of authorship, and all applications, registrations, renewals, rights of renewal and restoration in connection therewith, and all moral rights related thereto (“Copyright”), (c) all mask works and all applications, registrations, renewals, rights of renewal and restoration in connection therewith, (d) all trade secret rights and proprietary rights to know-how, show how or other proprietary or confidential information, including, but not limited to, technical data, improvements, technology, computer programs (in source code and executable code form, and whether embodied in software, firmware or otherwise), documentation (including software documentation), drawings, designs, flow charts, specifications, logic diagrams, programmer notes, protocols, files, records, databases, formulae, compositions, processes, manufacturing and production processes and techniques, research and development information, improvements, proposals, and technical data; and (e) all other equivalent intellectual property rights.

“Mark” means, individually and collectively, trademark, service mark, trade name, trade dress, logo, design, business name, domain name or other name or source identifier, and any translation, transliteration, and derivation thereof, and any application, registration, and renewal in connection therewith, and any and all goodwill arising therefrom or the use thereof or associated therewith, all existing wherever or under whatever law, anywhere in the world.

“Provider Hosted Services” means a set of Services for which the vendor of the Services is responsible for providing the resources for hosting and maintaining the Services. The vendor is responsible for the acquisition of the resources for hosting and maintaining the Services and each customer pays the vendor for use of the Services.

“Prysm Application Suite” means those assets of Prysm, Inc. that comprise the visual collaboration suite commercially referred to as the Prysm Application Suite, including but not limited to all SaaS and software intellectual property and versions thereof.

“Prysm Display Hardware” means Laser Phosphor Displays (LPD), other displays, appliances or other hardware sold or offered for sale by Prysm Technologies from time to time.

“Services” means the features, tools and capabilities of the Prysm Application Suite that provide utility to a set of users when these are deployed on centralized servers.

“Section” means any of the numbered sections of this Agreement.

“Term” has the meaning set forth in Section 7.1.

2. License Grants.

2.1 Provider Hosted Services.

(a) Delivery. Prysm Reorg shall have and will retain responsibility for the development, maintenance, delivery and support of the Provider Hosted Services to existing and future customers of the Provider Hosted Services (including customers who purchase such services from Prysm Technologies pursuant to this Agreement), including updates required to maintain compatibility with generally available operating systems and environments, for at least two-years from the Closing without any material degradation in features or functionality, subject to the support terms contained in the Subscription Terms (as defined below). Obligations of Prysm Reorg under this Section 2.1(a) shall include continued compliance with the terms and conditions of existing agreements between Prysm Reorg and existing customers of the Provider Hosted Services unless otherwise amended; it being understood that all existing customers of the Provider Hosted Services will be required to agree to the Subscription Terms upon renewal, including the support terms contained therein.

(b) Resale Rights. Prysm Reorg hereby grants to Prysm Technologies a worldwide, non-exclusive, transferable, assignable and sublicensable right and license to use, market, distribute, sublicense, offer for sale and sell subscriptions to the Provider Hosted Services during the term of this Agreement. The resale rights granted pursuant to this subsection shall include sales by Prysm Technologies to (i) new customers and (ii) existing users of the Provider Hosted Services that have also purchased the Prysm Display Hardware (previously or concurrently) with the Provider Hosted Services (“Current Users”) as of the Closing (collectively, the “PHS Resale Customers”). In order to enable and facilitate such resales, Prysm Reorg agrees to grant, and hereby does grant, to Prysm Technologies, at no charge, a limited number of user licenses to the Provider Hosted Services as reasonably necessary for evaluation, sales, demonstration, testing, and trial purposes, not to exceed 200 user licenses at any one time. Nothing contained herein shall limit the right of Prysm Reorg to engage other resellers for the sale of Provider Hosted Services.

(c) Terms, Conditions and Pricing. Subject to Section 2.1(a), Prysm Reorg will make the Provider Hosted Services available to Prysm Technologies for resale under this Agreement on terms and conditions at least as favorable as those terms and conditions made available to other customers and partners who purchase Provider Hosted Services directly from Prysm Reorg. Prysm Technologies’ purchase price for the Provider Hosted Services (exclusive of all taxes) shall be as specified on Exhibit A attached hereto (the “Purchase Price”). The Parties shall review Prysm Technologies’ performance on an annual basis and shall adjust the Purchase Price if the circumstances warrant; provided that in no event will the Purchase Price exceed the price paid by other customers and partners who purchase Provider Hosted Services directly from Prysm Reorg. All use of Provider Hosted Services by PHS Resale Customers shall be subject to Prysm Reorg’s standard terms and conditions for such services as set forth on Exhibit B attached hereto (the “Subscription Terms”) and Prysm Technologies may not purport to impose any other terms that would bind Prysm Reorg pertaining to the use of the Provider Hosted Services. Prysm Technologies shall (i) notify each PHS Resale Customer that the Provider Hosted Services are subject to the Subscription Terms and that by placing an order with Prysm Technologies the PHS Resale Customer agrees to the Subscription Terms with Prysm Reorg, (ii) include either a copy of or link to the Subscription Terms in each quotation and order form issued to the PHS Resale Customer, and (iii) obtain from each PHS Resale Customer written confirmation of acceptance of the Subscription Terms prior to the earlier to occur of acceptance of the order by Prysm Technologies or delivery of the Provider Hosted Services. The Subscription Terms shall be between Prysm Reorg and the PHS Resale Customer and any changes to the

Subscription Terms requested by the PHS Resale Customer shall be referred to Prysm Reorg. No change to the Subscription Terms shall be made unless agreed in writing by Prysm Reorg.

(d) Revenue Sharing.

(i) For all sales by Prysm Technologies of Provider Hosted Services after the Closing to PHS Resale Customers, Prysm Technologies shall be entitled to collect and retain 80% of all subscription, license and support fees paid or payable for such services by such PHS Resale Customers that are designated or otherwise attributable to the first year of the subscription term and 20% of all subscription, license and support fees paid or payable for such services by such PHS Resale Customers that are designated or otherwise attributable to the second and subsequent years of the subscription term (the "Tech Revenue Share"). The initial subscription term shall not include any trial or similar subscription periods provided to end customers on a no-fee basis and which are not included in the initial subscription term. For purposes of this Section, if Prysm Technologies sells licenses to a new customer or Prysm Technologies sells additional licenses to a Current User, all such licenses will be considered new licenses for purpose of the first year Tech Revenue Share. Sales by Prysm Technologies of renewals to existing licenses will be considered second and subsequent year licenses for purposes of the Tech Revenue Share. Fees charged to any PHS Resale Customer for the use of Provider Hosted Services will be evenly distributed throughout the subscription term, unless otherwise agree to in writing by Prysm Reorg.

(ii) For all sales by Prysm Technologies of Provider Hosted Services after the Closing to PHS Resale Customers, Prysm Reorg shall be entitled to receive 20% of all subscription, license and support fees paid or payable for such services that are designated or otherwise attributable to the first year of the subscription term and 80% of all subscription, license and support fees paid or payable for such services that are designated or otherwise attributable to the second and subsequent years of the subscription term (the "Reorg Revenue Share").

(iii) For sales by Prysm Technologies of Provider Hosted Services after the Closing to PHS Resale Customers, Prysm Technologies will have the exclusive right to sell renewals and additional licenses to the Provider Hosted Services to such PHS Resale Customers.

(e) Fulfillment. Upon receipt of an order from Prysm Technologies in accordance with this Section 2.1 (an "Order"), Prysm Reorg will deliver the applicable software license key, Provider Hosted Services login information, or other information necessary for PHS Resale Customers to use or access the Provider Hosted Services directly to the delivery contact specified in the Order in accordance with Prysm Reorg's standard delivery procedures. If Prysm Reorg delivers the license keys or logins to Prysm Technologies, Prysm Technologies will, in turn, deliver them directly to the PHS Resale Customer specified in the Order, and not to use or access such Provider Hosted Services.

(f) Books and Records. At all times during the term of this Agreement, Prysm Technologies shall use commercially reasonable efforts consistent with industry standards to maintain full, complete and accurate books of account and records with regard to its activities under this Agreement. Upon reasonable advance notice, Prysm Technologies shall consent to a third party accountant or similar agent of Prysm Reorg and subject to confidentiality restrictions at least as stringent as those set forth in this Agreement Prysm Reorg reviewing, during normal business hours and no more than once annually, Prysm Technologies' books and records in order that Prysm Reorg, at its expense, may verify compliance by Prysm Technologies with its obligations under this Agreement, which review may not unduly disrupt the business activities of Prysm Technologies. Alternatively, Prysm Reorg may request a telephonic review wherein a representative from each party will participate in a verification of the products and services sold under this Agreement.

(g) Payment. Prysm Reorg will invoice Prysm Technologies for the amount of Reorg Revenue Share for the Orders received by Prysm Reorg hereunder on a quarterly basis. Prysm Technologies shall pay the full amount of the Reorg Revenue Share to Prysm Reorg for such period within thirty (30) calendar days after the end of each calendar quarter. All payments hereunder shall be made in U.S. Dollars (USD). Prysm Technologies shall not be responsible payment of Reorg Revenue Share for Orders from PHS Resale Customers who default on their payment obligation to Prysm Technologies for the related Provider Hosted Services. In such cases, Prysm Technologies shall use commercially reasonable efforts to collect payment from the applicable PHS Resale Customer and Prysm Reorg's sole remedy shall be to suspend or terminate the Provider Hosted Services for the defaulting PHS Resale Customer.

2.2 Customer Hosted Services.

(a) Prysm Reorg will deliver to Prysm Technologies copies of all software (source code and object code) used in the provision of Customer Hosted Services (CHS Software and Client Software) and all software (source code and object code) used in the provision of Provider Hosted Services (Cloud Software and Client Software) and all related design documentation, installation guides and maintenance material (collectively, the "Licensed Software"). Initial copies of the Licensed Software will be delivered to Prysm Technologies on or prior to the Effective Date. For a two (2) year period following the effective date of Closing (the "Support Period") (subject to extension with the agreement of the Parties), Prysm Reorg shall deliver (no more frequently than every 3 months) all updates, enhancements and new versions of the Licensed Software (source code and object code) to Prysm Technologies of the Licensed Software and all such deliverables shall be included in the term Licensed Software for all purposes under this Agreement.

(b) Prysm Reorg hereby grants to Prysm Technologies a limited, world-wide, royalty-free, fully-paid, perpetual, irrevocable, assignable and transferable right and license, with the right to grant any direct and indirect sublicenses, to the Licensed Software to practice, use, make, have made, import, export, reproduce, modify, create or have created derivative works, distribute or sell the Licensed Software (provided that the foregoing license is applicable to the source code version of the Licensed Software solely for Prysm Technologies' internal purposes, which purposes may include maintaining, modifying and creating derivative works based on the Licensed Software, and providing the Licensed Software to third parties in object code form as contemplated herein), subject to the following:

(i) License Limitations – the license granted in Section 2.2 is limited to the right to use and sublicense the Licensed Software solely as Customer Hosted Services and solely to customers who have purchased, directly or indirectly, Prysm Display Hardware from Prysm Technologies; provided that Prysm Technologies shall have the right to modify and sell Client Software for use in connection with both Customer Hosted Services and Provider Hosted Services.

(ii) Prysm Technologies will have the right to keep all payments, revenues and customers from the sale, installation, provision and support of Customer Hosted Services and licenses to the Display Software.

(iii) The rights granted to Prysm Technologies under this Section 2.2 shall be exclusive in the field of Customer Hosted Services.

(iv) Prysm Technologies will have the right to modify and create, or have modified and created, derivative works of the Licensed Software, subject to the License Limitations set forth above, and all such modifications and derivative works (including work done pursuant to the consulting relationships described below) ("Improvements") shall be owned exclusively by Prysm Technologies. To the extent Prysm Reorg requires a license to such Improvements created or owned by

Prysm Technologies provided for herein reasonably necessary for the performance of its obligations hereunder and in the performance of its business, Prysm Technologies hereby grants to Prysm Reorg a perpetual, world-wide, transferable, assignable, sublicensable, royalty-free, right and license, with the right to grant any direct and indirect sublicenses, to the Improvements to practice, use, make, have made, import, export, reproduce, modify, create or have created derivative works, distribute, sell or otherwise exploit the Improvements.

(v) Prysm Reorg understands and agrees that Prysm Technologies may engage former employees of Prysm Reorg who were employed by Prysm Reorg prior to the date of this Agreement as employees or consultants of Prysm Technologies. Prysm Reorg understands and agrees that Prysm Technologies may engage current employees of Prysm Reorg who were employed by Prysm Reorg prior to the date of this Agreement as part-time consultants (for up to five hours per week) to assist Prysm Technologies in understanding the Licensed Software and further developing the Licensed Software for Customer Hosted Services applications. Prysm Reorg understands and agrees that Prysm Technologies may, with advanced written consent from Prysm Reorg (which consent may be by email transmission), engage other employees of Prysm Reorg as part-time consultants to assist Prysm Technologies in understanding the Licensed Software and further developing the Licensed Software for Customer Hosted Services applications.

(vi) Customers purchasing the Licensed Software in accordance with this Section 2.2 will be responsible for securing a host environment for such software and Prysm Technologies will be responsible for supporting such customers. Prysm Reorg will not be obligated to support customers of the CHS Software or any modified or derivative versions of any Licensed Software developed by Prysm Technologies; provided that, during the Term of this Agreement, Prysm Reorg will provide Basic Support to Prysm Technologies for the Licensed Software as such software exists on the Closing and future versions, if any, released by Prysm Reorg.

2.3 Marks.

(a) Prysm Technologies desires to use, and Prysm Reorg is willing to license to Prysm Technologies, the Prysm name in connection with Prysm Display's business of providing Display Hardware and Software products and services (the "Licensed Business") and such other products and services as the Parties may agree (such products and services collectively, the "Products and Services").

(b) Grant of Mark License. Subject to the terms and conditions contained herein, Prysm Reorg hereby grants to Prysm Technologies, and Prysm Technologies hereby accepts, a nonexclusive, perpetual, nonassignable (except as provided in Section 8.4), royalty-free license to use:

(i) the "Prysm" name in its corporate name and trade name solely in the form of "Prysm Technologies" with or without one or more additional words (e.g., "Prysm Technologies Hardware Solutions") and a corporate-form identifier such as "Inc." or "LLC", as applicable, in connection with the operation of the Licensed Business.

(ii) the "Prysm" Mark, name and logo, with or without one or more additional words, for purposes of labelling or attaching the Prysm Mark or Prysm logo to Prysm Display Hardware in connection with the operation of the Licensed Business.

(iii) the U.S. and international Mark "Visual Workplace" in the marketing, sale and labelling of Prysm Display Hardware in connection with the operation of the Licensed Business.

(c) Prysm Reorg agrees to provide a link on Prysm Reorg's website to Prysm Technologies' new website for six (6) months following the Closing.

2.4 Software Development.

(a) Prysm Reorg agrees that:

(i) For a period of three years from the Closing, all versions of the Cloud Software, CHS Software and related Client Software released by Prysm Reorg will remain compatible with large-format interactive displays of up to 225 inches; provided that, for clarity, Prysm Reorg shall have no such obligation with respect to Client Software or CHS Software that has been modified by Prysm Technologies. For purposes of this section, compatibility shall mean that all user interfaces, font sizes, menus etc. will continue to adjust for large format displays, at least to the extent that adjustments occur prior to the Closing.

(ii) For the Support Period, Prysm Reorg will consider in good faith software development requests for Cloud Software from Prysm Technologies.

(iii) For a period of three years from the Closing, Prysm Reorg will maintain and preserve all patents, patent applications and other registered Intellectual Property Rights of Prysm Reorg.

2.5 Further Assurances. Each Party shall provide assistance, including without limitation, providing any information and documents, sign any documents and affidavits, provide any testimony, or render any other assistance, upon request of the other Party, as is reasonable and necessary for the other Party to secure and perfect all such other Party's ownership, rights, title and interest under Section 2. Each Party shall promptly notify the other Party of any suspected or threatened infringement of any third party's Intellectual Property Rights by the Licensed Software or any part thereof.

3. Bankruptcy Code § 365(n).

(a) For purposes of 11 U.S.C. § 365(n), Prysm Reorg and Prysm Technologies agree that all rights and licenses granted under or pursuant to Section 2 of this Agreement are, and shall be deemed to be, a license grant of "intellectual property" (as defined in 11 U.S.C. §101(35A)) to Prysm Technologies from Prysm Reorg. The parties agree that Prysm Technologies, as a licensee of the intellectual property under this Agreement, shall retain and may fully exercise all of its rights and elections under the Bankruptcy Code in the event a case is commenced by or against Prysm Reorg under the Bankruptcy Code and Prysm Reorg rejects this Agreement pursuant to 11 U.S.C. § 365, including the right of Prysm Technologies to elect under 11 U.S.C. § 365(n)(1)(B) to retain all of its rights and licenses granted by Prysm Reorg that are in existence immediately before the commencement of such case, including without limitation all rights granted to Prysm Technologies with respect to the Licensed Software. Prysm Reorg and Prysm Technologies further agree that the trademark rights included in the intellectual property rights licensed hereunder are an essential and integral component of the intellectual property rights granted to Prysm Technologies under this Agreement, without which Prysm Technologies would not have entered into this Agreement and cannot realize the benefits intended to be conferred on Prysm Technologies by this Agreement. Accordingly, the parties agree that such trademark rights form part of a bundle of nonseverable intellectual property rights that, for purposes of Bankruptcy Code §365(n), shall be deemed to constitute "intellectual property" as defined in Bankruptcy Code §101(35A) as to which the Licensee shall have all of the rights and elections provided for under Bankruptcy Code §365(n) in the event a case is commenced by or against Prysm Reorg under the Bankruptcy Code and Prysm Reorg rejects this Agreement pursuant to Bankruptcy Code §365.

(b) For purposes of 11 U.S.C. § 365(n), Prysm Reorg and Prysm Technologies agree that all rights and licenses granted under or pursuant to Section 5.3 of this Agreement are, and shall be deemed to be, a license grant of “intellectual property” (as defined in 11 U.S.C. §101(35A)) to Prysm Reorg from Prysm Technologies. The parties agree that Prysm Reorg, as a licensee of the intellectual property under this Agreement, shall retain and may fully exercise all of its rights and elections under the Bankruptcy Code in the event a case is commenced by or against Prysm Technologies under the Bankruptcy Code and Prysm Technologies Prysm Reorg Prysm Reorg to elect under 11 U.S.C. § 365(n)(1)(B) to retain all of its rights and licenses granted by Prysm Technologies that are in existence immediately before the commencement of such case, including without limitation all rights granted to Prysm Reorg with respect to the license granted to Prysm Reorg under or pursuant to Section 5.3 of this Agreement.

4. Confidentiality

4.1 Confidential Information. Each Party (the “Disclosing Party”) may disclose or make available to the other Party (the “Receiving Party”), or the Receiving Party may obtain, in connection with this Agreement, any data, documents, material, and information (“Information”) of the Disclosing Party that is confidential and proprietary for the Disclosing Party and disclosed or made available either (aa) in writing or other tangible form and conspicuously marked “confidential” or “secret”; (bb) visually or orally and summarized in a writing that is delivered by the Disclosing Party to the Receiving within thirty (30) days from such visual or oral disclosure or making available; or (cc) of a nature that a reasonable person would understand to be confidential based on the circumstances surrounding disclosure and/or the manner in which such information is treated in the industry, other than Non-Confidential Information (collectively, “Confidential Information”). For purposes of clarity, and notwithstanding the foregoing, or any other provision in this Agreement to the contrary, the Licensed Software and Documentation furnished by Prysm Reorg under this Agreement, and all information in this Agreement (and/or in any related supplement(s), amendment(s) and/or addendum(a) thereto), shall at all times be considered Confidential Information of Prysm Reorg; and any information incorporated therein, whether or not the foregoing is identified in writing as “Confidential” or “Proprietary” or the like (or otherwise designated in writing as confidential) or is of a nature to be understood to be confidential as set forth in subitem (cc) and/or (bb), respectively, of the immediately preceding sentence. “Non-Confidential Information” means any Information that, and to the extent it, (i) was already a publicly known at the time it was disclosed to or obtained by the Receiving Party; (ii) becomes publicly known after it was disclosed or obtained by the Receiving Party through no fault of the Receiving Party or any person acting for or on its behalf but only after the moment it becomes so publicly known; (iii) was already known to the Receiving Party other than under an obligation of confidentiality, non-disclosure, restriction, or non-use at the time it was disclosed to or obtained by the Receiving Party; or (iv) is developed by or for the Receiving Party independently without use of, and without any developer’s knowledge of, Confidential Information of any kind of the Disclosing Party.

4.2 Confidentiality. The Receiving Party shall keep in confidence and not disclose or disseminate to any third party and not use any Confidential Information of the Disclosing Party without the written consent of the Disclosing Party for a period of five (5) years after the end of the Term except with respect to source code or trade secrets which may not be disclosed or disseminated to any third party so long as it remains confidential and a trade secret, provided that the Receiving Party may (i) use Confidential Information provided by the Disclosing Party to it under the terms of this Agreement and solely for the purposes for which, and under the terms, if any, under which, it was provided; (ii) disclose Confidential Information to, and permit use of such Confidential Information by, an employee or contractor of the Receiving Party if and to the extent: (aa) such employee or contractor then and continues (as long as such employee or contractor has, has access to or uses such Confidential Information) to be subject to a non-disclosure agreement or confidentiality obligation at least as stringent as the terms set forth in this Section, and (bb) such employee or contractor has the need to receive and use such Confidential Information on behalf of the Receiving Party for the purpose for which, and under the terms, if any, under which, it was

provided by the Disclosing Party to the Receiving Party; and (iii) use and disclose any Confidential Information of the Disclosing Party solely for the purpose of, and only as necessary for, enforcing any right of the Receiving Party under this Agreement. The Receiving Party shall protect the confidentiality of all Confidential Information of the Disclosing Party to the same degree as it protects the confidentiality of its own Confidential Information. Either Party may from time to time provide to the other Party suggestions, recommendations or comments regarding such other Party's property or technology or other information of such other Party ("Feedback"). Both Parties agree that all such Feedback is and shall be given entirely voluntarily and may be used by the receiving Party without any restriction, without affecting any rights under this Agreement.

4.3 Disclosure Obligation. If the Receiving Party is required to disclose any Confidential Information of the Disclosing Party in an administrative or judicial proceeding, the Receiving Party may do so only (i) if the Receiving Party promptly notifies the Disclosing Party of such requirement (unless applicable law prohibits such notice), (ii) reasonably assists the Disclosing Party, at the Disclosing Party's expense and reasonable request, with exercising or asserting legal rights or remedies to prevent such disclosure and/or to obtain a protective order against such disclosure, and (iii) limits the disclosure to such Confidential Information that the Receiving Party is required to disclose in accordance with applicable law.

5. Representations and Warranties; Reciprocal License

5.1 Prysm Reorg Warranties. Prysm Reorg represents, warrants and covenants that (i) Prysm Reorg has not entered, and will not enter during the term of this Agreement, into any agreement, contract, term sheet or promise that violate any of its obligations, representations, and warranties under this Agreement; (ii) Prysm Reorg has all rights, title and interest to perform all obligations of, and make all grants made or to be made by, Prysm Reorg under this Agreement; (iii) Prysm Reorg will perform all of its obligations under this Agreement in compliance with applicable laws; and (iv) Prysm Reorg has full power and authority to enter into and perform under this Agreement.

5.2 Prysm Technologies Warranties. Prysm Technologies represents, warrants and covenants that (i) Prysm Technologies has not entered, and will not enter during the term of this Agreement, into any agreement, contract, term sheet or promise that would violate any of its obligations, representations, and warranties under this Agreement; (ii) Prysm Technologies has all rights, title and interest to perform all obligations of, and make all grants made or to be made by, Prysm Technologies under this Agreement; (iii) Prysm Technologies will perform all of its obligations under this Agreement in compliance with any applicable law; and (iv) Prysm Technologies has full power and authority to enter into and perform under this Agreement.

5.3 Separation of Assets and Reciprocal Licenses. The business, assets and Intellectual Property Rights of Debtor have been separated and divided between Prysm Reorg and Prysm Technologies to allow (a) Prysm Technologies to continue to design, develop, manufacture and support the Prysm Display Hardware and Display Software for existing and new customers (the "Hardware Business") and (b) Prysm Reorg to continue the business of designing, developing, offering and supporting the Provider Hosted Services for existing and new customers (the "Software Business" and, each of the Hardware Business and the Software Business individually, a "Business"). To the extent that either party discovers or determines that (x) Prysm Reorg has received assets, contracts or other rights that relate solely or primarily to, or are necessary primarily for, the Hardware Business as conducted as of the Effective Date or (y) Prysm Technologies has received assets, contracts or other rights that relate solely or primarily to, or are necessary primarily for, the Software Business as conducted as of the Effective Date, the parties will work together in good faith to transfer and assign such applicable asset, contract or other right to the party that should have received the asset, contract or other right on the Effective Date. To further ensure that Prysm Reorg has the assets and Intellectual Property Rights necessary for the Software Business, and that Prysm

Technologies has the assets and Intellectual Property Rights necessary for the Hardware Business, without limiting or expanding the other terms and provisions of this Agreement, each party hereby grants to the other party a non-exclusive, worldwide, perpetual, irrevocable (except in the case of breach), non-assignable (except as set forth in Section 8.4), sublicensable and royalty-free license under its Intellectual Property Rights existing as of the Effective Date (which, for clarity, shall not include any Marks or Intellectual Property Rights developed or acquired after the Effective Date) for any purpose other than (i) with respect to Prysm Reorg, the use or licensing of such Intellectual Property Rights to embed or build display software into monitors, television or other in-room visual display devices or other in-room hardware devices or appliances (collectively, "Embedded Hardware Displays"), and (ii) with respect to Prysm Technologies, the use or licensing of such Intellectual Property Rights outside of Embedded Hardware Displays; provided that, Intellectual Property Rights licensed by Prysm Technologies pursuant to this Section 5.3, if any, shall not include any Intellectual Property Rights in or relating to the Prysm Display Hardware, and the Intellectual Property Rights licensed by Prysm Reorg pursuant to this Section 5.3, if any, shall not include any Intellectual Property Rights in or relating to the Licensed Software owned by Prysm Reorg and separately licensed under the terms of Section 2.2. Each party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as the other party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the allocation of Business activity described in this Section 5.3; provided that each party's obligations under this Section shall be limited to the Intellectual Property Rights and other assets that it owns and neither party shall be required to incur additional expenses or acquire third-party assets, licenses or intellectual property for purposes of licensing or transferring to the other party hereunder.

6. DISCLAIMER; LIMITATION OF LIABILITY.

6.1 OTHER THAN THE WARRANTIES AND REPRESENTATIONS EXPRESSLY SET FORTH IN THIS SECTION, NO PARTY MAKES ANY, AND EACH PARTY HEREBY DISCLAIMS ALL, WARRANTIES AND REPRESENTATIONS, WHETHER EXPRESS, IMPLIED, OR STATUTORY, REGARDING SUCH PARTY'S PERFORMANCE AND CONTRIBUTIONS UNDER THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, TITLE OR WORKMANSHIP.

6.2 TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, NEITHER PARTY TO THIS AGREEMENT SHALL BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL OR INCIDENTAL DAMAGES ARISING FROM, OR ATTRIBUTABLE TO, THIS AGREEMENT AND/OR THAT PARTY'S PERFORMANCE HEREUNDER, WHETHER ARISING IN CONTRACT, TORT, BY OPERATION OF LAW, OR OTHERWISE, EVEN IF THAT PARTY HAS BEEN PLACED ON NOTICE OF THE POSSIBILITY OF SUCH DAMAGES.

6.3 TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL (A) PRYSM REORG OR ITS AFFILIATES OR (B) PRYSM TECHNOLOGIES' AGGREGATE CUMULATIVE LIABILITY FOR ANY CLAIMS ARISING OUT OF OR RELATED TO THIS AGREEMENT WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), OR ATTORNEY FEES OR OTHERWISE EXCEED THE GREATER OF (I) USD\$1,000,000 OR (II) AMOUNTS PAID AND DUE AND PAYABLE TO PRYSM TECHNOLOGIES AS REVENUE SHARE PURSUANT TO THIS AGREEMENT DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRIOR TO THE DATE THE CLAIM AROSE. THE EXISTENCE OF MORE THAN ONE (1) CLAIM WILL NOT INCREASE OR OTHERWISE ALTER THESE LIMITATIONS OF LIABILITY.

6.4 THE LIMITATIONS IN SECTIONS 6.2 AND 6.3 APPLY EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE. THE LIMITATIONS SET FORTH IN THIS SECTION 6 SHALL NOT APPLY TO (I) EITHER PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, (II) EITHER PARTY'S VIOLATION OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS, (III) EITHER PARTY'S PAYMENT OBLIGATIONS HEREUNDER OR (IV) EITHER PARTY'S (A) CONFIDENTIALITY OBLIGATIONS PURSUANT TO SECTION 4 OR (B) THE RIGHT OR ABILITY OF EITHER PARTY TO MAKE, PURSUE, ENFORCE OR PROSECUTE A CLAIM FOR INJUNCTIVE RELIEF, SPECIFIC PERFORMANCE OR OTHER EQUITYABLE RELIEF PURSUANT TO SECTION 8.1.

7. Term and Termination

7.1 Term. This Agreement shall have an initial term of three years from the Effective Date and shall automatically renew for additional one-year periods thereafter unless any Party delivers written notice of non-renewal to the other Parties at least sixty (60) days prior to the applicable renewal date (the "Term").

7.2 Survival. All provisions in Sections 2.2, 2.3, 3, 4, 5, 6, 8 and this Section 7, and the definitions in Section 1 as relevant for such provisions, shall survive the termination, cancellation or expiration of this Agreement.

8. Miscellaneous

8.1 Remedies; Injunctive Relief. Each Party recognizes that any actual or potential violation, breach, or non-performance of, or default under, any provision of this Agreement may cause irreparable injury to the other Party for which such other Party may have no adequate remedy at law. Therefore, each Party agrees that the other Party shall be entitled to seek injunctive relief or specific performance, without need or obligation to post any bond, to enforce any obligation, agreement, covenant, term and condition under this Agreement, in addition to any other rights and remedies available to such other Party, all as such other Party elects in its sole discretion.

8.2 Relationship of the Parties. This Agreement does not constitute, and shall not be construed as constituting, a partnership or joint venture between the Parties, and no Party shall have any right to obligate or bind the other Party in any manner whatsoever, and nothing herein contained shall give or be intended to give any rights of any kind to any third persons.

8.3 Export Control and Legal Compliance. Each Party shall comply with all applicable import and export laws, rules and regulations with respect to the transfer of any technology, including, without limitation, export controls under the laws and regulations of the United States, including the Export Administration Regulations, 15 C.F.R. Parts 730-774.

8.4 Assignment. Except as otherwise set forth in Section 2 of this Agreement, and without limiting the terms of Section 3 hereof, no Party may assign this Agreement either in whole or in part or delegate its rights or obligations hereunder without the prior written consent of the other Parties; *provided, however,* that no consent shall be required (i) in connection with the merger, consolidation, or the sale, transfer or exclusive license of all or substantially all of the assets or business of a Party (a "Change of Control") or (ii) in the case of the Reorg Debtor any transfer in whole or in part to any of its affiliates. Any attempted assignment or delegation in contravention of the foregoing shall be null and void. This Agreement shall be binding upon and inure to the benefit of the permitted successors and assigns of the Parties.

8.5 Interpretation. In this Agreement, (i) any reference to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time; (ii) where this Agreement states that a Party “shall” or “will” perform in some manner or otherwise act or omit to act, it means that such Party is legally obligated to do so in accordance with this Agreement; (iii) the provisions of this Agreement shall not be interpreted against the drafter, and for purposes of any interpretation, both Parties shall be deemed to be drafters of this Agreement; (iv) all headings are intended solely for the convenience of the Parties, and none will be deemed to affect the meaning or construction of any provision hereof; and (v) words of any gender used in this Agreement are intended to include any other gender, and words in the singular number include the plural, and vice versa, unless the context clearly indicates otherwise.

8.6 Entire Agreement; Amendment; Waiver. This Agreement constitutes the entire understanding and agreement between the Parties hereto related to the subject matter hereof. Neither this Agreement nor any term or provision hereof may be waived, changed, discharged or terminated except by an instrument in writing signed by the person against whom the enforcement of any waiver, change, discharge or termination is sought. No modification, amendment, supplement to or waiver of any provision of this Agreement will be binding upon the Parties unless made in a writing signed by the Party against which such modification, amendment, supplement or waiver of a provision of this Agreement is applied. A failure of a Party to exercise any right provided for herein shall not be deemed to be a waiver of any right hereunder.

8.7 Governing Law; Dispute Resolution.

(a) *Governing Law.* THE VALIDITY, ENFORCEABILITY AND PERFORMANCE OF THIS AGREEMENT SHALL BE GOVERNED BY U.S. FEDERAL LAW AS APPLICABLE AND THE LAWS OF THE STATE OF DELAWARE, WITHOUT REGARD OF ANY CONFLICT OF LAWS PROVISION THAT WOULD RESULT IN THE APPLICATION OF THE LAW OF ANY OTHER JURISDICTION, AND THE TERMS OF THIS AGREEMENT SHALL BE CONSTRUED AND INTERPRETED IN ACCORDANCE WITH SUCH LAWS. WITH RESPECT TO ANY DISPUTE COVERED BY SECTION 8.7(e), EACH PARTY CONSENTS AND SUBMITS TO THE NON-EXCLUSIVE JURISDICTION OF, WAIVING ANY OBJECTIONS TO PERSONAL JURISDICTION IN, COMPETENT STATE AND FEDERAL COURTS IN THE STATE OF DELAWARE FOR ANY LITIGATION OR PROCEEDING, AND TO THE VENUE OF SUCH LITIGATION OR PROCEEDING IN TRAVIS, DELAWARE. THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS SHALL HAVE NO APPLICATION TO THIS AGREEMENT AND IS HEREBY EXCLUDED.

(b) *Resolution of Disputes.* the Parties will attempt to settle any Dispute through consultation and negotiation in good faith and a spirit of mutual cooperation. For purposes of this Agreement, a “Dispute” shall include, without limitation, any dispute, claim, controversy, failure of expectation of a Party as to the intended benefits of the Agreement, disagreement between the Parties as to the interpretation of any provision of this Agreement or the performance of any obligations of a Party under this Agreement.

(c) *Discussion among Executives.* The matter, upon written request of either Party, shall be promptly referred to representatives of the Parties for decision, each Party being represented by a senior executive officer and two business representatives (the “Representatives”). The matter in Dispute shall be briefly summarized by the Party asserting the Dispute. Upon notification of the Dispute, the Representatives shall promptly meet in person or by conference call and undertake a good faith effort to resolve the Dispute. If the Representatives agree on a solution, the solution shall be summarized in writing and distributed to the Parties. If the Representatives do not agree upon a decision to resolve the Dispute

within twenty (20) days after referral of the Dispute to them, each of the Parties shall be free to exercise the remedies available to it under paragraph (d) below. Each Party may extend the period of time for negotiation among the Representatives for an additional period of ten (10) calendar days on one occasion per each Dispute by notice to the other Party prior to the expiration of period for resolving the Dispute under this paragraph (c).

(d) *Arbitration.* If the Parties are unable to resolve any Dispute pursuant to paragraph (c) above, upon written request of either Party, the matter shall be submitted to binding arbitration using JAMS/End Dispute (or any similar agency). The arbitration hearings shall be held, and the Dispute decided, before a panel of three (3) arbitrators in Delaware. The appointment of the arbitrators shall be accomplished within fifteen (15) business days. The arbitrators shall be required to (i) follow the substantive rules of the applicable law in accordance with Section 8.7(a) and the provisions of this Agreement, (ii) require all testimony to be transcribed, and (iii) accompany the award with findings of fact and a statement of reasons for the decision. The arbitrators shall have the authority to permit discovery for no more than thirty (30) days, to the extent deemed appropriate by the arbitrators, upon reasonable request of a Party. The arbitrators shall have no power or authority to (i) add to or detract from the written Agreement, (ii) modify or disregard any provision of the Agreement, or (iii) address or resolve any issue not submitted by the Parties. The arbitrators shall hold hearing proceedings during a period of not longer than thirty (30) days promptly following conclusion of discovery, and the arbitrators shall render a final decision within thirty (30) days following conclusion of the hearings. The arbitrators shall have the power to grant injunctive relief (without the necessity of a Party posting a bond), and to award punitive and/or exemplary damages in the event of a material breach of license grants or confidentiality provisions. The arbitrators shall also be authorized to grant specific performance as a remedy.

(e) *Exceptions.* Nothing herein shall preclude a Party from seeking injunctive relief from a court of competent jurisdiction should the Party believe that it may suffer irreparable harm without such relief (and without the necessity of posting a bond). Notwithstanding anything contained herein to the contrary, the Parties agree that a Party shall not be required to comply with Sections 8.7(b)-(d), but may initiate judicial process, for any Dispute regarding (i) the ownership of property or Intellectual Property Rights, (ii) infringement of Intellectual Property Rights or misappropriation of Property, or (iii) a breach of the confidentiality obligations under this Agreement.

8.8 Severability. If any provision of this Agreement is held to be invalid or unenforceable, the meaning of said provision will be construed, to the extent feasible, so as to render the provision enforceable, and if no feasible interpretation shall save such provision, it will be severed from the remainder of this Agreement, as appropriate. The remainder of this Agreement shall remain in full force and effect unless the severed provision is essential and material to the rights or benefits received by either Party. In such event, the Parties will use their best efforts to negotiate, in good faith, a substitute, valid and enforceable provision or agreement, which most nearly effects the Parties' intent in entering into this Agreement, as appropriate.

8.9 Notices. All notices, demands or other communications to be given or delivered under or by reason of the provisions of this Agreement shall be in writing and shall be deemed to have been given when delivered personally to the recipient, sent to the recipient by reputable express courier service (charges prepaid), or mailed to the recipient by certified or registered mail, return receipt requested and postage prepaid. Such notices, demands and other communications shall be sent to the Parties at the addresses indicated below:

If to Prysm Reorg:

If to Prysm Technologies:

513 Fairview Way, Milpitas, CA 95035
Attn.: Prysm Legal

8.10 Counterparts. This Agreement may be executed in one or more counterparts (any one of which may be by facsimile), all of which shall constitute one and the same agreement.

[Remainder of Page Left Intentionally Blank]

IN WITNESS WHEREOF, the parties to this Agreement have executed this Agreement as of the Effective Date.

PRYSM, INC.

PRYSM TECHNOLOGIES, INC.

By: _____
Name:
Title:

By: _____
Name:
Title:

EXHIBIT A**PROVIDER HOSTED SERVICES****INITIAL PRICING**

License Description		MSRP
Prysm Application Suite, 1 to 24 User Licenses	Prysm Application Suite, 1 to 24 User Licenses renewable per term. End user license that can be used to access the Prysm Application Suite in the Prysm Hosted Cloud from both physical end points and mobile devices. (minimum term is 12 months)	\$29/Mont h
Prysm Application Suite, 25 to 99 User Licenses	Prysm Application Suite, 25 to 99 User Licenses renewable per term. End user license that can be used to access the Prysm Application Suite in the Prysm Hosted Cloud from both physical end points and mobile devices. (minimum term is 12 months)	\$16/Mont h
Prysm Application Suite, 100 + User Licenses	Prysm Application Suite, 100 + User Licenses renewable per term. End user license that can be used to access the Prysm Application Suite in the Prysm Hosted Cloud from both physical end points and mobile devices. (minimum term is 12 months)	\$13/Mont h

EXHIBIT B

PRYSM REORG

SUBSCRIPTION TERMS FOR PROVIDER HOSTED SERVICES

These ‘Software as a Service’ Terms and Conditions (“SaaS Terms”) set forth the terms and conditions under which Service Provider (as identified below) will provide the Customer (as identified below) with access to certain applications as set forth on the ordering document (the “Ordering Document” or “Quote”) entered into between Customer and Service Provider or between Customer and a reseller (“Reseller”) of Service Provider (“Application(s)”) and user documentation that Service Provider makes generally available in hard copy or electronic form to its general customer base in conjunction with the subscription of such Applications (“Documentation”). The Applications and the Documentation will hereinafter collectively be referred to as the “Software.”

1. SUBSCRIPTION GRANT AND RIGHT OF USE

1.1. Subscription Grant. Subject to all limitations and restrictions contained herein and the Quote and as agreed upon in writing by Service Provider and Customer, Service Provider grants Customer a subscription, software as a service (‘SaaS’), nonexclusive, and nontransferable right to access and operate the object code form of Applications (and use its Documentation) as hosted by Service Provider as described in the Quote (“Use”) and solely to perform those functions described in the Documentation. For clarity, an “Application” means Service Provider’s proprietary software that is specifically subscribed to Customer pursuant to a Quote.

1.2. Use. Customer will have a limited right to Use the Application solely for its internal business purposes, to perform the functions described in the Documentation. Customer shall not allow any website that is not fully owned by Customer to frame, syndicate, distribute, replicate, or copy any portion of Customer’s web site that provides direct or indirect access to the Application. Customer shall not allow any website, that is not fully owned by Customer, to frame, syndicate, distribute, replicate, or copy any portion of Customer’s web site that provides direct or indirect access to the Software. Subject to Section 1.5, Customer shall not permit any subsidiaries, affiliated companies, or third parties to access the Software.

1.3. Subscription Type. The license model for the Software is set forth in the Quote and described in the SaaS Addendum located at <http://saaslicensingaddendum.trilogy.com>. Unless otherwise specifically stated in the Quote and agreed upon in writing by Customer and Service Provider, the type of license granted is a Named User Subscription. A “**Named User Subscription**” means that the Application subscribed to pursuant to the Quote may be Used by a limited number of individual users, each identified by a unique user id (the “**Named User**”), the maximum number of which is specified in the Quote. Customer may designate different Named Users at any time without notice to Service Provider so long as the permitted number of Named Users is not exceeded. If the Quote identifies the scope of the subscription to be a “**Site Subscription**,” a “**Site Subscription**” means that the Application subscribed to pursuant to the Quote may be Used by an unlimited number of individual users solely for the internal Use and benefit of Customer, subject to the terms of these SaaS Terms. A “**Device Subscription**” means that the Application subscribed to pursuant to the Quote may be Used on the number of devices indicated in the Quote. A “**Server Subscription**” means that the Application subscribed to pursuant to the Quote may be Used on no more than the number of servers indicated in the Quote. The scope of any subscription other than a

Named User Subscription, Site Subscription, Device Subscription, or Server Subscription must be expressly designated and defined in detail in a Quote and agreed upon in writing by Service Provider and Customer. In no event will any of the subscriptions denoted above be construed to mean a concurrent user subscription.

1.4. Additional Restrictions. In no event will Customer disassemble, decompile, or reverse engineer the Application or Confidential Information (as defined herein) or permit others to do so. Disassembling, decompiling, and reverse engineering include, without limitation: (i) converting the Application from a machine-readable form into a human-readable form; (ii) disassembling or decompiling the Application by using any means or methods to translate machine-dependent or machine-independent object code into the original human-readable source code or any approximation thereof; (iii) examining the machine-readable object code that controls the Application’s operation and creating the original source code or any approximation thereof by, for example, studying the Application’s behavior in response to a variety of inputs; or (iv) performing any other activity related to the Application that could be construed to be reverse engineering, disassembling, or decompiling. To the extent any such activity may be permitted pursuant to written agreement, the results thereof will be deemed Confidential Information subject to the requirements of these SaaS Terms. Customer may use Service Provider’s Confidential Information solely in connection with the Application and pursuant to the terms of these SaaS Terms.

1.5. Authorized Users. Unless otherwise specifically provided in the Quote and agreed upon in writing by Service Provider and Customer, “**Authorized Users**” will only consist of: (i) employees of Customer, and (ii) subject to Section 5 (Confidentiality), third party contractors of Customer who do not compete with Service Provider (“**Permitted Contractors**”). Permitted Contractors may Use the Software only at Customer’s place of business or in the presence of Customer personnel. Customer is fully liable for the acts and omissions of Permitted Contractors under these SaaS Terms and applicable Quote. Customer shall not permit any parent, subsidiaries, affiliated entities, or third parties to access the Software.

1.6. Customer License Grant. Customer grants to Service Provider a non-exclusive, royalty-free license to access, use, reproduce, modify, perform, display and distribute Customer data as is reasonable or necessary for Service Provider to perform or provide the Application.

2. PAYMENT

2.1. Fees. If Customer purchased Applications directly from Service Provider, Customer shall pay Service Provider the fees indicated on the Quote. Unless

otherwise provided in a Quote or unless Customer purchased the Applications from a Reseller, all fees are to be paid to Service Provider within thirty (30) days of the date of invoice. Any late payment will be subject to any costs of collection (including reasonable legal fees) and will bear interest at the rate of one and one-half percent (1.5%) per month (prorated for partial periods) or at the maximum rate permitted by law, whichever is less. If Customer has set up a direct debit, Service Provider will not debit Customer's designated account before seven (7) days have elapsed from the date of the invoice. If Customer is delinquent on a payment of fees for fifteen (15) days or more, Service Provider may suspend access to the Application. Complaints concerning invoices must be made in writing within thirty (30) days from the date of the invoice. Invoices will be sent by electronic delivery unless requested otherwise by Customer, additional fees will apply. If Customer purchased Applications through a Reseller, then Customer shall make full payment to Reseller. Customer acknowledges that Service Provider shall be under no obligation to provide Customer access to the Applications or provide any maintenance and support hereunder if full payment of all fees has not been received by Service Provider from the Reseller.

2.2. Taxes. The following provision applies if the Fees are being paid directly to Service Provider by Customer. The subscription, service fees, and other amounts required to be paid hereunder do not include any amount for taxes or levy (including interest and penalties). Customer shall reimburse Service Provider and hold Service Provider harmless for all sales, use, VAT, excise, property or other taxes or levies which Service Provider is required to collect or remit to applicable tax authorities. This provision does not apply to Service Provider's income or franchise taxes, or any taxes for which Customer is exempt, provided Customer has furnished Service Provider with a valid tax exemption certificate. The Customer will pay all import duties, levies or imposts, and all goods and services sales, use, value added or property taxes of any nature, assessed upon or with respect to the SaaS Terms. If the Customer is required by law to make any deduction or to withhold from any sum payable to the Service Provider by the Customer hereunder, then the sum payable by the Customer upon which the deduction or withholding is based shall be increased to the extent necessary to ensure that, after such deduction or withholding, the Service Provider receives and retains, free from liability for such deduction or withholding, a net amount equal to the amount the Service Provider would have received and retained in the absence of such required deduction or withholding. If the Customer is required by law to make any such deduction or withholding, the Customer shall promptly effect payment thereof to the applicable tax authorities. The Customer shall also promptly provide the Service Provider with official tax receipts or other evidence issued by the applicable tax authorities sufficient to enable the Service Provider to support a claim (if applicable) for income tax credits in the Service Provider's applicable taxable country.

3. HOSTING

3.1. Service Availability. Service Provider will use reasonable efforts to achieve Service Provider's availability goals described in the 'Service Level Addendum for SaaS' located at <http://saasserviceleveladdendum.trilogy.com>

3.2. Support Services. Upon receipt by Service Provider of the relevant fees on the applicable Quote, Customer may receive certain support services for the Application pursuant to the 'Support Addendum for SaaS' located at <http://saassupportaddendum.trilogy.com>.

4. OWNERSHIP

4.1. Reservation of Rights. By signing the Quote or these SaaS Terms, Customer irrevocably acknowledges that, subject to the rights granted herein, Customer has no ownership interest in the Software or Service Provider materials provided to Customer. Service Provider will own all right, title, and interest in such Software and Service Provider materials, subject to any limitations associated with intellectual property rights of third parties. Service Provider reserves all rights not specifically granted herein.

4.2. Marks and Publicity. Service Provider and Customer trademarks, trade names, service marks, and logos, whether or not registered ("**Marks**"), are the sole and exclusive property of the respective owning party, which owns all right, title and interest therein. Service Provider may: (i) use the Customer's name and/or logo within product literature, press release(s), social media, and other marketing materials; (ii) quote the Customer's statements in one or more press releases; and/or (iii) make such other use of the Customer's name and/or logo as may be agreed between the parties. Additionally, Service Provider may include Customer's name and/or logo within its list of customers for general promotional purposes. Service Provider shall comply with Customer's trademark use guidelines as such are communicated to the Service Provider in writing and Service Provider shall use the Customer's Marks in a manner which is consistent with industry practice. Neither party grants to the other any title, interest or other right in any Marks except as provided in this Section.

5. CONFIDENTIALITY

5.1. Definition. "**Confidential Information**" includes all information marked pursuant to this Section and disclosed by either party, before or after the Quote Term Start Date (as identified on the Quote), and generally not publicly known, whether tangible or intangible and in whatever form or medium provided, as well as any information generated by a party that contains, reflects, or is derived from such information. For clarity, the term 'Confidential Information' does not include any personally identifiable information.

5.2. Confidentiality of Software. All Confidential Information in tangible form will be marked as "Confidential" or the like or, if intangible (e.g., orally disclosed), will be designated as being confidential at the time of disclosure and will be confirmed as such in writing within thirty (30) days of the initial disclosure.

Notwithstanding the foregoing, the following is deemed Service Provider Confidential Information with or without such marking or written confirmation: (i) the Software and other related materials furnished by Service Provider; (ii) the oral and visual information relating to the Application; and (iii) these SaaS Terms.

5.3. Exceptions. Without granting any right or license, the obligations of the parties hereunder will not apply to any material or information that: (i) is or becomes a part of the public domain through no act or omission by the receiving party; (ii) is independently developed by the other party without use of the disclosing party's Confidential Information; (iii) is rightfully obtained from a third party without any obligation of confidentiality; or (iv) is already known by the receiving party without any obligation of confidentiality prior to obtaining the Confidential Information from the disclosing party. In addition, neither party will be liable for disclosure of Confidential Information if made in response to a valid order of a court or authorized agency of government, provided that notice is promptly given to the disclosing party so that the disclosing party may seek a protective order and engage in other efforts to minimize the required disclosure. The parties shall cooperate fully in seeking such protective order and in engaging in such other efforts.

5.4 Ownership of Confidential Information. Nothing in these SaaS Terms will be construed to convey any title or ownership rights to the Software or other Confidential Information to Customer or to any patent, copyright, trademark, or trade secret embodied therein, or to grant any other right, title, or ownership interest to the Service Provider's Confidential Information. Neither party shall, in whole or in part, sell, lease, license, assign, transfer, or disclose the Confidential Information to any third party and shall not copy, reproduce or distribute the Confidential Information except as expressly permitted in these SaaS Terms. Each party shall take every reasonable precaution, but no less than those precautions used to protect its own Confidential Information, to prevent the theft, disclosure, and the unauthorized copying, reproduction or distribution of the Confidential Information.

5.5. Non-Disclosure. Each party agrees at all times to use all reasonable efforts, but in any case no less than the efforts that each party uses in the protection of its own Confidential Information of like value, to protect Confidential Information belonging to the other party. Each party agrees to restrict access to the other party's Confidential Information only to those employees or Subcontractors who: (i) require access in the course of their assigned duties and responsibilities; and (ii) have agreed in writing to be bound by provisions no less restrictive than those set forth in this Section.

5.6. Injunctive Relief. Each party acknowledges that any unauthorized disclosure or use of the Confidential Information would cause the other party imminent irreparable injury and that such party will be entitled to, in addition to any other remedies available at law or in equity, temporary, preliminary, and permanent injunctive relief in the event the other party does not fulfill its

obligations under this Section.

5.7. Suggestions/Improvements to Software.

Notwithstanding this Section, unless otherwise expressly agreed in writing, all suggestions, solutions, improvements, corrections, and other contributions provided by Customer regarding the Software or other Service Provider materials provided to Customer will be owned by Service Provider, and Customer hereby agrees to assign any such rights to Service Provider. Nothing in these SaaS Terms will preclude Service Provider from using in any manner or for any purpose it deems necessary, the know-how, techniques, or procedures acquired or used by Service Provider in the performance of services hereunder.

6. WARRANTY

6.1. No Malicious Code. To the knowledge of Service Provider, the Application does not contain any malicious code, program, or other internal component (e.g. computer virus, computer worm, computer time bomb, or similar component), which could damage, destroy, or alter the Application, or which could reveal, damage, destroy, or alter any data or other information accessed through or processed by the Application in any manner. This warranty will be considered part of and covered under the provisions of these SaaS Terms. Customer must: (i) notify Service Provider promptly in writing of any nonconformance under this warranty; (ii) provide Service Provider with reasonable opportunity to remedy any nonconformance under the provisions of these SaaS Terms; and (iii) provide reasonable assistance in identifying and remedying any nonconformance.

6.2. Authorized Representative. Customer and Service Provider warrant that each has the right to enter into these SaaS Terms and that these SaaS Terms and the Quotes executed hereunder will be executed by an authorized representative of each entity.

6.3. Services Warranty. Service Provider warrants that all services performed hereunder shall be performed in a workmanlike and professional manner.

6.4. Disclaimer of Warranties. ANY AND ALL OF SOFTWARE, SERVICES, CONFIDENTIAL INFORMATION AND ANY OTHER TECHNOLOGY OR MATERIALS PROVIDED BY SERVICE PROVIDER TO THE CUSTOMER ARE PROVIDED "AS IS" AND WITHOUT WARRANTY OF ANY KIND. EXCEPT AS OTHERWISE EXPRESSLY STATED IN SECTION 6 OF THESE SAAS TERMS. SERVICE PROVIDER MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT. NEITHER SERVICE PROVIDER (NOR ANY OF ITS SUBSIDIARIES, AFFILIATES, SUPPLIERS OR LICENSORS) WARRANTS OR REPRESENTS THAT THE SOFTWARE OR SERVICES WILL BE UNINTERRUPTED, ERROR-FREE, OR SECURE. CUSTOMER ACKNOWLEDGES THAT THERE ARE RISKS INHERENT IN INTERNET CONNECTIVITY THAT COULD RESULT IN THE LOSS OF CUSTOMER'S PRIVACY, DATA, CONFIDENTIAL

INFORMATION, AND PROPERTY.

6.5. Modifications. Notwithstanding anything to the contrary in this Section, any and all warranties under these SaaS Terms are VOID if Customer has made changes to the Software or has permitted any changes to be made other than by or with the express, written approval of Service Provider.

7. INDEMNIFICATION

7.1. Service Provider Indemnity. Service Provider will defend at its expense any cause of action brought against Customer, to the extent that such cause of action is based on a claim that the Application, as hosted by Service Provider to Customer, infringes a United States patent, copyright, or trade secret of a third party. Service Provider will pay those costs and damages finally awarded against Customer pursuant to any such claim or paid in settlement of any such claim if such settlement was approved in advance by Service Provider. Customer may retain its own counsel at Customer's own expense.

7.2. No Liability. Service Provider will have no liability for any claim of infringement based on: (i) Software which has been modified by parties other than Service Provider where the infringement claim would not have occurred in the absence of such modification; (ii) Customer's use of the Software in conjunction with data or third party software where use with such data or third party software gave rise to the infringement claim; or (iii) Customer's use of the Software outside the permitted scope of these SaaS Terms.

7.3. Remedies. Should the Software become, or in Service Provider's opinion is likely to become, the subject of a claim of infringement, Service Provider may, at its option, (i) obtain the right for Customer to continue using the Software, (ii) replace or modify the Software so it is no longer infringing or reduces the likelihood that it will be determined to be infringing, or (iii) if neither of the foregoing options is commercially reasonable, terminate the access and Use of the Software. Upon such termination, Customer shall cease accessing the Software and Service Provider will refund to Customer, as Customer's sole remedy for such subscription termination, the subscription fees paid by Customer for the terminated license for the past twelve (12) months. THIS SECTION 7 STATES THE ENTIRE LIABILITY OF SERVICE PROVIDER WITH RESPECT TO ANY CLAIM OF INFRINGEMENT REGARDING THE APPLICATION.

7.4. Customer Indemnity. Customer agrees to defend, indemnify, and hold Service Provider and its officers, directors, employees, consultants, and agents harmless from and against any and all damages, costs, liabilities, expenses (including, without limitation, reasonable attorneys' fees), and settlement amounts incurred in connection with any claim arising from or relating to Customer's: (i) breach of any of its obligations set forth in Section 10 (Customer Obligations); (ii) Customer's gross negligence or willful misconduct; (iii) actual or alleged use of the Application in violation of these SaaS Terms or applicable law by Customer or any Authorized Users; (iv) any actual or alleged infringement or misappropriation of third party intellectual

property rights arising from data provided to Service Provider by the Customer or otherwise inputted into the Application, whether by the Customer, an Authorized User or otherwise including Customer Work Product (as defined below); and/or (v) any violation by Customer or its Authorized Users, of any terms, conditions, agreements or policies of any third party service provider. "**Customer Work Product**" means that data and those forms developed or acquired by Customer for internal business purposes independent from Service Provider or the Application.

7.5. Indemnification Procedures. Each indemnifying party's obligations as set forth in this Section are subject to the other party: (i) giving the indemnifying party prompt written notice of any such claim or the possibility thereof; (ii) giving the indemnifying party sole control over the defense and settlement of any such claim; and (iii) providing full cooperation in good faith in the defense of any such claim.

8. LIMITATION OF LIABILITY

8.1. Liability Cap. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL SERVICE PROVIDER BE LIABLE UNDER ANY THEORY OF LIABILITY, WHETHER IN AN EQUITABLE, LEGAL, OR COMMON LAW ACTION ARISING HEREUNDER FOR CONTRACT, STRICT LIABILITY, INDEMNITY, TORT (INCLUDING NEGLIGENCE), ATTORNEYS FEES AND COSTS, OR OTHERWISE, FOR DAMAGES WHICH, IN THE AGGREGATE, EXCEED THE AMOUNT OF THE FEES PAID BY CUSTOMER FOR THE SERVICES WHICH GAVE RISE TO SUCH DAMAGES.

8.2. Disclaimer of Damages. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL SERVICE PROVIDER BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND AND HOWEVER CAUSED INCLUDING, BUT NOT LIMITED TO, ATTORNEYS FEES AND COSTS, BUSINESS INTERRUPTION OR LOSS OF PROFITS, BUSINESS OPPORTUNITIES, OR GOODWILL.

8.3 THE FOREGOING LIMITATIONS APPLY EVEN IF NOTIFIED OF THE POSSIBILITY OF SUCH DAMAGE AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY.

9. TERM AND TERMINATION

9.1. Subscription Term. The term of these SaaS Terms will continue until the termination of the last Quote. Subject to the termination rights herein, the term shall automatically renew for the same term period as the term indicated within the then-current Quote at Service Provider's then-current rates, unless Customer notifies Service Provider in writing of Customer's intent not to renew at least sixty (60) days prior to the expiration of the then-current term.

9.2. Termination by Service Provider. These SaaS Terms and any rights created hereunder may be terminated by Service Provider: (i) if Customer or the Reseller fails to make any payments due hereunder within fifteen (15) days of the due date; (ii) on thirty (30) days written notice to Customer if Customer fails to

perform any other material obligation required of it hereunder, and such failure is not cured within such thirty (30) day period; or (iii) Customer files a petition for bankruptcy or insolvency, has an involuntary petition filed against it, commences an action providing for relief under bankruptcy laws, files for the appointment of a receiver, or is adjudicated a bankrupt concern.

9.3. Termination by Customer. These SaaS Terms may be terminated by Customer on ninety (90) days written notice to Service Provider if Service Provider fails to perform any material obligation required of it hereunder, and such failure is not cured within ninety (90) days from Service Provider's receipt of Customer's notice or a longer period if Service Provider is working diligently towards a cure.

9.4. Effect of Termination. Upon termination of these SaaS Terms, Customer shall no longer access the Software and Customer shall not circumvent any security mechanisms contained therein.

9.5. Other Remedies. Termination of SaaS Terms will not limit either party from pursuing other remedies available to it, including injunctive relief, nor will such termination relieve Customer's obligation to pay all fees that have accrued or are otherwise owed by Customer under these SaaS Terms.

10. CUSTOMER OBLIGATIONS

10.1. Customer agrees that no employees of Service Provider will be required to individually sign any agreement in order to perform any services hereunder including, but not limited to, access agreements, security agreements, facilities agreements or individual confidentiality agreements

10.2. Customer agrees to comply with all applicable laws, regulations, and ordinances relating to these SaaS Terms. Customer shall ensure that each Web site for which the Application is engaged contains or is linked to a privacy policy that governs its data collection and use practices.

10.3. The Customer shall be obliged to inform its Authorized Users before the beginning of use of the Software about the rights and obligations set forth in these SaaS Terms. The Customer will be liable for any violation of obligations by its Authorized Users or by other third parties who violate obligations within the Customer's control.

10.4. The Customer shall be obliged to keep the login names and the passwords required for the use of the Application confidential, to keep it in a safe place, and to protect it against unauthorized access by third parties with appropriate precautions, and to instruct its Authorized Users to observe copyright regulations. Personal access data must be changed at regular intervals.

10.5. Before entering its data and information, the Customer shall be obliged to check the same for viruses or other harmful components and to use state of the art anti-virus programs for this purpose. In addition, the Customer itself shall be responsible for the entry and the maintenance of its data.

10.6. Service Provider has the right (but not the

obligation) to suspend access to the Application or remove any data or content transmitted via the Application without liability (i) if Service Provider reasonably believes that the Application is being used in violation of these SaaS Terms or applicable law, (ii) if requested by a law enforcement or government agency or otherwise to comply with applicable law, provided that Service Provider shall use commercially reasonable efforts to notify Customer prior to suspending the access to the Application as permitted under these SaaS Terms, or (iii) as otherwise specified in these SaaS Terms. Information on Service Provider's servers may be unavailable to Customer during a suspension of access to the Software. Service Provider will use commercially reasonable efforts to give Customer at least twelve (12) hours' notice of a suspension unless Service Provider determines in its commercially reasonable judgment that a suspension on shorter or contemporaneous notice is necessary to protect Service Provider or its customers.

10.7. During the term of these SaaS Terms and for a period of two (2) years following any termination or expiration of these SaaS Terms, Customer shall maintain written records related to the use of the Software by Customer, as reasonably necessary to verify compliance with the usage terms of these SaaS Terms. Such records will be kept in accordance with Customer's records retention policy and records retention schedule applicable thereto. Not more than once annually, and with notice of not less than 20 business days, Service Provider may (or may engage a third-party, which will be subject to a confidentiality obligation), to verify compliance ("**Verification**"). Verification will take place during normal business hours and in a manner that does not interfere unreasonably with Customer's operations. At Service Provider's option, Service Provider may request, and Customer hereby agrees to complete, a self-audit questionnaire relating to Customer's usage under the rights granted by Supplier to Customer in the SaaS Terms. If Verification or self-audit reveals excess use of the Software, Customer agrees to compensate Service Provider for such usage. All costs of the Verification will be borne by Service Provider, unless excess usage of 5% or more is found ("**Material Excess Usage**"). If Material Excess Usage is found during Verification, Customer shall reimburse Service Provider for the actual costs associated with performance of the Verification. Service Provider and any third-party involved in the Verification will use the information obtained in compliance review only to enforce Service Provider's rights and to determine Customer's compliance with the terms of the rights granted in these SaaS Terms. By invoking the rights and procedures described in this Section, Service Provider does not waive its rights to enforce other terms of these SaaS Terms, including, but not limited to, any intellectual property rights by other means as permitted by law.

11. MISCELLANEOUS

11.1. Assignment. Customer may not assign these SaaS Terms or otherwise transfer any right created hereunder whether by operation of law, change of control, or in any other manner, without the prior written

consent of Service Provider. Any purported assignment of these SaaS Terms, or any rights in violation of this Section will be deemed void. Service Provider may assign these SaaS Terms, sub-contract or otherwise transfer any right or obligation under these SaaS Terms to a third party without the Customer's prior written consent.

11.2. Foreign Nationals. Customer acknowledges that Service Provider employs foreign nationals, and that these foreign national employees will work, on Service Provider's behalf, to perform its obligations and services hereunder.

11.3. Affiliates and Third Parties. At the direction and sole discretion of Service Provider, affiliates of Service Provider (the "Service Provider Affiliates") may perform certain tasks related to Service Provider's obligations and rights under the Quote and these SaaS Terms, including, but not limited to, invoicing, payment, technical support, project management and/or sales support. Customer hereby consents to the Service Provider Affiliates' role. Customer further agrees and acknowledges that Service Provider and Customer are the only parties to the Quote and these SaaS Terms or these SaaS Terms if purchasing through a Reseller, and that any action taken by Service Provider Affiliates in connection with the performance of Service Provider's obligations under the Quote and these SaaS Terms will not give rise to any cause of action against the Service Provider Affiliates, regardless of the theory of recovery. Service Provider shall at all times retain full responsibility for Service Provider Affiliates' compliance with the applicable terms and conditions of the Quote and these SaaS Terms. Service Provider will have the right to use third parties, including offshore entities who employ foreign nationals, as well as employees and contractors of Service Provider Affiliates and subsidiaries, who may also be foreign nationals (collectively, "**Subcontractors**") in the performance of its obligations hereunder and, for purposes of these SaaS Terms, all references to Service Provider or its employees will be deemed to include such Subcontractors. Service Provider will have the right to disclose Customer Confidential Information to such third parties provided such third parties are subject to confidentiality obligations similar to those between Service Provider and Customer.

11.4. Technical Data. Customer shall not provide to Service Provider any technical data as that term is defined in the International Traffic in Arms Regulations ("ITAR") at 22 CFR 120.10. Customer shall certify that all information provided to Service Provider has been reviewed and scrubbed so that all technical data and other sensitive information relevant to Customer's ITAR regulated project has been removed and the information provided is only relevant to bug reports on Service Provider products.

11.5. Compliance with Laws. Both parties agree to comply with all applicable laws, regulations, and ordinances relating to such party's performance under these SaaS Terms.

11.6. Survival. The provisions set forth in Sections 2, 4, 5, 6.4, 8, 9.3, 9.4 and 11 of these SaaS Terms will survive termination or expiration of these SaaS Terms and any applicable license hereunder.

11.7. Notices. Any notice required under these SaaS Terms shall be given in writing and will be deemed effective upon delivery to the party to whom addressed. All notices shall be sent to the applicable address specified on the Quote or to such other address as the parties may designate in writing. Any notice of material breach will clearly define the breach including the specific contractual obligation that has been breached.

11.8. Force Majeure. Service Provider will not be liable to Customer for any delay or failure of Service Provider to perform its obligations hereunder if such delay or failure arises from any cause or causes beyond the reasonable control of Service Provider. Such causes will include, but are not limited to, acts of God, floods, fires, loss of electricity or other utilities, or delays by Customer in providing required resources or support or performing any other requirements hereunder.

11.9. Restricted Rights. Use of the Software by or for the United States Government is conditioned upon the Government agreeing that the Software is subject to Restricted Rights as provided under the provisions set forth in FAR 52.227-19. Customer shall be responsible for assuring that this provision is included in all agreements with the United States Government and that the Software, when accessed by the Government, is correctly marked as required by applicable Government regulations governing such Restricted Rights as of such access.

11.10. Privacy. Obligations with respect to personally identifiable information (if any) are set forth in the 'Privacy Addendum' located at <http://globalprivacyaddendum.trilog.com>.

11.11. Entire Agreement. These SaaS Terms together with the documents referenced herein constitute the entire agreement between the parties regarding the subject matter hereof and supersedes all proposals and prior discussions and writings between the parties with respect to the subject matter contained herein. All terms respecting the subject matter of the SaaS Terms and contained in purchase orders, invoices, acknowledgments, shipping instructions, or other forms exchanged between the parties will be void and of no effect.

11.12. Modifications. The parties agree that these SaaS Terms cannot be altered, amended or modified, except by a writing signed by an authorized representative of each party.

11.13. Non-solicitation. During the term of these SaaS Terms and for a period of two (2) years thereafter, Customer agrees not to hire, solicit, nor attempt to solicit, the services of any employee or Subcontractor of Service Provider without the prior written consent of Service Provider. Customer further agrees not to hire, solicit, nor attempt to solicit, the services of any former employee or Subcontractor of Service Provider for a period of one (1) year from such former employee's or Subcontractor's last date of service with Service Provider. Violation of this provision will entitle Service Provider to liquidated damages against Customer equal to two hundred percent (200%) of the solicited person's gross annual compensation.

11.14. Headings. Headings are for reference purposes

only, have no substantive effect, and will not enter into the interpretation hereof.

11.15. No Waiver. No failure or delay in enforcing any right or exercising any remedy will be deemed a waiver of any right or remedy.

11.16. Severability and Reformation. Each provision of these SaaS Terms is a separately enforceable provision. If any provision of these SaaS Terms is determined to be or becomes unenforceable or illegal, such provision will be reformed to the minimum extent necessary in order for these SaaS Terms to remain in effect in accordance with its terms as modified by such reformation.

11.17. Independent Contractor. Service Provider is an independent contractor and nothing in these SaaS Terms will be deemed to make Service Provider an agent, employee, partner, or joint venturer of Customer. Neither party will have authority to bind, commit, or otherwise obligate the other party in any manner whatsoever.

11.18. Governing Law; Venue. The laws of the State of Texas, USA govern the interpretation of these SaaS Terms, regardless of conflict of laws principles. The United Nations Convention on Contracts for the International Sale of Goods (1980) and the Uniform Computer Information Transactions Act (UCITA) are hereby excluded in their entirety from application to these SaaS Terms. The parties agree that the federal and state courts located in Travis County, Texas, USA will have exclusive jurisdiction for any dispute arising under, out of, or relating to these SaaS Terms. Mediation will be held in Austin, Texas, USA.

11.19. Dispute Resolution.

Negotiations. Where there is a dispute, controversy, or claim arising under, out of, or relating to these SaaS Terms, the aggrieved party shall notify the other party in writing of the nature of such dispute with as much detail as possible about the alleged deficient performance of the other party. A representative from senior management of each of the parties shall meet in person or communicate by telephone within five (5) business days of the date of the written notification in order to reach an agreement about the nature of the alleged deficiency and the corrective action to be taken by the respective parties.

Mediation. Any dispute, controversy, or claim arising under, out of, or relating to these SaaS Terms and any subsequent amendments of these SaaS Terms, including, without limitation, its formation, validity, binding effect, interpretation, performance, breach, or termination, as well as non-contractual claims, and any claims with respect to the validity of this mediation agreement (hereinafter the "Dispute"), shall be submitted to mediation in accordance with the then-current WIPO Mediation Rules. The language to be used in the mediation will be English.

Opportunity to Cure. Notwithstanding anything contained hereunder, Customer agrees and acknowledges that no dispute resolution or litigation will be pursued by Customer for any breach of these SaaS Terms until and unless

Service Provider has had an opportunity to cure any alleged breach. Customer agrees to provide Service Provider with a detailed description of any alleged failure and a description of the steps that Customer understands must be taken by Service Provider to resolve the failure. Service Provider shall have sixty (60) days from Service Provider's receipt of Customer's notice to complete the cure.

Injunctive Relief. The parties agree that it will not be inconsistent with their duty to mediate to seek injunctive or other interim relief from a competent court. The parties, in addition to all other available remedies, shall each have the right to initiate an action in any court of competent jurisdiction in order to request injunctive or other interim relief with respect to a violation of intellectual property rights or confidentiality obligations. The choice of venue does not prevent a party from seeking injunctive or any interim relief in any appropriate jurisdiction.

11.20. Country-Specific Terms. The country-specific provisions described in the 'Country-Specific Terms Addendum' located at <http://countryspecifictermsaddendum.trilogy.com> replace or supplement the equivalent provisions above as noted therein where the Customer is located in one of the countries identified in the Country-Specific Terms Addendum and, in any case, where the law of the jurisdiction listed in the Country-Specific Terms Addendum gets applied.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties as of the latest date set forth below:

("Service Provider")

("Customer")

Signature

Signature

Print Name

Print Name

Title

Title

Date

Date

EXHIBIT 2

Prysm, Inc.

LIQUIDATION ANALYSIS AS OF JUNE 30, 2020

(in USD)		Chapter 7 Asset and Liability Values		Plan Asset and Liability Values	
\$US	BOOK VALUE Jun-20				
Assets					
Cash and cash equivalents	1,609,913	100%	1,609,913	100%	1,609,913
Short term investments	653,528	100%	653,528	100%	653,528
Accounts receivable, net	1,761,804	5%	88,090	50%	880,902
Inventories, net	6,958,253	5%	347,913	50%	3,479,127
Prepaid	632,709	0%	0	0%	0
Deferred cost of good sold	1,171,876	0%	0	0%	0
Other current assets	335,194	0%	0	0%	0
Due from or to affiliates	524,633	0%	0	0%	0
Current assets	13,647,910		2,699,444		6,623,470
Property and equipment, net	445,999	5%	22,300	20%	89,200
Goodwill, net	5,884,844	0%	0	0%	0
Intangible assets, net	685,474	IP LIQUIDATION**	4,475,000	ESW OFFER	15,000,000
Other assets	1,561,072	0%	0	0%	0
Total Assets	22,225,299		7,196,744		21,712,669
Liabilities					
Accounts payable	7,182,975	100%	7,182,975	100%	7,182,975
Accrued compensation	365,696	100%	365,696	100%	365,696
Accrued liabilities	1,149,050	100%	1,149,050	100%	1,149,050
Deferred revenue	6,583,664	0%	0	0%	0
Warranty accrual	243,657	0%	0	0%	0
Other current liabilities	1,981,500	100%	1,981,500	100%	1,981,500
Total current liabilities	17,506,542		10,679,221		10,679,221
SECURED PROMISSORY NOTES	181,391,617	100%	181,391,617	100%	181,391,617
Accrued interest on Secured Promissory Notes	80,514,911	100%	80,514,911	100%	80,514,911
Total Liabilities	279,413,070		272,585,749		272,585,749

Summary of Claims

PRIORITY CLAIMS	365,696	365,696
Secured Noteholders	261,906,528	261,906,528
GENERAL UNSECURED CREDITORS (GUC)	10,313,525	10,313,525

EXPECTED DISTRIBUTION BY CLASS:

Claim Amount	Chapter 7 Liquidation	% Distribution	Claim Amount	Plan Distribution	% Distribution	
AGGREGATE ASSETS AVAILABLE FOR DISTRIBUTION	\$ 7,196,744		\$ 21,712,669			
ADMINISTRATIVE CLAIMS	\$ 300,000		\$ 300,000		100% Estimated Fees for UST, Professional Services	
CHAPTER 7 TRUSTEE FEES/EXPENSES	\$ 315,902	\$ 315,902	100%			
PRIORITY CLAIMS	\$ 365,696	\$ 365,696	100%	\$ 365,696	100%	
CLASS 1 - GII - SECURED NOTES (INCLUDING INTEREST)	\$ 3,168,020	\$ 3,168,020	100%	\$ 3,126,730	98.7%	
CLASS 2 - OTHER SECURED NOTES (INCLUDING PREPETITION INTEREST)	\$ 258,738,508	\$ 3,347,125	1.29%	\$ 15,420,243	5.96%	
ASSUMPTION/ CURE AMOUNTS			\$ 2,000,000	\$ 2,000,000	100%	
CLASS 5 - GENERAL UNSECURED CREDITORS (GUC)	\$ 10,313,525	\$ -	0%	\$ 8,313,525	\$ 500,000	6.01%

* Includes \$41,289 in additional interest owing under the GII Notes at the default rate of 8.0% from Aug 1 to Sept 30

** Based on assumed proceeds of \$20,000 per issued patent and \$5,000 per patent application.