

**STOCK PURCHASE AGREEMENT**  
**BY AND AMONG**  
**ALFRED BENESCH & COMPANY**  
**AND**  
**THE SHAREHOLDERS OF TINDALE OLIVER & ASSOCIATES, INC.**  
**AND**  
**WILLIAM L. BALL, as the Representative**  
**(Relating to the Purchase of 100% of the**  
**outstanding stock of Tindale Oliver & Associates, Inc.)**

December 17, 2021

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## STOCK PURCHASE AGREEMENT

THIS STOCK PURCHASE AGREEMENT (this “**Agreement**”) is made as of this 17<sup>th</sup> day of December 2021, by and between **ALFRED BENESCH & COMPANY**, an Illinois corporation (referred to herein as the “**Buyer**”), and the shareholders of **Tindale Oliver & Associates, Inc.**, a Florida corporation (the “**Company**”), who have executed the Joinder to this Agreement (referred to herein individually as a “**Seller**” and collectively as the “**Sellers**”), and William L. Ball as the representative of the Sellers (the “**Representative**”) as provided in **Section 3.8**, who is also a Seller, and relates to the acquisition of 100% of the outstanding stock of the Company from the Sellers.

### WITNESSETH:

**WHEREAS**, the Company is engaged in the business of providing the Services (as defined below); and

**WHEREAS**, the Sellers collectively own 100% of the outstanding common stock of the Company; and

**WHEREAS**, Sellers desire to sell and Buyer desires to purchase all of the shares of outstanding common stock of the Company owned by the Sellers upon the terms and conditions as set forth herein.

**NOW, THEREFORE**, for and in consideration of the mutual covenants and agreements set forth in this Agreement and intending to be legally bound hereby, the parties agree as follows:

### 1. DEFINITIONS

**1.1. Defined Terms.** For purposes of this Agreement, the following terms have the meanings specified or referred to in this **Section 1.1**:

“**Accounting Arbitrator**” as defined in **Section 3.6(b)**.

“**Accounts Receivable**” means the accounts receivable of the Company listed on **Schedule 4.15**.

“**Adjustment Calculation**” is defined in **Section 3.6(a)**.

“**Aggregate Deficit Amount**” as defined in **Section 3.6(d)(vi)**.

“**Aggregate Surplus Deficit Statement**” as defined in **Section 3.6(d)(vii)**.

“**Agreement**” is defined in the Preamble.

“**Amended and Restated Shareholders Agreement**” means the Amended and Restated Shareholders Agreement of Buyer, dated September 13, 2012, as amended as of September 11, 2014.

“**Baltimore Lease**” the lease, dated September 18, 2018, as amended May 5, 2021, between the Company and 901 LLC, as landlord for the Baltimore Leased Premises.

“**Baltimore Leased Premises**” the property leased by the Company and commonly known as 1010 Park Avenue, Suite 104, Baltimore, Maryland 21201.

“**Benefit Plans**” as defined in **Section 4.20(a)** below.

**“Business”** the providing of Services to public and private clients, all as presently conducted by the Company.

**“Business Day”** any day excluding Saturday, Sunday and any day on which banking institutions located in Illinois are authorized by law or other governmental actions to close.

**“Buyer”** Alfred Benesch & Company, as defined in the first paragraph of this Agreement.

**“Buyer Balance Sheet”** as defined in Section 6.4(a) below.

**“Buyer’s Closing Documents”** as defined in Section 6.2(a) below.

**“Buyer Indemnified Parties”** as defined in Section 13.2(a) below.

**“Buyer Interim Balance Sheet”** as defined in Section 6.4(a) below.

**“Buyer Plan”** as defined in Section 9.6(c) below.

**“Buyer Shares”** means the shares of common stock of Buyer described in Section 3.3(c) below and included as part of the Purchase Price.

**“Buyer’s Closing Documents”** as defined in Section 6.2(a) below.

**“Cares Act”** means the Coronavirus Aid, Relief and Economic Security Act, or any successor law and any regulations issued by the SBA with respect thereto.

**“Cash on Hand”** means, with respect to the Company, all cash, cash equivalents (including unfunded deposits from credit card purchases, deposits in transit and other unfunded deposits) and marketable securities as of 11:59 p.m. eastern time on the Closing Date, in each case only if and to the extent such amounts will be available for free use without restrictions by the Company or Buyer at and immediately following the Closing; provided, however, “Cash on Hand” shall be net of issued or outstanding checks and drafts and pending electronic debits.

**“Cash on Hand Surplus”** as defined in Section 3.6(d)(iii).

**“Cash Payment”** means the cash payment described in Section 3.3(a) below.

**“Closing”** as defined in Section 3.1 below.

**“Closing Date”** as defined in Section 3.1 below.

**“Closing Date Statement”** as defined in Section 3.6(a).

**“COBRA”** means Section 4980B of the Code, as amended, and Sections 601 through 609 of ERISA, or similar state law, including such obligations that arise by virtue of the Contemplated Transactions.

**“Code”** the Internal Revenue Code of 1986 or any successor law, and regulations issued by the IRS pursuant to the Internal Revenue Code or any successor law.

**“Company Balance Sheet”** as defined in Section 4.7(a)(i) below.

**“Company Competing Business”** as defined in Section 4.21 below.

**“Company Interim Balance Sheet”** as defined in Section 4.7(a).

**“Company Plan”** as defined in Section 9.6(a) below.

**“Company Released Claims”** as defined in Section 9.7(b).

**“Company Released Parties”** as defined in Section 9.7(b).

**“Company Transferred Employees”** as defined in Section 9.6(d) below.

**“Consent”** any approval, consent, ratification, waiver, or other authorization (including any authorization from a Governmental Body).

**“Contemplated Transactions”** all of the transactions provided for in this Agreement, including but not limited to the purchase and sale of the Shares.

**“Contract”** any legally binding agreement, contract, obligation, promise, or undertaking of the Company as of the Closing.

**“COVID-19”** means SARS-CoV-2 or COVID-19, and any evolutions thereof or related or associated epidemics, pandemic or disease outbreaks.

**“Customer Contract”** any Contract providing for the Company to perform Services.

**“Damages”** as defined in Section 13.2(a) below.

**“Effective Time”** as defined in Section 3.1 below.

**“Employment Agreements”** the Employment Agreements entered into by the persons listed on Exhibit E and Buyer.

**“Encumbrance”** any charge, claim, suit, proceeding, call, commitment, proxy, community property interest, condition, equitable interest, lien, option, mortgage, pledge, security interest, right of first refusal, or restriction of any kind, including any restriction on use, voting, transfer, receipt of income, or exercise of any other attribute of ownership.

**“Environmental Law”** shall mean all present federal, state or local laws, statutes, common law duties, rules, regulations, ordinances and codes, together with all administrative or judicial orders, consent agreements, directed duties, requests, licenses, authorizations and permits of, and agreements with, any governmental authority, in each case relating to any matter arising out of or relating to public health and safety, or pollution or protection of the environment or workplace, including any of the foregoing relating to the presence, use, production, generation, handling, transport, treatment, storage, disposal, distribution, discharge, emission, release, threatened release, control or cleanup of any Hazardous Substance.

**“ERISA”** the Employee Retirement Income Security Act of 1974 or any successor law, and regulations and rules issued pursuant to that Act or any successor law.

**“ERISA Affiliate”** means any entity that is a member of (i) a controlled group of corporations (as defined in Section 414(b) of the Code), (ii) a group of trades or businesses under common control (as defined in Section 414(c) of the Code), (iii) an affiliated service group (as defined under Section 414(m) of

the Code or the regulations under Section 414(o) of the Code) or (iv) a “controlled group” within the meaning of Section 4001 of ERISA, any of which includes the Company.

“**Fixed Price Contracts**” all Customer Contracts to which the Company is a party and pursuant to which the Company agreed to receive a fixed price, a guaranteed maximum price or a lump sum for all Services to be performed thereunder and any similar contracts, as further described in **Schedule 4.16(f)**.

“**Ft. Lauderdale Beach Lease**” the lease, dated March 25, 2014, between the Company and Lakeside IV, LLC, as landlord for the Ft. Lauderdale Leased Premises.

“**Ft. Lauderdale Leased Premises**” the property leased by the Company and commonly known as 6301 NW 5<sup>th</sup> Way, Suite 1400, Ft. Lauderdale, FL 33309.

“**Fundamental Representations**” means the representations contained in **Sections 4.1, 4.4, 4.5, 4.31, 5.1, 5.2, 5.3, 5.6, 6.1, 6.2** and **6.8**.

“**GAAP**” as defined in **Section 4.7(b)** below.

“**Government Contract**” (i) any Customer Contract between the Company and (A) any Governmental Body, (B) any prime contractor to any Governmental Body, or (C) any subcontractor with respect to any contract described in clause (A) or (B), and (ii) any Customer Contract which is wholly or partially funded by, directly or indirectly, or through any Governmental Body.

“**Governmental Body**” any federal, state, local, municipal, foreign, or other governmental unit or body.

“**Hazardous Substances**” include any substance, material or waste, regardless of its form or nature, the manufacturing, processing, sale, generation, treatment, transportation, storage, recycling, disposal, release, discharge, labeling or other management or use of which is regulated by any applicable Environmental Law, including without limitation any substance, material or waste, regardless of its form or nature, defined as a “hazardous substance,” “hazardous waste,” “extremely hazardous substances,” “toxic substance,” “toxic chemical,” “toxic waste,” “solid waste,” “industrial waste,” “residual waste,” “municipal waste,” “special handling waste,” “mixed waste,” “pollutant” or “contaminant” by any Environmental Law.

“**Indebtedness**” means the aggregate amount (including the current portion thereto) of the following obligations of the Company, whether or not included as indebtedness or liabilities in accordance with GAAP, without duplication, (a) for borrowed money including principal, accrued interest and related costs and expenses, (b) the principal of and premium in respect of obligations evidenced by bonds, debentures, notes or other similar instruments, including accrued interest; (c) any obligation in respect of any amount drawn under any letters of credit or similar security instrument, (d) for the deferred purchase price of properties, goods or services (excluding trade accounts payable and other current liabilities in the ordinary course of business included in Net Working Capital, but including earn-outs or purchase price adjustments), (e) under capital leases or finance leases in accordance with GAAP, (f) negative balances in bank accounts; (g) obligations under any swaps, options, derivatives and other hedging agreements or arrangements; (h) all liabilities relating to securitization or factoring programs or arrangements; (i) for any and all premiums, accrued and unpaid interest, related expenses, prepayment penalties, commitment and other fees payable in connection with any of the obligations described in the immediately preceding clauses, and (j) in the nature of guarantees of the obligations described in the immediately preceding clauses (a) through (i) above of any other Person.



**“Indebtedness Deficit”** as defined in Section 3.6(d)(ii).

**“Indemnification Cap”** as defined in Section 13.4(b) below.

**“Intellectual Property Assets”** as defined in Section 4.29(c) below.

**“IRCA”** as defined in Section 4.19(h).

**“IRS”** the United States Internal Revenue Service or any successor agency, and, to the extent relevant, the United States Department of the Treasury.

**“Knowledge”** means with respect to a particular fact or other matter, when the Sellers or any director or officer of the Company is actually aware of that fact or matter, or, in the case of the directors or officers of the Company, would reasonably be expected to become aware of such fact or matter after reasonable inquiry, and in the case of Buyer, when any director or executive officer of Buyer is actually aware of that fact or matter, or would reasonably be expected to become aware of such fact or matter after reasonable inquiry.

**“Land”** all parcels and tracts of land in which the Company has an ownership interest.

**“Law”** any federal, state, local, municipal, foreign, international, multinational, or other administrative Order, constitution, law, ordinance, principle of common law, regulation, statute, or treaty.

**“Lease”** any lease or rental agreement, license, right to use, or installment and conditional sale agreement to which the Company or the Sellers is a party and any other Contract pertaining to the leasing or use of any Real Property or Personal Property.

**“Leased Real Property”** as defined in Section 4.13 below.

**“Liability”** any liability or obligation of a Person of any kind, character, or description, whether known or unknown, absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, executory, determined, determinable, or otherwise, and regardless of whether required to be accrued on the books or financial statements of such Person.

**“Methodology”** as defined in Section 3.6(a).

**“Net Backlog Deficit”** as defined in Section 3.6(d)(iv) below.

**“Net Backlog Surplus”** as defined in Section 3.6(d)(iv) below.

**“Net Backlog Under Contract”** Net Backlog Under Contract is defined as total Net Revenue under contract minus total Net Revenue billed to date and shall take into account all rights of the Company in and to all Customer Contracts in which Services are to be performed following the Closing Date, including without limitation all unbilled Net Revenue for Services not performed thereunder as of the Closing Date; provided that projected Net Revenue from a Customer Contract (not including any unassigned task orders) shall only be included in the Net Backlog Under Contract (as calculated on the Closing Date) to the extent that a reasonable person would be satisfied that (i) the Customer Contract does not require consent for assignment by the Company to Buyer; (ii) the corresponding customer has consented to such assignment or is reasonably likely to consent; or (iii) Buyer will be able to perform Services and collect corresponding fees from the customer under such Customer Contract.

**“Net Deficit Amount”** as defined in Section 3.6(e).

**“Net Revenue”** as to any Customer Contract, the total gross revenues by the Company thereunder for Services, minus all associated sub-consultant and sub-contractor fees and minus any amounts representing reimbursement of disbursements.

**“Net Surplus Amount”** as defined in Section 3.6(e).

**“Net Working Capital”** means, the difference between (i) current assets (other than Cash on Hand) of the Company as of 11:59 p.m. eastern time on the Closing Date, and (ii) current liabilities (excluding indebtedness) of the Company as of 11:59 p.m. eastern time on the Closing Date. In determining assets and liabilities hereunder, (a) all normal or recurring monthly accounting entries shall be taken into account and all known errors and omissions shall be corrected, (b) all known proper adjustments shall be made, (c) for purposes of calculating the accrued liability or any claim for a refund of income Taxes, the Company shall treat the Closing Date as the last day of their taxable year, (d) any deferred Tax assets or deferred Tax Liabilities established to reflect timing differences between book and Tax income shall not be included in Net Working Capital, (e) any income Tax assets or Liabilities shall not be taken into account, (f) any liability required to be recorded on the balance sheet pursuant to Financial Accounting Standards Codification No. 740, shall not be reflected as a liability, and (g) any and all sick leave and vacation leave that is accrued but unused at the Closing Date shall be deducted from Net Working Capital.

**“Objection Notice”** as defined in Section 3.6(b).

**“Order”** any award, decision, injunction, judgment, order, ruling, subpoena, or verdict entered, issued, made, or rendered by any court, administrative agency, or other Governmental Body of competent jurisdiction, or by any arbitrator of competent jurisdiction.

**“Ordinary Course of Business”** an action taken by a Person that is:

- (a) Consistent with the past practices of such Person and taken in the ordinary course of the normal day-to-day operations of such Person;
- (b) If such Person is an entity, not required to be authorized by the board of directors or managers of such Person (or by any Person or group of Persons exercising similar authority); and
- (c) Similar in nature and magnitude to actions customarily taken, without any authorization by the board of directors or managers (or by any Person or group of Persons exercising similar authority), in the ordinary course of the normal day-to-day operations of other Persons that are in the same line of business.

**“Organizational Documents”** (i) the articles or certificate of incorporation and the bylaws of a corporation; (ii) the articles of formation and operating agreement, or equivalent documents, of a limited liability company; (iii) any charter or similar document adopted or filed in connection with the creation, formation, or organization of a Person; and (iv) any amendment to any of the foregoing.

**“PBGC”** means the Pension Benefit Guaranty Corporation.

**“Permits”** as defined in Section 4.27 below.

**“Person”** any individual, corporation, limited company, general or limited partnership, limited liability company, joint venture, estate, unincorporated association, trust, association, organization, labor union, or other entity or Governmental Body.

**“Personal Property”** as defined in Section 4.14 below.

**“PPA Period”** as defined in Section 9.5(a) below.

**“PPP Loan”** means the loan obtained from Bank of Tampa through the Paycheck Protection Program, and guaranteed by the U.S. Small Business Administration, for which the proceeds thereof have been used solely for the allowable uses set forth in Section 7(a)(36)(F) of the Small Business Act (15 U.S.C. 636(a)), as amended by the CARES Act.

**“Principal Clients”** as defined in Section 4.23 below.

**“Proceeding”** any action, arbitration, audit, hearing, investigation, litigation, or suit (whether civil, criminal, administrative, investigative, or informal) commenced, brought, conducted, or heard by or before, or otherwise involving, any Governmental Body or arbitrator.

**“Promissory Note”** and **“Promissory Notes”** means one or all of the subordinated, unsecured Promissory Notes of Buyer described in Section 3.3(b) below and in the form attached hereto as Exhibit A.

**“Prospectus”** as defined in Section 5.7(a) below.

**“Purchase Price”** as defined in Section 3.3 below.

**“Purchase Price Allocation”** as defined in Section 9.5(a) below.

**“Real Property”** the Land and all improvements and appurtenances thereto and any real property or land leased by Company or a Seller and used in the Business or leased by the Company.

**“Related Person”** means (i) in the case of a particular individual, each other member of such individual’s immediate family, and any Person that is directly or indirectly controlled by such individual or one or more members of such individual’s immediate family, and (ii) in the case of a specified Person other than an individual, a Person that directly or indirectly controls, or is controlled by, or is directly or indirectly under common control with, such specified Person or any person that holds more than a five percent (5%) interest in such specified Person. As used herein, the term “immediate family” shall mean a Person’s parents, siblings, and other children (whether biological, by marriage or adopted).

**“Representative”** is defined in the Preamble to this Agreement.

**“Schedule or Schedules”** a schedule delivered by one party to the other party concurrently with the execution and delivery of this Agreement, setting forth certain disclosure information arranged in numbered or lettered items, each of which corresponds to a Section of this Agreement and provides (i) additional disclosure in response to an express disclosure requirement in such Section or (ii) an exception or qualification to a representation or warranty contained in such Section to the extent permitted or contemplated by such Section. Attached to this Agreement as Exhibit 1 is a list of all such Schedules.

**“S Corporation”** as defined in Section 4.10(j) below.

**“Section 338 Forms”** as defined in Section 9.4(b) below.

**“Securities Act”** as defined in Section 5.7 below.

**“Seller”** and **“Sellers”** as defined in the first paragraph to this Agreement.

**“Sellers Released Claims”** as defined in Section 9.7(b).

**“Sellers Released Parties”** as defined in Section 9.7(b).

**“Services”** means ADA compliance/accessibility, community planning, multimodal transportation planning, public finance, roadway design, transit planning, and transportation engineering/safety professional services provided by the Company to a range of clients and which constitute the primary revenue-generating activity of the Company.

**“Set-Off”** as defined in Section 3.7 below.

**“Shares”** as defined in Section 4.5(a) below.

**“Software”** all computer software and subsequent versions thereof, including source code, object, executable, or binary code, objects, comments, screens, user interfaces, report formats, templates, menus, buttons, and icons and all files, data, materials, manuals, design notes, and other items and documentation related thereto or associated therewith, including ownership rights or (as applicable) license rights to use said software.

**“Subordination Agreement”** as defined in Section 3.3(b) below.

**“Tampa Lease”** the lease, dated March 22, 2004, as amended from time to time, between the Company and Ashley Avenue Associates I, LLC, as landlord, for the Tampa Leased Premises.

**“Tampa Leased Premises”** the property leased by the Company and commonly known as 1000 N. Ashley Drive, Suite 400, Tampa, Florida 33602.

**“Target Net Working Capital”** [REDACTED].

**“Tax”** or **“Taxes”** all income, gross receipts, franchise, excise, transfer, severance, value added, ad valorem, sales, use, wage, payroll, workers’ compensation, employment, occupation, and real and personal property taxes; taxes measured by or imposed on capital; levies, imposts, duties, license and legislation fees; other taxes imposed by a Governmental Body, including assessments in the nature of taxes; including without limitation, interest, penalties, fines, assessments and deficiencies relating to any tax or taxes; and including transferee or secondary liability for taxes and any taxes due as a result of being a member of any affiliated, consolidated, combined or unitary group or any liability in respect of taxes under a tax sharing, tax allocation, tax indemnity or other agreement.

**“Tax Laws”** any Law relating to the authorization, determination, levying, or collection of any Tax and the administration and enforcement of Laws relating thereto.

**“Tax Return”** any return (including any information return), report, statement, estimate, schedule, notice, form, or other document or information filed with or submitted to, or required to be filed with or submitted to, any Governmental Body in connection with the determination, assessment, collection, or payment of any Tax.

**“Third Party”** a person that is not a party to this Agreement.

**“338 Election”** as defined in Section 3.5 below.

**“338 Election Surplus”** as defined in Section 3.6(d)(v).

**“338 Forms”** as defined in Section 9.4(b) below.

**“Third Party Recovery Proceeds”** as defined in Section 13.4(c) below.

**“Transaction Documents”** means this Agreement and all other agreements, instruments, certificates and other documents to be entered into or delivered by any party, pursuant to any of the foregoing.

**“Transaction Expenses”** means all unpaid transaction costs of the Sellers and the Company necessary to consummate, or incurred or accrued (or required to be accrued in accordance with GAAP) in connection with, the Contemplated Transactions including: (i) the aggregate fees and expenses of attorneys, accountants, consultants, financial advisors and other professional advisors incurred by the Sellers or the Company in connection with the Contemplated Transactions; (ii) any amounts paid or payable to any director, officer or employee of the Company under any contract or plan as a result of the Contemplated Transactions; (iii) all other non-payroll related costs and expenses; (iv) data processing and other termination fees in each case incurred or to be incurred by the Company through the Closing Date in connection with the Contemplated Transactions.

**“Threshold”** as defined in Section 13.4(a) below.

**“Union”** as defined in Section 4.19(c) below.

**“Work-in Process”** means the amounts which will be billed to customers of the Company after the Closing Date for raw materials, labor, and overhead costs (to the extent customarily billed by the Company to its customers) relating to goods and services provided on or before the Closing Date.

**“Working Capital Deficit”** as defined in Section 3.6(d)(i).

**“Working Capital Surplus”** as defined in Section 3.6(d)(i).

## **1.2. Usage.**

(a) **Interpretation.** In this Agreement, unless a clear contrary intention appears:

(i) A reference herein to days shall mean calendar days unless otherwise specified; any day or deadline or end of a time period hereunder that falls on a day other than a Business Day shall be deemed to refer to the first Business Day following such day or deadline or end of the time period, as the case may be;

(ii) A reference in this Agreement to an Article, Section, exhibit, or Schedule shall mean an article or Section of, or exhibit or Schedule attached to, this Agreement, as the case may be, unless otherwise specified; Article and Section headings in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement; and

(iii) All words used in this Agreement will be construed to be of such gender or number as the circumstances require.

(b) **Legal Representation of the parties.** This Agreement was negotiated by the parties with the benefit of legal representation, and any rule of construction or interpretation otherwise requiring this Agreement to be construed or interpreted against a party shall not apply to any construction or interpretation hereof.

## **2. ACQUISITION OF THE SHARES**

Subject to the terms and conditions of this Agreement, at the Closing on the Closing Date, as defined in **Article 3**, each Seller covenants and agrees to sell, assign, transfer and deliver to Buyer, and Buyer agrees to purchase and accept all and not less than all of the Shares, subject to and upon the terms and conditions contained herein for the consideration set forth in **Article 3**.

## **3. CLOSING, CLOSING DATE, CONSIDERATION AND OTHER CLOSING ITEMS**

**3.1. The Closing and Closing Date.** The closing of the transactions contemplated hereby (the “Closing”) will occur on December 17, 2021, or such date mutually agreeable to the Representative and Buyer, at such time, place and manner as Representative and Buyer may agree (“Closing Date”). The Closing shall be deemed to occur at 11:59 p.m. eastern time on the Closing Date (the “Effective Time”).

**3.2. Acquisition of the Shares.** Each Seller shall, at the Closing on the Closing Date, deliver to Buyer good and sufficient certificates for the Shares owned by such Seller, duly assigned in blank or accompanied by duly executed blank stock powers, with any required transfer stamps or taxes paid and affixed thereto, and shall cause the entire right, title and interest in and to the Shares to be transferred beneficially and of record to Buyer, free and clear of any Encumbrance.

**3.3. Consideration.** As consideration for the purchase of the Shares, Buyer shall pay, in accordance with the terms of this **Section 3.3** (the “Purchase Price”), the aggregate sum of [REDACTED], as otherwise adjusted herein, as follows:


(a) The cash portion of the Purchase Price [REDACTED] (the “Cash Payment”) shall be paid for all of the issued and outstanding Shares held by the Sellers in the amounts set forth on **Exhibit A**, by checks of immediately available funds made payable to the Sellers.

(b) The subordinated, unsecured promissory notes of Buyer (in the form set forth on **Exhibit B**) in the aggregate amount of [REDACTED] shall be issued to the Sellers in amounts set forth on **Exhibit A**, which notes are subordinated to Buyer’s obligations to First Midwest Bank, N.A., as provided in the subordination provisions of the Promissory Notes; and

(c) [REDACTED] shares of Buyer common stock shall be issued to the Sellers in the amounts set forth on **Exhibit A** (the “Buyer Shares”). The Buyer Shares shall be subject to the terms and conditions of the Amended and Restated Shareholders Agreement and shall remain in the possession of Buyer.

### **3.4. Net Backlog Under Contract to Purchase Price Adjustments.**

(a) The parties acknowledge and agree that the Purchase Price has been established based on certain assumptions about the terms and conditions of all of the Company’s outstanding Customer Contracts, including Customer Contracts in negotiation. Prior to the Closing Date, Buyer will complete an evaluation of all projects of the Company in progress to determine percentage complete/to complete to ensure advance billing of future revenues has not occurred. In addition, all Customer Contract costs, including sub-consultant fees and employee labor incurred up to the Closing Date are the responsibility of the Company. [REDACTED]

 All amounts hereunder shall be determined in accordance with GAAP.

(b) Within ninety days following the Closing Date, Buyer shall deliver to the Representative, Buyer's Net Backlog Under Contract calculation prepared in accordance with GAAP. The determination of any Purchase Price adjustment shall be made as provided in Section 3.6.

**3.5. Section 338(h)(10) Purchase Price Adjustment.**

(a) The parties agree that they shall make an election under Section 338(h)(10) of the Code (the "**338 Election**") to treat the Contemplated Transactions as an asset sale as provided in Section 9.4. Buyer agrees that the Sellers shall be entitled to an upward adjustment to the Purchase Price equal to the effective tax cost to Sellers of having made the 338 Election, as determined by comparing the proceeds to Sellers from the Contemplated Transactions, net of federal, state and local income Tax Liability had the 338 Election not been made, with the proceeds, net of federal, state and local income Tax Liability if the 338 Election is made (grossed up for the increase such that the 338 Election is Tax neutral to Sellers).

(b) FGMK, LLC, the accountants regularly employed by Buyer, shall provide their estimation of such Purchase Price adjustment, if any, which will be based upon the difference between the top income tax rate applicable to U.S. resident individuals and the highest capital gains rate applicable to U.S. resident individuals as the time of the Closing.

(c) Within ninety days following the Closing Date, Buyer shall deliver to the Representative, Buyer's 338 Election calculation prepared in accordance with GAAP. The determination of any Purchase Price adjustment shall be made as provided in Section 3.6.

**3.6. Purchase Price Adjustment.**

(a) Buyer shall deliver to the Representative, no later than ninety days after the Closing Date, a statement (the "**Closing Date Statement**") which shall set forth, as of 11:59 p.m. eastern time on the Closing Date (without giving effect to the Contemplated Transactions), (i) a calculation of Net Working Capital and the amount, if any, by which the Net Working Capital so determined is less than or greater than the Target Net Working Capital; (ii) a calculation of the Indebtedness of the Company; (iii) a calculation of the Cash on Hand; (iv) the Net Backlog Under Contract calculation; and (v) the 338 Election calculation (clauses (i)-(v), collectively, the "**Adjustment Calculation**"). The Closing Date Statement and the Adjustment Calculation shall be prepared using and in accordance with GAAP and in accordance with the same accounting methods, standards, policies, practices, classifications, estimation methodologies, assumptions, and procedures as were used to prepare the year-end Financial Statements (the "**Methodology**").

(b) On or prior to the thirtieth day following Buyer's delivery of the Closing Date Working Capital Statement and the Adjustment Calculation, the Representative may give Buyer a written notice stating in reasonable detail the Representative's specific objections (an "**Objection Notice**") to the items or amounts in the Closing Date Working Capital Statement or the Adjustment Calculation. Any item or amount set forth in the Closing Date Working Capital Statement or Adjustment Calculation that is not the subject of a timely and specific objection in the Objection Notice shall be deemed accepted by the Representative. Following the delivery of any Objection Notice, the Representative and Buyer shall attempt to negotiate in good faith to resolve such dispute. If the Representative and Buyer fail to agree on any of the Representative's proposed adjustments set forth in the Objection Notice within thirty days after Buyer receives the Objection Notice, the Representative and Buyer agree that all items and amounts set forth in the Objection Notice that are not resolved shall be submitted for final determination to FGMK, LLC, the accountants, regularly employed by Buyer, and if the accountants are unwilling or unable to so act, to another accounting firm selected by Buyer and the Representative, or if Buyer and the Representative are unable to mutually agree upon such an independent accountant within a ten day period, then Buyer and the Representative shall each select an accounting firm and such firms together shall select the Accounting Arbitrator (each such accounting firm or certified public accountant, including FGMK, LLC, making such determination being hereinafter referred to as the "**Accounting Arbitrator**"). The Accounting Arbitrator shall afford each of Buyer and the Representative up to thirty days following engagement of the Accounting Arbitrator to present their positions as to the disputed items. If either party fails to make such a presentation on a timely basis, the Accounting Arbitrator shall be required to decide without further delay or extension on the basis of the submissions made to it and the terms of this Agreement. The Accounting Arbitrator shall resolve all disputed items in a written determination to be delivered within fifteen days following the end of the submission period; provided that any delay in delivering such determination shall not invalidate the award or otherwise deprive the Accounting Arbitrator of jurisdiction. The determination of any of the Closing Date Working Capital Statement or Adjustment Calculation disputed items by the Accounting Arbitrator shall be within, and limited by, the range comprised of the respective determination of each of the parties' calculation with respect to such disputed items. The determination of the Closing Date Working Capital Statement or Adjustment Calculation disputed items by the Accounting Arbitrator shall be based on whether such disputed items have been calculated in accordance with the standards set forth in this **Section 3.6** (including the relevant definitions), and the Accounting Arbitrator is not to make any other determination. The Accounting Arbitrator shall make its determination based solely on presentations and supporting material provided by the parties and not pursuant to any independent review. Such resolution shall be final and binding upon the parties and shall be reflected in any necessary revisions to the Closing Date Working Capital Statement and the Adjustment Calculation. The Sellers shall, jointly and severally, pay a portion of the fees, costs and expenses of the Accounting Arbitrator equal to the percentage by which the portion of the disputed amounts in the Representative's submission to the Accounting Arbitrator not awarded to the Representative bears to the aggregate amount actually disputed by the Representative in the Representative's submission to the Accounting Arbitrator, and Buyer shall pay the remaining portion of such fees, costs and expenses. Such proportional allocations shall be determined by the Accounting Arbitrator at the time that its determination is rendered on the disputed items. Without limiting the foregoing, each of the Buyer and the Sellers shall indemnify and hold each other harmless from the other party's failure to pay its portion of the fees and expenses of the Accounting Arbitrator.

(c) For purposes of complying with this **Section 3.6**, the parties will (i) furnish to each other and to the Accounting Arbitrator such work papers and other documents and information relating to the disputed issues as each party and the Accounting Arbitrator may reasonably request and are available to that party (or its independent public accountants); provided that the obligations of the parties under this clause (i) shall not result in the interference of the normal business operations of any party, and (ii) subject to the timing limitation set forth in **Section 3.6**, be afforded the opportunity to present to the Accounting Arbitrator any material related to the disputed items and to discuss the items with the Accounting Arbitrator;



provided that the other party shall be given reasonable notice of, and the opportunity to attend, any meeting with the Accounting Arbitrator.

(d) For purposes hereof, the following terms have the meanings set forth below:

(i) If: (A) the Target Net Working Capital exceeds the Net Working Capital, after final determination pursuant to this Section 3.6, the amount by which the Target Net Working Capital exceeds the Net Working Capital is referred to as the “Working Capital Deficit,” and (B) the Net Working Capital exceeds the Target Net Working Capital, the amount by which the Net Working Capital exceeds the Target Net Working Capital is referred to as the “Working Capital Surplus,”

(ii) If the Indebtedness as of the Closing Date, after final determination pursuant to this Section 3.6, is greater than zero, then the amount by which the Indebtedness is greater than zero is referred to as the “Indebtedness Deficit,”

(iii) If the Cash on Hand, after final determination pursuant to this Section 3.6 is greater than zero, then the amount by which the Cash on Hand exceeds zero is referred to as the “Cash on Hand Surplus”;

(iv) If (A) the Net Backlog Under Contract is less than [REDACTED] then said deficit shall be referred to as the “Net Backlog Deficit”; and (B) the Net Backlog Under Contract is greater than [REDACTED] then said excess shall be referred to as the “Net Backlog Surplus”;

(v) If the 338 Election calculation, after final determination pursuant to this Section 3.6, is greater than zero, then the amount by which the 338 Election calculation exceeds zero is referred to as the “338 Election Surplus”;

(vi) An amount equal to the Working Capital Deficit, plus the Indebtedness Deficit and the Net Backlog Deficit (in each case, if applicable) is referred to as the “Aggregate Deficit Amount”; and

(vii) An amount equal to the Working Capital Surplus, plus the Cash on Hand Surplus, the Net Backlog Surplus and the 338 Election Surplus (in each case if applicable) is referred to as the “Aggregate Surplus Amount”.

(e) If the Aggregate Deficit Amount exceeds the Aggregate Surplus Amount (the amount by which the Aggregate Deficit Amount exceeds the Aggregate Surplus Amount, referred to as the “Net Deficit Amount”), then (i) Buyer shall, within ten Business Days of the determination of the Net Deficit Amount, deliver to the Representative replacement Promissory Notes reduced by an amount equal to the Net Deficit Amount. If the Aggregate Surplus Amount exceeds the Aggregate Deficit Amount (the amount by which the Aggregate Surplus Amount exceeds the Aggregate Deficit Amount, referred to as the “Net Surplus Amount”), then, within ten Business Days of the determination of the Net Surplus Amount, the Buyer shall deliver to the Representative replacement Promissory Notes increased by an amount equal to the Net Surplus Amount. The parties shall treat any payments made pursuant to this Section 3.6 as an adjustment to the Purchase Price for all purposes.

(f) The value of the Buyer Shares used in calculating the number of shares of Buyer issued to the Sellers shall not be revised in preparing any revised Purchase Price calculation as contemplated in Sections 3.4-3.6.

**3.7. Right of Set-Off.** Without limitation of any other rights and remedies available to Buyer, Buyer shall have the right to set-off against all amounts payable under the Promissory Notes: (i) any reductions in the Purchase Price calculated pursuant to Sections 3.4-3.6, (ii) any fees, payments, reimbursement or indemnification obligations as described in Sections 5.7(q), 9.1, 9.3, 9.6 or Article 10 and (iii) all Damages (as defined below) to which any Buyer Indemnified Parties are entitled to indemnification under Article 13 (the “Set-Off”), with such set-offs to be made first against payments of principal in reverse order of maturity; provided, that, the Buyer Indemnified Parties shall be required to Set-Off any Damages under clause (1) of Section 13.2(a) and clauses (1) and (4) of Section 13.2(b) prior to seeking indemnification from the Sellers. Buyer shall provide written notice to the Representative on the date on which it conducts a Set-Off describing the basis for such Set-Off and stating the amount of the Set-Off.

**3.8. Representative.**

(a) As of the date hereof, each Seller by executing a Joinder to this Agreement in the form attached hereto as Exhibit G, makes, constitutes and appoints the Representative, with full power of substitution and re-substitution, as his or its true and lawful attorney-in-fact for him or it and in his or its name, place, and stead to sign, execute, deliver and perform any Transaction Documents, including this Agreement, required to be executed by such Seller (or any Transaction Documents by which such Seller is otherwise bound), to make and authorize amendments to, or waivers of, this Agreement or any other Transaction Document, to enforce the obligations of the Buyer or the Sellers under this Agreement or any other Transaction Document, to give and receive all notices required or permitted by the Representative under this Agreement or any other Transaction Document, to accept delivery of the Promissory Notes in favor of such Sellers on behalf of such Sellers, and to defend and/or settle any indemnification claims made by the Buyer or any other Buyer Indemnified Party pursuant to the terms of this Agreement or any other Transaction Document, in each case, subject to the terms and limitations in this Agreement, hereby ratifying and confirming that the Representative may do or cause to be done by virtue hereof and to make all determinations and elections hereunder and thereunder. This power of attorney is a special power of attorney coupled with an interest and is irrevocable, and shall survive the Closing and death, disability, legal incapacity, bankruptcy, insolvency, dissolution, or cessation of existence of a Seller. This power of attorney may be exercised by the Representative by listing the Seller executing any Transaction Document with the single signature of the Representative acting as attorney-in-fact for such Seller. The Representative shall have no Liability in its capacity as Representative to the Sellers, or any of the respective affiliates or representatives of the Sellers, arising out of or resulting from any action taken or omitted to be taken in his capacity as Representative or otherwise on behalf of the Sellers, except with respect to any Liability resulting from the Representative’s willful misconduct. Each Seller hereby forever releases and discharges the Representative from any and all Liability which may arise out of or result from any action taken or omitted to be taken in his capacity as Representative or otherwise on behalf of the Sellers, except with respect to any Liability resulting from the willful misconduct of the Representative.

(b) Each Seller shall indemnify and hold harmless and reimburse the Representative from and against such of any and all Liabilities, losses, damages, claims, costs or expenses suffered or incurred by the Representative arising out of or resulting from any action taken or omitted to be taken by the Representative in his capacity as Representative or otherwise on behalf of the Sellers or under the Transaction Documents, other than such Liabilities, Damages, costs or expenses arising out of or resulting from the Representative’s willful misconduct in Representative’s capacity hereunder.

(c) Each party shall be entitled to rely exclusively upon any communication given or other action taken by the Representative on behalf of the Sellers pursuant to this Agreement or the other Transaction Documents. Nothing in this **Section 3.8** shall limit the rights of the Buyer or any Buyer Indemnified Party under this Agreement or any Transaction Document.

#### **4. REPRESENTATIONS AND WARRANTIES WITH RESPECT TO THE COMPANY**

The Sellers hereby represent and warrant to Buyer, jointly and not severally, that the statements contained in this **Article 4** are true and correct as of the date hereof, except as set forth on the disclosure schedule delivered by the Sellers to Buyer on the date hereof as the same may be updated pursuant to the express terms hereof; provided, that each disclosure in the Schedule disclosing an exception to a representation or warranty made herein shall describe such exception with reasonable particularity. Any matter disclosed in any Schedule will also be deemed a disclosure as to all other applicable representations and warranties made herein only to the extent that the relevance of such information to such other representation or warranty is reasonably apparent on its face.

##### **4.1. Organization, Qualification, Status and Authority.**

(a) The Company is a corporation, and not a professional corporation, duly organized, validly existing and in good standing under the Laws of the State of Florida. The Company has full corporate power and authority to own, lease and use its assets and to carry on its Business as presently conducted. The Company is duly qualified or licensed to do business and is in good standing as a foreign corporation in each of the jurisdictions listed on **Schedule 4.1(a)** hereto, which are all the jurisdictions in which the nature of the activities conducted or the character of the properties and assets which it owns, leases or uses makes such qualification or licensing necessary.

(b) The Company has not, during the five-year period immediately preceding the date hereof, changed its name, been the surviving entity of a merger, consolidation or other reorganization in which any of its assets were involved, or acquired all or substantially all of the assets of any Person, all or a portion of which constitute part of the Company's assets. **Schedule 4.1(b)** sets forth all names and all fictitious names (if any) under which the Company or its predecessors have conducted business.

**4.2. Corporate Records.** The copies of the Company's Organizational Documents, each heretofore furnished by the Company to Buyer, are true, correct and complete and each include all amendments up to the date hereof. The Company has provided to Buyer copies of the Company's stock records and minute book, which are complete and correct.

**4.3. Subsidiaries.** The Company does not control directly or indirectly nor does it have any direct or indirect equity participation or ownership interest in any Person, except for TOA Design Group, LLC, a Florida limited liability company.

**4.4. No Violation.** Neither the execution and delivery of this Agreement and the other Transaction Documents by the Sellers nor the consummation of the Contemplated Transactions by the Sellers, nor compliance with the terms hereof by the Sellers or the Company, will (i) conflict with or result in a breach of any of the terms, conditions or provisions of the Organizational Documents of the Company, nor (ii) violate, conflict with or result in a breach of or default under any of the terms, conditions or provisions of any agreement, understanding, arrangement, indenture, Contract, restriction, or Liability to which the Company is a party or by which it is bound or to which the Company's assets are subject (including the Contracts listed on **Schedule 4.16(a)**), nor (iii) accelerate or give to others any interests or rights, including rights of acceleration, termination, modification or cancellation, under any instrument described in the preceding clause with respect to which the Company is a party, nor (iv) result in the creation

of any Encumbrance on the assets, capital stock or properties of the Company, nor (v) conflict with, violate or result in a breach of any Order or constitute a default under any Law to which the Company or any of its assets or properties are subject, nor (vi) except as set forth on **Schedule 4.4**, require the Company to give notice to, or obtain the Consent of, or make a filing with, any Governmental Body or any other Third Party, other than those previously given, made or obtained.

#### **4.5. Capital Stock.**

(a) The authorized capital stock of the Company consists of 3,750,000 shares of voting common stock, par value \$1.00 per share and 3,750,000 shares of non-voting common stock, par value \$1.00 per share. As of the date hereof, 241,088 shares of voting common stock are issued and outstanding (the “**Shares**”) and no shares of non-voting common stock are issued and outstanding. A list of the Sellers showing the number of Shares they own is set forth on **Schedule 4.5(a)**. All of Shares are owned beneficially, and of record, by the Sellers and have been duly authorized and validly issued and are fully paid and non-assessable.

(b) No option, warrant, call, conversion right or commitment of any kind exists that obligates the Company to issue any of its authorized but unissued shares of voting or non-voting common stock or that obligates a Seller to sell, transfer or otherwise dispose of the Shares. The Company has no obligation, contingent or otherwise, to purchase, redeem or otherwise acquire any of its voting or non-voting common stock or any interest therein or to pay any dividend or make any distribution in respect thereof.

#### **4.6. All Business Conducted by the Company.**

(a) The business and operations of the Company are conducted exclusively and entirely by the Company and not by any other Person, whether or not affiliated with the Company, except as set forth in **Schedule 4.6(a)**. With respect to any Person listed on **Schedule 4.6(a)**, **Schedule 4.6(a)** shall also set forth the legal name of the Person, the state and year of formation, the name and location of each project undertaken by the Person, the contracts the Person has entered into, the business opportunities the Person is pursuing, and all fictitious names (if any) under which the Person or its predecessors have conducted business.

(b) Since January 1, 2018, the Company has not introduced any unusual operations or entered into any new line of business. Since January 1, 2018, the Company has (a) conducted its Business consistent with past business practices and preserved its current business organization, (b) used commercially reasonable efforts to keep available the services of its present employees, consultants and agents, (c) used commercially reasonable efforts to maintain its present business relationships with suppliers, clients, brokers, sales representatives and such other Persons having business relationships on the date hereof with the Company, (d) used commercially reasonable efforts to preserve its reputation and goodwill, and (e) not made any material departures from the Company’s business practices with regards to distributions, bonuses, long term debt, expenses or other material financial practices.

#### **4.7. Financial Statements; Books and Records.**

(a) **Schedule 4.7(a)** hereto contains true, correct and complete copies of the following financial statements of the Company at the dates and for the periods specified:

(i) unaudited balance sheets at December 31st of each of the years 2019 and 2020 (the audited balance sheet at December 31, 2020 shall be referred to herein as the “**Company Balance Sheet**”);



(ii) unaudited statements of income for the periods ended December 31, 2019 and 2020; and

(iii) an unaudited balance sheet and income statement for the nine-month period ended October 31, 2021 (the “**Company Interim Balance Sheet**”).

(b) Except as set forth on **Schedule 4.7(b)**, each of the foregoing financial statements has been prepared using United States generally accepted accounting principles (“GAAP”) as in effect on the date of such financial statements, is correct and complete in all material respects and presents fairly, in all material respects, the financial position and results of operations and cash flows of the Company, at the dates and for the periods specified. Each of the financial statements set forth on **Schedule 4.7(a)** is consistent with the books and records of the Company, in all material respects. Since December 31, 2018, the Company has maintained its books, records and accounts in its customary and usual manner, and has used methods of accounting consistent with past practice. Furthermore, the Company’s accounting, financial and business records contain no material deficiencies.

(c) Except as set forth on **Schedule 4.7(c)**, there is (i) no account debtor that has refused (or threatened to refuse) to pay its obligations for any reason, (ii) to the Knowledge of the Sellers and the Company, no account debtor that is insolvent or bankrupt, and (iii) no account receivable which is pledged to any Third Party by the Company.

(d) As of the date hereof and as of the Closing Date: (i) the Net Backlog Under Contract as set forth on **Schedule 4.7(d)** represents Net Revenue

excluding all revenue associated with the Net Backlog Under Contract) and such **Schedule** accurately describes the Sellers’ calculation of the value of the Net Backlog Under Contract and the projected Net Revenues for the Business.

**4.8. Absence of Undisclosed and Contingent Liabilities.** Except as set forth on **Schedule 4.8**, the Company has no Liabilities as of the date hereof other than (i) Liabilities disclosed or reserved against in the Company Balance Sheet and (ii) Liabilities arising in the Ordinary Course of Business after the date of the Company Balance Sheet (none of which either singly or in the aggregate, constitutes a material Liability or which arises out of, relates to, is in the nature of, or was caused by any breach of Contract, breach of warranty, tort, or violation of Law). Since December 31, 2018, except as set forth on **Schedule 4.8**, the Company has made no capital expenditure nor acquired any fixed assets which individually or in the aggregate is in excess of \$10,000. The Company has had forgiven or has paid in full the PPP Loan and has no Liability under the Economic Injury Disaster Loan Program or the Main Street Lending Program and no other Liability under the Payroll Protection Program and has paid all taxes related to the amount of the forgiven PPP Loan.

**4.9. Guarantees and Security Interests.** The Company has not guaranteed, become surety or contingent obligor for or assumed any obligation of any Person. Except as disclosed on **Schedule 4.9**, no assets of the Company are pledged, hypothecated, delivered for safekeeping, subjected to an Encumbrance or otherwise provided in any way as security for payment or performance of any obligation.

**4.10. Tax Matters.** Except as set forth on **Schedule 4.10** attached hereto:

(a) The Company (i) has timely filed or caused to be filed all Tax Returns which the Company is or has been required to file on or prior to the date hereof, by any jurisdiction to which the Company is or has been subject, all such Tax Returns being true, correct and complete in all material respects, (ii) has timely paid or caused to be paid in full all Taxes which are or have become due and payable to all Governmental Bodies with respect to such Tax Returns, (iii) has made or caused to be made all withholdings of Taxes required to be made by the Company, and such withholdings have either been paid to the appropriate Governmental Body or set aside in appropriate accounts for such purpose, and (iv) has otherwise satisfied, in all material respects, all applicable Laws and agreements with respect to the filing by the Company of Tax Returns and the payment of Taxes.

(b) The Sellers shall cause the Company to timely and properly file or cause to be filed all Tax Returns which it is or will be required to file on or before the Closing Date. All such Tax Returns will be, true and correct and complete in all respects, and the Sellers shall cause the Company to pay or cause to be paid in full when due all Taxes, if any, which become due and payable pursuant to such returns or assessments received by it on or before the Closing Date.

(c) Since January 1, 2014, the federal income Tax Returns of the Company have not been audited by the IRS.

(d) There are no unassessed Tax deficiencies proposed or, to the Knowledge of the Sellers or the Company, threatened against the Company, nor are there any agreements, waivers, or other arrangements providing for extension of time with respect to the assessment or collection of any Tax against the Company or any Proceedings or claims now pending against the Company with respect to any Tax, or any matter under discussion with any Governmental Body relating to any Taxes.

(e) The Company is not and has never been a member of an affiliated group of corporations (within the meaning of Section 1504 of the Code).

(f) The Company is not a party to, or bound by, nor does it have any obligation under, any tax sharing, tax indemnity, or similar agreement.

(g) The Company has not made and will not make a change in method of accounting for a taxable year beginning on or before the Closing Date, which would require it to include any adjustment under Section 481(a) of the Code in taxable income for any taxable year beginning on or after the Closing Date.

(h) The Company is not a party to any agreement, contract, arrangements or plan that has or would result, separately or in the aggregate, in the payment of any “excess parachute payments” within the meaning of Section 280G of the Code.

(i) The Company has properly accrued and reflected on the Company Balance Sheet, and has thereafter to the date hereof properly accrued, and will from the date hereof through the Closing Date properly accrue, all Liabilities for Taxes and assessments, all such accruals being in the aggregate sufficient for payment of all such taxes and assessments.

(j) The Sellers and the Company elected, and the IRS accepted, effective February 15, 1989, for the Company to become an S corporation (an “**S Corporation**”) pursuant to Section 1362 of the Code. Since February 15, 1989, all of the shareholders of the Company have been eligible S Corporation shareholders, and none of the Company or any shareholders of the Company has taken any action that would conflict with or invalidate the S Corporation status of the Company. Since February 15, 1989, any shareholder of the Company that is a trust was an eligible S Corporation shareholder under Section

1361(c)(2) of the Code and made a valid election as an S Corporation shareholder as required under the applicable Code regulations, and any shareholder of the Company that is an individual retirement account qualified under Section 1361(c)(2)(A)(vi) of the Code. Tax Returns have been prepared and filed on a basis consistent with the Company's status as an S Corporation. Attached to **Schedule 4.10(j)** are true, correct and complete copies of the forms filed by the Company with the IRS to elect to be treated as an S Corporation and any applicable corresponding state elections and the notice received by the Company from the IRS confirming acceptance of such election. **Schedule 4.10(j)** contains a true and complete list of each state in which the Company is treated for such state's income or franchise Tax purposes, in a manner comparable to the federal Tax treatment of a S Corporation. For purposes of this representation, the state Tax treatment shall be deemed comparable to that of an S Corporation if the state's income or franchise Tax on the corporation's net income is eliminated or materially reduced and such net income (net of state corporate Taxes, if any) is treated as taxable to the shareholders of the S Corporation whether or not distributed thereto. **Schedule 4.10(j)** also specifies, for each such state listed therein, the period during which the Company has been subject to such comparable S Corporation state Tax treatment.

(k) Except as disclosed in **Schedule 4.10(k)**, the Company has not elected, through action or inaction, to benefit from any payroll tax relief, including tax credits and tax deferrals, under the Families First Coronavirus Response Act or the CARES Act (including pursuant to Sections 2301 and 2302 of the CARES Act), the Memorandum on Deferring Payroll Tax Obligations in or any similar legislation that addresses the financial impact of COVID-19 on employers.

(l) The Company has properly withheld all Taxes from any compensation, including without limitation bonuses and stock awards, paid to its employees that it is required to withhold under applicable Law and has remitted such Taxes to the appropriate Government Body as required by applicable Law.

**4.11. Litigation.** Except as disclosed on **Schedule 4.11**, there are no Proceedings, pending or, to the Knowledge of the Sellers or the Company, threatened against or involving the Company. Neither the Company nor any Seller is in violation of any Order. Since January 1, 2017, the Company has not instituted any Proceeding (other than collection matters).

**4.12. Owned Real Estate.** The Company does not own, and has never owned, any Real Property.

**4.13. Leased Real Property.** Except for the Leases for the Tampa Leased Premises, the Baltimore Leased Premises and the Ft. Lauderdale Leased Premises (collectively, the "**Leased Real Property**"), the Company is not a lessee under any Lease for Real Property. All such Leases are legal, valid, binding, enforceable against the Company in accordance with their terms and, to the Knowledge of the Sellers and the Company, are legal, valid, binding, and enforceable against the other parties thereto in accordance with their terms. All such Leases are in full force and effect, and true, correct and complete copies of all such Leases (including any amendments thereto) have heretofore been delivered to Buyer. To the Knowledge of the Sellers and the Company, the Company's use of the Leased Real Property is in compliance in all material respects with all applicable Laws.

(a) All permits and authorizations required to be obtained by the Company (as a tenant under the Leases for the Leased Real Property) by any Governmental Body with respect to the Company's present use, occupancy or operation of the Leased Real Property have been obtained and are in full force and effect, and, neither the Sellers nor the Company has received any notice from any Governmental Body that the buildings and improvements erected thereon and the present use of the Leased Real Property by the Company is not in compliance with all applicable material zoning, development, fire, health and building laws, ordinances and regulations. The Company is not a party to any contract or agreement, other than the

Leases, which contain covenants relating to occupation or possession of the Leased Real Property. The Company has not granted to any Person any rights or options to occupy, lease or purchase the Leased Real Property. There is no Proceeding pending or, to the Knowledge of the Sellers and the Company, threatened, by any Person which would reasonably be likely to materially adversely affect the use or occupancy of the Leased Real Property. Neither the Company nor the Sellers has received notice of, any violation of any Law in respect of the Leased Real Property.

(b) All improvements required to be constructed by either the landlords or the Company under the terms of the Leases have been completed, and the Company is not entitled to any payments, credits or abatements under the Leases in connection with such improvements, nor does the Company owe any amounts in connection therewith. The Company has not constructed any additions, alterations or improvements in or to any of the demised premises subject to the Leases which the Company is obligated to remove upon the expiration of the term of the applicable Lease.

**4.14. Condition of Buildings and Personal Property.** All of the Leased Real Property is in operable condition for the operation of the Business as it is currently conducted and constitutes all of the Real Property presently used by the Company in the conduct of the Business. Each item of tangible personal property owned, leased or used by the Company (the “**Personal Property**”): (i) is, to the Sellers’ and Company’s Knowledge, free from defects (patent or latent), (ii) is in good operating condition and repair, reasonable wear and tear excepted, (iii) has been maintained in accordance with the manufacturer’s recommendations, and (iv) is suitable, adequate and sufficient for the purpose for which it is presently used by the Company. Except as set forth on **Schedule 4.14** hereto, the Company has and will have on the Closing Date all right, title and interest in, and good and marketable title to, its owned Personal Property free and clear of any and all Encumbrances. Each Lease and license relating to any of the Personal Property is valid and binding and in full force and effect, and the Company is not in default as to the payment of rent or otherwise.

**4.15. Accounts and Notes Receivable** All accounts and notes receivable of the Company that are reflected on the Company Balance Sheet and all accounts and notes receivable of the Company arising subsequent to the date of the Company Balance Sheet represent valid and collectable obligations arising from transactions actually made or services actually performed in the ordinary and usual course of business. All of the Accounts Receivable are current and collectible in full within one hundred eighty days after billing, except to the extent expressly reserved against on the Company Interim Balance Sheet. There is no contest, claim or right of set-off, other than discounts in the ordinary course of Business, under any Contract with any obligor of Accounts Receivable relating to the amount or validity of such Accounts Receivable. **Schedule 4.15** sets forth the aging of all Accounts Receivable as of the Company Interim Balance Sheet.

**4.16. Contracts; No Defaults.**

(a) **Schedule 4.16(a)** describes each:

(i) Customer Contract that involves performance of Services (which may include incidental charges for tangible items such as copies and photographs) by the Company, including all such Customer Contracts involving a joint venture, partnership or teaming arrangement of the Company with another party (in each such case, including the name of the other party);

(ii) Contract (other than a Customer Contract) with a Person relating to the Business that involves the performance of services or purchase or sale of goods in excess of \$10,000 per year;



(iii) Contract relating to the Company that was not entered into in the Ordinary Course of Business;

(iv) Lease or other Contract affecting the ownership or leasing of, title to, use of, or leasehold or other interest in, any Real or Personal Property and relating to the operation of the Business;

(v) License agreement or other Contract with respect to patents, trademarks, copyrights, Software, or other intellectual property (including the Intellectual Property Assets) relating to the Business, including nondisclosure agreements with current or former employees, consultants, or contractors (excluding, for the avoidance of doubt, any license agreement(s) for commercially available software that is subject to the vendor's standard license agreement, including, without limitation, a "shrink-wrap" or "click-through" license agreement);

(vi) Agreement (or group of related agreements) relating to the operation of the Business under which it has created, incurred, assumed or guaranteed (or may create, incur, assume or guarantee) Indebtedness; any agreement (or group of related agreements) relating to the operation of the Business under which it has imposed an Encumbrance on any of the Company's assets, tangible or intangible; and any guarantee (regardless of the amount involved) for the benefit of the Company, the Sellers, any current or former employee, director, officer, shareholder of the Company or Related Person of the Company (as defined below);

(vii) Agreement for the disposition of any significant portion of the assets or the Business of the Company (other than sales of products in the Ordinary Course of Business) or any agreement for the acquisition of the assets or business of any other entity (other than purchases of inventory or components in the Ordinary Course of Business);

(viii) Agreement involving the Company and a Seller, any current or former officer, director, employee or shareholder of the Company or any Related Person of the Company;

(ix) Agreement prohibiting the Company or any Seller from competing anywhere in the world in the Business or limiting or restricting where the Company or any Seller may conduct the Business;

(x) Agreement containing termination or other provisions triggered by a disposition of the assets of the Company, and any agreement requiring the consent of a Third party in the event of a sale of the Company (except to the extent listed and described in any of the other Schedules to this Agreement); and

(xi) Written warranty, guaranty, indemnity, or other similar undertaking with respect to contractual performance extended by the Company other than in the Ordinary Course of Business.

(b) Except as set forth in **Schedule 4.16(b)**, each Contract identified or required to be identified in **Schedule 4.16(a)** (including without limitation each Customer Contract) is in full force and effect, is valid and enforceable in accordance with its terms (including any Amendment, supplement, and modification, whether written or oral, thereto), and:

(i) The Company is in full compliance with all material terms and requirements of each Contract (exclusive of Customer Contracts), including all clauses, provisions and requirements incorporated expressly, by reference or by operation of Law therein, subject, in the case of any Customer Contract, to any applicable industry standards of care;

(ii) in the case of each Customer Contract: (A) the Company has been in material compliance with all requirements of any statute, rule, regulation or order of any Governmental Body or any agreement, pertaining to such Customer Contract; (B) all representations and certifications executed, acknowledged or set forth in or pertaining to such Customer Contract were current, accurate and complete as of their effective date, and the Company has fully complied with all such representations and certifications; (C) no Governmental Body nor any prime contractor, subcontractor or other Person has notified the Company, in writing or (to the Company's or the Seller's Knowledge) orally, that the Company has breached or violated any statute, rule, regulation, certification, representation, clause, provision or requirement; (D) no termination for convenience, termination for default, cure notice or show cause notice has been issued; (E) no cost incurred by the Company has been questioned or disallowed; and (F) no money due to the Company has been withheld or set-off;

(iii) The Sellers have delivered to Buyer a complete and accurate copy of each Contract identified in **Schedule 4.16(a)** (including without limitation each Customer Contract), to the extent such contracts are not oral, "click-through" or otherwise not reduced to paper;

(iv) Each other Person that has or had any obligation or Liability under any Contract (including without limitation any Customer Contract) pursuant to which the Company has or had any rights is, to the Knowledge of the Sellers and the Company, in full compliance with all material terms and requirements of such Contract;

(v) No event has occurred and, to the Sellers' or the Company's Knowledge, no circumstance exists that (with or without notice or lapse of time) contravenes, conflicts with, or results in a violation or breach of, or gives the Company or any other Person the right to declare a default or exercise any remedy under, or to accelerate the maturity or performance of, or to cancel, terminate, or modify, any such Contract (including without limitation any such Customer Contract);

(vi) The Company has not given or received from any other Person, at any time during the twelve months preceding the date hereof, any written notice regarding any actual, alleged, possible, or potential violation or breach of, or default under, any Contract (including without limitation any Customer Contract);

(vii) To the Company's and Sellers' Knowledge, there are no current renegotiations of or attempts to renegotiate the price or other material term of any Contract (including without limitation any Customer Contract) between the Company and any other Person, and no such Person has made written demand for such renegotiation.

(c) With respect to Governmental Contracts:

(i) Except as set forth in **Schedule 4.16(c)**: (A) neither the Company, the Sellers nor any of the Company's directors, officers or employees, nor (to the knowledge of the Sellers or the Company) any of the Company's agents, is under administrative, civil or criminal investigation (including as a result of a qui tam or similar action brought under the Civil False Claims Act or any similar Law, indictment or information, audit or internal investigation with respect to any alleged misstatement, act or omission arising under or relating to any Government Contract or is in violation of any Law relative to prohibited practices, including but not limited to the False Claims Act, prohibitions against "Buying In", the Anti-Kickback Act, the Federal Election Campaign Act, Truth-In-Negotiations-Act, the Procurement Integrity Act, the Foreign Corrupt Practices Act, International Trade in Arms Regulation, Cost Accounting Standards, prohibitions against conflict of interest and anti-trust laws or any governmental accounting regulations; (B) the Company has not made a voluntary disclosure to any Governmental Body with respect to any alleged misstatement, act or omission arising under or relating to any Government Contract that has

led or would reasonably be expected to lead, either before or after the Closing Date, to any of the consequences set forth in clause (A) above or any other material damage, penalty assessment, recoupment of payment or disallowance of cost.

(ii) Except as set forth in **Schedule 4.16(c)**, neither the Company, a Seller, nor any of the Company's directors, officers or employees is suspended or debarred from doing business with any Governmental Body or has been declared non-responsible or ineligible for U.S. Government contracting.

(iii) **Schedule 4.16(c)** sets forth all facility security clearances held by the Company. The Company and each of its officers, directors or employees are in compliance in all material respects with all Laws and other requirements relating to such facility security clearances or the safeguarding of classified information, and to the Sellers' or the Company's Knowledge, no facts or circumstances exist which would result in the revocation of such facility security clearances. The Company is in full compliance with all Foreign Ownership and Control Interests regulations and has received all appropriate approvals within the last five years.

(iv) Except as set forth in **Schedule 4.16(c)**, the Company's cost accounting and procurement systems with respect to Government Contracts are in compliance in all material respects with all applicable governmental regulations and rules.

(d) There exist (i) no financing arrangements with respect to performance of any Contract; (ii) no outstanding claims or requests for equitable or financial adjustments against the Company, either by any party to a Contract, any governmental authority or by any prime contractor, subcontractor, vendor or other third party, arising under or relating to any Contract or proposal; (c) no facts that are known by the Company or the Sellers upon which such a claim may be validly based in the future; (d) no disputes between the Company and any party to a Contract, any Governmental Body or any prime contractor, subcontractor or vendor arising under or relating to any Contract or proposal; and (e) no facts that are known by the Company or the Sellers over which such a dispute may validly arise in the future.

(e) There exists no uncompleted Contract as to which the Company's estimated cost at completion (including material and labor costs, other direct costs, overheads, engineering costs and manufacturing costs, whether incurred or yet to be incurred) as of October 31, 2021 exceeds the aggregate contract revenue recorded or to be recorded under such Contract through completion.

(f) **Schedule 4.16(f)** lists: (i) all Fixed Price Contracts to which the Company is a party that have not been completed as of the date of this Agreement; (ii) the aggregate fee payable by the other party thereto; and (iii) the tasks or milestones and the percentage of the aggregate work under said Contract represented by such tasks or milestones as of the date of this Agreement.

**4.17. Proposals.** **Schedule 4.17** hereto sets forth a description of all of the proposals which the Company has outstanding as of the Closing Date, involving amounts in excess of \$10,000. Each such proposal was prepared consistent with historical practice and usual and customary industry standards. All proposals were made in the Ordinary Course of Business.

**4.18. Prepaid Items and Deposits.** **Schedule 4.18** hereto describes all of the prepaid items and deposits of the Company.

**4.19. Labor and Employment Matters.**

(a) Schedule 4.19(a) contains a complete and accurate list of the following information for each employee, director, independent contractor, consultant and agent of the Company, including each employee on leave of absence or layoff status: name; job title; date of hiring or engagement; sick and vacation leave that is accrued but unused as of the Closing Date; and service credited for purposes of vesting and eligibility to participate under any Benefit Plan, or any other employee or director benefit plan.

(b) Neither any Seller nor the Company, nor to the knowledge of the Sellers or the Company, nor any officer, director, agent, employee, consultant, contractor or agent of the Company is bound by any Contract that purports to limit the ability of such officer, director, agent, employee, consultant, contractor or agent (i) to engage in or continue or perform any conduct, activity, duties or practice relating to the Business or (ii) to assign to the Company or to any other Person any rights to any invention, improvement, or discovery.

(c) The Company is not and has not been for the past five years, a party to, bound by, or negotiating any collective bargaining agreement or other Contract with a union, works council or labor organization (collectively, “**Union**”), and there is not, and has not been for the past five years, any Union representing or purporting to represent any employee of the Company. No Union or group of employees is seeking or has sought to organize employees of the Company for the purpose of collective bargaining.

(d) The Company has not otherwise experienced any material employment-related Liability with respect to COVID-19. No current or former employee of the Company has filed or, to the Knowledge of the Company or the Sellers, threatened, any Proceeding against the Company related to COVID-19.

(e) The Company has complied, in all material respects, with all applicable Laws relating to employment, including those Laws and regulations governing employment practices, the terms and conditions of employment, compensation, payment of wages, overtime hours, wage and hour classification, equal opportunity, discrimination, harassment, retaliation, disability rights, child labor, collective bargaining, industrial relations, affirmative action, workers’ compensation, workplace safety, occupational health and safety, pay equity, employment or unemployment insurance, immigration and the withholding and payment of social security and other taxes, health and safety, labor relations and plant closings, including the Americans with Disabilities Act, the Age Discrimination in Employment Act, the Equal Pay Act, the Fair Labor Standards Act, the National Labor Relations Act, Occupational Safety and Health Act, and Title VII of the Civil Rights Act of 1964, as amended, and similar state Laws. The Company is not liable for any assessments, penalties, or other sums for failing to comply with any such Laws. All individuals characterized and treated by any Company as independent contractors or consultants are, and have been, properly treated as independent contractors under all applicable Laws. All employees classified as exempt under the Fair Labor Standards Act and state and local wage and hour laws are, and have been, properly classified in all material respects. The Company is not in receipt of or have notice of, and, to the Sellers’ and the Company’s Knowledge, there is no complaint, demand, charge or notice of audit or action or other legal or administrative proceeding, whether oral or in writing, against the Company pending, threatened to be brought or filed, by or with any Governmental Body, court or arbitrator in connection with the employment of any current or former employee or the employment practices and policies of the Company. The Company is not delinquent in the payment of or has not otherwise failed to pay any current or former employees wages (including minimum wage, overtime, premium pay, meal breaks, or waiting time penalties), salaries, commissions, accrued vacations, bonuses, or other compensation for any services performed to which they would be entitled under Law or agreement, except to the extent that such amounts are not yet required by Law or Contract to be paid due to customary legally-compliant reasonable payroll practices or employer policies. The Company is not a party to or otherwise bound by any Order with any Governmental Body relating to prospective, current or former employees or employment practices.

(f) To the Sellers' and the Company's Knowledge, no current employee of the Company intends to terminate the employee's employment other than to the extent the Sellers have advised Buyer.

(g) In the last ten years, no allegations of sexual harassment or sexual misconduct have been made against any officer, director or employee of the Company.

(h) All current employees of the Company are, and all former employees whose employment terminated, voluntarily or involuntarily, within three years prior to the date of this Agreement were, legally authorized to work in the United States. **Schedule 4.19(h)** contains a list of all employees and independent contractors who are working in the United States based on a U.S. Visa issued to the individual and/or sponsored by the Company, setting forth the terms of each such Visa. The Company has completed and retained the necessary employment verification paperwork under the Immigration Reform and Control Act of 1986 ("**IRCA**"), to the extent required, for the employees hired prior to the date of this Agreement and has complied with the applicable anti-discrimination provisions of the IRCA. Further, at all times prior to the date of this Agreement, the Company was in material compliance with both the applicable employment verification provisions (including the paperwork and documentation requirements) and the applicable anti-discrimination provisions of IRCA.

#### **4.20. Employee Benefits.**

(a) **Schedule 4.20** sets forth an accurate, correct and complete list of all pension, retirement, stock option, stock purchase, stock appreciation rights, savings and profit sharing plans, programs, arrangements, and agreements, defined benefit plans, and all deferred compensation, consulting, bonus, incentive compensation, group insurance, severance and termination pay, welfare and employee benefit plans, programs, arrangements and agreements, relating to employees or former employees of the Company (the "**Benefit Plans**"). The Sellers have delivered to Buyer, the following for each Benefit Plan established or maintained by the Company or any of its affiliates (if and as the following may be applicable to such Benefit Plan): (a) the text of each Benefit Plan and any trust, insurance, or annuity contracts maintained in connection therewith, including all amendments thereto; (b) the most recently filed annual report (Form 5500), including all schedules and attachments and any financial statements required by Section 103(a)(3) of ERISA or, for each top-hat plan, a copy of all registration statements filed with the Department of Labor pursuant to 29 C.F.R. § 2520.104-23(b)(1); (c) the most recent actuarial valuation report, if any; (d) the most recent summary plan description and all modifications thereto; (e) the most recent determination letter or ruling letter issued by the IRS and any outstanding applications for a determination letter or request for ruling; (f) the most recent actuarial valuation, study, or estimate of the obligations under any retiree medical benefits plans, supplemental retirement benefits plans, or executive deferred compensation arrangements; and (g) the most recent financial or other report of assets held or set aside to provide funding for such Benefit Plan.

(b) With respect to each Benefit Plan, the Company has made available to Buyer true, complete and correct copies of the following (as applicable): (i) the written document evidencing such Benefit Plan or, with respect to any such plan that is not in writing, a written description thereof; (ii) the summary plan description; (iii) any related trust agreements, insurance Contracts or documents of any other funding arrangements; (iv) all amendments, modifications or supplements to any such document; (v) the two most recent actuarial reports; (vi) the most recent determination, opinion, or advisory letter from the IRS; (vii) the three most recent Forms 5500 required to have been filed with the IRS, including all schedules thereto; and (viii) any notices to or from the IRS or any office or representative of the Department of Labor or any other Governmental Body relating to any compliance issues since the January 1, 2018 in respect of any such Benefit Plan.

(c) With respect to each Benefit Plan:

(i) Except as disclosed in **Schedule 4.20**, each Benefit Plan is being and has been administered in accordance with ERISA, the Code and all other applicable laws in all material respects and in accordance with its governing documents in all material respects, and all obligations, whether arising by operation of Law or by Contract, required to be performed with respect to each Benefit Plan have been timely performed in all material respects, and there have been no defaults, omissions or violations by any party with respect to any Benefit Plan, and each Benefit Plan that is reasonably expected to result in any material Liability;

(ii) each Benefit Plan that is intended to be “qualified” under Section 401 and/or 409 of the Code has received a favorable determination letter from the IRS to such effect or is covered by an IRS opinion or advisory letter and to the Sellers’ and the Company’s Knowledge, no fact, circumstance or event has occurred since the date of such determination, opinion, or advisory letter or exists that is reasonably expected to adversely affect the qualified status of any such Benefit Plan;

(iii) either an application for a new determination letter was filed by the end of such Benefit Plan’s applicable remedial amendment cycle (as determined in accordance with applicable IRS guidance) or the deadline for filing such an application has not yet arrived and all requirements for relying on such extended filing date have been satisfied or the Benefit Plan uses a pre-approved plan document;

(iv) each Benefit Plan that is an “employee pension benefit plan” as defined in Section 3(2)(A) of ERISA and is not qualified under Code Section 401(a) is exempt from Part 2, 3 and 4 of Title I of ERISA as an unfunded plan that is maintained primarily for the purpose of providing deferred compensation or life insurance for a select group of management or highly compensated employees, pursuant to Sections 201(2), 301(a)(3) and 401(a)(1) of ERISA;

(v) to the Sellers’ and the Company’s Knowledge, no Proceeding has been threatened, asserted, instituted or is anticipated against any of the Benefit Plans (other than routine claims for benefits and appeals of such claims), any trustee or fiduciaries thereof, the Company, any ERISA Affiliate, any director, officer or employee thereof, or any of the assets of any trust of any of the Benefit Plans;

(vi) all contributions, premiums and other payments required to be made with respect to any Benefit Plan have been made in all material respects on or before their due dates under applicable law and the terms of such Benefit Plan, and with respect to any such contributions, premiums or other payments required to be made with respect to any Benefit Plan that are not yet due, to the extent required by GAAP, reserves established in accordance with GAAP are reflected on the Interim Balance Sheet or liability therefor was incurred in the ordinary course of business consistent with past practice since the date of the Interim Balance Sheet;

(vii) to the Seller’s and the Company’s Knowledge, no Benefit Plan is under, and the Company has not received any notice of, an audit or investigation by the IRS, Department of Labor or any other Governmental Body and no such completed audit since the January 1, 2018, if any, has resulted in the imposition of any Tax or penalty;

(viii) no Benefit Plan that is a group health insurance plan is a self-funded or self-insured arrangement, and, with respect to each Benefit Plan that is funded in whole or in part through an insurance policy, to the Knowledge of the Sellers and the Company, neither the Company nor any ERISA Affiliate has any liability in the nature of retroactive rate adjustment, loss-sharing arrangement or other

actual or contingent liability arising wholly or partially out of events occurring on or before the date of this Agreement or is reasonably expected to have such liability with respect to periods through the Closing Date;

(ix) all reports and disclosures relating to each Benefit Plan required to be filed with or furnished to Governmental Bodies (including the IRS, PBGC and the Department of Labor), Benefit Plan participants or beneficiaries have been filed or furnished in a timely manner in accordance with applicable Law;

(x) neither the execution, delivery or performance of this Agreement by the Sellers nor the consummation of the Contemplated Transactions (either alone or in connection with any other event) will (A) require the Company to make a larger contribution to, or pay greater benefits or provide other rights under, any Benefit Plan than it otherwise would, whether or not some other subsequent action or event would be required to cause such payment or provision to be triggered, (B) create or give rise to any additional vested rights or service credits under any Benefit Plan or (C) conflict with the terms of any Benefit Plan;

(xi) all obligations of the Company and its ERISA Affiliates and each fiduciary under each Benefit Plan, whether arising by operation of law or by Contract, required to be performed under Section 4980B of the Code, as amended, and Sections 601 through 609 of ERISA, or similar state law (“**COBRA**”), including such obligations that arise by virtue of the transactions contemplated by this Agreement, have been or will be timely performed in all material respects;

(xii) the Company has maintained all employee data required to administer each Company Benefit Plan, including all data required to be maintained under Section 107 of ERISA and, to the Knowledge of the Company, such data are maintained in usable form; and

(xiii) the Company Benefit Plans do not provide for any gross-up payment associated with any Taxes.

(d) No Benefit Plan is subject to Section 412 of the Code or Section 302 or Title IV of ERISA or is a multiemployer plan or multiple employer plan within the meaning of Sections 4001(a)(3) or 4063/4064 of ERISA, respectively and the Company has no liability with respect to any such plan. The Company has not incurred, either directly or indirectly (including as a result of any indemnification or joint and several liability obligation), any liability pursuant to Title IV of ERISA and to the Knowledge of the Sellers and the Company no event, transaction or condition has occurred or exists that is reasonably expected to result in any such liability to the Company.

(e) Except as disclosed in **Schedule 4.20**, neither the execution or delivery of this Agreement nor the consummation of the Contemplated Transactions will, either alone or in conjunction with any other event, (i) result in any payment or benefit becoming due or payable, or required to be provided, to any current, former or retired director, executive officer, employee, consultant, independent contractor or other service provider of the Company, (ii) increase the amount or value of any benefit or compensation otherwise payable or required to be provided to any such director, employee or independent contractor, (iii) result in the acceleration of the time of payment, vesting or funding of any such benefit or compensation or (iv) result in any amount failing to be deductible by reason of Section 280G of the Code or be subject to the sanctions imposed under Section 4999 of the Code.

(f) Except as disclosed in **Schedule 4.20**, neither the Company, any other “disqualified person” (as defined in Section 4975 of the Code), any “party-in-interest” (as defined in Section 3(14) of ERISA) and any trustee or administrator of any Benefit Plan, has engaged in a nonexempt “prohibited transaction,” as defined in Section 4975 of the Code and Section 406 of ERISA, in each case,

such as is reasonably expected to give rise to any material tax or penalty under Section 4975 of the Code or Section 406 of ERISA. To the Company's and the Sellers' Knowledge, all "fiduciaries," as defined in Section 3(21) of ERISA, with respect to the Company Benefit Plans have complied in all material respects with the requirements of Section 404 of ERISA. The Company has in effect fiduciary liability insurance covering each fiduciary of the Benefit Plans.

(g) No payment made or to be made in respect of any employee or former employee of the Company is reasonably expected to be nondeductible by reason of Section 162(m) of the Code.

(h) Except as disclosed in Schedule 4.20, the Company (i) does not provide health or welfare benefits for any retired or former employee or (ii) is not obligated to provide health or welfare benefits to any active employees after their retirement or other termination of service, unless required to do so under COBRA.

(i) The Company does not maintain any employee benefit plan or arrangement that is governed by the laws of any government outside of the United States.

(j) Any individual who performs services for the Company and who is treated as an independent contractor by the Company is not an employee for Benefit Plan purposes.

(k) Except as disclosed in Schedule 4.20, (i) Benefit Plan that is a "nonqualified deferred compensation plan" (as defined in Section 409A(d)(1) of the Code), including each award thereunder, has been operated since May 5, 2015, in good faith compliance with the applicable provisions of Section 409A of the Code and the Treasury Regulations and other official guidance issued thereunder (collectively, "**Section 409A**") and has been since January 1, 2009, in documentary compliance with the applicable provisions of Section 409A; (ii) the Company (1) has not been required to report to any Governmental Body any corrections made or Taxes due as a result of a failure to comply with Section 409A and (2) does not have any indemnity or gross-up obligation for any Taxes or interest imposed or accelerated under Section 409A, (iii) to the Knowledge of the Sellers and the Company, nothing has occurred, whether by action or failure to act, or is reasonably expected or intended to occur, that would subject an individual having rights under any such Benefit Plan to accelerated Tax as a result of Section 409A or a Tax imposed under Section 409A, and (iv) for any Benefit Plan that is not intended to be subject to Section 409A because it is not a nonqualified deferred compensation plan under Treasury Regulations 1.409A-1(a)(2) through 1.409A-1(a)(5), or due to the application of Treasury Regulations Section 1.409A-1(b), all the conditions require to retain such treatment remain in effect and are not reasonably expected to change so as to subject such Benefit Plan to Section 409A.

(l) Neither the Company, nor, to the Sellers' or the Company's Knowledge, any officer or employee thereof has made any written or oral promises or commitments to any employee, director, officer or other service provider, whether legally binding or not, to create any additional plan, agreement or arrangement, or to modify or change any existing Benefit Plan. To the Sellers' and the Company's Knowledge, no event, condition or circumstance exists that would prevent the amendment or termination of any Benefit Plan, other than the satisfaction of any applicable Laws, including the giving of notice, and any such termination would not result in any material cost or other Liability other than administrative expenses associated with such amendment or termination.

(m) The Company has complied in all material respects with all applicable requirements of the Patient Protection and Affordable Care Act and the generally applicable final, interim final or temporary guidance issued by Governmental Bodies thereunder and to the Sellers' and the Company's Knowledge, no event, circumstance, failure or omission has occurred that is reasonably expected to give rise to the imposition of any Taxes under Section 4980H of the Code.



**4.21. Relationships with Related Persons.** Except as disclosed in Schedule 4.21, no Related Person of the Company has, or since January 1, 2019 has had, any interest in or Encumbrance on any property (whether real, personal, or mixed and whether tangible or intangible) used in or pertaining to the Business. Neither Sellers nor any Related Person of the Company owns, or since January 1, 2019 has owned, of record or as a beneficial owner, an equity interest or any other financial or profit interest in any Person that has (1) had business dealings or a material financial interest in any transaction with the Company other than business dealings or transactions disclosed in Schedule 4.21, each of which has been conducted in the Ordinary Course of Business with the Company at substantially prevailing market prices and on substantially prevailing market terms, or (2) engaged in competition with the Company with respect to any line of the products or Services of the Company (a “**Company Competing Business**”) in any market presently served by the Company, except for ownership of less than one percent (1%) of the outstanding capital stock of any Company Competing Business that is publicly traded on any recognized exchange or in the over-the-counter market. Except as set forth in Schedule 4.21, neither the Sellers nor any Related Person of the Company is a party to any Contract with, or has any claim or right against, the Company.

**4.22. Termination of Business Relationships; Risk of Loss.** None of the Company’s suppliers which cannot be replaced on commercially reasonable terms has given any notice (oral or written) to the Company of its intention to cancel or terminate its relationship with the Company. No key employee of the Company has notified the Company or a Seller in writing of the employee’s intent or desire to terminate employment with the Company, or (following the Closing) with Buyer. Neither the Sellers nor the Company has Knowledge of any facts that would lead the Company or the Sellers to reasonably conclude that a material number of the Company’s employees will not elect to continue to be employed by Buyer after the Closing. To the Knowledge of the Company and the Sellers, there exists no risk of material loss on any open professional services project of the Company.

**4.23. Clients.** Schedule 4.23 hereto lists the top twenty clients of the Company in terms of billings for each of the past three (3) fiscal years and during the period from January 1, 2018 through the date of this Agreement (the “**Principal Clients**”). The Company has a good and ongoing relationship with each such client and neither the Sellers nor the Company has Knowledge of any facts that would result in a material adverse change in any such relationship, whether as a result of the consummation of the Contemplated Transactions or otherwise. To the Knowledge of the Company and the Sellers, no such client has expressed an intention (in a manner which a person would reasonably interpret as such) to cancel, terminate or alter its business relationship with the Company. Schedule 4.23 hereto sets forth a list of any client of the Company that (i) has indicated that such client intends or plans to terminate or cancel any project, commitment, contract or order with the Company, or (ii) to the Knowledge of the Company, has plans or intentions to terminate or cancel such a project, billing commitment, contract or order. The termination provisions contained in the billing commitment, contract or order associated with any such canceled order is adequate and will enable the Company to recover all costs, expenses and fees associated with such projects if so terminated or in the event such project, billing commitment, contract or order is terminated prior to completion then such termination provisions provide that upon termination, other than by breach of the Company, the other party(ies) shall be required to pay all applicable costs, expenses and fee associated with the terminated project through the date of termination. The Company does not have any Contracts subject to, and the Company itself is not subject to, the rules and regulations of the Small Business Administration, the Minority Business Enterprise Program, the Disadvantaged Business Enterprise Program or any similar program sponsored or governed by a Governmental Body.

**4.24. Warranties.** Schedule 4.24 hereto contains (i) true, correct and complete copies of all warranties issued by the Company since January 1, 2018, (ii) a list of all warranty claims asserted against the Company during the past two years, (iii) a summary of the costs of satisfying such claims, and (iv) any unasserted claims of similar nature of which the Company or Sellers should reasonably be expected to have Knowledge.

#### **4.25. Insurance.**

(a) **Schedule 4.25(a)** sets forth a list of all policies of fire, casualty, liability, burglary, fidelity, workers' compensation, professional liability, cybersecurity, data processing and other forms of insurance held by the Company. All premiums due and payable for the insurance in **Schedule 4.25(a)** have been duly paid, and such policies or extensions or renewals thereof in such amounts will be outstanding and duly in force without interruption until the Closing Date.

(b) **Schedule 4.25(b)** sets forth all pending claims the Company has made with respect to its professional liability insurance carrier and its other insurance carriers and a history of all claims filed since January 1, 2017. The Company has reported all actual and pending claims and circumstances that may produce a claim to the appropriate insurance carrier, and all such claims are set forth on **Schedule 4.25(b)**.

(c) The Company has not during the past three years been denied or had revoked or rescinded by a carrier any policy of insurance. The Company is not in default regarding the provisions of any policy insuring the Company, and has not failed to give any notice or present any material claim required under any such policy in due and timely fashion. There are no outstanding requirements or recommendations by any current insurer or underwriter with respect to the Company which require or recommend changes in the conduct of the Business or require any repairs or other work to be done with respect to any of the properties, assets or operations of the Company. Any policies expiring prior to the Closing Date will be renewed or extended upon substantially the same terms and at substantially the same premiums. Except as disclosed on **Schedule 4.25(c)**, all of the Company's insurance policies are on (and for the applicable statute of limitations period plus one year have been on) an "occurrence basis."

(d) The Company has maintained and currently maintains in full force and effect all insurance policies set forth on **Schedule 4.25(a)**. Such insurance policies are reasonably adequate to cover the Company's potential risks and losses based on historical operations. The Sellers shall not permit the Company to terminate such insurance policies without Buyer's prior written consent.

**4.26. Compliance with Laws.** Except as set forth on **Schedule 4.26**, the Company has complied in all material respects with all applicable Laws, Orders and professional standards of Governmental Bodies applicable to the Company and the Business, and the Company has not received any written notice of violation and claim of violation from a Governmental Body of any such Laws or Orders that exist on the date hereof. Except as disclosed on **Schedule 4.26**, the Company has not been, nor is it now, subject to a reprimand, fine, suspension, or revocation of registration or licensure or certificate of authority, or any other sanction by any Governmental Body for violation or failure to comply with professional registration requirements pertaining to the practice of professional services or any other business operated by the Company, nor is any such action or sanction pending (or, to the Knowledge of the Sellers and the Company) against the Company, nor does the Company or any Seller know of any circumstance now or previously existing which, if known, disclosed, or reported to the responsible Governmental Body would or could reasonably be held to constitute a material violation or failure to comply with professional registration requirements pertaining to the practice of professional engineering or architecture by the Company or its employees and subject the Company to a reprimand, fine, suspension or revocation of registration or licensure or certificate of authority, or any other sanction by a Governmental Body (other than those violations or failures which could be cured or corrected with minor expense or inconvenience to the Company).

**4.27. Licenses and Permits.** The Company and each Seller have secured all material licenses, franchises, permits and other authorizations from a Governmental Body required to be granted or held by the Company or the Seller in order to conduct the Business (the "**Permits**"). **Schedule 4.27** hereto sets forth a true, complete and correct list of all such Permits held or used by the Company and the Sellers and

true and complete copies thereof have been made available by the Company to Buyer. Except as set forth in **Schedule 4.27**, (a) no event has occurred that would cause any such Permit not to be in full force and effect, (b) the Company (or the Sellers or other designated permittee or licensee thereunder) is in compliance in all material respects with the terms, provisions and conditions thereof, (c) there are no outstanding violations, notices of noncompliance therewith, Orders or Proceedings(s) affecting any of said Permits and (d) no condition exists and, to the Knowledge of the Sellers or the Company, no event has occurred which (whether with or without notice, lapse of time or the occurrence of any other event) would lawfully permit the suspension or revocation of any of said Permits other than by expiration of the term set forth therein, except to the extent that any of the events or circumstances described in this sentence could be cured or corrected with minor expense or inconvenience to the Company.

**4.28. Environmental Matters.** Except as set forth on **Schedule 4.28** hereto, to the Knowledge of the Sellers and the Company:

(i) the Company is currently in compliance with all applicable Environmental Laws, and has obtained all permits and other authorizations from, and submitted all forms, fees, registrations, reports and similar filings to, the appropriate Person or Governmental Body needed, or required, to operate its facilities in compliance with the applicable Environmental Laws and all such permits and other authorizations are in full force and effect;

(ii) neither the Company nor any of its Affiliates has violated any applicable Environmental Law;

(iii) no requirement of any applicable Environmental Law which is due to be imposed upon the Company which will increase its cost of complying with Environmental Laws;

(iv) all past on-site generation, treatment, processing, storage and disposal of Hazardous Substances by the Company and its Affiliates have been done in compliance with applicable Environmental Laws;

(v) all past off-site transportation, treatment, processing, storage and disposal of Hazardous Substances, generated by the Company and its Affiliates have been done in compliance with applicable Environmental Laws;

(vi) neither the Company nor any of its Affiliates has released, spilled, leaked or otherwise discharged into the environment any Hazardous Substances except as expressly authorized by the applicable Environmental Laws or otherwise in compliance with all permits or other authorizations which the Company is required to have under applicable Environmental Laws to conduct the Business;

(vii) neither the Company nor any of its Affiliates has used or otherwise managed any Hazardous Substances except in material compliance with all applicable Environmental Laws;

(viii) the Company has received no written or oral notices that it is potentially liable to remediate, or pay the costs of responding to, any release or threatened release of any Hazardous Substances and no such claims are pending or threatened; and

(ix) no portion of the Leased Real Property is identified or proposed to be identified by a Governmental Body on any list of contaminated, priority or regulated sites.

**4.29. Intellectual Property Matters.**

(a) Except as set forth on **Schedule 4.29**, the Company has no Intellectual Property Assets (as defined below). The Company owns all right, title and interest, free and clear of any Encumbrance, to the Intellectual Property Assets. For the purposes of this Agreement, “**Intellectual Property Assets**” shall mean all Software, patents, patents pending or any applications for patents, all registered and unregistered trademarks and service marks and applications for such trademarks and service marks, trade names, registered and unregistered copyrights and applications for copyright registration, mask works and applications for mask work registration, websites, trade dress, registered designs, trade secrets, proprietary designs or data and know-how, as archived at the Company and presently available and all rights under any licenses, franchises, permits, authorizations, agreements and arrangements with respect to the foregoing. True, correct and complete copies of all such licenses, franchises, permits, authorizations, agreements and arrangements have heretofore been delivered or made available by the Company to Buyer. **Schedule 4.29** hereto describes all of such trademark registration and applications and material common law trademarks and registered copyrights of the Company (exclusive of the Company’s trade secrets). Except as set forth in **Schedule 4.29**, the Company has full right and power to all license rights with respect to such Intellectual Property Assets and/or to sublicense such right and/or to grant sublicense rights to others as necessary to conduct the Business in the manner in which it is currently conducted.

(b) Except as set forth on **Schedule 4.29(a)**, no government procurement contracts, grants or cooperative agreements exist with the Company as prime contractor which give unlimited rights to any Governmental Body with respect to the Intellectual Property Assets.

(c) There exist no pending or (to the Knowledge of the Sellers or the Company) threatened Proceedings or claims, including without limitation claims of infringement or misappropriation, or other claims material or adverse to the ownership rights of the Company with respect to the Intellectual Property Assets.

(d) No former or current Company employee has any rights to any of the Intellectual Property Assets, and all such individuals have assigned to the Company all their rights to any of the Intellectual Property Assets.

(e) Except as set forth on **Schedule 4.29(e)**, with respect to each Intellectual Property Asset which is a trade secret, proprietary design, data or know-how, the documentation relating to such trade secret is current, accurate and sufficient in detail and content to identify and explain it and to allow its full and proper use without reliance on the knowledge or memory of the Sellers or current employee of the Company.

(f) The Company has taken commercially reasonable precautions to protect the secrecy, confidentiality and value of the Intellectual Property Assets which are trade secrets, proprietary designs, data or know-how.

(g) The Company maintains a disaster recovery plan. There has been no material issue in relation to the Intellectual Property Assets used by the Company (including issues relating to computer hardware and computer software, including by way of interrupted service, bugs, worms, trojans, viruses or other malware), nor have such issues hindered the conduct of the Business.

(h) The Company has adequate procedures in place to ensure internal and external security of the Intellectual Property Assets and data used or held for use in the Business, to the Company’s and Sellers’ Knowledge. There have been no security breaches in the Intellectual Property Assets used by the Company.

(i) The Company has good title and the complete and unencumbered right to use the trade secrets, proprietary designs, data and know-how.

(j) The Company has the exclusive rights, title and interest in the following names: (i) “Tindale Oliver & Associates, Inc.”, (ii) “TOA Design Group, LLC, and (iii) all names listed on **Schedule 4.1(b)**.

(k) The Company has not entered into any agreement, contract or arrangement to sell or transfer any property, including but not limited to the Intellectual Property Assets, otherwise than in the Ordinary Course of Business.

**4.30. Absence of Change.** Except as disclosed on **Schedule 4.30**, since the date of the Company Balance Sheet, there has not been (i) any material adverse change in the operations, assets, properties, personnel, operating performance or condition or prospects (financial or otherwise) of the Company; (ii) any damage, destruction, or loss, whether or not covered by insurance, materially and adversely affecting the Company’s properties or Business; (iii) any declaration, or setting aside, or payment of any dividend or other distribution in respect of the Company’s shares of stock, or any direct or indirect redemption, purchase, or other acquisition of any such shares; (iv) any increase in the compensation payable or to become payable by the Company to any of its officers, employees or agents other than in the normal course of business, or any bonus payment or arrangement made to or with any of them, other than customary and reasonable bonuses; (v) any labor strikes or union activity, or any event or condition of any character involving the Company, materially and adversely affecting the Business; (vi) any Encumbrance instituted against any if the Company’s assets, tangible or intangible, including but not limited to its Intellectual Property Assets; or (vii) any transaction entered into by the Company, other than in the Ordinary Course of Business, except as contemplated by this Agreement.

**4.31. Brokers or Finders.** Neither the Sellers or the Company nor any of their representatives have incurred any Liability for brokerage or finder’s fees or agent’s commissions or similar payments in connection with the Contemplated Transactions, except for the fees due to PSMJ Resources, Inc., which fees will be paid for by the Sellers at the time of the Closing.

**4.32. COVID-19.**

(a) Except as disclosed in **Schedule 4.32**, the Company has not received or issued, any written notice seeking (i) to excuse a non-performance or delay a performance (where the delay in performance has had a material impact on the Business) under any Contract or due to interruptions caused by COVID-19 (through invocation of force majeure or similar provisions, or otherwise) or (ii) to materially modify any Contract or Lease due to COVID-19.

(b) **Schedule 4.32** sets forth the total amount of Taxes deferred by the Company under the authority of Section 2302 of the CARES Act. **Schedule 4.32** shall be updated by the Company to reflect such amount as of the Closing.

(c) The Company has not utilized the Employee Retention Tax Credit under the CARES Act to either offset tax deposits or receive an advance Tax refund.

**4.33. No Foreign Persons.** The Company is not a “foreign person” as such term is described in Section 1445 of the Code.

**4.34. Bank Accounts.** **Schedule 4.34** lists (a) the name of each bank, safe deposit company or other financial institution in which the Company has an account, lock box or safe deposit box or joint

accounts, lock boxes or safe deposit boxes (together with the name of the joint holder thereof), (b) the account numbers or other identifying descriptions of such accounts, lock boxes and safe deposit boxes and (c) the names of all Persons authorized to draw thereon or have access thereto and the names of all Persons, if any, holding powers of attorney with respect to such accounts from the Company.

## **5. REPRESENTATIONS AND WARRANTIES OF EACH SELLER**

Except as set forth on the Disclosure Schedule, each Seller (solely with respect to himself or herself), severally and not jointly, hereby represents and warrants to Buyer the following as of the date hereof:

**5.1. Organization; Power and Authorization.** The Seller is an individual residing in the State next to such Seller's name on Schedule 5.1. The Seller has the capacity or authority, as applicable, to enter in to, deliver and perform his or her obligations pursuant to each of the Transaction Documents to which such Seller is a party, including the Joinder to this Agreement attached hereto as Exhibit G, and such Seller's execution, delivery and performance of each Transaction Document to which such Seller is a party has been duly authorized by such Seller, as applicable, and no other proceeding on the part of such Seller is necessary to authorize the Transaction Documents and the Transactions, and such Seller has duly executed and delivered this Agreement and each other Transaction Document to which it is a party.

### **5.2. Binding Effect and Noncontravention.**

(a) Assuming due and valid authorization, execution and delivery by Buyer, each Transaction Document to which the Seller is a party constitutes, or when executed will constitute, a valid and binding obligation of the Seller enforceable against such Seller in accordance with its terms, except as such enforceability may be limited by (i) applicable insolvency, bankruptcy, reorganization, moratorium, or other similar Laws affecting creditors' rights generally and (ii) applicable equitable principles (whether considered in a proceeding at Law or in equity).

(b) Neither the execution and delivery of this Agreement or any other Transaction Document by the Seller nor the consummation of the Contemplated Transactions by the Seller, nor compliance with the terms hereof by the Seller, will (i) violate, conflict with or result in a breach of or default under any of the terms, conditions or provisions of any agreement, understanding, arrangement, indenture, contract, lease, sublease, loan agreement, note, restriction, obligation or Liability to which the Seller is a party or by which the Seller is bound or to which the Seller's assets are subject, nor (ii) conflict with, violate or result in a breach of any Order or constitute a default under any Law to which the Seller or any of the Seller's assets or properties is subject, nor (iii) except as set forth on Schedule 5.2, require the Seller to give notice to, or obtain the Consent of, or make a filing with, any Governmental Body or any other Third party, other than those previously given, made or obtained.

**5.3. Purchased Shares.** The Seller solely holds beneficially and of record and has and, at the Closing, the Buyer will acquire, good, valid and marketable title to all of the Shares set forth next to such Seller's name on Schedule 4.5(a), free and clear of any and all Encumbrances, other than those imposed by or arising out of state or federal securities Laws. The Seller is not a party to any voting trust, proxy or other agreement or understanding with respect to the voting of any Shares. The Seller acknowledges that the distribution of the Purchase Price as set forth on Exhibit A attached hereto was prepared by Buyer pursuant to directions provided by the Seller and that Buyer has relied solely on the instructions provided by the Seller in preparing this Exhibit.

**5.4. Litigation and Governmental Order.** There is no, and in the last five years there has not been any, Proceeding pending or, to the Seller's Knowledge, threatened against or involving the Seller that

relates to the Company, the Business or the assets of the Company. The Seller is not subject to any Order that relates to the Company, the Business or the assets of the Company.

**5.5. Status.** To the best of the Seller's knowledge, the following statements are true, correct and complete: (i) the Seller is not a foreign person for purposes of U.S. income taxation (i.e., the Seller is not a non-resident alien); (ii) the social security number and the home address of the Seller previously provided to Buyer are true, correct and complete; and (iii) the Seller agrees to inform Buyer promptly if he or she becomes a non-resident alien during the three years immediately following the date hereof.

**5.6. Broker Fees.** Except as set forth in Schedule 5.6, the Seller does not have any Liability to pay any fees or commissions to any broker, finder, or agent with respect to the Contemplated Transactions for which the Buyer or the Company could become liable or obligated.

**5.7. Securities Representations.** Each Seller understands that such Seller's receipt of the Buyer Shares is intended to be exempt from registration under the Securities Act of 1933, as amended (the "**Securities Act**"), and, in accordance therewith and in furtherance thereof, each Seller further represents and warrants to Buyer, and covenants and agrees with Buyer on behalf of such Seller, as follows:

(a) The Seller has carefully reviewed the Prospectus of Buyer, dated August 4, 2021 and all Exhibits thereto (the "**Prospectus**") attached hereto as Exhibit C and understands the information contained therein and information otherwise provided to him or her in writing by Buyer relating to the Contemplated Transactions (including without limitation the representations and warranties of Buyer in Article 6 of this Agreement and the corresponding Schedules). The Seller is relying on the accuracy of the Prospectus and said representations, warranties and Schedules in acquiring the Buyer Shares.

(b) The Seller acknowledges that all documents, records and books pertaining to this transaction have been made available for inspection as requested by Seller's attorney and/or Seller's accountant.

(c) Each Seller and/or the Seller's advisors have had a reasonable opportunity to ask questions of and receive information and answers from a person or persons acting on behalf of Buyer concerning the offering of the Buyer Shares and, as the Seller may deem necessary, to verify the information contained herein, and all questions have been answered and all such information has been provided to the full satisfaction of the Seller.

(d) No oral or written representations have been made or oral or written information furnished to the Seller or the Seller's advisors in connection with the offering of the Buyer Shares that were in any way inconsistent with the information stated herein.

(e) The Seller is not acquiring the Buyer Shares as a result of or subsequent to any advertisement, article, notice, or other communication published in any newspaper, magazine or similar media or broadcast over television or radio, or presented at any seminar or meeting, or any solicitation of an agreement to purchase shares by a person not previously known to the Seller in connection with investments in securities generally.

(f) The Seller's overall commitment to investments which are not readily marketable is not disproportionate to the Seller's net worth and the Seller's investment in Buyer will not cause such overall commitment to become disproportionate to the Seller's net worth.

(g) The Seller has adequate worth and means of providing for the Seller's current needs and personal contingencies, is able to bear the substantial economic risks of an investment in Buyer

for an indefinite period of time, has no need for liquidity in such investment and, at the present time, could afford a complete loss of such investment.

(h) The Seller has such knowledge and experience in financial and business matters (or has been advised by someone with such knowledge) so as to enable Seller to utilize the information made available to Seller in connection with Seller's acquisition of the Buyer Shares in order to evaluate the merits and risks of an investment in Buyer and to make an informed investment decision with respect thereto and the Seller has carefully evaluated the risk of investing.

(i) The Seller is not relying on Buyer with respect to the economic considerations of the Seller relating to this investment. In regard to such considerations, the Seller has relied on the advice of, or has consulted with, only Seller's own advisors.

(j) The Seller is acquiring the Buyer Shares solely for Seller's own account as principal, for investment purposes only and not with a view to the resale or distribution thereof, in whole or in part, and no other person has a direct or beneficial interest in such Buyer Shares.

(k) The Seller will not sell or otherwise transfer the Seller's Shares without registration under the Securities Act or an exemption therefrom, and shall do so only in compliance with the Amended and Restated Shareholders Agreement, and fully understands and agrees that the Seller must bear the economic risk of Seller's ownership of the Buyer Shares for an indefinite period of time because, among other reasons, such Buyer Shares have not been registered under the Securities Act or under the securities laws of any states and, therefore, cannot be resold, pledged, assigned or otherwise disposed of unless subsequently registered under the Securities Act and under the applicable securities Laws of any states or unless an exemption from such registration is available. The Seller further understands that Buyer is not under any obligation to register the Buyer Shares on the Seller's behalf or to assist in Seller in complying with any exemption from registration.

(l) The Seller recognizes that the investment in Buyer involves a number of significant risks, including without limitation those described in the Prospectus and those set forth below:

(i) No federal or state agency has passed upon the adequacy of the information presented to the Seller or made any finding or determination as to the fairness of this investment;

(ii) There is no established market for the Buyer Shares offered pursuant hereto and it is probable that a public market for such Buyer Shares will not develop; and

(iii) The Buyer Shares are subject to the terms and conditions of the Amended and Restated Shareholders Agreement which places restrictions on the transfers of the Buyer Shares.

(m) All information which the Seller has heretofore furnished and furnishes herewith to Buyer pertinent to the representations and warranties made by the Sellers in this **Section 5.7** is correct and complete as of the date of this Agreement, and, if there should be any material change in such information prior to the issuance of the Buyer Shares to the Seller, the Seller will immediately furnish such revised or corrected information to Buyer.

(n) Within five days after receipt of a request from Buyer, the Seller hereby agrees to provide such information and to execute and deliver such documents as may be reasonably necessary to comply with any and all laws and ordinances to which the Buyer is subject.



(o) The Prospectus and all attachments to the Prospectus are confidential. The Seller has not distributed any materials or information concerning Buyer or the Buyer Shares or this Agreement to anyone other than Seller's advisors, if any, and no one other than the Seller and Seller's advisors, if any, has used such materials and information.

(p) The Seller has consulted with Seller's tax advisor with respect to the federal and state income tax consequences to Seller of an investment in the Buyer Shares.

(q) The Seller agrees to indemnify and hold harmless, the Buyer and each other person, if any, who controls Buyer, within the meaning of Section 15 of the Securities Act, against any and all Damages (as defined below) arising out of or based upon any false representation or warranty in, or covenant or agreement made by the Seller in this **Section 5.7**. The limitations of **Article 13** shall not apply to the indemnification described in this **Section 5.7** and such amounts may be set-off against the Promissory Notes pursuant to **Section 3.7** if not paid directly by the Sellers.

(r) The Seller is not subject to backup withholding.

## **6. REPRESENTATIONS AND WARRANTIES OF BUYER**

As of the date of this Agreement, as of the Closing Date, and as of the Effective Time, Buyer represents and warrants to the Sellers as follows, acknowledging that the Sellers are relying on such representations and warranties for purposes of this Agreement and the Contemplated Transactions as added to and excepted by the Schedules of Buyer delivered in response to the following:

**6.1. Organization and Good Standing.** Buyer is a corporation duly organized, validly existing, and in good standing under the Laws of the State of Illinois. Buyer has full corporate power and authority to conduct Buyer's business as it is now being conducted, to own or use the properties and assets that it purports to own or use, and to perform all of its obligations. Buyer is duly qualified to do business and is in good standing under the Laws of each state or other jurisdiction in which either the ownership or use of the properties owned or used by it, or the nature of the activities conducted by it, requires such qualification. Buyer has previously provided the Sellers with complete and accurate copies of its Organizational Documents. Buyer is not in default under or in violation of any provision of its Organizational Documents.

### **6.2. Enforceability; Authority; No Conflict.**

(a) This Agreement has been duly and validly authorized, executed and delivered by Buyer and constitutes the legal, valid, and binding obligation of Buyer, enforceable against Buyer in accordance with its terms. Upon the execution and delivery by Buyer of the documents and instruments required to be signed by Buyer pursuant to this Agreement (collectively, the "**Buyer's Closing Documents**"), each of the Buyer's Closing Documents will constitute the legal, valid, and binding obligation of Buyer, enforceable against Buyer in accordance with its respective terms. Buyer has the absolute and unrestricted legal and corporate right, power, and authority to execute and deliver this Agreement and the Buyer's Closing Documents and to perform its obligations under this Agreement and the Buyer's Closing Documents, and such action has been duly authorized by all necessary corporate action.

(b) Neither the execution and delivery of this Agreement by Buyer, nor the consummation or performance of any of the Contemplated Transactions by Buyer will give any Person the right to prevent, delay, or otherwise interfere with any of the Contemplated Transactions pursuant to (a) any provision of Buyer's Organizational Documents; (b) any resolution adopted by the board of directors

or the shareholders of Buyer; (c) any Law or Order to which Buyer may be subject; or (d) any contract to which Buyer is a party or by which Buyer may be bound.

(c) Except as set forth on **Schedule 6.2(c)**, Buyer is not and will not be required to obtain any Consent from any Person in connection with the execution and delivery of this Agreement or the consummation or performance of any of the Contemplated Transactions.

### **6.3. Capitalization.**

(a) Buyer has 100,000 shares of common stock authorized and 77,788 shares of common stock issued and outstanding. All of the outstanding shares of Buyer (other than the Buyer Shares) have been duly authorized and validly issued and are fully paid and non-assessable. Upon delivery of the consideration from the Sellers described herein, the Buyer Shares will be duly authorized and validly issued, fully paid and non-assessable and the Sellers will acquire, good, valid and marketable title to all of the Buyer Shares set forth next to such Seller's name on **Schedule 4.5(a)**, free and clear of any and all Encumbrances, other than those imposed by or arising out of state or federal securities Laws or the Amended and Restated Shareholders Agreement. Other than the Amended and Restated Shareholders Agreement of Buyer, this Agreement and certain option agreements issued to certain employees of Buyer, there are no contracts relating to the issuance, sale or transfer of any shares of Buyer (including without limitation the Buyer Shares) or other securities or equity interests in Buyer. None of the shares of Buyer (including without limitation the Buyer Shares) were issued in violation of applicable securities Laws.

(b) Buyer does not control directly or indirectly or have any direct or indirect equity participation or similar interest in any corporation, partnership, limited liability company, joint venture, trust or other business association or entity other than ABC Engineering of NY P.C., a New York corporation, and BV3 LLC Chicago Bridge Inspection Team LLC, Commuter Rail Construction Team LLC, and 43 Modernization Partners, LLC, all Illinois limited liability companies.

### **6.4. Financial Statements.**

(a) Attached hereto as **Schedule 6.4(a)** are (i) the audited balance sheet and income statement as of May 30, 2021 (the "**Buyer Balance Sheet**"), and (ii) the company-prepared balance sheet and income statement as of October 17, 2021 (the "**Buyer Interim Balance Sheet**"). Such financial statements fairly present, in all material respects, the financial condition and the results of operations, and cash flows of Buyer as at the respective dates of and for the periods referred to in such financial statements. Such financial statements have been and will be prepared from and are in accordance with the accounting records of Buyer.

(b) Buyer is not subject to any material Liabilities (including unasserted claims) which are not disclosed on or which are in excess of amounts disclosed in the notes to the audited financial statements or reserved for on the Buyer Balance Sheet or the Buyer Interim Balance Sheet other than (i) Assumed Liabilities, (ii) Liabilities incurred since October 17, 2021 in the Ordinary Course of Business and (iii) Liabilities set forth on **Schedule 6.4(b)**.

### **6.5. Taxes, All Returns Filed, Etc.**

(a) Buyer has filed or caused to be filed all Tax Returns that are or were required to be filed pursuant to applicable Tax Laws. Buyer has paid to the proper taxing authorities on a timely basis all Taxes that were due and payable pursuant to such Tax Returns or pursuant to any assessments received by it or which it is obligated to withhold from amounts owing to any employee, creditor or other Person.

Buyer does not have any actual or potential liability for any Tax obligation of any other taxpayer (including any affiliated group of corporations or other entities that included Buyer during a prior period).

(b) **Audits.** No audits of any Tax Returns of Buyer by the IRS or any relevant state tax authority remain open or unresolved as of the date of this Agreement.

**6.6. Absence of Certain Changes and Events.** Except as set forth in **Schedule 6.6**, since December 31, 2018, (a) Buyer has conducted its Business only in the Ordinary Course of Business, (b) there has been no damage, destruction, loss or claim alleged, made or filed against Buyer (whether or not covered by insurance) or condemnation or other taking which materially adversely affects the Buyer's business or the results of operations, properties, or financial condition of Buyer and (c) there has been no event that has had a material adverse effect on the Buyer's business.

**6.7. Certain Proceedings.** Except as disclosed in **Schedule 6.7**, there is no pending Proceeding that has been commenced by or against Buyer (and to Buyer's Knowledge no such Proceeding is threatened) that challenges, or may have the effect of preventing, delaying, making illegal, or otherwise interfering with, any of the Contemplated Transactions or would otherwise have a material adverse effect on Buyer's business. Neither Buyer nor any officer, director or shareholder of Buyer is subject to any Order that may have the effect of preventing, delaying, making illegal, or otherwise interfering with, any of the Contemplated Transactions or would otherwise have a material adverse effect on Buyer's business. To the Knowledge of Buyer, except as disclosed on **Schedule 6.7**, no such Proceeding has been threatened.

**6.8. Brokers or Finders.** Neither Buyer nor any of its Representatives have incurred any Liability for brokerage or finders' fees or agents' commissions or other similar payment in connection with the Contemplated Transactions.

**6.9. Disclosure.** No representation or warranty in this Agreement or any Schedule or Exhibit, or any statement, list or certificate furnished or to be furnished by the Buyer pursuant to this Agreement, or in connection with the Contemplated Transactions, contains or will contain any untrue statement of a material fact, or omits or will omit to state a material fact required to be stated herein or therein or necessary to make the statements contained herein or therein not materially misleading or necessary in order to provide the Sellers with proper information relating to the Sellers' purchase of the Buyer Shares.

## **7. SELLER DELIVERABLES**

At or prior to the Closing Date, the Representative will deliver, or caused to be delivered, the following to Buyer:

**7.1. Payment of Indebtedness.** Proof that all of the Indebtedness owed by the Company, including the shareholder loans listed on **Exhibit D**, has been paid in full prior to Closing. All Indebtedness of the Company not so paid shall be reflected in Net Working Capital as provided in **Section 3.7**.

**7.2. Employment Agreements.** Employment Agreements executed by each Seller listed on **Exhibit E** on terms that are mutually acceptable to Buyer and such Seller (conditioned only upon the Closing hereunder).

**7.3. Amended and Restated Shareholder Agreement.** Joinders to the Amended and Restated Shareholders Agreement in the form attached hereto as **Exhibit F** and assignments in blank for the Buyer Shares executed by each Seller.

**7.4. Joinder Agreement.** Joinders to this Agreement in the form attached hereto as **Exhibit G** executed by each Seller.

**7.5. Good Standing; Certified Charter.** A good standing certificate and certified charter documents of the Company, each of recent date, from the Secretary of State in the jurisdiction in which the Company is organized and a good standing certificate for the Company of recent date from each jurisdiction in which the Company is qualified to do business.

**7.6. Consents.** All of the Consents required for the Sellers in order to execute and deliver this Agreement and for the Sellers and the Company to perform the obligations hereunder (including without limitation all Customer Consents required by Buyer in its sole discretion).

**7.7. Consents for Leased Real Property.**

(a) The assignment of the Tampa Lease executed by the Company and Buyer and the consent to such assignment executed by the landlord for the Tampa Leased Premises.

(b) The assignment of the Baltimore Lease executed by the Company and Buyer and the consent to such assignment executed by the landlord for the Baltimore Leased Premises.

(c) The assignment of the Ft. Lauderdale Lease executed by the Company and Buyer and the consent to such assignment executed by the landlord for the Ft. Lauderdale Leased Premises.

**7.8. Resignations.** The Representative shall cause to be delivered at the Closing the resignations, to become effective at the Closing, of all directors and officers of the Company.

**7.9. [Intentionally Deleted].**

**7.10. Net Backlog Under Contract.** A Certificate, signed by the Sellers, confirming the amount of Net Backlog Under Contract and projected Net Revenue of the Business (as described in **Section 4.7(d)**).

**7.11. Warrants, Options, Etc.** Evidence satisfactory to Buyer that all outstanding warrants, options and other rights to acquire shares of the capital stock of the Company, and all related loan and guaranty transactions, shall have been terminated and all rights of Company shareholders and employees thereunder shall have been extinguished, all to Buyer's satisfaction (in its sole discretion).

**7.12. Release of Encumbrances.** Release of any Encumbrance filed of record against the assets of the Company or the Shares, to the reasonable satisfaction of Buyer.

**7.13. Form W-9.** IRS Form W-9, duly executed by each Seller.

**7.14. Transaction Expenses.** A Certificate from each Person who has provided services to the Company or the Sellers in connection with the Contemplated Transactions including, without limitation, investment bankers, attorneys, accountants and other outside advisors, indicating that their Transaction Expenses relating to the Contemplated Transactions have been paid in full.

**7.15. PPP Loan.** Evidence satisfactory to Buyer that the PPP Loans has been forgiven in full or paid in full.

**7.16. Termination of Company Employment Agreements.** Evidence satisfactory to Buyer of the termination by the Company, without liability to the Company or Buyer, of all employment agreements listed on **Schedule 4.16(a)**.

**7.17. Bank Accounts.** Evidence satisfactory to Buyer that all of the bank accounts listed on **Schedule 4.34** have been transferred, along with the signing power, to Buyer, and that all Company credit cards have been cancelled and the accounts paid in full.

**7.18. Insurance. [Intentionally Deleted]**

**7.19. Share Certificates.** The Sellers shall have delivered certificates for all of the issued and outstanding Shares held by the persons listed on **Exhibit A**, with assignments executed in blank, for exchange as described in this Agreement (or, if in the possession of the Company, the Company shall have delivered the same), free and clear of all Encumbrances.

All actions taken by the Company and the Sellers, in connection with the consummation of the Contemplated Transactions, and all certificates, opinions, instruments and other documents required to effect the Contemplated Transactions will be reasonably satisfactory in form and substance to Buyer.

## **8. BUYER DELIVERABLES**

At or prior to the Closing, Buyer shall deliver the following to the Sellers:

### **8.1. Consideration.**

(a) The Cash Payment by wire transfer of immediately available funds pursuant to instructions provided by the Sellers to Buyer;

(b) the Promissory Notes; and

(c) the Buyer Shares, as evidenced by the Buyer's Shareholder list, which shall be retained by Buyer in accordance with the terms and conditions of the Amended and Restated Shareholders Agreement.

**8.2. Employment Agreements.** Employment agreements that are mutually acceptable to each of the individuals listed on **Exhibit E** and Buyer (conditioned only upon the Closing hereunder).

**8.3. Good Standing.** A good standing certificate of recent date, from the Secretary of State in the jurisdiction in which Buyer is organized.

**8.4. Secretary Certificate.** A certificate of the Secretary of Buyer (1) certifying and attaching copies of all required resolutions or actions of Buyer's board of directors approving the execution and delivery of this Agreement and the consummation of the Contemplated Transactions, and (2) certifying as to the incumbency and signatures of the Person(s) executing this Agreement and any other agreements of Buyer required hereunder.

All actions taken by Buyer, in connection with the consummation of the Contemplated Transactions, and all certificates, opinions, instruments and other documents required to effect the Contemplated Transactions will be reasonably satisfactory in form and substance to the Sellers.

## **9. ADDITIONAL COVENANTS**

### **9.1. Professional Liability Insurance.**

(a) On or before the Closing Date, the Sellers shall cause the Company to report all potential circumstances and claims relating to the professional liability of the Company and its operations to the Company's professional liability insurer. The Sellers shall be responsible for all claims and lawsuits (and related expenses) that existed as of the Closing Date and that were not reported by the Company to the Company's professional liability insurer to the extent that (i) the Company or the Sellers had Knowledge of such claims or lawsuits, (ii) such claims or lawsuits are within the scope of coverage provided under the Company's professional liability insurance policy, and (iii) the Company's professional liability insurance carrier is not required to cover such claims or lawsuits solely as a result of the failure of the Sellers to cause the Company to timely report such claims or lawsuits; provided, further, that the Company shall direct all of its employees to report to the Company, prior to the Closing Date, any potential circumstances and claims relating to the professional liability of the Company.

(b) Buyer shall provide the Representative, upon request, with certificates of insurance coverage evidencing the coverage required, and a copy of the policy and additional named insured endorsement obtained in compliance with this Section. During the term of the policy, Buyer shall promptly send the Representative copies of any demands, notices, summons, or legal papers received in connection with any claim or lawsuit involving the Company. Each party shall fully cooperate with other with respect to any claim and in any investigation or settlement of any claim or defense against any such lawsuit (including making and pursuing any claims under the policy and in obtaining records or other information regarding any claim or lawsuit), and assist the other party, upon request, in the enforcement of any right against any person or organization which may be liable because of injury or damage to which the policy may apply.

(c) **[Intentionally Deleted].**

(d) The limitations of **Article 13** shall not apply to the reimbursement by the Sellers of Buyer of the expenses described in this **Section 9.1** and such amounts may be set-off against the Promissory Notes pursuant to **Section 3.7** if not paid by the Sellers.

**9.2. Intellectual Property.** Following the Closing, the Sellers agree not to use "Tindale Oliver & Associates, Inc." or any name listed on **Schedule 4.1(b)** or any combination thereof in the name, service mark, trade name, or fictitious name, for any business involving, or associated with, or related to, the Business.

### **9.3. Tax Matters.**

(a) The Sellers shall be responsible and liable for, and shall indemnify and hold Buyer and the Company harmless from, all Taxes imposed by any Governmental Body, owed by, attributable to or secured against the Company or the Sellers, for all periods ending on or before the Closing Date to the extent that such Taxes have not been properly paid prior to the Closing Date or have not been accrued for in the Net Working Capital.

(b) Buyer shall be responsible and liable for, and shall indemnify and hold the Sellers harmless from, all Taxes imposed by any Governmental Body, owed by, attributable to or secured against the Company, for all Taxes incurred for all periods after the Closing Date.

(c) The Representative shall prepare or cause to be prepared and file or cause to be filed all Tax Returns of the Company for all periods ending on or prior to the Closing Date that are filed after the Closing Date, provided that the Representative shall provide copies of such Tax Returns prior to filing to Buyer so that Buyer may review and comment upon such returns prior to their filing. The income, deductions and credits with respect to the Company on such returns shall be computed consistent with past practices, principles and methods and be determined on the basis of the appropriate permanent records, of the Company. Buyer shall have the exclusive authority and obligation to represent the Company before the IRS or any other Governmental Body, as the case may be, or any court regarding the Tax Liabilities of the Company for any taxable period and to settle any such matter for which the Sellers or the Company have retained tax Liability.

(d) Buyer shall promptly notify the Representative in writing of any Proceeding with respect to any Taxes or any other Proceeding by a Governmental Body with respect to Tax matters arising in periods ending on or prior to the Closing Date, and Buyer shall provide such notification to the Representative within ten Business Days of Buyer's receipt of notice of such Proceeding and Buyer shall afford the Representative (or designee) a reasonable opportunity to participate in any meeting with a Governmental Body relating to Tax matters arising in periods ending on or prior to the Closing Date. Buyer and the Representative shall cooperate fully, as and to the extent reasonably requested by the other party, in connection with the preparation and filing of any Tax Return or any Proceeding with respect to Taxes. Such cooperation shall include the retention and (upon the other party's request) the provision of records and information which are reasonably relevant to any such Proceeding and making themselves, as well as their employees and other representatives and professionals, available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder. Buyer and the Representative further agree, upon request, to use all reasonable efforts to obtain any certificate or other document from any Governmental Body or any other Person as may be necessary to mitigate, reduce or eliminate any Tax that could be imposed (including but not limited to with respect to the Contemplated Transactions).

(e) The Sellers shall, jointly and severally, indemnify the Buyer Indemnified Parties as and when incurred for any and all damages that any such Buyer Indemnified Party suffers as a result of: (i) any damages attributable to a breach of or inaccuracy in any representation or warranty made in **Section 4.10**; (ii) any damages attributable to the failure of the Sellers to perform any of their covenants or agreements contained in this **Section 9.3**; (iii) all Taxes of any member of an affiliated, consolidated, or combined group of which the Company is or were a member on or prior to the Closing Date by reason of a Liability under Treasury Regulations Section 1.1502-6 or any comparable provision of foreign, state or local Law; (iv) all Taxes of any Person imposed on the Company as a transferee or successor or by Contract or otherwise; and (v) Taxes arising from any failure of the Company to be a valid S Corporation within the meaning of Section 1361 of the Code at any time on or prior to the Closing Date.

(f) The limitations of **Article 13** shall not apply to the indemnification as described in this **Sections 9.3** and such amounts may be set-off against the Promissory Note pursuant to **Section 3.7** if not paid directly by the Sellers.

(g) Notwithstanding anything in this Agreement to the contrary, the provisions of this **Section 9.3** (including, for the avoidance of doubt, the representations and warranties set forth in **Section 4.10**) shall survive until sixty days after the expiration of the applicable statute of limitations (giving effect to any waiver, mitigation or extension thereof) for the Taxes in question; provided, that if notice of indemnification is provided to the Representative prior to any such expiration date, any obligation to indemnify for any claim described in such notice shall continue until such claim is finally resolved.

(h) Any payment under this **Section 9.3** or **Article 13** will be treated, for Tax purposes, as an adjustment to the Purchase Price payable by the Buyer to the Sellers, unless otherwise required by applicable Law.

(i) Overlap. To the extent that any obligation or responsibility pursuant to **Article 13** may overlap with an obligation or responsibility pursuant to this **Section 9.3**, the provisions of this **Section 9.3** shall govern.

#### **9.4. Section 338 Election.**

(a) Each Seller shall join with Buyer in making the Section 338 Election and any corresponding election permitted under the applicable Laws of any local, state or foreign jurisdiction with respect to Buyer's acquisition of the Shares.

(b) Each Seller shall cooperate with Buyer and shall take all actions necessary or appropriate to effect and preserve a timely Section 338 Election with respect to Buyer's acquisition of the Shares, including participating in the timely filing of IRS Form 8023 and related or comparable forms for state, local, or foreign Law purposes (collectively, the "**Section 338 Forms**").

(c) Each Seller will furnish to Buyer, prior to Closing, such information requested by Buyer in order to prepare the Section 338 Forms and, execute all Section 338 Forms prepared by Buyer and delivered such Section 338 Forms to Buyer for timely filing by Buyer with the applicable taxing authority.

(d) Buyer and each Seller shall file all Tax Returns consistently with the Section 338 Election, the Section 338 Forms and the Purchase Price Allocation (as appropriately adjusted) and shall not take any position during the course of any audit or other Proceeding that is inconsistent with such election, forms or schedule, unless required by a determination of an applicable taxing authority that is final.

(e) If the 338 Election is made, the parties agree that all tax filings made by the parties shall be consistent with a mutually agreeable allocation of the Purchase Price in accordance with **Schedule 9.4(e)** attached hereto.

#### **9.5. Purchase Price Allocation.**

(a) Buyer and the Representative shall allocate the Purchase Price (plus other relevant items, including the Liabilities of the Company that Buyer is deemed to assume for Tax purposes) among the respective assets of the Company in accordance with the residual method principles of Sections 1060 and 338 of the Code and the regulations promulgated thereunder (the "**Purchase Price Allocation**"). Buyer shall deliver to the Representative the Purchase Price Allocation no later than sixty days following the final determination of the Purchase Price pursuant to **Section 3.6**. The Representative shall notify Buyer of any objections to the Purchase Price Allocation in writing within thirty days after the Representative receives the Purchase Price Allocation (the "**PPA Period**").

(b) If the Representative does not notify Buyer of any objections to the Purchase Price Allocation in writing, within the PPA Period, the Purchase Price Allocation shall be construed as final. If the Representative notifies Buyer of an objection to the Purchase Price Allocation in writing during the PPA Period and Buyer and the Representative are unable to resolve their differences within thirty days after the end of the PPA Period, then the disputed items on the Purchase Price Allocation shall be submitted to the Accounting Arbitrator within five days after the end of such thirty day period for resolution with the costs paid fifty percent by the Sellers (jointly and severally), on the one hand, and fifty percent by Buyer,



on the other hand, and the Accounting Arbitrator shall be instructed to deliver a finalized Purchase Price Allocation as soon as possible.

(c) Buyer, the Sellers and their respective affiliates shall report, act and file all Tax Returns (including IRS Form 8883) in all respects and for all purposes consistent with the Purchase Price Allocation as well as any amendments to such Tax Returns required with respect to any adjustment to the Purchase Price. None of Buyer, or the Sellers, or any of their affiliates shall take any position (whether in audits, Tax Returns or otherwise) that is inconsistent with the information set forth on the final Purchase Price Allocation, unless required to do so by applicable Law; provided, however, that (i) Buyer's cost for the assets that it is deemed to acquire may differ from the total amount allocated hereunder to reflect the inclusion in the total cost of items (for example, capitalized acquisition costs) not included in the total amount so allocated and (ii) the amount realized by the Sellers may differ from the total amount allocated hereunder to reflect transaction costs that reduce the amount realized for federal income Tax purposes.

#### **9.6. Company Benefit Plans.**

(a) The Sellers shall cause the Company to terminate the Tindale Oliver & Associates, Inc. 401(k) Savings Plan (the "**Company Plan**") on or prior to the Closing. The Company shall not make any contributions to the Company Plan after the Closing other than residual employee deferrals and residual employer contributions due to the Company Plan with respect to periods prior to the Closing. After the Closing, the Company shall not deposit any new employee or employer contributions into the Company Plan. Any account balances in the Company Plan shall be transferred out of the Company Plan in due course following the Closing, and such actions shall be acceptable to Buyer in its sole discretion. The costs of terminating the Company Plan and all costs of administering the Plan after its termination shall be borne by the Sellers and, upon receipt of a demand therefor by Buyer, the Sellers shall reimburse Buyer promptly for any costs incurred by Buyer in terminating and administering the Company Plan.

(b) The limitations of **Article 13** shall not apply to the reimbursement by the Sellers of Buyer of the Company Plan expenses described in this **Section 9.6** and such amounts may be set-off against the Promissory Notes pursuant to **Section 3.7** if not paid by the Sellers.

(c) Buyer shall ensure that the Employees Profit Sharing 401(k) Plan of Alfred Benesch & Company ("**Buyer Plan**") will accept employee rollovers from the Company Plan with respect to any employees of the Company who become employees of Buyer. Notwithstanding the foregoing, the Buyer Plan is not required to accept any such rollover after the date that is one hundred eighty days from the Closing Date.

(d) All employees of the Company who are retained by Buyer on the Closing Date in connection with the Contemplated Transactions ("**Company Transferring Employees**") shall receive credit after the Closing Date for their service with the Company for purposes of: (i) eligibility to participate, (ii) vesting, (iii) availability of benefit options, rights and features, and (iv) accrual of benefits with respect to service performed for Buyer or its affiliates after the Closing Date (to the extent length of service is relevant to the rate of future accruals), under each employee benefit arrangement established, maintained, or contributed to by Buyer (e.g., the Buyer Plan, the Benesch Profit Sharing Plan, and the group health plan), but only to the extent that service with a predecessor employer is expressly recognized under those employee benefit arrangements; provided, however, that this provision shall not require the accrual of past service benefits with respect to any service by a Company Transferring Employee with the Company prior to the Closing Date; provided further that a Company Transferring Employee may have to comply with all eligibility waiting periods imposed by Company Benefit Plans. Nothing herein shall prevent Buyer from terminating the employment of any such Company Transferring Employee or modifying or terminating any such benefit arrangements from time to time. Notwithstanding the foregoing, however, Company

Transferred Employees shall not be eligible to participate in Buyer's floating holiday benefit for the 2021 calendar year.

(e) On the Closing Date, any employee of the Company who has any accrued and unused vacation time, shall retain such vacation time as an employee of the Company or Buyer; provided, however, that as of the Closing Date, the Company shall have paid employees for all unearned unused vacation time so that no employee will carry over more than 80 hours of vacation time, less any vacation time taken after the date hereof and before January 2, 2022.

#### **9.7. Release.**

(a) Effective upon the Closing, by executing and delivering a Joinder Agreement in the form attached as **Exhibit G** attached hereto, each Seller hereby fully and irrevocably waives, releases and discharges forever Buyer and the Company and each of their respective subsidiaries and each of their past, present and future directors, managers, officers, employees, representatives and agents (collectively, "**Company Released Parties**") from any claims, demands, debts, accounts, covenants, Contracts, arrangements, promises, obligations, damages, judgments, or Liabilities of any kind, in Law or equity, and causes of action of every kind and nature, or otherwise (including claims for damages, costs, expenses, and attorneys', brokers' and accountants' fees and expenses) arising in respect of such Seller's investment in the Company or Buyer which any Seller has or may have against any Company Released Party, whether known or unknown, suspected or unsuspected, and that now exist or may hereafter exist solely to the extent it has arisen or arises out of or relates to an action or event occurring or existing prior to the Closing (collectively, the "**Company Released Claims**"). The scope of the release shall include, but not be limited to, all Company Released Claims (a) relating to any paid or unpaid liquidation preferences or other rights to receive dividends or distributions under the Company's Organizational Documents, side letters, management rights letters, convertible promissory notes, SAFEs, restricted stock agreements and other agreements (it being understood that a Seller's receipt of Seller's share of the Purchase Price hereunder is in complete satisfaction of any such rights and preferences), (b) relating to a breach of any fiduciary duty owed by the Company Released Parties to any Seller, including any claims arising from the determination by the Sellers of the distribution of the Purchase Price as set forth on **Exhibit A** attached hereto, or (c) relating to any breach of the Organizational Documents of the Company, as such may be amended. Each Seller shall refrain from directly or indirectly asserting any claim or commencing (or causing to be commenced) any Proceeding of any kind before any court, arbitrator or Governmental Body against any Company Released Party based upon any Company Released Claim. Notwithstanding any other provision herein or elsewhere to the contrary, this **Section 9.7(a)** shall not apply to (a) any claims, rights or other proceeding arising out of this Agreement or the Transaction Documents, except for any claims arising out of the determination by the Sellers of the distribution of the Purchase Price as set forth on **Exhibit A** attached hereto, (b) any claims for accrued but unpaid compensation, business expenses, or benefits as of the Closing Date, or (c) any right or claims that may arise as a result of an action or event occurring after the Closing.

(b) Effective upon the Closing, Buyer hereby fully and irrevocably waives, releases and discharges forever the Sellers and each of their past, present and future heirs, assigns directors, managers, officers, employees, representatives and agents (collectively, "**Seller Released Parties**") from any claims, demands, debts, accounts, covenants, Contracts, arrangements, promises, obligations, Damages, judgments, or Liabilities of any kind, in Law or equity, and causes of action of every kind and nature, or otherwise (including claims for damages, costs, expenses, and attorneys', brokers' and accountants' fees and expenses) related to the Company which Buyer has or may have against any Seller Released Party, whether known or unknown, suspected or unsuspected, and that now exist or may hereafter exist solely to the extent it has arisen or arises out of or relates to an action or event occurring or existing prior to the Closing (collectively, the "**Seller Released Claims**"). Buyer shall refrain from directly or

indirectly asserting any claim or commencing (or causing to be commenced) any proceeding of any kind before any court, arbitrator or Governmental Body against any Seller Released Party based upon any Seller Released Claim. Notwithstanding any other provision herein or elsewhere to the contrary, this **Section 9.7(b)** shall not apply to (a) any claims, rights or other proceeding arising out of this Agreement or the Transaction Documents, except for any claims arising out of the determination by the Sellers of the distribution of the Purchase Price as provided on **Exhibit A** attached hereto, or (b) any right or claims that may arise as a result of an action or event occurring after the Closing.

**9.8. Termination of Shareholder Agreements.** The Company and the Sellers hereby acknowledge and agree that, effective as of the Closing Date and without any further action required by the Company and the Sellers, the following agreements are automatically terminated and are of no further force and effect: (i) that certain Second Amended and Restated Shareholders' Agreement dated August 1, 2014, as amended and currently in effect, by and among the Sellers and the Company, (ii) that certain Ownership Transition Agreement, dated January 1, 2015, by and among the Company and certain of the Sellers party thereto, and (iii) each Nondisclosure of Confidential Information and Restrictive Covenant Agreement entered into between the Company and any Seller.

## **10. EXPENSES**

Except as otherwise expressly set forth in this Agreement, the Sellers or the Company shall pay (or the Sellers shall cause the Company to pay or account for) all fees and expenses incurred by the Sellers or the Company in connection with the Contemplated Transactions, including, without limitation, all Transaction Expenses and all fees, payments, reimbursements and indemnification obligations as described in **Sections 5.7(q), 9.1, 9.3 or 9.6**; and Buyer shall pay all expenses incurred by it in connection with the Contemplated Transactions, including the fees and expenses of its counsel and accountants.

## **11. NEWS RELEASES**

No notices to Third Parties or any publicity, including press releases, concerning any of the Contemplated Transactions provided for herein shall be made by either party prior to the Closing; provided, however, that the parties acknowledge that they have mutually agreed to notify, prior to the Closing, the employees of the Company and certain of the Company's clients regarding the parties' intent to proceed with the transaction. Following the Closing, the Buyer shall give the Representative reasonable opportunity to review and comment on any public statements concerning the Contemplated Transactions prior to publication of the same.

## **12. NOTICES**

Any notice, request, demand or other communication given by any party under this Agreement (each a "notice") shall be in writing, may be given by a party or its legal counsel, and shall be deemed to be duly given (i) when personally delivered, (ii) upon delivery by United States Express Mail or similar overnight courier service which provides evidence of delivery, (iii) upon delivery by registered or certified mail, postage prepaid, return receipt requested, addressed to the party to whom directed at that party's address as it appears below or another address of which that party has given notice, (iv) when delivered by facsimile transmission if a copy thereof is also delivered in person or by overnight courier, or (v) email delivery on the date on which the email is sent; provided, that, the sender of such email does not receive a written notification of delivery failure. Notices of address change shall be effective only upon receipt notwithstanding the provisions of this **Article 12**.

Notice to Buyer shall be sufficient if given to:

Alfred Benesch & Company  
35 West Wacker Drive, Suite 3300  
Chicago, IL 60601  
Attention: Kevin J. Fitzpatrick  
Fax: 866-410-8678  
email: [kfitzpatrick@benesch.com](mailto:kfitzpatrick@benesch.com)

With a copy to the following counsel:

Hinshaw & Culbertson LLP  
151 N. Franklin St., Suite 2500  
Chicago, IL 60606  
Attn: Timothy M. Sullivan  
Fax: 312-704-3001  
email: [tsullivan@hinshawlaw.com](mailto:tsullivan@hinshawlaw.com)

Notice to the Representative on behalf of the Sellers, shall be sufficient, if given to:

William L. Ball  
1000 N. Ashley Dr., Suite 400  
Tampa, FL 33602  
Email: [billball1515@gmail.com](mailto:billball1515@gmail.com)

With a copy to the following counsel:

Foley & Lardner LLP  
100 North Tampa Street, Suite 2700  
Tampa, FL 33602  
Attn: Randy Wolfe  
Fax: 813.221.4210  
Email: [rwolfe@foley.com](mailto:rwolfe@foley.com)

### **13. INDEMNIFICATION AND SURVIVAL OF REPRESENTATIONS AND WARRANTIES**

**13.1. Survival.** (a) All representations, warranties, covenants, agreements and obligations in this Agreement, the Schedules, any supplements to the Schedules, the Exhibits, and any certificates or other documents delivered pursuant to this Agreement will survive the Closing as specified in and subject to the limitations set forth in this **Article 13**. The waiver of any condition based on the accuracy of any representation or warranty or on the performance of or compliance with any covenant, agreement or obligation, will not affect a party's right to indemnification or other remedy based on such representation, warranty, covenant, agreement or obligation.

(b) All representations and warranties contained in this Agreement will survive the Closing until the close of business on the twelve month anniversary of the Closing Date; provided, that the Fundamental Representations shall survive until sixty days after the expiration of the applicable statute of limitations for the applicable underlying claim, including any extensions or waivers thereof. All other claims for indemnification shall survive the Closing until sixty days after the applicable statute of limitations or if there is no statute of limitations, until the thirty-six month anniversary of the Closing Date.

(c) The parties further acknowledge that the time periods set forth in this **Article 13** for the assertion of claims under this Agreement are the result of arms' length negotiation among the parties

and that they intend for the time periods to be enforced as agreed by the parties. Any claims pending on the expiration of the survival period for which notice has been given in accordance with this **Article 13** on or before such expiration may continue to be asserted and indemnified against until finally resolved. Any claim or potential claim for indemnification under this Agreement with respect to any of such matters that is not asserted by notice given as within such specified period of survival may not be pursued and is hereby irrevocably waived from and after such time.

(d) A party asserting a claim for indemnification hereunder must do so in writing to the party from which it seeks indemnification, specifying in reasonable detail (to the extent then known) the basis for the claim. A Buyer Indemnified Party asserting a claim against a Seller Indemnified Party may provide notice of the claim to the Representative who shall provide the notice to the Seller Indemnified Party or Parties. A Seller asserting a claim against a Buyer Indemnified Party may provide notice of the claim to Buyer who shall provide the notice to the Buyer Indemnified Party. All notices of claims must comply with, and will be deemed asserted on a date determined under, **Article 12**.

### **13.2. Indemnification by the Sellers.**

(a) **Several Liability.** Subject to the limitations of this **Article 13**, from and after the Closing, each Seller shall (solely with respect to himself or herself), severally and not jointly, indemnify Buyer, each of its affiliates, and their respective successors, assigns, officers, directors, shareholders, employees representatives or agents (the “**Buyer Indemnified Parties**”) and save and hold each of them harmless from and against and pay on behalf of or reimburse such Buyer Indemnified Parties as and when incurred for any loss, liability, claim, damage or expense (including the costs of investigation and defense and reasonable attorneys’ fees and excluding any special, incidental, punitive, diminution in value, lost profits and reputational damages, collectively the “**Damages**”) that any such Buyer Indemnified Party suffers as a result of:

(1) any inaccuracy in or breach of any of the representations or warranties of such Seller made in **Article 5** hereof or in the Joinder to this Agreement attached hereto as **Exhibit G**; and

(2) any Proceeding related to the matters described in clause (1) above (including a Proceeding by a Buyer Indemnified Party to enforce its rights under this **Article 13**).

(b) **Joint Liability.** Subject to the limitations of this **Article 13**, from and after the Closing, the Sellers shall, jointly and severally, indemnify the Buyer Indemnified Parties and save and hold each of them harmless from and against and pay on behalf of or reimburse such Buyer Indemnified Parties as and when incurred for any and all Damages that any such Buyer Indemnified Party suffers as a result of:

(1) any inaccuracy in or breach of any of the representations or warranties with respect to the Company made by the Sellers in **Article 4** of this Agreement;

(2) any breach of any covenant or agreement by a Seller or the Representative, acting in his capacity as such, under this Agreement;

(3) any payments due to any current or former employee of the Company as a result of or in connection with the Contemplated Transactions;

(4) any litigation, proceeding or claim by a Third Party (including, without limitation, any employee, director, officer or any former employee, director, officer or shareholder of the Company) against a Buyer Indemnified Party relating to the management, business or operations of the Company at or prior to the Closing Date.

(5) any litigation brought by a Third Party or a Seller in contravention of the release given by a Seller in **Section 9.7(a)**;

(6) any Account Receivable of the Company or Work-in Process outstanding as of the Closing Date and uncollected on the twelve month anniversary of the Closing Date, to the extent the aggregate outstanding amount of such Accounts Receivable on the twelve month anniversary of the Closing Date exceeds \$5,000;

(7) any claim brought with respect to any of the loans listed on **Exhibit D**;

(8) any previously invoiced amount of the Company (either billed or paid) that is determined by a Governmental Body's recalculation of the amount billed, due to audit proceedings of a Governmental Body, including, but not limited to, the application of forgiveness of the PPP Loan, that results in a revised overhead rate; and

(9) any Proceeding relating to the matters described in clauses (1)–(8) above (including a Proceeding by a Buyer Indemnified party to enforce its rights under this **Article 13**).

### **13.3. Indemnification by Buyer.**

Subject to the limitations of this **Article 13**, from and after the Closing, the Buyer shall indemnify the Sellers, their affiliates, their representatives and their agents (the “**Seller Indemnified Parties**”) and save and hold each of them harmless from and against and pay on behalf of or reimburse such Seller Indemnified Parties as and when incurred for any and all Damages that any such Seller Indemnified Party suffers as a result of:

(1) any inaccuracy in or breach of any of the representations or warranties with respect to Buyer under **Article 6** of this Agreement or any other Transaction Document;

(2) any breach of any covenant or agreement by Buyer, under this Agreement or any other Transaction Document;

(3) any Proceeding relating to the matters described in clauses (1)–(2) above (including a Proceeding by a Seller Indemnified Party to enforce such party's rights under this **Article 13**).

### **13.4. Damages.**

(a) **Indemnification Threshold.** Other than with respect to Fundamental Representations, no Buyer Indemnified Party shall be entitled to indemnification for Damages under clause (1) of **Section 13.2(a)** and clauses (1) and (4) of **Section 13.2(b)** unless and until the aggregate amount of Damages suffered or incurred by Buyer Indemnified Parties pursuant to such clauses exceeds [REDACTED] (the “**Threshold**”); provided that if the aggregate amount of Damages suffered or incurred by Buyer Indemnified Parties exceeds the Threshold, the Sellers shall be liable for all such Damages in excess of the Threshold, subject to the Indemnification Cap. Other than with respect to Fundamental Representations, no Seller Indemnified Party shall be entitled to indemnification for Damages under clause (1) **Section 13.3** unless and until the aggregate amount of Damages suffered or incurred by Seller Indemnified Parties pursuant to such clause exceeds the Threshold; provided that if the aggregate amount of Damages suffered or incurred by Seller Indemnified Parties exceeds the Threshold, the Buyer shall be liable for all such Damages in excess of the Threshold subject to the Indemnification Cap.

(b) **Indemnification Cap.** Other than with respect to Fundamental Representations, with respect to any liability of a Seller for Damages under clause (1) of **Section 13.2(a)** and clause (1) of **Section 13.2(b)**, the maximum aggregate liability of the Sellers for claims will be limited to the amount that is equal to 10% of the sum of the Purchase Price (the “**Indemnification Cap**”). Other than with respect to fraud, intentional misrepresentation or willful misconduct, and subject to the Indemnification Cap, the amount of Damages recoverable from any given Seller under **Sections 13.2(b)(2)-(3)** and **(5)-(8)** in the aggregate shall not exceed and shall be limited to the amount of the Purchase Price actually received by such Seller in relation to the Contemplated Transactions. Other than with respect to Fundamental Representations, with respect to any liability of Buyer for damages under clause (1) of **Section 13.3**, the maximum aggregate liability of Buyer shall be limited to the Indemnification Cap. Other than with respect to fraud, intentional misconduct or willful misconduct, and subject to the Indemnification Cap, the amount of Damages recoverable from Buyer under **Sections 13.3(2)** and **13.3(3)** shall not exceed and shall be limited to the Purchase Price actually paid by Buyer in relation to the Contemplated Transactions. Other than with respect to fraud, intentional misrepresentation or willful misconduct, the amount of Damages recoverable under **Section 13.2(b)(4)**, after exceeding the Threshold for any such Damages, shall not exceed the value of the Promissory Notes and Benesch Shares as of the Closing Date (reduced by any set-offs or other Damages incurred pursuant to other **Sections** of this Agreement); provided, further, that Damages under **Section 13.2(b)(4)** shall not include the legal fees incurred by Buyer in defending any claim brought under **Section 13.2(b)(4)** provided Buyer prevails and is not obligated to make any payments with respect to a Third Party claim brought under **Section 13.2(b)(4)**.

(c) **Determination of Damages.** Damages payable to or received by an indemnified party under this Agreement will be reduced on a dollar-for-dollar basis by the amount of any insurance proceeds with respect to such Damages, net of any increase in premiums or other out-of-pocket costs of the indemnified party (collectively, “**Third-Party Recovery Proceeds**”), in each case, actually received by any indemnified party, it being understood that in no event will any indemnification payment under this **Article 13** be delayed in anticipation of the receipt of any Third-Party Recovery Proceeds. In the event that an indemnified party receives Third-Party Recovery Proceeds for a matter that an indemnification payment under this **Article 13** has been made, such indemnified party shall pay to the indemnifying party the amount on a dollar-for-dollar basis of the Third-Party Recovery Proceeds, net of any out-of-pocket costs of the indemnified party incurred by such indemnified party in collecting such Third-Party Recovery Proceeds, but not more than the amount of indemnification payment made pursuant to this **Article 13**. The amount of any indemnity payable under this Agreement on account Damages will be subject to adjustment to avoid “double counting.” For purposes of determining the amount of any Damages, any qualifications in the representations, warranties and covenants with respect to a material adverse change, material adverse effect, materiality, material, or similar terms will be disregarded and will not have any effect with respect to whether there is an inaccuracy or breach of any representation or warranty and the calculation of the amount of any Damages.

(d) **Exclusion.** No Buyer Indemnified Party will be entitled to indemnification under this Agreement for any Damages arising from a breach of any representation, warranty, covenant, or agreement set forth in this Agreement (and the amount of any Damages incurred in respect of such breach will not be included in the calculation of any limitations on indemnification set forth in this Agreement) to the extent that such Damages or Liability has actually reduced the Purchase Price on a dollar-for-dollar basis.

(e) **Buyer Set-off Right.** For avoidance of doubt, (i) any reduction in the Purchase Price pursuant to **Sections 3.4, 3.5** or **3.6** or (ii) any fees, payments, reimbursements or indemnification obligations as permitted by **Sections 3.7, 5.7(q), 9.1, 9.3, 9.6**, or **Article 10** shall not be subject to the provisions of this **Article 13**, including, without limitation, the Threshold and the Indemnification Cap.

**13.5. Procedure for Indemnification — Third Party Claims.**

(a) **Notice to Indemnifying Party.** Promptly after receipt by an indemnified party under **Section 13.2** or **13.3** of notice of the commencement of any Proceeding against it, such indemnified party will, if a claim is to be made against an indemnifying party under either Section, give written notice to the indemnifying party of the commencement of such claim, but the failure to notify the indemnifying party will not relieve the indemnifying party of any liability that it may have to any indemnified party, except to the extent that the indemnifying party demonstrates that the defense of such action is materially prejudiced by the indemnified party's failure to give such notice. Notwithstanding any contrary implication of the foregoing, any such notice must be made in compliance with the time limits described in **Section 13.1**.

(b) **Defense.** If notice of a claim for indemnification is given under **Section 13.5(a)**, the indemnifying party will be entitled to participate in such Proceeding and, to the extent that it wishes, may assume the defense of such Proceeding with counsel satisfactory to the indemnified party and, after notice from the indemnifying party to the indemnified party of its election to assume the defense, the indemnifying party will not, as long as it diligently conducts such defense, be liable to the indemnified party under this **Article 13** for any reasonable fees of legal counsel or any other expenses with respect to the defense of such Proceeding. If the indemnifying party assumes the defense of a Proceeding, (a) no compromise or settlement of such claims may be effected by the indemnifying party without the indemnified party's consent (which consent shall not be unreasonably withheld or delayed) unless (1) there is no finding or admission of any violation of any legal requirements or any violation of the rights of any Person and no effect on any other claims that may be made against the indemnified party, and (2) the sole relief provided is monetary damages that are paid in full by the indemnifying party; and (b) the indemnified party will have no liability with respect to any compromise or settlement of such claims effected without its consent. If notice is given to an indemnifying party of the commencement of any Proceeding for which indemnity will be claimed and the indemnifying party does not, within ten days after the indemnified party's notice is given, give notice to the indemnified party of its election to assume the defense of such Proceeding, the indemnified party may defend such Proceeding (at the expense of the indemnifying party, if indemnification is appropriate hereunder); provided, however, that in any such instance, the indemnified party shall not settle any such Proceeding without the express prior written Consent of the indemnifying party, which consent shall not be unreasonably withheld, delayed or conditioned (but no such consent shall be required in any settlement involving solely the payment of money and no other admission of liability). Subject to the foregoing, in such event the indemnifying party will be bound by any payment obligation made in such Proceeding or any compromise or settlement effected by the indemnified party to the extent the indemnified party is entitled to indemnity hereunder for the underlying claim.

**13.6. Procedure for Indemnification — Other Claims.** A claim for indemnification for any matter not involving a Third Party claim may be asserted by notice to the party from whom indemnification is sought as provided in **Section 13.1(d)**.

**13.7. Payment of Indemnification.**

(a) **By the Sellers.** If any indemnification becomes due from a Seller to a Buyer Indemnified Party hereunder, such indemnification shall be paid by the Sellers or by certified check, bank draft, or wire transfer to an account designated by Buyer, within ten days after the Buyer Indemnified Party becomes entitled to indemnification. Without limitation of the foregoing, in order to pay the claim of a Buyer Indemnified Party, Buyer may set-off such indemnification amount against any amount otherwise due and payable by Buyer under the Promissory Notes (with such offsetting to be made first against payments of principal in reverse order of maturity) and then as to any remaining balance, if any, Buyer may re-transfer some or all of the Buyer Shares to Buyer's treasury in satisfaction of such indemnification



obligation. As used herein, the parties agree that a Buyer Indemnified Party shall be entitled to indemnification at such time and in such amount as Buyer and the Representative may mutually agree, or at such time as a court enters a final, non-appealable order granting the Buyer Indemnified Party the right to indemnification hereunder.

(b) **By Buyer.** If any indemnification becomes due from Buyer to a Seller Indemnified Party hereunder, Buyer shall pay such indemnification by certified check, bank draft, or wire transfer to an account designated by the Seller Indemnified Party within ten days after the Seller Indemnified Party becomes entitled to such indemnification or Buyer, at its option, shall issue replacement Promissory Notes increased by the amount of the such indemnification claim. Without limiting the foregoing, Sellers may set-off such indemnification amount against any amount otherwise due and payable by the Sellers to Buyer under this Agreement. As used herein, the parties agree that a Seller Indemnified Party shall be entitled to indemnification at such time and in such amount as the Representative and Buyer may mutually agree, or at such time as a court enters a final, non-appealable order granting the Seller Indemnified Party the right to indemnification hereunder.

**13.8. Exclusive Remedy.** Except in the case of fraud, willful misconduct or intentional misrepresentation, the parties hereby acknowledge and agree that the remedies described in **Section 3.7**, above and in this **Article 13** shall be their sole and exclusive remedies with respect to claims arising under this Agreement.

#### **14. FURTHER ASSURANCES**

Each party shall, upon request of any of the other parties hereto, at any time and from time to time execute, acknowledge, deliver and perform all such further acts, deeds, assignments, transfers, conveyances, powers of attorney and instruments of further assurances as may reasonably be necessary or appropriate to carry out the provisions and intent of this Agreement.

#### **15. MISCELLANEOUS**

**15.1. Governing Law; Venue.** This Agreement shall be governed by and construed in accordance with the domestic laws of the State of Illinois, without giving effect to any choice or conflict of law provision or rule (whether of the State of Florida or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Illinois. The venue for any dispute shall be in either the courts of the State of Illinois located in Cook County or the United States District Court for the Northern District of Illinois.

**15.2. Counterparts/Use of Facsimiles.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute a single agreement. Counterparts may be delivered via facsimile, electronic mail (including pdf or any electronic signature complying with U.S. federal E-SIGN Act of 2000, e.g., via docuSign.com) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes. Electronic records of an executed copy of this Agreement shall be deemed originals.

**15.3. Entire Agreement.** This Agreement (including the documents referred to herein) and the Confidentiality Agreement, dated July 26, 2021 between Buyer and the Company, constitutes the entire agreement of the parties hereto respecting its subject matter and supersedes all negotiations, preliminary agreements and prior or contemporaneous discussions and understandings of the parties hereto in connection with the subject matter hereof. This Agreement may be amended, modified, or supplemented only by a writing signed by all parties by their duly authorized representatives. Any party may waive the

benefit of a term or condition of this Agreement and such waiver will not be deemed to constitute the waiver of another breach of the same, or any other, term or condition.

**15.4. Headings.** The Section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

**15.5. Severability.** Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction; provided that in the event that any clause, term, or condition of this Agreement shall be held invalid or contrary to law, this Agreement shall remain in full force and effect as to all other clauses, terms, and conditions, and the remaining provisions of this Agreement shall be amended so as to render the Agreement as a whole most nearly consistent with the parties' intentions in light of the removal of the invalid or illegal provision.

**15.6. Construction.** Nothing in the Schedules to the Agreement shall be deemed adequate to disclose an exception to a representation or warranty made herein unless the Schedule identifies the exception with particularity and describes the relevant facts in detail. Without limiting the generality of the foregoing, the mere listing (or inclusion of a copy) of a document or other item shall not be deemed adequate to disclose an exception to a representation or warranty made herein (unless the representation or warranty has to do with the existence of the document or other item itself). The parties intend that each representation, warranty, and covenant contained herein shall have independent significance. If any party has breached any representation, warranty, or covenant contained herein in any respect, the fact that there exists another representation, warranty, or covenant relating to the same subject matter (regardless of the relative levels of specificity) which the party has not breached shall not detract from or mitigate the fact that the party is in breach of the first representation, warranty, or covenant.

**15.7. Incorporation of Exhibits and Schedules.** The Exhibits and Schedules identified in this Agreement are incorporated herein by reference and made a part hereof.

**15.8. Specific Performance.** Each of the parties acknowledges and agrees that the other party would be damaged irreparably in the event any of the provisions of this Agreement are not performed in accordance with their specific terms or otherwise are breached. Accordingly, each of the parties agrees that the other party shall be entitled to an injunction or injunctions to prevent breaches of the provisions of this Agreement and to enforce specifically this Agreement and the terms and provisions hereof in any action instituted in any court of the United States or any state thereof having jurisdiction over the parties and the matter in addition to any other remedy to which it may be entitled, at law or in equity.

**15.9. Dispute Resolution.**

(a) Should any dispute or disagreement develop between Buyer and the Sellers with respect to this Agreement, it shall be settled as specified in this **Section 15.9**. If one of such parties believes that another such party has breached this Agreement, notice thereof shall be given to the breaching party in writing as provided in **Article 12**. The receiving party shall respond in writing within five Business Days of receipt of such notice. If the dispute is not promptly resolved following the exchange of such initial information, the parties shall schedule a face-to-face meeting within thirty Business Days of the initial notice of breach, for the purpose of discussing and negotiating a resolution of any outstanding disputes.

(b) If the foregoing meeting fails to bring about a prompt resolution of the disagreement or dispute, then within thirty days of such meeting (or, if the meeting has not been held, within forty-five days of the notice described in the preceding clause (a)), the parties shall initiate a voluntary,

non-binding mediation conducted by a mutually-agreed mediator. If the parties are unable to agree upon a mediator, they shall request a court in Cook County, Illinois to appoint a mediator for them. Each of the parties shall bear its own costs and expenses (including attorneys' fees) and their proportionate share of any other costs, fees, or expenses associated with this mediation and endeavor in good faith to resolve their differences. The mediation shall be held in Cook County, Illinois.

(c) The parties agree that they shall not have recourse to the courts in connection with any dispute under this Agreement unless and until they have completed the process described in this **Section 15.9** or until at least ninety days have lapsed since the delivery of the notice described in the preceding clause (a).

**15.10. No Third Party Beneficiaries.** This Agreement shall not confer any rights or remedies upon any Person other than the parties and their respective successors and permitted assigns.

## **16. SUCCESSORS AND ASSIGNS**

This Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of the parties hereto, but shall not be assigned by any party hereto without the prior written consent of the other parties. Notwithstanding the foregoing, (i) Buyer may (with prior written notice to the Representative) collaterally assign any or all of its rights, including but not limited to its rights to be indemnified under this Agreement, to one or more Persons who provide funds to Buyer under a line of credit or in connection with the Contemplated Transactions and (ii) Buyer may assign this Agreement to any of Buyer's affiliates or to any buyer of all or substantially all of the assets of Buyer (or Buyer's ultimate parent company) whether by virtue of a merger, asset sale, stock sale or otherwise, in each case without the prior written consent of the Sellers or the Representative.

## **17. EFFECT OF INVESTIGATION**

Any inspection of the records or business operations of the Company conducted by or on behalf of Buyer pursuant to this Agreement shall in no way limit, affect, or impair the ability of Buyer to rely upon the representations, warranties, covenants, and agreements of Sellers set forth herein.

***[THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK]***

IN WITNESS WHEREOF, each of the parties has caused this Agreement to be executed by its duly authorized officer as of the date first above written.

**BUYER:**

ALFRED BENESCH & COMPANY

By: 

Name: Kevin J. Fitzpatrick

Title: President and Chief Executive Officer

**REPRESENTATIVE:**

\_\_\_\_\_  
William L. Ball, on behalf of the shareholders of the Company who have executed the Joinder to Stock Purchase Agreement in the form attached hereto as **Exhibit G** and who are listed below

IN WITNESS WHEREOF, each of the parties has caused this Agreement to be executed by its duly authorized officer as of the date first above written.

**BUYER:**

ALFRED BENESCH & COMPANY

By: \_\_\_\_\_  
Name: Kevin J. Fitzpatrick  
Title: President and Chief Executive Officer

**REPRESENTATIVE:**

DocuSigned by:  
*William Ball*

\_\_\_\_\_  
9861A8FB42FD462...  
William L. Ball, on behalf of the shareholders of  
the Company who have executed the Joinder to  
Stock Purchase Agreement in the form attached  
hereto as **Exhibit G** and who are listed below

## **Exhibit 1**

### **LIST OF THE SELLERS' SCHEDULES**

Schedule 3.3(a)	Wire Transfer Instructions
Schedule 4.1(a)	Company Jurisdictions
Schedule 4.1(b)	List of Names and Fictitious Names
Schedule 4.4(a)	Third party Consents
Schedule 4.5(a)	List of Sellers and Shares Owned
Schedule 4.6	Affiliated Entities; Company Conduct Outside of Ordinary Course
Schedule 4.7(a)	Financial Statements
Schedule 4.7(b)	Exceptions to GAAP
Schedule 4.7(d)	Net Backlog Under Contract
Schedule 4.8	Liabilities
Schedule 4.9	Guaranties and Sureties
Schedule 4.10	Tax Matters
Schedule 4.10(i)	S Corporation Status
Schedule 4.10(k)	CARES Act
Schedule 4.11	Litigation
Schedule 4.14	Personal Property
Schedule 4.15	Accounts and Notes Receivable
Schedule 4.16(a)	Contracts
Schedule 4.16(b)	Contracts Valid; Exceptions
Schedule 4.16(c))	Government Contracts
Schedule 4.16(f)	Fixed Price Contracts
Schedule 4.17	Proposals
Schedule 4.18	Prepaid Items and Deposits
Schedule 4.19(a)	Labor and Employment Matters
Schedule 4.20	Benefit Plans
Schedule 4.21	Related Persons
Schedule 4.23	Principal Clients
Schedule 4.24	Warranties
Schedule 4.25(a)	Insurance Policies
Schedule 4.25(b)	Pending Insurance Claims; Claims History
Schedule 4.25(c)	Non-occurrence Basis Insurance Policies
Schedule 4.26	Compliance with Laws

Schedule 4.27	Permits
Schedule 4.28	Environmental Matters
Schedule 4.29	Intellectual Property Assets
Schedule 4.30	Absence of Change
Schedule 4.32	COVID-19
Schedule 4.34	Bank Accounts
Schedule 5.1	Organization; Power and Authorization
Schedule 5.2	Notice
Schedule 5.6	Broker Fees
Schedule 7.16	Encumbrances

#### **LIST OF THE BUYER'S SCHEDULES**

Schedule 6.2(c)	Third Party Consents
Schedule 6.4(a)	Financials
Schedule 6.4(b)	Liabilities
Schedule 6.6	Absence of Changes
Schedule 6.7	Certain Proceedings
Schedule 9.4(e)	Purchase Price Allocation

## **LIST OF EXHIBITS**

Exhibit A	List of Sellers and Payments to be Received under Sections 3.3(a), (b) and (c)
Exhibit B	Form of Promissory Note for the Sellers [3.3(b)]
Exhibit C	Prospectus [5.7(a)]
Exhibit D	Shareholder Loans [7.1]
Exhibit E	List of Sellers Executing Employment Agreements [7.2]
Exhibit F	Joinder to Buyer Shareholders Agreement [7.3]
Exhibit G	Joinder to Stock Purchase Agreement [7.4]



**Exhibit A - List Sellers and Payments to be Received under Section 3.3(a), (b) and (c)\***

	Unadjusted Cash *	Adjusted Cash *	# of Shares	Value of Shares**	Promissory Note Amount
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
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[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
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[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

	Unadjusted Cash *	Adjusted Cash *	# of Shares	Value of Shares**	Promissory Note Amount
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
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[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

\* Adjusted Pursuant to **Sections 3.4 - 3.7** of the Agreement.

\*\* Based on [REDACTED]/share

**Exhibit B - Form of Promissory Note for the Sellers [3.3(b)]**

ALL INDEBTEDNESS EVIDENCED BY THIS NOTE IS SUBORDINATED TO OTHER INDEBTEDNESS, OBLIGATIONS AND LIABILITIES OWED BY THE MAKER HEREOF TO FIRST MIDWEST BANK, AN ILLINOIS STATE CHARTERED BANK (OR ANY SUCCESSOR, TRANSFEREE, ASSIGNEE OR REPLACEMENT LENDER)

This Note is not subject to State of Florida documentary stamp tax because: (1) it is not secured by a mortgage on Florida real estate; and (2) it was executed by Maker and delivered to Payee in the State of Illinois, and so was executed and delivered outside of the State of Florida. See Florida Administrative Code Rule 12B-4.053 (34).

**Subordinated Unsecured Promissory Note**

\$ \_\_, \_\_

Made as of: \_\_, 2021  
Maturity Date: \_\_, 2024  
Chicago, Illinois

ALFRED BENESCH & COMPANY, an Illinois corporation ("Maker"), for value received, hereby promises to pay to the order of \_\_\_\_\_ (the "Payee"), at such location as the Payee may from time to time designate in writing, in lawful money of the United States of America and in immediately available funds, the principal sum of \_\_\_\_\_

AND 00/100 DOLLARS (\$ \_\_, \_\_.00), together with interest from the date hereof on the unpaid principal balance of this Subordinated Unsecured Promissory Note (this "Note") outstanding from time to time, payable at the rate and on the dates provided for in this Note. Commencing January 1, 2022, principal on this Note shall payable in twelve (12) principal installments of \$ \_\_\_\_\_ each, payable on the first (1<sup>st</sup>) day of each calendar quarter, with accrued and unpaid interest paid concurrently with each payment of principal, subject to the provisions of Sections 2, 3 and 6 below. The unpaid principal balance of this Note, if not sooner paid or declared to be due in accordance with the terms hereof, together with all accrued and unpaid interest thereon and any other amounts due and payable hereunder, shall be due and payable in full on the Maturity Date identified above.

This Note has been issued in connection with the transactions described in that certain Stock Purchase Agreement (the "Agreement"), dated as of December \_\_, 2021, by and among the Maker, the Payee, the other shareholders of Tindale Oliver & Associates, Inc., a Florida corporation, and William L. Ball, in his capacity as Representative of the Sellers. Any capitalized term used herein but not defined shall have the meaning given to such term in the Agreement. In the event of any conflict between the terms of this Note and the terms of the Agreement, the terms of the Agreement shall prevail.

This Note has not been registered pursuant to any federal or state securities laws and may not be sold or transferred in violation of any federal or state securities laws. The Maker has no obligation as of the execution of this Note, or at any time thereafter, to cause the registration of this Note with any federal or state entity or pursuant to any federal or state securities laws.

1. Interest; Default Rate.

a. Interest shall accrue on the unpaid balance of the principal of this Note outstanding from time to time at the rate of the Prime Rate (as defined below) plus one percent (1.00%) per annum (the "Interest Rate"), from and including the date hereof. The Interest Rate shall be re-set annually on the anniversary of the date of this Note, based on the Prime Rate in effect at the opening of business on such day (or, if such date is not a Business Day (as defined below), then the next succeeding Business Day). The Maker shall calculate the Interest Rate hereunder, and such calculations shall control for all purposes hereunder, absent manifest error.

b. Interest shall be calculated on the basis of a 365-day year for the actual number of days elapsed and shall be payable in arrears, as described above, and at maturity (whether at stated maturity, by acceleration or otherwise); provided, however, that if any payment date hereunder is not a Business Day, such payment shall be made on the next Business Day thereafter.

c. Notwithstanding anything to the contrary in this Note, upon and during the continuance of any Event of Default (as defined below), interest shall be computed and payable on the unpaid balance of the principal of this Note at a rate equal to the Interest Rate plus two percent (2%), but in any event not more than the maximum rate allowed by law.

d. As used herein, the term "Prime Rate" shall mean, for any day, the rate of interest in effect for such day as published from time to time in the Wall Street Journal. The Maker's determination of the Prime Rate shall control for all purposes hereunder, absent manifest error.

e. As used herein, the term "Business Day" shall mean any day on which the offices of the Maker's primary commercial bank are open for commercial banking business in Chicago, Illinois.

2. Payment; Prepayment. All payments due under this Note shall be made, at the election of Maker, by Maker's company check payable to Payee. Maker, at its option, may prepay this Note at any time in whole or in part without premium or penalty.

3. Subordination. This Note shall, to the extent and in the manner provided herein, be subordinated and junior in right of payment to the prior payment in full of all Senior Indebtedness, as hereinafter defined. Senior Indebtedness of any type or from any lender shall not be deemed to have been paid in full until the termination of all commitments or other obligations of Maker for such Senior Indebtedness and the payment in full thereof.

a. The term "Senior Indebtedness" shall mean (i) all indebtedness now or hereafter owed by Maker to First Midwest Bank, and any and all debt, liabilities and other obligations which are incurred to repay, in whole or in part, the Senior Indebtedness; and (ii) all obligations and liabilities in respect of equipment leases of Maker.

b. By accepting this Note, the Payee hereby covenants and agrees that (i) this Note shall be subject to the provisions of this Section 3; (ii) each person holding this Note, whether upon original issue or upon transfer or assignment hereof, accepts and agrees to

be bound by such provisions, and (iii) it will enter into any subordination agreement (or similar agreement) reasonably requested by First Midwest Bank in the future.

c. No payment on account of principal, interest or otherwise on this Note shall be due or payable and no such payment shall be made, and Maker shall not be in default hereunder on account of any such nonpayment, if, at the time any such payment would otherwise be made or immediately after giving effect thereto, there shall exist a default or event of default (as defined in the instrument creating, evidencing or securing the same or under which the same is outstanding) with respect to the Indebtedness. Payee will not take or omit to take any action or assert any claim with respect to the indebtedness evidenced by this Note or otherwise which is inconsistent with the provisions of this Section 3. In no event shall this Note be accelerated while any Senior Indebtedness is outstanding.

d. No payment of interest or principal, penalties, premiums, fees, expenses, indemnities or other obligations hereunder or in respect hereof shall be made and no such payment shall become due or payable hereunder upon a default or event of default with respect to any Senior Indebtedness or during the pendency of any receivership action against or brought by Maker or upon or during any proceeding for the reorganization, liquidation, dissolution or winding-up of Maker's affairs, or other similar case or proceeding with respect thereto, until all of the Senior Indebtedness shall have been paid in full. In the event Payee receives any payments in violation of this Section 3, Payee shall promptly deliver such payment to First Midwest Bank, which First Midwest Bank is authorized to apply to the Senior Indebtedness, and until such payments are delivered to First Midwest Bank, Payee shall hold such payments in trust for the benefit of First Midwest Bank and turnover such payments on demand.

e. Except with the prior written consent of First Midwest Bank, which may be withheld in their sole discretion, unless and until all principal of, premium, if any, and interest on, all Senior Indebtedness due First Midwest Bank shall have been paid in full in cash and all commitments to extend Senior Indebtedness due First Midwest shall have terminated, Payee will not commence or maintain any action, suit or any other legal or equitable proceeding against Maker on account of this Note or otherwise exercise or enforce any of its rights or remedies in respect of, this Note, or join with any creditor in any such proceeding, under any insolvency, bankruptcy, receivership, liquidation, reorganization or other similar law, provided that the foregoing shall not prohibit Payee from filing a proof of claim or otherwise participating in any such proceeding not commenced by it.

f. Payee agrees that First Midwest Bank, at any time and from time to time hereafter, may enter into such agreements with Maker as First Midwest Bank may deem proper extending the time of payment of or renewing or otherwise altering the terms of any such Senior Indebtedness or creating new Senior Indebtedness or affecting the collateral security securing any such Senior Indebtedness, without notice to Payee and without in any way impairing or affecting the subordination provisions set forth herein.

g. Payee consents and agrees that all Senior Indebtedness shall be deemed to have been made, incurred, and/or continued in reliance upon the subordination provisions set forth herein

h. Nothing contained in this Section 3 shall prevent Maker from making payment of the principal of or interest on this Note when due in accordance with the provisions hereof, except under the conditions described in Sections 3(c) or 3(d) or during the pendency of any bankruptcy or insolvency proceeding against or involving Maker.

i. Payee and Maker acknowledge and agree that First Midwest Bank is an intended third-party beneficiary of this Note with full rights of enforcement against the Maker and the Payee for the breach of any such terms, and this Note may not be amended without First Midwest Bank's prior written approval.

j. Upon First Midwest Bank's written request made after a default or event of default with respect to any Senior Indebtedness, Payee shall promptly advise First Midwest Bank in writing of the principal and interest then outstanding.

#### 4. Events of Default; Remedies.

a. Each of the following shall constitute an "Event of Default" hereunder: (i) the failure of the Maker to pay any amount within Fifteen (15) calendar days of the date the same becomes due and payable under this Note, whether interest or principal or both; or (ii) the Maker shall make a general assignment for the benefit of creditors, or proceedings in bankruptcy or for reorganization under any law for the relief of debtors shall be commenced by or against the Maker and shall not be discharged within thirty (30) days of commencement, or a receiver, trustee or custodian shall be appointed for the Maker or for any substantial portion of its properties or assets.

b. Subject to the provisions of Section 3 above, if an Event of Default of the type described in Section 4(a)(ii) has occurred and is continuing, then the Payee may (by written notice to the Maker with contemporaneous written notice to the holders of Senior Indebtedness known to the Payee) declare any or all of the outstanding principal amount of this Note and any or all accrued but unpaid interest hereunder to be immediately due and payable.

5. Defense to Enforcement. If the Payee, in contravention of the terms of this Note, shall commence, prosecute or participate in any suit, action or proceeding against the Maker, then the Maker may interpose as a defense or plea the making of this Note. If the Payee, in contravention of the terms of this Note, shall attempt to collect any principal or interest under this Note, then the Maker may, in furtherance of the provisions of this Note, restrain the enforcement thereof in the name of the Maker.

6. Right of Set-Off. If a claim is made by Maker seeking indemnification under the Agreement, then, pending the resolution of such claim, the Maker may, at its option by written notice to the Representative, or any subsequent holders of this Note (and without limiting any other rights it may have at law or in equity) withhold the amount of such indemnity from the amount of any payments otherwise due under this Note, subject to the requirements of Section 3.7 of the

Agreement. If such claim is finally determined in favor of Maker, Maker shall be entitled to retain all such payments withheld and offset them against amounts due to the Maker from the Payee under such indemnification provisions. If such claim is determined in favor of the Payee (or if the claim is determined in favor of the Maker but the amount withheld is in excess of the amount to which the Maker is determined to be entitled), then the Maker shall pay the withheld amounts (or the excess as the case may be) to the Payee promptly, with interest at the rate specified in Section 1(c) above. The foregoing shall not limit any other rights of Maker under the Agreement, if any, with respect to offsetting or otherwise reducing the amounts payable under this Note.

7. Governing Law; Venue. Notwithstanding any provision herein or in any documents or instruments now or hereafter securing this Note, the total liability for payments in the nature of interest shall not exceed the limits now imposed by the applicable laws of the State of Illinois. This Note shall be governed by, and construed in accordance with, the laws of the State of Illinois. The Maker and the Payee hereby irrevocably submit to the jurisdiction of the courts of the State of Illinois and the federal courts of the United States of America located in the State of Illinois solely in respect of the interpretation and enforcement of the provisions of this Note, and each of the Maker and the Payee hereby waives, and agrees not to assert, as a defense in any action, suit or proceeding for the interpretation or enforcement hereof, that it is not subject thereto or that such action, suit or proceeding may not be brought or is not maintainable in said courts or that the venue thereof may not be appropriate or that this Note may not be enforced in or by such courts. Each of the Maker and the Payee irrevocably agrees that all claims with respect to such action or proceeding shall be heard and determined in any such court located in the State of Illinois. The parties hereby waive any right to trial by jury in any action or proceeding (i) to enforce or defend any rights under or in connection with this note or any amendment, instrument, document or agreement delivered in connection herewith, or (ii) arising from any dispute or controversy related to this Note, or any such amendment, instrument, document or agreement, and the parties agree that any such action or proceeding shall be tried before a court and not before a jury.

8. Miscellaneous.

a. No amendment, modification or waiver of any provision of this Note, nor any consent to any departure by Maker therefrom, shall be effective unless set forth in a writing duly executed by the holder hereof, and any such waiver or consent shall only be effective in the specific instance given.

b. This Note shall be binding upon Maker and its successors and permitted assigns, and shall inure to the benefit of Payee and its heirs, legal representative, successors and permitted assigns, including, without limitation, permitted subsequent holders hereof, and to the holders of Senior Indebtedness, in accordance with the terms hereof. Notwithstanding any contrary implication of the foregoing, however, this Note may not be transferred or assigned by either the Payee or the Maker without the prior written consent of the other party.

c. All notices, requests, consents and demands by the parties hereunder shall be delivered by hand, by confirmed facsimile transmission, or by recognized national overnight courier service, addressed to the party to be notified at the addresses set forth below:



i. if to the Maker:  
Alfred Benesch & Company  
35 West Wacker Drive, Suite 3300  
Chicago, Illinois 60601  
Attention: Chief Executive Officer

ii. if to the Payee:

\_\_\_\_\_  
c/o \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
[ ], [ ] [ ]

Notices shall be effective immediately upon personal delivery or facsimile transmission, or one business day after deposit with an overnight courier service. Any party hereto may change the address specified herein by written notice to the other parties hereto.

d. THE MAKER AND EACH ENDORSER, GUARANTOR AND SURETY OF THIS NOTE, AND EACH OTHER PERSON OR ENTITY WHO MAY BECOME LIABLE FOR ALL OR ANY PART OF THE OBLIGATION EVIDENCED HEREBY, HEREBY REPRESENT, COVENANT AND AGREE THAT THE PROCEEDS OF THIS LOAN ARE FOR GENERAL COMMERCIAL PURPOSES. THE MAKER HEREBY CONFIRMS THAT IT IS A CORPORATION FOR PURPOSES OF THE ILLINOIS INTEREST ACT.

e. THE MAKER AND THE PAYEE AND EACH ENDORSER AND GUARANTOR OF THIS NOTE, HEREBY IRREVOCABLY WAIVE ALL RIGHT TO A TRIAL BY JURY IN ANY PROCEEDING, ACTION, CLAIM OR COUNTERCLAIM BY OR AGAINST THE PAYEE, THE MAKER, OR ANY ENDORSER OR GUARANTOR ARISING OUT OF OR IN CONNECTION WITH THIS NOTE, OR THE OBLIGATIONS ARISING HEREUNDER.

***[Remainder of Page Blank; Signature Page Follows]***

IN WITNESS WHEREOF, this Note has been executed as of the date first hereinabove written.

MAKER:

ALFRED BENESCH & COMPANY

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

STATE OF ILLINOIS)

) SS:

COUNTY OF COOK)

**AFFIDAVIT OF OUT OF STATE EXECUTION AND DELIVERY**

BEFORE ME, the undersigned authority, personally appeared Kristina Horn ("Affiant"), who after being duly cautioned and sworn, deposes and states as follows:

1. Affiant is the duly appointed Chief Financial Officer and Executive Vice President of ALFRED BENESCH & COMPANY, an Illinois corporation ("Maker").
2. Affiant makes this Affidavit of his/her own personal knowledge.
3. On the date hereof, Affiant, on behalf of Maker, executed each of the promissory notes set forth on Exhibit A hereto (collectively, the "Notes"), in favor of the payees set forth on Exhibit A (the "Payees"), in the State of Illinois.
4. The Affiant forwarded and delivered the Notes by messenger/courier directly from the Affiant's offices in the State of Illinois to Foley & Lardner LLP, 321 N Clark St Suite 3000, Chicago, IL 60654, for delivery and acceptance as representative for and on behalf of the Payees.

Under penalties of perjury, I declare that I have read the foregoing Affidavit and that the facts stated in it are true.

\_\_\_\_\_  
(signature of Affiant)

Print Name: \_\_\_\_\_

SWORN TO and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by \_\_\_\_\_, who produced the following type of governmental photo identification: \_\_\_\_\_.

\_\_\_\_\_  
Notary Public (signature)

Notary Public print name: \_\_\_\_\_

My commission expires: \_\_\_\_\_

[OFFICIAL NOTARY SEAL]

## EXHIBIT A

The following Subordinated Unsecured Promissory Notes, made by Maker in favor of the individuals listed below, all dated on or around December 17, 2021, in the respective original principal amounts indicated below:

[illegible]

STATE OF \_\_\_\_\_)

) SS:

COUNTY OF \_\_\_\_\_)

**AFFIDAVIT OF OUT OF STATE RECEIPT AND ACCEPTANCE**

BEFORE ME, the undersigned authority, personally appeared William L. Ball (“Affiant”), who after being duly cautioned and sworn, deposes and states as follows:

5. Affiant is the duly appointed Representative of the individuals set forth on Exhibit A (collectively, the “Payees”).
6. Affiant makes this Affidavit of his/her own personal knowledge.
7. On behalf of Payees, Affiant received each promissory note set forth on Exhibit A hereto (collectively, the “Notes”), on \_\_\_\_\_, 2021 (*insert date*), at the following location outside of the State of Florida: \_\_\_\_\_ (*insert address*).
8. The Notes were delivered to Affiant by [NAME OF CARRIER]/[Maker].

Under penalties of perjury, I declare that I have read the foregoing Affidavit and that the facts stated in it are true.

\_\_\_\_\_  
(signature of Affiant)

Print Name: \_\_\_\_\_

SWORN TO and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by \_\_\_\_\_, who produced the following type of governmental photo identification: \_\_\_\_\_.

\_\_\_\_\_  
Notary Public (signature)

Notary Public print name: \_\_\_\_\_

My commission expires: \_\_\_\_\_

[OFFICIAL NOTARY SEAL]

## EXHIBIT A

The following Subordinated Unsecured Promissory Notes, made by Maker in favor of the individuals listed below, all dated on or around December 17, 2021, in the respective original principal amounts indicated below:

[illegible]

**Exhibit C - Prospectus [5.7(a)]**

**PROSPECTUS**  
**ALFRED BENESCH & COMPANY**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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**Intelli**


[REDACTED]

\_\_\_\_\_

A 3x3 grid of black squares. The top row has three squares. The middle row has three squares. The bottom row has three squares.

\_\_\_\_\_



expense from consultants outside the Company. Therefore, it is management's opinion that increases

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]





Name of [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]			[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]





**Exhibit D – Shareholder Loans [7.1]**

[REDACTED]	
[REDACTED]	[REDACTED]
[REDACTED]	
[REDACTED]	[REDACTED]
[REDACTED]	
[REDACTED]	[REDACTED]

**Exhibit E – List of Sellers Executing Employment Agreements [7.2]**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Exhibit F – Joinder to Buyer Shareholders Agreement [7.3]**

**JOINDER TO THE  
AMENDED AND RESTATED SHAREHOLDERS AGREEMENT OF  
ALFRED BENESCH & COMPANY**

This JOINDER AGREEMENT (this “**Joinder Agreement**”) to the Amended and Restated Shareholders Agreement of ALFRED BENESCH & COMPANY, an Illinois corporation (the “**Corporation**”) attached hereto as Exhibit A, dated as of September 13, 2012, as amended as of September 11, 2014 (as so amended, the “**Shareholders Agreement**”), is made and entered into as of the date identified below, by the individual identified as the “**Shareholder**” on the signature page of this Joinder Agreement (“**Shareholder**”).

**WHEREAS**, in connection with Shareholder’s acquisition of shares of capital stock of the Corporation, the Corporation has required Shareholder to become a party to the Shareholders Agreement, and Shareholder has agreed to do so in accordance with the terms hereof;

**NOW THEREFORE**, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties to this Joinder Agreement hereby agree as follows:

1. **Agreement to be Bound.** Shareholder hereby agrees that upon execution of this Joinder Agreement, and upon acceptance of this Joinder Agreement by the Corporation, Shareholder shall become a party to the Shareholders Agreement and shall be fully bound by, and subject to and entitled to the benefits of, all of the covenants, terms and conditions of the Shareholders Agreement and shall be deemed a “Shareholder” for all purposes thereunder.
2. **Successors and Assigns.** Except as otherwise provided herein, this Joinder Agreement shall bind and inure to the benefit of and be enforceable by the Corporation and Shareholder and the respective successors and assigns of each of them.
3. **Governing Law.** This Joinder Agreement and its interpretation shall be governed exclusively by its terms and by the laws of the State of Illinois.
4. **Counterparts.** This Joinder Agreement may be executed in separate counterparts each of which shall be an original and all of which taken together shall constitute one and the same agreement.
5. **Joinder to Shareholders Agreement.** Upon acceptance by the Corporation, this Joinder Agreement shall be deemed to be part of the Shareholders Agreement and shall be governed by all the terms and provisions of the Shareholders Agreement, which terms are incorporated herein by reference.

*[Rest of page intentionally blank – Signature page follows]*

**IN WITNESS WHEREOF**, the undersigned has executed this Joinder Agreement as of this \_\_\_\_\_ day of December, 2021.

**Shareholder:**

\_\_\_\_\_  
Name:

**Acceptance by Corporation:**

This Joinder Agreement is accepted as of this \_\_\_\_\_ day of December, 2021.

ALFRED BENESCH & COMPANY,  
An Illinois corporation

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**Exhibit G - Joinder to Stock Purchase Agreement [7.4]**

## JOINDER AGREEMENT

THIS JOINDER AGREEMENT, (this “Agreement”), is entered into as of December 17, 2021 by and between Alfred Benesch & Company, an Illinois corporation (“Buyer”), and the Person listed on the signature page to this Agreement (the “Seller”), and is delivered pursuant to the Stock Purchase Agreement, dated as of December 17, 2021 (the “Stock Purchase Agreement”), by and between Buyer and the Sellers (as defined in the Stock Purchase Agreement), and William L. Ball, in his capacity as the representative of the Sellers pursuant to Section 3.8 of the Stock Purchase Agreement (the “Representative”). Capitalized terms used herein but not defined herein shall have the meanings given them in the Stock Purchase Agreement.

By executing and delivering this Agreement, and as a material inducement to Buyer to enter into and consummate the transactions contemplated by the Stock Purchase Agreement, subject to the occurrence of the Closing, the undersigned shall become a party to and shall become bound by the Stock Purchase Agreement as a Seller thereunder with the same force and effect as if an original party thereto and, without limiting the generality of the foregoing, hereby:

(a) expressly agrees to the terms of Section 9.7(a) of the Stock Purchase Agreement, which provides for the grant of certain releases being made by all of the Sellers;

(b) expressly agrees to be subject to and bound by the indemnification obligations of a Seller pursuant to and in accordance with Article 13 of the Stock Purchase Agreement, including, without limitation, Sections 12.2(a) and (b) set forth in the Stock Purchase Agreement;

(c) irrevocably authorizes and appoints Representative as Seller’s representative and agent to act for and on behalf of and to bind the Seller pursuant to and in accordance with Section 3.8 of the Stock Purchase Agreement;

(d) irrevocably affirms all of the representations and warranties set forth in Articles 4 and 5 of the Stock Purchase Agreement, including, without limitation those set forth in Section 5.7 of the Stock Purchase Agreement;

(e) expressly assumes all other obligations, and agrees to perform all other covenants and agreements, of a Seller under the Stock Purchase Agreement; and

(f) expressly acknowledges and agrees that (i) payment of the Purchase Price is subject to the terms and conditions of the Stock Purchase Agreement and (ii) upon making the issuances or payments pursuant to the Stock Purchase Agreement, Buyer will be deemed to have satisfied its obligations to make payments with respect to the Seller’s Shares and will have no further obligations to the Seller with respect to payment of the Purchase Price except as expressly set forth in the Stock Purchase Agreement.

The undersigned, severally and not jointly with or on behalf of any other Seller, hereby represents and warrants to Buyer, and the Company that the following statements are true and correct, with respect to itself only, as of the date hereof:



(a) this Joinder Agreement has been duly executed and delivered by the undersigned and constitutes a valid and legally binding obligation of the undersigned, enforceable against the undersigned in accordance with its terms, except as may be limited by applicable bankruptcy, insolvency, moratorium and similar generally applicable Laws regarding creditors' rights or by general equity principles;

(b) The undersigned is the sole legal, record and beneficial owner of all of the outstanding Shares described on Schedule 4.5(a) to the Stock Purchase Agreement (such Shares, together with any and all additional Shares of which the undersigned becomes the record or beneficial owner following the execution of this Agreement, the "Subject Shares"). None of the Subject Shares is subject to any Encumbrances or to any rights of first refusal of any kind (other than in favor of the Company and other than restrictions generally imposed by applicable securities Laws), and the undersigned has not granted any rights to purchase such Subject Shares to any other Person. The undersigned has the sole right to execute this Agreement.

(c) no consent, authorization, Order or approval of, or filing or registration with, any Governmental Body or other Person that has not been obtained or made as of the date hereof is required for the undersigned's execution, delivery and performance of this Agreement;

(d) the undersigned's execution and delivery of this Agreement does not conflict with or result in a breach of any provision of any Law or Order to which the undersigned is party or by which the undersigned or its assets are bound;

(e) the undersigned is not a party to or bound by any contract or other agreement under which the undersigned's execution and delivery of or performance under this Agreement will constitute a default, breach or event of acceleration; and

(f) if the undersigned is an "accredited investor" within the meaning of Rule 501 under Regulation D please check the Categories below (if no Category applies, the undersigned shall be considered a non-accredited investor but will be able to acquire the Buyer Shares and the Promissory Note):

- ☐ Category 1 The Seller is a natural person whose individual net worth, or joint net worth with that person's spouse, at the date hereof exceeds \$1,000,000, excluding as an asset the fair market value of such person's or persons' primary residence, and excluding as a liability the amount of indebtedness secured by the primary residence up to its fair market value. Indebtedness secured by the primary residence in excess of the fair market value should be deducted from net worth. Unless the primary residence was purchased within 60 days prior to the date hereof, indebtedness incurred within 60 days prior to the date hereof that is secured by the primary residence also should be deducted from net worth. Joint net worth can be the aggregate net worth of the Seller and spouse or spousal equivalent; assets need not be held jointly to be included in the calculation. Reliance on the joint net worth standard does not require the Buyer's Shares and the Promissory Note be acquired jointly.

- ☐ Category 2     The Seller is a natural person who had an individual income in excess of \$200,000 in each of the two most recent years, or a joint income with his or her spouse or spousal equivalent in excess of \$300,000 in each of the two most recent years, and has a reasonable expectation of reaching the same income level in 2021.

**NOTICE TO FLORIDA RESIDENTS:**

**FLORIDA LAW PROVIDES THAT WHEN SALES ARE MADE TO FIVE OR MORE PERSONS IN FLORIDA, ANY SALE MADE IN FLORIDA IS VOIDABLE BY THE PURCHASER WITHIN THREE DAYS AFTER THE FIRST TENDER OF CONSIDERATION IS MADE BY SUCH PURCHASER TO THE COMPANY OR WITHIN THREE DAYS AFTER THE AVAILABILITY OF THAT PRIVILEGE IS COMMUNICATED TO SUCH PURCHASER, WHICHEVER OCCURS LATER.**

**THIS JOINDER AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER ARE GOVERNED BY, AND WILL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF ILLINOIS.**

*[Remainder of page intentionally left blank]*

**IN WITNESS WHEREOF**, the undersigned has caused this Joinder Agreement to be duly executed and delivered as of the date first written above.

**SELLER:**

BY: \_\_\_\_\_

PRINTED NAME: \_\_\_\_\_

*[Signature Page to Joinder Agreement]*