

# SECURITIES & EXCHANGE COMMISSION EDGAR FILING

**Recruiter.com Group, Inc.**

**Form: 8-K**

**Date Filed: 2021-03-31**

Corporate Issuer CIK: 1462223

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**  
Washington, D.C. 20549

**FORM 8-K**

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities and Exchange Act of 1934

Date of Report (Date of earliest event reported): March 25, 2021

**RECRUITER.COM GROUP, INC.**

(Exact name of Registrant as specified in its charter)

**Nevada**

(State or other jurisdiction  
of incorporation)

**001-53641**

(Commission File Number)

**90-1505893**

(IRS Employer  
Identification No.)

**100 Waugh Dr. Suite 300**

**Houston, Texas 77007**

(Address of principal executive offices, including zip code)

**(855) 931-1500**

(Registrant's telephone number, including area code)

Check the appropriate box below if the 8-K filing is intended to simultaneously satisfy the filing obligations of the registrant under any of the following provisions:

- ☐ Written communication pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- ☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c)).

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
None	None	None

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (17 CFR §230.405) or Rule 12b-2 of the Securities Exchange Act of 1934 (17 CFR §240.12b-2).

Emerging growth company ☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

**Item 1.01 Entry into a Material Definitive Agreement.**

Effective March 25, 2021, the Recruiter.com Group, Inc. (the "Company"), through a wholly-owned subsidiary, entered into an Asset Purchase Agreement and Plan of Reorganization (the "APA") with Upsider, Inc., a Delaware corporation ("Upsider"), to acquire all the assets and several liabilities of Upsider (the "Upsider Purchase"). As consideration in the Upsider Purchase, Upsider's shareholders will receive a base purchase price of \$2,860,800, including a total of 807,734 shares (the "Consideration Shares") of our common stock, par value \$0.0001 ("Common Stock"), valued at \$2,699,319, based on a price per share of \$3.3047, the volume-weighted average price of the Common Stock for the 30-day period immediately prior to the Closing Date (as defined in the APA). 129,851 of the Consideration Shares will be held in reserve. The assets acquired in the APA consist primarily of sales and client relationships, contracts, intellectual property, partnership and vendor agreements and certain other assets, along with a de minimis amount of other assets.

The Company also entered into a Registration Rights Agreement with Upsider (the "Registration Rights Agreement"). The Registration Rights Agreement provides that following the Six-Month Anniversary (as defined in the Registration Rights Agreement), and for a period of five years thereafter, Upsider shall have the ability, on three occasions, to demand that Company shall file with the Securities and Exchange Commission (the "Commission") a registration statement on Form S-1 or Form S-3, pursuant to the terms of the Registration Rights Agreement, to register the Consideration Shares. Additionally, pursuant to the Registration Rights Agreement, for a period of three (3) years following the Six-Month Anniversary, whenever the Company proposes to register the issuance or sale of any of its Common Stock or its own account or otherwise, and the registration form to be used may be used for the registration of the Consideration Shares.

The foregoing provides only brief descriptions of the material terms of the APA and the Registration Rights Agreement, does not purport to be a complete description of the rights and obligations of the parties thereunder, and such descriptions are qualified in their entirety by reference to the full text of the forms of the APA and the Registration Rights Agreement filed as exhibits to this Current Report on Form 8-K, and are incorporated herein by reference.

**Item 9.01. Exhibits.**

**(d) Exhibits**

<b>Exhibit No.</b>	<b>Exhibit</b>
10.1	<a href="#"><u>Asset Purchase Agreement and Plan of Reorganization, dated March 25, 2021, by and among Recruiter.com Group, Inc., Recruiter.com Upsider, Inc., Upsider, Inc, the selling shareholders named therein and Josh McBride.</u></a>
10.2	<a href="#"><u>Registration Rights Agreement, dated March 25, 2021, between Recruiter.com Group, Inc. and Upsider, Inc.</u></a>

**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

**RECRUITER.COM GROUP, INC.**

Dated: March 31, 2021

By: /s/ Evan Sohn  
Evan Sohn  
Chief Executive Officer

**ASSET PURCHASE AGREEMENT  
AND PLAN OF REORGANIZATION**

by and among

**RECRUITER.COM GROUP, INC.,**

**RECRUITER.COM UPSIDER, INC.,**

**UPSIDER INC.,**

**THE SELLING SHAREHOLDERS NAMED HEREIN**

and

**JOSH MCBRIDE, as Shareholders' Representative**

**dated as of March 25, 2021**

**TABLE OF CONTENTS**

ARTICLE I DEFINITIONS	1
ARTICLE II PURCHASE AND SALE	8
Section 2.01 Purchase and Sale of Assets	8
Section 2.02 Excluded Assets	9
Section 2.03 Assumed Liabilities	10
Section 2.04 Excluded Liabilities	10
Section 2.05 Purchase Price	10
Section 2.06 Reserved	11
Section 2.07 Non-Assignable Assets	11
Section 2.08 Earn-Out Consideration	12
ARTICLE III CLOSING	14
Section 3.01 Closing	14
Section 3.02 Closing Deliverables	14
ARTICLE IV REPRESENTATIONS AND WARRANTIES OF SELLER	15
Section 4.01 Organization and Authority of Seller	15
Section 4.02 No Conflicts; Consents	16
Section 4.03 Financial Statements	16
Section 4.04 Absence of Certain Changes, Events and Conditions	16
Section 4.05 Assigned Contracts	16
Section 4.06 Title to Tangible Personal Property	16
Section 4.07 Ownership and Sufficiency of Assets	16
Section 4.08 Intentionally Left Blank	17
Section 4.09 Intellectual Property	17
Section 4.10 Legal Proceedings; Governmental Orders	17
Section 4.11 Compliance with Laws; Permits	17
Section 4.12 Employee Benefit Programs	18
Section 4.13 Labor and Employment Matters	19
Section 4.14 [Intentionally Left Blank]	21
Section 4.15 Insurance	21
Section 4.16 Related Party Transactions	21
Section 4.17 Material Customers; Material Suppliers	21
Section 4.18 Taxes and Tax Returns	21
Section 4.19 No Undisclosed Liabilities	22
Section 4.20 Material Contracts	22
Section 4.21 Books and Records	23
Section 4.22 Brokers	23
Section 4.23 No Other Representations and Warranties	23
ARTICLE V REPRESENTATIONS AND WARRANTIES OF BUYER	24
Section 5.01 Organization and Authority of Buyer	24
Section 5.02 No Conflicts; Consents	24
Section 5.03 Solvency; Sufficiency of Funds	24

Section 5.04	Legal Proceedings	25
Section 5.05	SEC Filings	25
Section 5.06	Brokers	25

ARTICLE VI COVENANTS		25
Section 6.01	Conduct of Business Prior to the Closing	25
Section 6.02	Access to Information	25
Section 6.03	Supplement to Disclosure Schedules	26
Section 6.04	Employees and Employee Benefits	26
Section 6.05	Confidentiality	27
Section 6.06	Non-Competition; Non-Solicitation	27
Section 6.07	Governmental Approvals and Consents	28
Section 6.08	Books and Records	28
Section 6.09	Closing Conditions	29
Section 6.10	Public Announcements	29
Section 6.11	Bulk Sales Laws	29
Section 6.12	Taxes	29
Section 6.13	Further Assurances	30
ARTICLE VII CONDITIONS TO CLOSING		30
Section 7.01	Conditions to Obligations of All Parties	30
Section 7.02	Conditions to Obligations of Buyer	30
Section 7.03	Conditions to Obligations of Seller	31
ARTICLE VIII INDEMNIFICATION		32
Section 8.01	Survival	32
Section 8.02	Indemnification by Selling Shareholders	32
Section 8.03	Indemnification by Buyer	32
Section 8.04	Certain Limitations	33
Section 8.05	Indemnification Procedures	33
Section 8.06	Tax Treatment of Indemnification Payments	34
Section 8.07	Exclusive Remedies	34
Section 8.08	Release of Indemnity Holdback Amount	34
ARTICLE IX MISCELLANEOUS		35
Section 9.01	Expenses	35
Section 9.02	Notices	35
Section 9.03	Interpretation	36
Section 9.04	Disclosure Schedules	36
Section 9.05	Headings	36
Section 9.06	Severability	36
Section 9.07	Entire Agreement	36
Section 9.08	Successors and Assigns	36
Section 9.09	No Third-Party Beneficiaries	37
Section 9.10	Amendment and Modification; Waiver	37
Section 9.11	Governing Law	37
Section 9.12	Specific Performance	37
Section 9.13	Counterparts	37
Section 9.14	Non-Recourse	37

## **EXHIBITS**

- Exhibit A** – Employment Agreements
- Exhibit B** – Form of Bill of Sale
- Exhibit C** – Form of Assignment and Assumption Agreement
- Exhibit D** – Form of Registration Rights Agreement
- Exhibit E** – Selling Shareholders

## **ASSET PURCHASE AGREEMENT AND PLAN OF REORGANIZATION**

This Asset Purchase Agreement and Plan of Reorganization (this “**Agreement**”), dated as of March 25, 2021, is entered into among Recruiter.com Group, Inc. a Nevada Corporation (“**Recruiter**”), Recruiter.com Upsider, Inc., a Nevada corporation (“**Buyer**”), Upsider Inc., a Delaware corporation (the “**Seller**”), the shareholders of the Seller set forth herein (each, a “**Selling Shareholder**” and collectively, the “**Selling Shareholders**”), and Josh McBride, a resident of New Jersey, as the Shareholders’ Representative. Capitalized terms used and not otherwise defined herein have the meanings specified or referred to in ARTICLE I.

## **RECITALS**

**WHEREAS**, Seller has developed and is operating an online recruitment platform for employers and hiring managers providing talent acquisition solutions, and in developing Intellectual Property (as defined herein) related to talent acquisition solutions (the “**Business**”);

**WHEREAS**, Seller wishes to sell and assign to Buyer, and Buyer wishes to purchase and assume from Seller, substantially all the assets and certain specified liabilities of the Business as a going concern, subject to the terms and conditions set forth herein;

**WHEREAS**, as soon as practicable after the Closing Date, Seller shall liquidate for federal income tax purposes;

**WHEREAS**, Seller and Buyer intend for the acquisition of the Business and the liquidation of Seller to meet the requirements to be a reorganization pursuant to Section 368(a) of the Internal Revenue Code of 1986;

**WHEREAS**, Seller and the Selling Shareholders agree, for the benefit of Buyer and Recruiter from and after the Closing Date, to be bound by the provisions set forth in Section 6.06 relating to certain restrictive covenants; and

**WHEREAS**, concurrently with the execution and delivery of this Agreement, as an inducement for Buyer and Recruiter to enter into this Agreement, each of the Key Employees set forth herein is entering into an employment agreement (the effectiveness of which will be conditioned on the consummation of the transactions contemplated by this Agreement on the Closing Date) with Recruiter, copies of which are attached hereto as Exhibit A (collectively, the “Employment Agreements”).

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

## **ARTICLE I** **DEFINITIONS**

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

“Accounts Receivable” has the meaning set forth in Section 2.01(b).

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

---

S-1

---

“Agreement” has the meaning set forth in the Preamble.

“Apportioned Obligations” has the meaning set forth in Section 6.12(b).

“Assigned Contracts” has the meaning set forth in Section 2.01(d).

“Assignment and Assumption Agreement” has the meaning set forth in Section 3.02(a)(ii).

“Assumed Liabilities” has the meaning set forth in Section 2.03.

“Balance Sheet” has the meaning set forth in Section 4.03.

“Balance Sheet Date” has the meaning set forth in Section 4.03.

“Bill of Sale” has the meaning set forth in Section 3.02(a)(i).

“Books and Records” has the meaning set forth in Section 2.01(k).

“Business” has the meaning set forth in the RECITALS.

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

“Buyer” has the meaning set forth in the RECITALS.

“Buyer Closing Certificate” has the meaning set forth in Section 7.03(d).

“Recruiter Restricted Common Stock” has the meaning set forth in Section 2.05(b).

“Cash” has the meaning set forth in Section 2.01(a).

“Closing” has the meaning set forth in Section 3.01.

“Closing Cash Amount” means an amount equal to \$14,000.

“Closing Date” has the meaning set forth in Section 3.01.

“Closing Payment” has the meaning set forth in Section 2.05(b).

"Code" means the Internal Revenue Code of 1986, as amended.

"Common Stock Purchase Price" has the meaning set forth in Section 2.05(b).

"Confidentiality Agreement" means the Confidentiality Agreement, dated as of January 5, 2021, between Recruiter and Seller.

"Contracts" means all legally binding written contracts, leases, mortgages, licenses, sublicenses, purchase orders, loan agreements, instruments, notes, commitments, undertakings, indentures and other agreements, or any binding undertakings to enter in to any of the foregoing.

---

S-2

---

"Customer Data" means any and all data submitted by, or compiled in relation to, customers of the Business, including but not limited to personal data and/or other identifying and profiling information, account activity, KYC and due diligence information, anti-money laundering, customer correspondence and any other data or information collected, compiled or stored in relation to customers.

"Disclosed Assumed Liabilities" has the meaning set forth in Section 2.03(c).

"Disclosure Schedules" means the Disclosure Schedules delivered by Seller and Buyer concurrently with the execution and delivery of this Agreement.

"Early Earn-Out Consideration" has the meaning set forth in Section 2.08(a)(ii).

"Earn-Out Consideration" has the meaning set forth in Section 2.08(a)(i).

"Employee Program" has the meaning set forth in Section 4.12(f)(i).

"Employees" means those Persons employed by Seller who work primarily for the Business immediately prior to the Closing.

"Employment Agreements" has the meaning set forth in the RECITALS.

"Encumbrance" means any lien (statutory or otherwise), pledge, mortgage, deed of trust, security interest, charge, claim, attachment, hypothecation, option, right of first refusal, right of first offer, easement, encroachment, deed restriction, preferential arrangement, restrictive covenant or change (including, without limitation, any conditional sale or title retention agreement or lease in the nature thereof) or other similar encumbrance or any agreement to file any of the foregoing.

"Equity" means, with respect to any Person, any and all shares, interests, participations, rights in or other equivalents of such Person's capital stock, partnership interests, membership interests, limited liability company interests or other equivalent equity or ownership interests and any rights, warrants or options exchangeable or exercisable for or convertible into such capital stock or other equity or ownership interests (whether embedded in other securities or not).

"ERISA Affiliate" has the meaning set forth in Section 4.12(f)(ii).

"Excluded Assets" has the meaning set forth in Section 2.02.

"Excluded Liabilities" has the meaning set forth in Section 2.04.

"Financial Statements" has the meaning set forth in Section 4.03.

"Fraud" means, with respect to a party, an actual and intentional misrepresentation of a material existing fact with respect to the making of any representation or warranty in ARTICLE IV or Article V, made by such party, (a) with respect to Seller, to Seller's actual knowledge, of its falsity and made for the purpose of inducing the other party to act, and upon which the other party justifiably relies with resulting Losses and (b) with respect to Buyer or Recruiter, to Buyer's or Recruiter's actual knowledge, of its falsity and made for the purpose of inducing the other party to act, and upon which the other party justifiably relies with resulting Losses.

"Fundamental Warranties" means the representations and warranties in Section 4.01, Section 4.02, Section 4.06, Section 4.07, Section 5.01 and Section 5.05.

---

S-3

---

"GAAP" means Generally Accepted Accounting Principles.

"General Warranties" means the representations and warranties in Article IV and Article V other than the Fundamental Warranties and the Tax Warranties.

"Governmental Authority" means (i) any international, multinational, national, federal, state, local or foreign government or political subdivision thereof, or any agency or instrumentality of such government or political subdivision, including without limitation, any department, central bank, court, minister, governor-in-counsel, cabinet commission, board, bureau, agency, commissioner, tribunal or instrumentality (whether domestic or foreign), (ii) any self-regulated organization or other non-governmental regulatory authority or quasi-governmental authority (to the extent that the rules, regulations or orders of such organization or authority have the force of Law), or any arbitrator, court or tribunal of competent jurisdiction, (iii) any stock exchange, and (iv) any quasi-governmental or private body exercising

any regulatory, administrative, expropriation or taxing authority under or for the account of any of the foregoing.

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

"Indemnified Party" has the meaning set forth in Section 8.04.

"Indemnifying Party" has the meaning set forth in Section 8.04.

"Insurance Policies" has the meaning set forth in Section 4.15.

"Intellectual Property" means any and all of the following arising pursuant to the Laws of any jurisdiction throughout the world: (a) registered and unregistered trademarks, service marks, trade names, and similar indicia of source of origin, all registrations and applications for registration thereof, and the goodwill connected with the use of and symbolized by the foregoing; (b) registered and unregistered copyrights and all registrations and applications for registration thereof, including without limitation, all compilations, databases and computer programs, manuals and other documentation, and all derivatives, translations adaptations and combinations of any of the foregoing; (c) trade secrets and know-how; (d) patents and patent applications; (e) internet domain name registrations; and (f) other intellectual property and related proprietary rights.

"Intellectual Property Agreements" means all licenses, sublicenses and other agreements by or through which other Persons grant Seller, or Seller grants any other Persons, any exclusive or non-exclusive rights or interests in or to any Intellectual Property that is used in the Business.

"Intellectual Property Assets" means all Intellectual Property that is owned by Seller and used in connection with the Business, including the Intellectual Property Registrations and the Software Assets set forth on Section 4.09(a) of the Disclosure Schedules including all goodwill in the same.

"Intellectual Property Registrations" means all Intellectual Property Assets that are subject to any issuance, registration, application or other filing by, to or with any Governmental Authority or authorized private registrar in any jurisdiction, including registered trademarks, domain names, and copyrights, issued and reissued patents and pending applications for any of the foregoing.

"Key Employees" means Josh McBride and Xuan Smith.

---

S-4

---

"Knowledge of Seller," "Seller's Knowledge," or any other similar knowledge qualification means the actual knowledge of Josh McBride and Xuan Smith, after reasonable inquiry.

"Law" means any domestic or foreign, federal provincial, state or local statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, writ, injunction, judgment, award, administrative or judicial decision or interpretation, decree, other requirement or rule of law of any Governmental Authority.

"Liabilities" means liabilities, obligations or commitments of any nature whatsoever, whether asserted or unasserted, known or unknown, absolute or contingent, accrued or unaccrued, matured or unmatured or otherwise.

"Losses" means losses, damages, liabilities, deficiencies, proceedings, judgments, interest, awards, penalties, fines, costs or expenses of whatever kind, including reasonable attorneys' fees and the cost of enforcing any right to indemnification hereunder; provided, however, that "Losses" shall not include punitive damages, except to the extent actually awarded to a third party.

"Material Adverse Effect" means any event, occurrence, fact, condition or change that is materially adverse to (a) the business, results of operations, financial condition or assets of the Business, taken as a whole, or (b) the ability of Seller to consummate the transactions contemplated by this Agreement or the other Transaction Documents; provided, however, that "Material Adverse Effect" shall not include any event, occurrence, fact, condition or change, directly or indirectly, arising out of or attributable to: (i) general economic or political conditions; (ii) conditions generally affecting the industries in which the Business operates; provided, that such events, occurrences, facts, conditions or changes do not otherwise have a disproportionate effect on Seller, taken as a whole; (iii) acts of war (whether or not declared), armed hostilities or terrorism, or the escalation or worsening thereof; (iv) any action required or permitted by this Agreement or any action taken (or omitted to be taken) with the written consent of or at the written request of Buyer or Recruiter; (v) any changes in applicable Laws or accounting rules or the enforcement, implementation or interpretation thereof after the date hereof; provided, that such changes do not otherwise have a disproportionate effect on Seller, taken as a whole or Selling Shareholders; (vi) the announcement, pendency or completion of the transactions contemplated by this Agreement, or (vii) any failure by the Business to meet any internal or published projections, forecasts or revenue or earnings predictions (provided, that the underlying causes of such failures (subject to the other provisions of this definition) shall not be excluded).

"Material Contracts" has the meaning set forth in Section 4.20.

"Material Customer" has the meaning set forth in Section 4.17(a).

"Material Suppliers" has the meaning set forth in Section 4.17(b).

"Monthly Revenue Run Rate" or "MRR" shall mean the total revenue, for a given one (1) month period, derived exclusively from legitimate, bona fide purchases in the ordinary course of business from customers that are not Affiliates of Seller of one (1) month subscriptions to access Seller's software, the revenue for which can be designated, according to GAAP, as having been fully earned by Seller within a one (1) month period. By way of example, if a customer purchases a one (1) year-long subscription in any given month, this amount may be counted in the MRR by dividing the purchase amount by twelve.



"Permits" means all permits, licenses, franchises, approvals, variances, authorizations, exemptions, registrations and consents required to be obtained from Governmental Authorities.

"Permitted Encumbrances" means (a) liens for Taxes not yet due and payable or being contested in good faith by appropriate procedures and for which an adequate reserve is provided in the Financial Statements; (b) mechanics', carriers', workmen's, repairmen's or other like liens arising or incurred in the ordinary course of business; (c) easements, rights of way, zoning ordinances, restrictions and other similar encumbrances affecting Real Property; (d) liens arising under original purchase price conditional sales contracts and equipment leases with third parties entered into in the ordinary course of business; and (e) other imperfections of title or Encumbrances, if any, that have not had, and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

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

"Post-Closing Apportioned Period" has the meaning set forth in Section 6.12(b).

"Pre-Closing Apportioned Period" has the meaning set forth in Section 6.12(b).

"Pro Rata Share" means, with respect to a Shareholder, a percentage equal to such Shareholder's pro rata portion of the Purchase Price actually received by Seller (calculated as such Shareholder's percentage of Equity ownership in the applicable Seller, as set forth in Section 1.01(b) of the Disclosure Schedules).

"Purchased Assets" has the meaning set forth in Section 2.01.

"Representative" means, with respect to any Person, any and all directors, officers, managers, members, employees, consultants, financial advisors, counsel, accountants and other agents of such Person.

"SBA" means the United States Small Business Administration.

"SEC" means the United States Securities and Exchange Commission

"SEC Filings" means the Quarterly Reports on Form 10-Q, Annual Reports on Form 10-K and Current Reports on Form 8-K made available to the public through the EDGAR system.

"Seller" has the meaning set forth in the Preamble.

"Seller Closing Certificate" has the meaning set forth in Section 7.02(d).

"Seller Employee Program" has the meaning set forth in Section 4.12(a).

"Selling Parties" means, collectively, Seller and the Selling Shareholders.

"Seller Benefit Plans" has the meaning set forth in Section 2.02(i).

"Selling Shareholders" means those people owning shares of Seller as listed in Exhibit E –Selling Shareholders. The Exhibit will contain the Selling Shareholders' names and Pro Rata Shares.

"Six Month Period" means the first full sixth (6<sup>th</sup>) month period immediately following the Closing Date. For example, if the Closing Date is April 5, 2021, the Six Month Period is April 5, 2021 through September 5, 2021.

"Software" means computer software, programs, and databases in any form, including source code, object code, operating systems and specifications, data, databases, database management code, tools, developers kits, utilities, graphical user interfaces, menus, artwork, images, icons, forms and software engines, and all versions, updates, corrections, enhancements and modifications thereof, and all related technical and functional documentation, developer notes, comments, and annotations.

"Software Assets" means all Software that Seller has an ownership interest of any nature in and is used in connection with the Business, including the Software set forth on Section 4.09(a) of the Disclosure Schedules.

"Tangible Personal Property" has the meaning set forth in Section 2.01(e).

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

"Tax Return" means any return, declaration, report, claim for refund, information return or statement or other document required to

be filed with respect to Taxes, including any schedule or attachment thereto, and including any amendment thereof.

“Tax Warranties” means the representations and warranties in Section 4.18.

“Transaction Documents” means this Agreement, the Bill of Sale, the Assignment and Assumption Agreement, and the other agreements, instruments and documents required to be delivered at the Closing.

“Transaction Expenses” means the fees, costs and expenses of attorneys, accountants or other third parties, special bonuses, transaction-related bonuses, amounts under phantom equity or retention plans, severance plans, accelerated benefits or other similar compensation payable to any officer, manager, employee, equityholder, member or Affiliate of the Seller, in each case including the employer portion of all payroll or employment taxes applicable thereto, or otherwise incurred by or for the benefit of the Seller in connection with: (a) the transactions contemplated by this Agreement, (b) the due diligence conducted in anticipation of the transactions contemplated by this Agreement, (c) the negotiation, preparation and review of this Agreement (including the Schedules) and all agreements, certificates, opinions and other instruments and documents delivered or to be delivered in connection with the transactions contemplated by this Agreement, or (d) the preparation and submission of any filing or notice required to be made or given in connection with the transactions contemplated by this Agreement and the obtaining of any consent required to be obtained in connection with any transactions contemplated by this Agreement, including, but not limited to, (i) any Transfer Taxes payable in accordance with Section 6.12(a), (ii) the legal services performed by Kilpatrick Townsend & Stockton LLP, (iii) any broker’s or finder’s fees, and (iv) funding the Shareholders’ Reserve Account; with such Transaction Expenses not to exceed amount of Base Purchase Price.

“Transferred Employee” has the meaning set forth in Section 6.04(a).

“WARN Act” has the meaning set forth in Section 4.13(e).

---

S-7

---

“Websites” means [www.upsider.co](http://www.upsider.co), [www.upsider.ai](http://www.upsider.ai), [www.upsider.net](http://www.upsider.net), [www.upsider.io](http://www.upsider.io), [www.joinupsider.com](http://www.joinupsider.com) and [www.getupsider.com](http://www.getupsider.com).

## **ARTICLE II**

### **PURCHASE AND SALE**

Section 2.01 Purchase and Sale of Assets. Subject to the terms and conditions set forth herein, at the Closing, Seller shall sell, convey, assign, transfer and deliver to Buyer free from any Encumbrance, and Buyer shall purchase from Seller free from any Encumbrance, all of Seller’s legal and beneficial right, title and interest in, to and under all of the tangible and intangible assets, properties and rights of every kind and nature and wherever located (other than the Excluded Assets), that relate to, or are used or held for use in connection with, the Business (collectively, the “Purchased Assets”), with a view to Buyer carrying on the Business as a going concern in succession to Seller including the following:

(a) all cash, negotiable instruments, and cash equivalents held by, for, or on behalf of the Business, whether restricted or unrestricted, including, for the avoidance of doubt, cash held in bank accounts and elsewhere within the Business and cash held for or on behalf of third parties, including but not limited to customer deposits (“Cash”).

(b) all accounts receivable of the Business (“Accounts Receivable”);

(c) all Contracts set forth on Section 2.01(d) of the Disclosure Schedules, the Intellectual Property Agreements set forth on Section 4.09(a) of the Disclosure Schedules and the contracts of employment for each Employee set forth on Section 4.12(a) of the Disclosure Schedule (collectively, the “Assigned Contracts”);

(d) all user and personal profiles, resumes, and client, CRM, recruiter and other databases, all brands, Website domains, software code, servers, other hardware and all other Intellectual Property Assets, including, without limitation, the right to sue and recover for past, present or future infringement or other unauthorized use of such Intellectual Property Assets;

(e) all furniture, fixtures, equipment, machinery, tools, vehicles, office equipment, supplies, computers, telephones and other tangible personal property of the Business (the “Tangible Personal Property”); deposits, prepayments and prepaid expenses relating to the Purchased Assets;

(f) all prepaid expenses, credits, advance payments, security deposits, charges, sums and fees to the extent related to any Purchased Assets;

(g) all telephone numbers, fax numbers, e-mail addresses, postal addresses and postal boxes related to or used in the Business;

(h) all Permits owned, held or used by Seller in connection with the Business to the extent transferrable under applicable Law;

(i) all of Seller’s rights under warranties, indemnities and all similar rights against third parties to the extent related to any Purchased Assets;

(j) originals or, where not available, copies, of all books and records, including books of account, ledgers and general, financial and accounting records, machinery and equipment maintenance files, Customer Data, customer purchasing histories, price lists, distribution lists, supplier lists, production data, quality control records and procedures, formulae, designs, specifications, drawings, product development, data, manuals, handbooks, plans and instructions, customer complaints and inquiry files, research and development files, sales material and records, marketing and promotional surveys, material and research and any other information relating to the operation, management, administration or financial affairs of the Business, including business plans, forecasts and information relating to business development (collectively, “Books and Records”);

(k) all goodwill associated with any of the assets described in the foregoing clauses; and

(l) all other assets of Seller relating to the Business, other than the Excluded Assets.

Section 2.02 Excluded Assets. Other than the Purchased Assets, Buyer expressly understands and agrees that it is not purchasing or acquiring, and Seller are not selling or assigning, any other assets or properties of Seller, and all such other assets and properties shall be excluded from the Purchased Assets (collectively, the "Excluded Assets"). Excluded Assets include the following assets and properties of Seller:

(a) all Contracts that are not Assigned Contracts;

(b) the corporate seals, organizational documents, minute books, stock books, Tax Returns, books of account or other records having to do with the corporate organization of Seller, all employee-related or employee benefit-related files or records (other than personnel files of Transferred Employees), and any other books and records that Seller are prohibited from disclosing or transferring to Buyer under applicable Law and is required by applicable Law to retain;

(c) all insurance policies of Seller and all rights to applicable claims and proceeds thereunder, except to the extent the proceeds under any such policy may be applied to cover the indemnity obligations of Seller hereunder;

(d) all Tax assets (including duty and Tax refunds and prepayments) of Seller or any of their Affiliates;

(e) all rights to any action, suit or claim of any nature available to or being pursued by Seller, whether arising by way of counterclaim or otherwise;

(f) all books, records, and other materials prepared by, or emails and other correspondence with, outside legal counsel, together with the related attorney-client privilege and all attorney work product protections;

(g) all books, records, other materials, emails and other correspondence relating to Seller's or the Selling Shareholders' preparation and negotiation of this Agreement and the other Transaction Documents and the evaluation and consummation of the transactions contemplated hereby and thereby;

(h) the rights that accrue or will accrue to Seller under the Transaction Documents; and

(i) all employee benefit plans maintained by Seller or any Affiliates thereof (the "Seller Benefit Plans"); and

(j) the assets, properties and rights, if any, specifically set forth on Section 2.02(j) of the Disclosure Schedules.

Section 2.03 Assumed Liabilities. Subject to the terms and conditions set forth herein, Buyer and Recruiter shall assume and agree to pay, perform and discharge when due any and the following (and only the following) Liabilities of Seller arising out of or relating to the Business or the Purchased Assets on or after the Closing, but specifically excluding the Excluded Liabilities (collectively, the "Assumed Liabilities"):

(a) all Liabilities arising under or relating to the Assigned Contracts after the Closing Date;

(b) all Liabilities for (i) Taxes relating to the Business, the Purchased Assets or the Assumed Liabilities for any taxable period (or any portion thereof) beginning after the Closing Date and (ii) Taxes for which Buyer is liable pursuant to Section 6.12; and

(c) those Liabilities of Seller, if any, specifically set forth on Section 2.03(c) of the Disclosure Schedules (the "Disclosed Assumed Liabilities").

Section 2.04 Excluded Liabilities. Recruiter and Buyer shall not assume and shall not be responsible to pay, perform or discharge any of the following Liabilities of Seller (collectively, the "Excluded Liabilities"):

(a) any Liabilities arising out of or relating to Seller's ownership or operation of the Business and the Purchased Assets prior to the Closing Date;

(b) any Liabilities relating to or arising out of the Excluded Assets;

(c) any Liabilities for (i) Taxes relating to the Business, the Purchased Assets or the Assumed Liabilities for any taxable period ending on or prior to the Closing Date and (ii) any other Taxes of Seller (other than Taxes allocated to Buyer under Section 6.12) for any taxable period;

(d) except as specifically provided in Section 6.04, any Liabilities of Seller relating to or arising out of (i) the employment, or termination of employment, of any Employee prior to the Closing, (ii) workers' compensation claims of any Employee which relate to events occurring prior to the Closing Date; and (iii) the Seller Benefit Plans;

(e) any Liabilities of Seller arising or incurred in connection with the negotiation, preparation, investigation and performance of

this Agreement and the other Transaction Documents, and the transactions contemplated hereby and thereby, including, without limitation, fees and expenses of counsel, accountants, consultants, advisers and others; and

(f) all Liabilities relating to Contracts that are not Assigned Contracts;

(g) all Liabilities of Seller other than the Assumed Liabilities.

#### Section 2.05 Purchase Price.

(a) The base purchase price (the "Base Purchase Price") for the Purchased Assets shall be Two Million Eight Hundred Sixty Thousand Eight Hundred Dollars (\$2,860,800), which shall be paid as set forth below.

---

S-10

(b) The Buyer and/or Recruiter, as appropriate, shall deliver to Seller on the Closing Date the following amounts: (i) cash in an aggregate amount equal to \$82,983 by wire transfer of immediately available funds to an account identified in advance by Seller (the "Closing Cash Payment"), and (ii) 807,734 shares of Recruiter's common stock (the "Closing Stock Payment" and, together with the Closing Cash Payment, the "Closing Payment") (which was obtained by *dividing* [\$2,860,800 Base Purchase Price *minus* Disclosed Assumed Liabilities in the amount of \$108,500 *minus* Closing Cash Payment in the amount of \$82,983] by \$3.3047, which is the volume-weighted average price of Recruiter's common stock (the "Recruiter Restricted Common Stock") for the 30-day period immediately prior to the Closing Date (the "Per Share Stock Price")).

(c) At the Closing, the Buyer and/or Recruiter, as appropriate, will subtract and withhold from the Closing Stock Payment 129,851 shares of Recruiter Restricted Common Stock (the "Indemnity Holdback Amount") (which was obtained by *dividing* (i) Four Hundred Twenty-Nine Thousand One Hundred Twenty Dollars (\$429,120), which is equal to 15% of the Base Purchase Price, by (ii) the Per Share Stock Price of \$3.3047). The Indemnity Holdback Amount will be held by Buyer and/or Recruiter, as appropriate, and released in accordance with Article VIII below.

Section 2.06 Working Capital. At the Closing, the Seller will have a minimum amount of cash equal to the Closing Cash Amount.

#### Section 2.07 Non-Assignable Assets.

(a) Notwithstanding anything to the contrary in this Agreement, and subject to the provisions of this Section 2.07, to the extent that the sale, assignment, transfer, conveyance or delivery, or attempted sale, assignment, transfer, conveyance or delivery, to Buyer of any Purchased Asset would result in a violation of applicable Law, or would require the consent, authorization, approval or waiver of a Person who is not a party to this Agreement or an Affiliate of a party to this Agreement (including any Governmental Authority), and such consent, authorization, approval or waiver shall not have been obtained prior to the Closing, this Agreement shall not constitute a sale, assignment, transfer, conveyance or delivery, or an attempted sale, assignment, transfer, conveyance or delivery, thereof; provided, however, that, subject to the satisfaction or waiver of the conditions contained in ARTICLE VII, the Closing shall occur notwithstanding the foregoing without any adjustment to the Purchase Price on account thereof. Following the Closing, Seller, Buyer and Recruiter shall use commercially reasonable efforts, and shall cooperate with each other, to obtain any such required consent, authorization, approval or waiver, or any release, substitution or amendment required to novate all liabilities and obligations under any and all Assigned Contracts or other liabilities that constitute Assumed Liabilities or to obtain in writing the unconditional release of all parties to such arrangements, so that, in any case, Buyer and Recruiter shall be solely responsible for such liabilities and obligations from and after the Closing Date; provided, however, that neither Seller nor Buyer shall be required to pay any consideration therefor. Once such consent, authorization, approval, waiver, release, substitution or amendment is obtained, Seller shall sell, assign, transfer, convey and deliver to Buyer the relevant Purchased Asset to which such consent, authorization, approval, waiver, release, substitution or amendment relates for no additional consideration. Applicable sales, transfer and other similar Taxes in connection with such sale, assignment, transfer, conveyance or license shall be paid by Buyer and Recruiter in accordance with Section 6.12.

(b) To the extent that any Purchased Asset or Assumed Liability cannot be transferred to Buyer following the Closing pursuant to this Section 2.07, Buyer, Recruiter and Seller shall use commercially reasonable efforts to enter into such arrangements (such as subleasing, sublicensing or subcontracting) to provide to the parties the economic and, to the extent permitted under applicable Law, operational equivalent of the transfer of such Purchased Asset or Assumed Liability to Buyer as of the Closing and the performance by Buyer and Recruiter of its obligations with respect thereto. Buyer shall, as agent or subcontractor for Seller to pay, perform and discharge fully the liabilities and obligations of Seller thereunder from and after the Closing Date. To the extent permitted under applicable Law, Seller shall, at Buyer's expense, hold in trust for and pay to Buyer promptly upon receipt thereof, such Purchased Asset and all income, proceeds and other monies received by Seller to the extent related to such Purchased Asset in connection with the arrangements under this Section 2.07. Seller shall be permitted to set off against such amounts all direct reasonably and properly incurred costs associated with the retention and maintenance of such Purchased Assets. Notwithstanding anything herein to the contrary, the provisions of this Section 2.07 shall not apply to any consent or approval required under any antitrust, competition or trade regulation Law, which consent or approval shall be governed by Section 6.07.

---

S-11

#### Section 2.08 Earn-Out Consideration.

(a) Subject to the terms of this Section 2.08, Buyer shall pay to the Shareholders' Representative for distribution to the Shareholders in accordance with their respective Pro Rata Shares, earn out consideration, if any, as follows:

(i) In the event that the MRR for any given month within the Six Month Period after the Closing Date ("Earn-Out Period") exceeds \$30,000, then Seller shall be entitled to Earn-Out Consideration. The Earn-Out Consideration shall be equal to the MRR of

the sixth month, less \$30,000, multiplied by seventy-two (72), (the "Earn-Out Consideration"); provided, in no event shall the Earn-Out Consideration exceed \$1,394,760. For clarity, an MRR of \$50,000 for the sixth month would result in an Earn-Out Consideration of \$1,440,000, and would therefore be limited to the maximum Earn-Out Consideration of \$1,394,760. An MRR of \$30,000 or less in the sixth month would result in zero Earn-Out Consideration, regardless of MRR achievement in previous months. *An example for illustrative purposes is as follows: An MRR of \$40,000 is achieved in month two, thus triggering eligibility for the Earn-Out Consideration. The MRR of month six is equal to \$45,000. Therefore, \$45,000-\$30,000 = \$15,000, multiplied by 72 = \$1,080,000.* The Earn-Out Consideration, if earned, shall be paid to Shareholders' Representative within thirty (30) days of the date it is earned by Buyer delivering to the Shareholders' Representative the aggregate number of shares of Recruiter Restricted Common Stock obtained by dividing the Earn-Out Consideration by the volume-weighted average price of the Recruiter Restricted Common Stock for the 30-day period immediately prior to the date the Earn-Out Consideration was earned.

(ii) If the MRR for any single consecutive thirty-day period during the Earn Out Period is \$60,000 or greater, then Seller shall be entitled to receive an early Earn-Out Consideration (the "Early Earn-Out Consideration"). The Early Earn-Out Consideration is not in addition to the Earn-Out Consideration, but rather as an advance against it and in no event shall the Early Earn-Out Consideration exceed \$1,394,760. The Early Earn-Out Consideration shall be calculated exactly as the Earn-Out Consideration, except using the month when \$60,000 is achieved as the calculation month, and, in addition, dividing the sum by two. The Early Earn-Out Consideration shall be equal to the MRR of the month in which \$60,000 is achieved, less \$30,000, multiplied by seventy-two (72), divided by two (2). For clarity, if \$60,000 is achieved in month three, then Seller shall be entitled to receive an Early Earn-Out Consideration of \$1,080,000 (which is  $\$30K * 72 / 2$ ).

(b) During the six-month period immediately following the Closing Date, (i) Buyer and Recruiter shall operate the Business consistent with Seller's past practices, including, but not limited to, maintaining a pricing model substantially similar to the Seller's pricing model that is in place as of the Closing Date, (ii) Buyer and Recruiter shall use its reasonable best efforts to enable the Seller to earn the maximum Earn-Out Consideration, and (iii) Buyer and Recruiter shall not, directly or indirectly, take any actions in bad faith that would have the purpose of avoiding the Earn-Out Consideration hereunder. In the event that Buyer or Recruiter breaches the requirements set forth in this subsection or if Buyer or Recruiter terminates the employment of Josh McBride or Xuan Smith without cause during the six-month period immediately following the Closing Date, then the maximum Earn-Out Consideration of \$1,394,760 shall be immediately due and payable to the Selling Shareholders. If Seller believes that Buyer or Recruiter has taken actions or operated the Business in a manner to purposely avoid paying Seller the Earn-Out Consideration, Seller shall immediately notify Buyer and Recruiter and Buyer and Recruiter shall have five days following such notice to cure such action.

---

#### S-12

(c) The contingent right to any Earn-Out Consideration is personal to the Selling Shareholders and is and shall remain nontransferable for any reason other than by operation of Law or the payment to the Estate of a Shareholder in the event of such Shareholder's death or incapacity. Any attempted assignment, pledge, hypothecation, transfer or other disposition of any right to an Earn-Out Consideration by any holder thereof (other than as set forth in the preceding sentence) shall be null and void.

Section 2.09 Appointment of Shareholders' Representative; Authority to Act. From and after the execution of the Agreement, the Shareholders' Representative shall act as the sole representative of the Shareholders and shall be authorized to act on behalf of the Shareholders and to take any and all actions required or permitted to be taken by the Shareholders or the Shareholders' Representative under this Agreement and any other transaction document, including any actions with respect to (i) any claims for indemnification pursuant to ARTICLE VIII and (ii) agreements, negotiations, and settlements and compromises of, and compliance with orders of courts with respect to any claims for indemnification, and (iii) taking all actions necessary in the judgment of the Shareholders' Representative for the accomplishment of the foregoing. The execution of this Agreement by the Shareholders shall constitute approval of the appointment of the Shareholders' Representative and all actions of the Shareholders' Representative pursuant to this Agreement and any other transaction document. In all matters relating to ARTICLE VIII, the Shareholders' Representative shall be the only Party entitled to assert the rights of the Shareholders, and the Shareholders' Representative shall perform all of the obligations of the Shareholders pursuant to this Agreement. The Buyer and Recruiter shall be entitled to rely on all statements, representations and decisions of the Shareholders' Representative. All payment obligations pursuant to this Agreement shall be satisfied and discharged by payment to the Shareholders' Representative. The Shareholders release the Buyer and Recruiter from any and all liability with regard to decisions made by the Shareholders' Representative as to how to allocate payments and costs among the Shareholders. Any notice required by the Buyer or Recruiter hereunder shall be satisfied by notice given only to the Shareholders' Representative.

Section 2.10 Shareholders' Reserve Account. The Shareholders authorize the Shareholders' Representative to establish an account (the "Shareholders' Reserve Account") for payments required by the Shareholders under this Agreement. The Shareholders' Reserve Account will be used for the purposes of paying directly, or reimbursing the Shareholders' Representative for, any third party expenses pursuant to this Agreement and the ancillary agreements hereto. The Shareholders shall not receive any interest or earning on the Shareholders' Reserve Account and irrevocably transfer and assign to the Shareholders' Representative any ownership right that they may otherwise have had in any such interest or earnings. The Shareholders' Representative will not be liable for any loss of principal of the Shareholders' Reserve Account other than as a result of gross negligence or willful misconduct. The Shareholders' Representative will hold these funds in a separate account and will not voluntarily make these funds available to his creditors in the event of bankruptcy. As soon as practicable following the Shareholders' Representative's responsibilities hereunder, the Shareholders' Representative shall promptly deliver any remaining balance of the Shareholders' Reserve Account to the Shareholders in the appropriate allocable portion. The Shareholders shall be responsible for any amounts in excess of the Shareholders' Reserve Account based on percentage of ownership of the Seller immediately prior to the Closing Date and agree to contribute such amounts to the Shareholders' Representative to meet such obligations. For Tax purposes, the Shareholders' Reserve Account shall be treated as having been received and voluntarily set aside by the Shareholders at the time of Closing. The Shareholders agree that the Shareholders' Representative is not acting as a withholding agent or in any similar capacity in connection with the Shareholders' Reserve Account.

---

#### S-13

Section 3.01 Closing. Subject to the terms and conditions of this Agreement, the consummation of the transactions contemplated by this Agreement (the "Closing") shall take place remotely by exchange of documents and signatures (or their electronic counterparts) on the second Business Day after all of the conditions to Closing set forth in ARTICLE VII are either satisfied or waived (other than conditions that, by their nature, are to be satisfied on the Closing Date), or on such other date as Seller and Buyer may mutually agree upon in writing. The date on which the Closing is to occur is herein referred to as the "Closing Date." The Closing shall be deemed effective as of 12:01 a.m., United States Eastern Standard Time, on the Closing Date.

Section 3.02 Closing Deliverables.

(a) At the Closing, Seller shall deliver to Buyer the following:

(i) a bill of sale in substantially the form attached hereto as Exhibit B (the "Bill of Sale") and duly executed by Seller, transferring the tangible personal property included in the Purchased Assets to Buyer;

(ii) an assignment and assumption agreement in substantially the form attached hereto as Exhibit C (the "Assignment and Assumption Agreement") and duly executed by Seller and Buyer, effecting the assignment to and assumption by Buyer of the Purchased Assets and the Assumed Liabilities;

(iii) the Seller Closing Certificate;

(iv) the certificates of the Secretary or Assistant Secretary of Seller required by Section 7.02(e) and Section 7.02(f);

(v) the Employment Agreements duly executed by the Key Employees; and

(vi) such other customary instruments of transfer, assumption, filings or documents, in form and substance reasonably satisfactory to Buyer, as may be required to give effect to this Agreement.

(b) At the Closing, Buyer and Recruiter, as applicable, shall deliver to Seller the following:

(i) the Closing Cash Payment by wire transfer of immediately available funds to the accounts (and in the proportions) designated in writing by Seller to Buyer;

(ii) the Assignment and Assumption Agreement duly executed by Buyer;

(iii) the Buyer Closing Certificate;

---

S-14

---

(iv) the certificates of the Secretary or Assistant Secretary of Buyer and Recruiter, as applicable, required by Section 7.03(e) and Section 7.03(f);

(v) the Employment Agreements duly executed by Recruiter;

(vi) a Registration Rights Agreement in substantially the form attached hereto as Exhibit D duly executed by Recruiter;

(vii) such other customary instruments of transfer, assumption, filings or documents, in form and substance reasonably satisfactory to Seller, as may be required to give effect to this Agreement.

(c) At the Closing, Buyer shall pay, on behalf of Seller, the following amounts, which amounts shall be deducted from the Closing Cash Payment:

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

**ARTICLE IV**  
**REPRESENTATIONS AND WARRANTIES OF SELLER**

Except as set forth in the Disclosure Schedules, Seller, jointly and severally, represent and warrant to Buyer that the statements contained in this ARTICLE IV are true and correct as of the date hereof.

Section 4.01 Organization and Authority of Seller. Seller is a corporation duly organized, validly existing and in good standing under the Laws of the State of Delaware. Seller has all necessary corporate power and authority to enter into this Agreement and the other Transaction Documents to which Seller is a party, to carry out its obligations hereunder and thereunder, and to consummate the transactions contemplated hereby and thereby. The execution and delivery by Seller of this Agreement and any other Transaction Document to which Seller is a party, the performance by Seller of its obligations hereunder and thereunder, and the consummation by Seller of the transactions contemplated hereby and thereby have been duly authorized by all requisite corporate action on the part of Seller. This Agreement and the Transaction Documents constitute legal, valid and binding obligations of Seller enforceable against Seller in accordance with their respective terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar Laws affecting creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity).

Section 4.02 No Conflicts; Consents. The execution, delivery and performance by Seller of this Agreement and the other Transaction Documents to which it is a party, and the consummation of the transactions contemplated hereby and thereby, do not and will not: result in

a violation or breach of any provision of the organizational documents of Seller; result in a violation or breach of any provision of any Law or Governmental Order applicable to Seller, the Business or the Purchased Assets; except as set forth in Section 4.02 of the Disclosure Schedules, require the consent, notice or other action by any Person under, conflict with, result in a violation or breach of, constitute a default under or result in the acceleration of any Assigned Contract; notwithstanding any disclosure of an Assigned Contract requiring consent to assign, as set forth in Section 4.02 of the Disclosure Schedule, no consent shall be required except as to those Assigned Contracts where Buyer has required consent in writing to be obtained prior to Closing as set forth on Schedule 4.02(A); (d) require from Seller any notice to any third-party or result or give rise to any Encumbrance; or (e) give rise to any material limitation or restriction, or have a material adverse effect on the Business, or the Knowledge of Seller, the ability of Buyer or Recruiter to operate the Business following the Closing;. No consent, approval, Permit, Governmental Order, declaration or filing with, or notice to, any Governmental Authority is required by or with respect to Seller in connection with the execution and delivery of this Agreement or any of the other Transaction Documents and the consummation of the transactions contemplated hereby and thereby, except as set forth in Section 4.02 of the Disclosure Schedules. Any Assigned Contract which is silent with regard to consent shall be deemed for purposes of this Agreement to not require consent to assign.

---

S-15

Section 4.03 Financial Statements. Copies of the unaudited financial statements consisting of the balance sheet of the Business as of December 31 in each of the years 2018, 2019 and 2020 and the related statements of income and retained earnings for the years then ended (the "Financial Statements") have been made available to Buyer and Recruiter. The Financial Statements have been prepared in accordance with GAAP, applied on a consistent basis throughout the period involved. The Financial Statements fairly present in all material respects the financial condition of the Business as of the respective dates they were prepared and the results of the operations of the Business for the periods indicated. For the purposes of this Agreement, the balance sheet of the Business as of December 31, 2020, is referred to herein as the "Balance Sheet" and the date thereof as the "Balance Sheet Date." The Accounts Receivable of Seller reflected on the Financial Statements, and all Accounts Receivable arising subsequent to the Balance Sheet Date are reflected properly on the books and records of the Business, are valid receivables and not subject to any offsets, refunds, adjustments, security interests (other than those, if any, held by Seller's lender, each of which, if any, shall be terminated upon payoff by Seller as of Closing), Encumbrances or counterclaims, are current and represent valid obligations arising from bona-fide sales actually made or sales or services actually performed in the ordinary course of business.

Section 4.04 Absence of Certain Changes, Events and Conditions. Except as expressly contemplated by this Agreement or as set forth on Section 4.04 of the Disclosure Schedules, from the Balance Sheet Date until the date of this Agreement, Seller has operated the Business in the ordinary course of business consistent with past practice in all material respects and there has not been: (a) change, event, condition or development that has had or would reasonably be expected to have a Material Adverse Effect; (b) any incurrence of capital expenditures or any obligations or Liabilities in respect thereof other than incurred in the ordinary course of business consistent with past practice; (c) any sale, lease, license, or other transfer, or creation or incurrence of any Lien on, any assets, securities, properties or interests of the Business, other than in the ordinary course of business consistent with past practice; (d) any sale, disposition, transfer or license to any Person of any rights to any Software Assets or any Intellectual Property Rights (other than on a non-exclusive basis in the ordinary course of business consistent with past practice); (e) any material increase in the compensation of employees or new employment contracts with existing employees; (f) change in internal controls, methods, practices, policies or procedures followed by Seller or any increase in bad debt reserves for the Business or any revaluation of the Purchased Assets.

Section 4.05 Assigned Contracts. Except as set forth on Section 4.05 of the Disclosure Schedules, no Seller is in breach of or default under any Assigned Contract.

Section 4.06 Title to Tangible Personal Property. Except as set forth in Section 4.06 of the Disclosure Schedules, Seller has good and valid title to, or a valid leasehold interest in, all Tangible Personal Property included in the Purchased Assets, free and clear of Encumbrances except for Permitted Encumbrances.

Section 4.07 Ownership and Sufficiency of Assets. Seller has good title to (or, in the case of leased Purchased Assets, valid leasehold interests in) the Purchased Assets, free and clear of all Encumbrances, other than Permitted Encumbrances. The Purchased Assets are sufficient for the continued conduct of the Business after the Closing in substantially the same manner as conducted prior to the Closing and constitute all of the rights, property and assets necessary to conduct the Business as currently conducted.

---

S-16

Section 4.08 Intentionally Left Blank.

Section 4.09 Intellectual Property.

(a) Section 4.09(a) of the Disclosure Schedules lists (i) all Intellectual Property Registrations; (ii) all Intellectual Property Agreements that are material to the conduct of the Business (excluding shrink-wrap, click-wrap, or other similar agreements for commercially available off-the-shelf software); and (iii) all Software Assets. Except as set forth in Section 4.09(a) of the Disclosure Schedules, or as would not have a Material Adverse Effect, Seller owns or has the right to use all Intellectual Property Assets and the Intellectual Property licensed to Seller under the Intellectual Property Agreements free from any Encumbrance (other than non-exclusive licenses granted in the ordinary course of business consistent with past practice) and the Intellectual Property Assets are not subject to any contract or other such agreement containing any covenant or other provision that would in any way limit or restrict the ability of Buyer or Recruiter to use, assert, enforce, or otherwise exploit the Intellectual Property Assets anywhere in the world.

(b) Except as set forth in Section 4.09(b) of the Disclosure Schedules, or as would not have a Material Adverse Effect, to Seller's Knowledge: (i) the conduct of the Business as currently conducted does not infringe, misappropriate, dilute or otherwise violate the Intellectual Property of any Person; and (ii) no Person is infringing, misappropriating or otherwise violating any Intellectual Property Assets.

(c) Notwithstanding anything to the contrary in this Agreement, Section 4.09(b) constitutes the sole representation and

Section 4.10 Legal Proceedings; Governmental Orders.

(a) Except as set forth in Section 4.10(a) of the Disclosure Schedules, there are no actions, suits, claims, investigations or other legal proceedings pending or, to Seller's Knowledge, threatened against or by Seller relating to or affecting the Business, the Purchased Assets or the Assumed Liabilities.

(b) Except as set forth in Section 4.10(b) of the Disclosure Schedules, there are no outstanding Governmental Orders and no unsatisfied judgments, penalties or awards against or affecting the Business or the Purchased Assets.

Section 4.11 Compliance with Laws; Permits. Except as set forth in Section 4.11(a) of the Disclosure Schedules, Seller is and has at all times been in compliance with all Laws applicable to the conduct of the Business and the ownership and use of the Purchased Assets. None of the representations and warranties in this Section 4.11 shall be deemed to relate to employment matters (which are governed by Section 4.13) or Tax matters (which are governed by Section 4.18). Seller own, hold or possess and are in compliance in all material respects with all Permits which are necessary for them to own, lease or possess, and operate the Business as currently conducted, and there has occurred no material default under any such Permit. No suspension or cancellation of any Permit owned or held by Seller is pending or, to the Knowledge of Seller, threatened. Each of the Permits is current, valid, subsisting and is in full force and effect and, to the Knowledge of Seller, no event has occurred and no circumstances exist, including as a result of or with respect to, the consummation of the transactions contemplated hereby, that would reasonably be expected to result in the loss of any such Permit.

---

S-17

---

Section 4.12 Employee Benefit Programs.

(a) Section 4.12(a) of the Disclosure Schedules sets forth a true, complete and correct list of every Employee Program that is maintained by Seller or an ERISA Affiliate of Seller with respect to which Seller has any current or potential Liabilities (the "Seller Employee Programs").

(b) Each Seller Employee Program that is intended to qualify under Section 401 (a) of the Code may rely on an opinion letter issued by the IRS with respect to a prototype plan adopted in accordance with the requirements for such reliance, and, to the Knowledge of Seller, no event or omission has occurred that would reasonably be expected to cause any Seller Employee Program to lose such qualification.

(c) Each Seller Employee Program is and has been operated in material compliance with Applicable Laws and regulations and is and has been administered in all material respects in accordance with Applicable Laws and regulations and with its terms.

(d) None of Seller nor any ERISA Affiliates thereof has within the past six (6) years maintained an Employee Program that is or was subject to Title IV of ERISA, Section 412 of the Code, Section 302 of ERISA or is a Multiemployer Plan, and none of Seller nor any ERISA Affiliates thereof has incurred any liability under Title IV of ERISA that has not been paid in full. None of the Seller Employee Programs provides health care or any other non-pension benefits coverage to any employees after their employment is terminated (other than as required by part 6 of subtitle B of title I of ERISA or similar state Law or benefits in the nature of severance pay pursuant to an employment, severance or similar agreement that has been disclosed to Buyer or Recruiter) or to former employees and Seller has no obligation to provide such post termination benefits.

(e) With respect to each Seller Employee Program, true, complete and correct copies of the following documents (if applicable to Seller Employee Program) have previously been delivered or made available to Buyer or Recruiter, (i) all documents embodying or governing Seller Employee Program, and any funding medium for the Seller Employee Program; (ii) the most recent IRS opinion letter; (iii) the most recently filed IRS Form 5500; (iv) the most recent actuarial valuation report; (v) the most recent summary plan description or plan document (or other descriptions provided to employees) and all modifications thereto; and (vi) all non-routine correspondence to and from any Governmental Authority.

(f) For purposes of this Section 4.12:

(i) "Employee Program" means (A) an employee benefit plan within the meaning of ERISA Section 3, whether or not subject to ERISA; (B) equity purchase plans, bonus or incentive award plans, severance pay plans, programs or arrangements, deferred compensation arrangements or agreements, employment agreements (excluding offer letters that do not provide for severance benefits or bonus payments), executive compensation plans, programs, agreements or arrangements, change in control plans, programs or arrangements, supplemental income arrangements, vacation plans, fringe benefits and all other employee benefit plans, agreements, and arrangements not described in (A) above; and (C) plans or arrangements providing compensation to employee and non-employee managers.

(ii) "ERISA Affiliate" means any entity that would have ever been considered a single employer with Seller under Section 414 of the Code, Section 4001(b) of ERISA or part of the same "controlled group" as Seller for purposes of Section 302(d)(3) of ERISA.

---

S-18

---

(iii) An entity "maintains" an Employee Program if such entity sponsors, contributes to, or provides benefits under or through such Employee Program, or has any obligation to contribute to or provide benefits under or through such Employee Program, or if such Employee Program provides benefits to or otherwise covers current or former employees, officers or managers of such entity (or their spouses, dependents, or beneficiaries).



(iv) "Multiemployer Plan" means an employee pension or welfare benefit plan to which more than one unaffiliated employer contributes and which is maintained pursuant to one or more collective bargaining agreements.

#### Section 4.13 Labor and Employment Matters.

(a) Each of Seller is and at all times during the previous three (3) years has been in compliance in all material respects with all federal and state Laws respecting employment and employment practices, terms and conditions of employment, workers' compensation, occupational safety and health, unemployment compensation, and wages and hours, including, but not limited to Title VII of the Civil Rights Act of 1964, as amended, the Equal Pay Act of 1967, as amended, the Age Discrimination in Employment Act of 1967, as amended, the Americans with Disabilities Act, as amended, the Fair Labor Standards Act, and the related rules and regulations adopted by those federal agencies responsible for the administration of such Laws, and other than payment for accrued and unused vacation leave required under Applicable Law or normal accruals of wages during the payroll cycle(s) in which the Closing Date falls, there are no arrearages in the payment of any wages due to employees. To the Knowledge of Seller, all individuals who have provided services to Seller during the previous three (3) years have been correctly classified, as applicable, as either an employee or an independent contractor. There are not currently any audits or investigations pending or, to the Knowledge of Seller, scheduled by any Governmental Authority pertaining to the employment practices of Seller and any prior audits during the previous three (3) years are set forth in Section 4.13(a) of the Disclosure Schedule.

(b) Seller is not a party to, or otherwise bound by, any collective bargaining agreement, contract, or other agreement or understanding with a labor union or labor organization, and Seller has not been a party to or otherwise bound by any such agreement, contract or understanding at any time in the previous three (3) years. None of Seller is subject to (and has not been subject to in the previous three (3) years) any charge, demand, petition, or representation proceeding seeking to compel, require, or demand it to bargain with any labor union or labor organization nor is there or has there been pending or threatened any labor strike or lockout involving Seller at any time in the previous three (3) years.

(c) Except as set forth in Section 4.13(c) of the Disclosure Schedule, all employees of Seller are employed at-will.

(d) To the Knowledge of Seller, no employee has any present intention to terminate his or her employment and Seller has, as of the date hereof, no intention to terminate or materially change the employment of any employee (in each case, such term meaning permanent and temporary, full time and part-time employees) or is a party to any confidentiality, non-competition, proprietary rights or other such agreement between such employee and any person besides Seller that would be material to the performance of such employee's employment duties, or the ability of Buyer or Recruiter to conduct the Business of Seller, nor has Seller received any notice or information concerning any such prospective change with respect to such employees.

(e) There has been no "plant closing," "business closing" or "mass layoff" as defined in the Worker Adjustment Retraining and Notification Act of 1988, as amended (the "WARN Act") or any similar state, local or foreign Law or regulation affecting any site of employment of Seller, or one or more facilities or operating units within any site of employment or facility of Seller, and, during the 90 day period preceding the date hereof, no current or former employee or consultant of Seller has suffered an "employment loss" (as defined in the WARN Act) with respect to Seller.

---

#### S-19

---

(f) Section 4.13(f) of the Disclosure Schedule contains a complete and accurate list of each current manager, officer and employee of Seller whether actively at work or not, and for each such Person identifies his or her name, employee number, title, start date, base compensation, bonus compensation and any other compensation earned in each of 2019 and 2020, current base salary or wage rate, commission eligibility and bonus arrangements (as applicable), accrued and unused vacation leave, benefits, overtime entitlement, location of employment, any professional license(s) held (as applicable), status as full-time or part-time, and status as exempt or non-exempt under the Fair Labor Standards Act. In addition, Section 4.13(f) of the Disclosure Schedule lists any employee currently on leave of absence, together with the type of leave, their expected date of return to work, if known, and indicating whether the employee is in receipt of disability benefits or workers' compensation benefits. To the extent that any employee's employment is subject to a visa or work permit, such status and any applicable date of expiration is set forth in Section 4.13(f) of the Disclosure Schedule.

(g) Section 4.13(g) of the Disclosure Schedule contains a complete and accurate list of each individual that is actively providing services as an independent contractor or consultant of Seller, including the nature of the services, consulting fees, commissions or other forms of compensation and the term of the agreement, including start date and end date, if applicable.

(h) To the Knowledge of Seller, Seller has at all times in the previous three (3) years properly classified each of its employees as exempt or non-exempt for purposes of the Fair Labor Standards Act and state, local and foreign wage and hour Laws. To the extent that Seller has treated any service provider as an independent contractor rather than an employee for the purpose of any Law at any time in the previous three (3) years, to the Knowledge of Seller, Seller's classification of such service provider has been proper for purposes of each Applicable Law, including without limitation the Code and the Fair Labor Standards Act.

(i) Except as set forth in Section 4.13(i) of the Disclosure Schedule, no officer, manager, employee, independent contractor, agent or consultant of Seller has any agreement or arrangement as to (i) change of control, (ii) payment of any amount which is triggered by, or expected to be triggered by, the transactions contemplated hereby, (iii) retention payment, (iv) deferred compensation, (v) eligibility for any severance pay or benefits in connection with any termination of employment by Seller or the employee, or (vi) termination payment required to terminate his or her employment or his or her service agreement.

(j) To the Knowledge of Seller, no employee or former employee of Seller is or, during the past three (3) years, has been (during his or her employment) an illegal or undocumented worker. Seller has in its files a Form I-9 that is validly and properly completed in accordance with Applicable Law for each employee of Seller with respect to whom such form is required under Applicable Law. Seller has not received notice or other communication from any Governmental Authority regarding any unresolved violation or alleged violation of any Applicable Law relating to hiring, recruiting, employing of (or continuing to employ) anyone who is not legally authorized to work in the United States.

(l) There are no workers' compensation claims pending against Seller nor, to the Knowledge of Seller, are there any facts that would give rise to such a claim or claims not covered by workers' compensation insurance.

Section 4.14 [Intentionally Left Blank]

Section 4.15 Insurance. Section 4.15 of the Disclosure Schedule contains a true, correct and complete list of all policies of fire, liability, product liability, workers' compensation, health and other forms of insurance presently in effect with respect to the Business (the "Insurance Policies"), including the named insured(s) and all beneficiaries thereunder, true, correct and complete copies of which have been delivered or made available by Seller to Buyer or Recruiter. All Insurance Policies are valid, outstanding and, to the Knowledge of Seller, enforceable policies. Seller has not been refused any insurance with respect to any aspect of the Business. All premiums payable under each such policy have been timely paid and no notice of cancellation or termination has been received by Seller with respect to any such policy.

Section 4.16 Related Party Transactions.

Except as set forth in Section 4.16 of the Disclosure Schedule, there are no Contracts under which Seller has any existing or future Liabilities between Seller, on the one hand, and, on the other hand, any (a) executive officer or manager of Seller or, to the Knowledge of Seller, any of such executive officer's or manager's immediate family members, or (b) owner of more than five percent (5%) of the voting power of Seller's equity interests.

Section 4.17 Material Customers; Material Suppliers.

(a) Section 4.17(a) of the Disclosure Schedule sets forth the name of each of the customers of Seller by revenue for the fiscal year ended December 31, 2020 and for the one (1) month period ended January 31, 2021 (each a "Material Customer"). Except as set forth in Section 4.17(a) of the Disclosure Schedule, since December 31, 2020, no Material Customer has canceled or otherwise terminated its relationship with Seller or has materially decreased its usage or purchase of the services or products of Seller. Except as set forth in Section 4.17(a) of the Disclosure Schedule, no Material Customer has given Seller written notice of, and to the Knowledge of Seller no Material Customer has, any plan or intention to terminate, cancel or otherwise materially and adversely modify its relationship with Seller or to decrease materially or limit its usage, purchase or distribution of the services or products of Seller; and

(b) Section 4.17(b) of the Disclosure Schedule sets forth the name of each of the ten (10) largest suppliers of Seller by cost for the fiscal years ended December 31, 2020 and for the one (1) month period ended January 31, 2021 (the "Material Suppliers"). Except as set forth on Section 4.17(b) of the Disclosure Schedule, no Material Supplier has cancelled or otherwise terminated its relationship with Seller, nor has it materially decreased its provision of services or products to Seller. Except as set forth in Section 4.17(b) of the Disclosure Schedule, the Material Supplier has not given Seller written notice of, and to the Knowledge of Seller such Material Supplier does not have, any plan or intention to terminate, cancel or otherwise materially and adversely modify its relationship with Seller or to decrease materially or limit its provision or distribution of services or products to Seller.

Section 4.18 Taxes and Tax Returns.

(a) All material Tax Returns with respect to the Business or Purchased Assets required to have been filed by Seller have been timely filed (taking into account any extension of time to file granted or obtained).

(b) All material Taxes with respect to the Business or Purchased Assets due and payable by Seller, whether or not shown or required to be shown on any Tax Returns, have been paid or will be timely paid and no such Taxes are delinquent.

(c) Seller has, in accordance with Applicable Law, invoiced, collected, withheld, reported and remitted to the appropriate Taxing Authority (within the time prescribed) all material: (i) sales, transfer, use, customs, goods and services and other Taxes which are due and payable by Seller; (ii) withholding, payroll or employment Taxes as required by Applicable Law; and (iii) all non-resident withholding Taxes as required by Applicable Law. Seller has completed and timely filed all material Forms W-2, 1099 and 1042 required with respect to any employee, independent contractor or other third party, in each case, with respect to the Business.

(d) There are no Encumbrances for Taxes against the Purchased Assets, other than sales or transfer tax arising out of the sale and transfer pursuant to this Agreement of the Purchased Assets.

(e) There are no proceedings, investigations, audits or claims now pending, or threatened in writing against Seller in respect of any Taxes relating to the Business or the Purchased Assets and, to the Knowledge of Seller, there are no other matters with any Governmental Authority relating to such Taxes, which could reasonably be expected to give rise to a material amount of Taxes relating to the Business or the Purchased Assets or result in any Encumbrance on any of the Purchased Assets (other than a Permitted Encumbrance).

(f) Section 4.18 of the Disclosure Schedules lists all of the jurisdictions in which Seller file income or franchise Tax Returns and, to the Knowledge of Seller, in the last five (5) years, no claim has been made by a Governmental Authority in a jurisdiction where Seller do not file Tax Returns relating to the Business or the Purchased Assets that Seller are or may be subject to taxation by that jurisdiction in respect of the Business or the Purchased Asset.

(g) The representations and warranties set forth in this Section 4.18 are Seller's sole and exclusive representations and

Section 4.19 No Undisclosed Liabilities. Seller has no Liabilities, whether accrued, absolute, contingent, unliquidated or otherwise, whether due or to become due, known or unknown, regardless of when asserted, except Liabilities or obligations (a) stated or adequately reserved against in the Financial Statements; (b) incurred in the ordinary course of business consistent with past practice since the Balance Sheet Date; or (c) as set forth Section 4.19 of the Disclosure Schedules.

Section 4.20 Material Contracts. Section 4.20 of the Disclosure Schedules sets forth a true, complete and accurate list of each currently effective Contract to which Seller are a party or by which they are bound, or by which any of its assets is bound, as of the date hereof, and which constitutes any of the following (collectively, the "Material Contracts"):

(a) a partnership, joint ventures, strategic alliance, or similar Contract;

(b) a Contract providing for the indemnification by Seller of any Person, other than indemnities contained in agreements for the purchase, sale or license of products in the ordinary course of business;

(c) a Contract, agreement, arrangement or obligation with another Person which purports to limit in any respect (i) the ability of Seller to solicit customers, employees or vendors, (ii) the location in which the Business operates or is conducted, or (iii) the ability of Seller or their respective successors to freely engage in any Business, including without limitation, any Contract containing non-competition, non-solicitation or exclusivity provisions;

---

S-22

(d) any license sublicense or other agreements under which any Person is granted rights in the Intellectual Property Assets, other than commercial, off-the-shelf software);

(e) a Contract that contains royalty, dividend or similar arrangements based the revenue or profits of Seller;

(f) a Contract or other agreement arrangement relating to borrowed money;

(g) a Contract or other arrangement for the acquisition or disposition of any material interest in, or any material amount of, property or assets of Seller;

(h) a Contract or other arrangement containing most-favored-nations provisions;

(i) a Contract or other arrangement that involves a material customer of the Business or involves capital expenditures in excess of \$10,000 per year;

(j) a Contract or other arrangement that contains settlement terms or a covenant not to sue;

(k) a Contract or other arrangement with an officer or director of Seller or an Affiliate thereof;

(l) a Contract that is not terminable by Seller upon sixty (60) days' notice; and

(m) a Contract or other arrangement under which Seller has made loans or advances to any employee of the Business or officers or directors of Seller.

(n) Seller has provided Recruiter with copies of all Material Contracts, and all such Material Contracts are in full force and effect and neither Seller nor, to the Knowledge of Seller, any other party thereto, is in default under or breach of any such Material Contract. Each Material Contract constitutes the legal, valid and binding obligation of Seller enforceable against Seller in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar Laws affecting creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity).

Section 4.21 Books and Records. To the extent the Books and Records are required to be delivered or made available to Recruiter pursuant to the terms of this Agreement, such Books and Records and other data and or information relating to the Business are not recorded, stored, maintained, operated or otherwise wholly or partly dependent upon or held by any means (including any electronic, mechanical or photographic process, whether computerized or not) which will not be available to Buyer or Recruiter in the ordinary course following the Closing.

Section 4.22 Brokers. No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement or any other Transaction Document based upon arrangements made by or on behalf of Seller.

Section 4.23 No Other Representations and Warranties. Except for the representations and warranties contained in this ARTICLE IV (including the related portions of the Disclosure Schedules), neither Seller nor any other Person has made or makes any other express or implied representation or warranty, either written or oral, on behalf of Seller, including any representation or warranty as to the accuracy or completeness of any information regarding the Business and the Purchased Assets furnished or made available to Recruiter and its Representatives (including any information, documents or material made available to Recruiter, management presentations or in any other form in expectation of the transactions contemplated hereby) or as to the future revenue, profitability or success of the Business, or any representation or warranty arising from statute or otherwise in Law.

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

Except as set forth in the Disclosure Schedules, Buyer and Recruiter represent and warrant to Seller that the statements contained in this ARTICLE V are true and correct as of the date hereof.

Section 5.01 Organization and Authority of Buyer and Recruiter. Each of Buyer and Recruiter is a corporation duly organized, validly existing and in good standing under the Laws of Nevada. Each of Recruiter and Buyer has all necessary corporate power and authority to enter into this Agreement and the other Transaction Documents to which each of Recruiter and Buyer is a party, to carry out its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery by each of Recruiter and Buyer of this Agreement and any other Transaction Document to which each of Recruiter Buyer is a party, the performance by each of Recruiter Buyer of its obligations hereunder and thereunder and the consummation by both Recruiter Buyer of the transactions contemplated hereby and thereby have been duly authorized by all requisite corporate action on the part of each of Recruiter and Buyer. This Agreement and the Transaction Documents constitute legal, valid and binding obligations of each of Recruiter and Buyer enforceable against both Recruiter and Buyer in accordance with their respective terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar Laws affecting creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity).

Section 5.02 No Conflicts; Consents. The execution, delivery and performance by each of Recruiter and Buyer of this Agreement and the other Transaction Documents to which it is a party, and the consummation of the transactions contemplated hereby and thereby, do not and will not: result in a violation or breach of any provision of the certificate of incorporation or by-laws of Buyer; result in a violation or breach of any provision of any Law, Governmental Authority or Governmental Order applicable to each of Recruiter and Buyer; or except as set forth in Section 5.02 of the Disclosure Schedules, require the consent, notice or other action by any Person or Governmental Authority under, conflict with, result in a violation or breach of, constitute a default under or result in the acceleration of any agreement to which each of Recruiter and Buyer is a party, except in the cases of clauses (b) and (c), where the violation, breach, conflict, default, acceleration or failure to give notice would not have a material adverse effect on each of Recruiter's and Buyer's ability to consummate the transactions contemplated hereby. No consent, approval, Permit, Governmental Order, declaration or filing with, or notice to, any Governmental Authority is required by or with respect to each of Recruiter and Buyer in connection with the execution and delivery of this Agreement and the other Transaction Documents and the consummation of the transactions contemplated hereby and thereby, except as set forth in Section 5.02 of the Disclosure Schedules and such consents, approvals, Permits, Governmental Orders, declarations, filings or notices that would not have a material adverse effect on each of Recruiter's and Buyer's ability to consummate the transactions contemplated hereby and thereby.

Section 5.03 Solvency; Sufficiency of Funds; Recruiter Restricted Common Stock. On the Closing Date, Recruiter will have available cash or other sources of immediately available funds sufficient to pay or cause to be paid the Closing Cash Payment. At the time of such issuance, Recruiter Restricted Common Stock that is being issued to Seller as partial consideration for the Purchased Assets shall be (a) duly authorized, validly issued, fully paid and non-assessable and shall be issued in compliance in all material respects with all applicable Laws and any preemptive or other similar rights, whether by Law, Contract or otherwise and (b) free and clear of all Encumbrances, options, and rights of other parties.

S-24

---

Section 5.04 Legal Proceedings. Except as set forth in Section 5.04 of the Disclosure Schedules, there are no actions, suits, claims, investigations or other legal proceedings pending or, to Buyer's knowledge, threatened against or by each of Recruiter and Buyer or any Affiliate of Buyer and Recruiter that challenge or seek to prevent, enjoin or otherwise delay the transactions contemplated by this Agreement.

Section 5.05 SEC Filings. Recruiter's SEC Filings, when they were filed with the SEC (or, if any amendment with respect to any such document was filed, when such amendment was filed), complied in all material respects with the applicable requirements of the Securities Exchange Act of 1933, as amended, and the rules and regulations thereunder and did not, as of such date, contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

Section 5.06 Brokers. No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement or any other Transaction Document based upon arrangements made by or on behalf of each of Recruiter or Buyer.

**ARTICLE VI**  
**COVENANTS**

Section 6.01 Conduct of Business Prior to the Closing. From the date hereof until the Closing, except as otherwise provided in this Agreement or consented to in writing by Buyer or Recruiter (which consent shall not be unreasonably withheld, conditioned or delayed), Seller shall (a) conduct the Business in the ordinary course of business consistent with past practice; and (b) act in good faith and use commercially reasonable efforts to maintain and preserve intact its current Business organization, operations and franchise and to preserve the rights, franchises, goodwill and relationships of Seller's Employees, customers, lenders, suppliers, regulators and others having relationships with the Business. From the date hereof until the Closing Date, except as consented to in writing by Buyer or Recruiter (which consent shall not be unreasonably withheld, conditioned or delayed), Seller shall not take any action that would cause any of the changes, events or conditions described in Section 4.04 to occur.

Section 6.02 Access to Information. From the date hereof until the Closing, Seller shall (a) afford Buyer and Recruiter, as applicable, and its Representatives reasonable access to and the right to inspect all of the Real Property, properties, assets, premises, Books and Records, Assigned Contracts and other documents and data related to the Business; (b) furnish Buyer and Recruiter, as applicable, and its Representatives with such financial, operating and other data and information related to the Business as Buyer and Recruiter, as applicable, or any of its Representatives may reasonably request; and (c) instruct the Representatives of Seller to cooperate with Buyer and Recruiter, as applicable, in its investigation of the Business; provided, however, that any such investigation shall be conducted during normal business

hours upon reasonable advance notice to Seller, under the supervision of Seller's personnel and in such a manner as not to interfere with the conduct of the Business or any other businesses of Seller. All requests by Buyer for access pursuant to this Section 6.02 shall be submitted or directed exclusively to Josh McBride or such other individuals as Seller may designate in writing from time to time. Notwithstanding anything to the contrary in this Agreement, Seller shall not be required to disclose any information to Buyer and Recruiter, as applicable, if such disclosure would, in Seller's sole discretion: (x) cause significant competitive harm to Seller and its business, including the Business, if the transactions contemplated by this Agreement are not consummated; (y) jeopardize any attorney-client or other privilege; or (z) contravene any applicable Law, fiduciary duty or binding agreement entered into prior to the date of this Agreement. Prior to the Closing, without the prior written consent of Seller, which may be withheld for any reason, Buyer and Recruiter, as applicable, shall not contact any suppliers to, or customers of, the Business and Buyer and Recruiter, as applicable, shall have no right to perform invasive or subsurface investigations of the Real Property or the improvements thereon. Buyer and Recruiter, as applicable, shall, and shall cause its Representatives to, abide by the terms of the Confidentiality Agreement with respect to any access or information provided pursuant to this Section 6.02.

---

S-25

Section 6.03 Supplement to Disclosure Schedules. From time to time prior to the Closing, Seller shall have the right (but not the obligation) to supplement or amend the Disclosure Schedules hereto with respect to any matter hereafter arising or of which Seller become aware after the date hereof (each a "Schedule Supplement"). Any disclosure in any such Schedule Supplement shall not be deemed to have cured any inaccuracy in or breach of any representation or warranty contained in this Agreement, including for purposes of the indemnification or termination rights contained in this Agreement or of determining whether or not the conditions set forth in Section 7.02(a) have been satisfied.

Section 6.04 Employees and Employee Benefits.

(a) Recruiter shall, or shall cause an Affiliate of Recruiter to, offer employment effective on the Closing Date, to all Employees, including Employees who are absent due to vacation, family leave, short-term disability or other approved leave of absence (the Employees who accept such employment and commence employment on the Closing Date, the "Transferred Employees").

(b) During the period commencing on the Closing Date and ending on the date that is 12 months from the Closing (or if earlier, the date of the Transferred Employee's termination of employment with Recruiter or an Affiliate of Recruiter), Recruiter shall, or shall cause an Affiliate of Recruiter to, provide each Transferred Employee with: (i) base salary or hourly wages that are no less than the base salary or hourly wages provided by Seller immediately prior to the Closing; (ii) target bonus opportunities (excluding equity-based compensation) that are no less than the target bonus opportunities (excluding equity-based compensation), if any, provided by Seller immediately prior to the Closing; (iii) retirement and welfare benefits that are no less favorable in the aggregate than those provided by Seller immediately prior to the Closing; and (iv) severance benefits that are no less favorable than the practice, plan or policy in effect for such Transferred Employee immediately prior to the Closing.

(c) Buyer and Recruiter, as applicable, and Seller intend that the transactions contemplated by this Agreement should not constitute a separation, termination or severance of employment of any Employee who accepts an employment offer by Recruiter that is consistent with the requirements of Section 6.04(b), including for purposes of any Seller benefit plan that provides for separation, termination or severance benefits, and that each such Employee will have continuous employment immediately before and immediately after the Closing. Recruiter and Seller shall be liable and hold Seller harmless for: (i) any statutory, common law, contractual or other severance with respect to any Employee, other than an Employee who has received an offer of employment by Recruiter on terms and conditions consistent with Section 6.04(b) hereof and declines such offer; and (ii) any claims relating to the employment of any Transferred Employee arising in connection with or following the Closing.

(d) This Section 6.04 shall be binding upon and inure solely to the benefit of each of the parties to this Agreement, and nothing in this Section 6.04, express or implied, shall confer upon any other Person any rights or remedies of any nature whatsoever under or by reason of this Section 6.04. Nothing contained herein, express or implied, shall be construed to establish, amend or modify any benefit plan, program, agreement or arrangement. The parties hereto acknowledge and agree that the terms set forth in this Section 6.04 shall not create any right in any Transferred Employee or any other Person to any continued employment with Recruiter or any of its Affiliates or compensation or benefits of any nature or kind whatsoever.

---

S-26

Section 6.05 Confidentiality. Recruiter acknowledges and agrees that the Confidentiality Agreement remains in full force and effect and, in addition, covenants and agrees to keep confidential, in accordance with the provisions of the Confidentiality Agreement, information provided to Recruiter, as applicable, pursuant to this Agreement. If this Agreement is, for any reason, terminated prior to the Closing, the Confidentiality Agreement and the provisions of this Section 6.05 shall nonetheless continue in full force and effect.

Section 6.06 Non-Competition; Non-Solicitation.

(a) For a period of three (3) years following the Closing Date (the "Restricted Period"), the prior written consent of Recruiter, each Selling Party shall not and shall not permit any of its Affiliates to, directly or indirectly, (i) engage in or assist others in engaging in the Restricted Business (as defined below); (ii) have an interest in any Person that engages directly or indirectly in the Restricted Business in any capacity, including as a partner, shareholder, member, employee, principal, agent, trustee or consultant; or (iii) cause, induce or encourage any material actual or prospective client, customer, supplier or licensor of the Business (including any existing or former client or customer of Seller and any Person that becomes a client or customer of the Business after the Closing), or any other Person who has a material business relationship with the Business, to terminate or modify any such actual or prospective relationship. "Restricted Business" means any business that competes with the services or products of any business operated by Seller, including without limitation, with respect to online recruitment platforms for employers and hiring managers providing talent acquisition solutions, and developing Intellectual Property related to talent acquisition solutions. Notwithstanding the foregoing, each Selling Party may (i) own, directly or indirectly, solely as an investment,

securities of any Person traded on any national securities exchange if such Selling Party is not a controlling Person of, or a member of a group that controls, such Person and does not, directly or indirectly, own 5% or more of any class of securities of such Person, and (ii) may conduct such activities on Recruiter's behalf as an employee or consultant.

(b) For a period of two (2) years following the Closing Date, the Selling Parties shall not, and shall not permit any of their respective Affiliates to, directly or indirectly, hire or solicit any person who is offered employment by Recruiter pursuant to Section 6.04(a) or is or was employed in the Business during the two-year period following the Closing Date, or encourage any such employee to leave such employment or hire any such employee who has left such employment, except pursuant to a general solicitation that is not directed specifically to any such employees; provided, that nothing in this Section 6.06(b) shall prevent the Selling Parties or any of their respective Affiliates from hiring (i) any employee whose employment has been terminated by Recruiter or (ii) after 180 days from the date of termination of employment, any employee whose employment has been terminated by the employee.

(c) The Selling Parties acknowledge that a breach or threatened breach of this Section 6.06 would give rise to irreparable harm to Recruiter, for which monetary damages would not be an adequate remedy, and hereby agree that in the event of a breach or a threatened breach by any Selling Party of such obligations, Recruiter shall, in addition to any and all other rights and remedies that may be available to it in respect of such breach, be entitled to seek equitable relief, including a temporary restraining order, an injunction, specific performance and any other relief that may be available from a court of competent jurisdiction (without any requirement to post bond).

---

S-27

---

(d) The Selling Parties acknowledge that the restrictions contained in this Section 6.06 are reasonable and necessary to protect the legitimate interests of Recruiter and Buyer and constitute a material inducement to Recruiter and Buyer to enter into this Agreement and consummate the transactions contemplated by this Agreement. In the event that any covenant contained in this Section 6.06 should ever be adjudicated to exceed the time, geographic, product or service or other limitations permitted by applicable Law in any jurisdiction, then any court is expressly empowered to reform such covenant, and such covenant shall be deemed reformed, in such jurisdiction to the maximum time, geographic, product or service or other limitations permitted by applicable Law. The covenants contained in this Section 6.06 and each provision hereof are severable and distinct covenants and provisions. The invalidity or unenforceability of any such covenant or provision as written shall not invalidate or render unenforceable the remaining covenants or provisions hereof, and any such invalidity or unenforceability in any jurisdiction shall not invalidate or render unenforceable such covenant or provision in any other jurisdiction.

Section 6.07 Governmental Approvals and Consents.

(a) Each party hereto shall, as promptly as possible, use its reasonable best efforts to obtain, or cause to be obtained, all consents, authorizations, orders and approvals from all Governmental Authorities that may be or become necessary for its execution and delivery of this Agreement and the performance of its obligations pursuant to this Agreement and the other Transaction Documents. Each party shall cooperate fully with the other party and its Affiliates in promptly seeking to obtain all such consents, authorizations, orders and approvals. The parties hereto shall not willfully take any action that will have the effect of delaying, impairing or impeding the receipt of any required consents, authorizations, orders and approvals.

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

(c) Seller, Recruiter and Buyer shall use commercially reasonable efforts to give all notices to, and obtain all consents from, all third parties that are described in Section 4.02 and Section 5.02 of the Disclosure Schedules; provided, however, that Seller shall not be obligated to pay any consideration therefore to any third party from whom consent or approval is requested.

Section 6.08 Books and Records.

(a) In order to facilitate the resolution of any claims made against or incurred by Seller prior to the Closing, or for any other reasonable purpose, for a period of three (3) years after the Closing, Buyer and Recruiter shall: (i) retain the Books and Records (including personnel files) relating to periods prior to the Closing in a manner reasonably consistent with the prior practices of Seller; and (ii) upon reasonable notice, afford the Seller's Representatives reasonable access (including the right to make, at Seller's expense, photocopies), during normal business hours, to such Books and Records.

---

S-28

---

(b) In order to facilitate the resolution of any claims made by or against or incurred by Buyer and Recruiter after the Closing, or for any other reasonable purpose, for a period of three (3) years after the Closing, Seller shall: (i) retain the books and records (including personnel files) of Seller that relate to the Business and its operations for periods prior to the Closing; and (ii) upon reasonable notice, afford Recruiter and Buyers' Representatives reasonable access (including the right to make, at Buyer and Recruiter, as applicable, expense, photocopies), during normal business hours, to such books and records.

(c) Neither Buyer, Recruiter nor Seller shall be obligated to provide the other party with access to any books or records

(including personnel files) pursuant to this Section 6.08 where such access would violate any Law.

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

Section 6.10 Public Announcements. Unless otherwise required by applicable Law or stock exchange requirements (based upon the reasonable advice of counsel), no party to this Agreement shall make any public announcements in respect of this Agreement or the transactions contemplated hereby or otherwise communicate with any news media without the prior written consent of the other party (which consent shall not be unreasonably withheld, conditioned or delayed), and the parties shall cooperate as to the timing and contents of any such announcement.

Section 6.11 Bulk Sales Laws. The parties hereby waive compliance with the provisions of any bulk sales, bulk transfer or similar Laws of any jurisdiction that may otherwise be applicable with respect to the sale of any or all of the Purchased Assets to Buyer.

Section 6.12 Taxes.

(a) Transfer Taxes. Buyer shall be liable all sales and transfer taxes, recording charges and similar taxes, fees or charges imposed as a result of the transactions contemplated by this Agreement, together with any interest, penalties or additions thereon, (collectively, the "Transfer Taxes"). Seller and Buyer shall be jointly responsible for preparing and filing any Tax Returns with respect to Transfer Taxes and shall cooperate each with the other in timely making all filings, returns, reports and forms as necessary or appropriate to comply with the provisions of all Applicable Laws in connection with the payment of such Transfer Taxes, and shall cooperate in good faith to minimize, to the fullest extent possible under such Laws, the amount of any such Transfer Taxes payable in connection therewith.

(b) Apportioned Taxes. Subject to Section 6.12(a), all real property Taxes, personal property Taxes and similar ad valorem obligations levied with respect to the Purchased Assets for a taxable period which includes (but does not end on) the Closing Date (collectively, the "Apportioned Obligations") shall be apportioned between Seller and Buyer as of the Closing Date based on the relative number of days of such taxable period ending on and including the Closing Date (the "Pre-Closing Apportioned Period") and the number of days of such taxable period beginning from the day after the Closing Date through the end of such taxable period (the "Post-Closing Apportioned Period"), in each case, as compared to the total number of days in such taxable period. Seller shall be liable for the proportionate amount of Apportioned Obligations that is attributable to the Pre-Closing Apportioned Period. Buyer shall be liable for the proportionate amount of the Apportioned Obligations that is attributable to the Post-Closing Apportioned Period. In the case of all other Taxes, the amount of such Taxes attributable to the Pre-Closing Apportioned Period shall be determined as if a separate return was filed for the period ending as of the end of the day on the Closing Date using a "closing of the books methodology," and the remaining amount of the Taxes for such period shall be attributable to the Post Closing Apportioned Period, and Seller shall remit to Buyer, within ten (10) days of Buyer's request, payment for the proportionate amount of such bill that is attributable to the Pre-Closing Apportioned Period. Any Tax refunds, credits or overpayments attributable to Taxes shall be apportioned between Buyer and Seller in accordance with the apportionment provided in this Section 6.12 (a).

---

S-29

---

Section 6.13 Further Assurances. Following the Closing, each of the parties hereto shall, and shall cause their respective Affiliates to, execute and deliver such additional documents, instruments, conveyances and assurances and take such further actions and provide further information or assistance as may be reasonably required to carry out the provisions hereof; to give effect to the transactions contemplated by this Agreement and the other Transaction Documents and to allow Buyer to continue to operate the Business as a going concern.

**ARTICLE VII**  
**CONDITIONS TO CLOSING**

Section 7.01 Conditions to Obligations of All Parties. The obligations of each party to consummate the transactions contemplated by this Agreement shall be subject to the fulfillment, at or prior to the Closing, of each of the following conditions:

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

(b) Seller shall have received all consents, authorizations, orders and approvals from the Governmental Authorities referred to in Section 4.02, and Buyer shall have received all consents, authorizations, orders and approvals from the Governmental Authorities referred to in Section 5.02, in each case, in form and substance reasonably satisfactory to Buyer and Seller, and no such consent, authorization, order and approval shall have been revoked.

Section 7.02 Conditions to Obligations of Buyer. The obligations of Buyer and Recruiter to consummate the transactions contemplated by this Agreement shall be subject to the fulfillment or Recruiter or Buyers' waiver, at or prior to the Closing, of each of the following conditions:

(a) The representations and warranties of Seller contained in ARTICLE IV shall be true and correct in all respects as of the Closing Date with the same effect as though made at and as of such date (except those representations and warranties that address matters only as of a specified date, which shall be true and correct in all respects as of that specified date), except where the failure of such representations and warranties to be true and correct would not have a Material Adverse Effect.

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

(c) Seller shall have delivered to Buyer duly executed counterparts to the Transaction Documents (other than this Agreement)

(d) Buyer shall have received a certificate, dated the Closing Date and signed by a duly authorized officer of Seller, that each of the conditions set forth in Section 7.02(a) and Section 7.02(b) have been satisfied (the "Seller Closing Certificate").

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

(f) Buyer shall have received a certificate of the Secretary or an Assistant Secretary (or equivalent officer) of Seller certifying the names and signatures of the officers of Seller authorized to sign this Agreement, the Transaction Documents and the other documents to be delivered hereunder and thereunder.

(g) The review of existing Financial records shall have been completed to Buyer's satisfaction.

Since the date of this Agreement, there shall not have occurred any Material Adverse Effect.

Section 7.03 Conditions to Obligations of Seller. The obligations of Seller to consummate the transactions contemplated by this Agreement shall be subject to the fulfillment or Seller's waiver, at or prior to the Closing, of each of the following conditions:

(a) The representations and warranties of Buyer and Recruiter contained in ARTICLE V shall be true and correct in all respects as of the Closing Date with the same effect as though made at and as of such date (except those representations and warranties that address matters only as of a specified date, which shall be true and correct in all respects as of that specified date), except where the failure of such representations and warranties to be true and correct would not have a material adverse effect on Buyer's ability to consummate the transactions contemplated hereby.

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

(c) Buyer and Recruiter shall have (i) delivered to Seller the Closing Payment, duly executed counterparts to the Transaction Documents (other than this Agreement), and such other documents and deliveries set forth in Section 3.02(b) and (ii) paid, on behalf of Seller, or received evidence of payment by Seller of the indebtedness of Seller to be paid at Closing, if any, and the Transaction Expenses to be paid at Closing, if any, as set forth in Section 3.02(c)(i).

(d) Seller shall have received a certificate, dated the Closing Date and signed by a duly authorized officer of Buyer and Recruiter, that each of the conditions set forth in Section 7.03(a) and Section 7.03(b) have been satisfied (the "Buyer Closing Certificate").

(e) Seller shall have received a certificate of the Secretary or an Assistant Secretary (or equivalent officer) of Buyer and Recruiter certifying that attached thereto are true and complete copies of all resolutions adopted by the board of directors of Buyer and Recruiter, as applicable, authorizing the execution, delivery and performance of this Agreement and the other Transaction Documents and the consummation of the transactions contemplated hereby and thereby, and that all such resolutions are in full force and effect and are all the resolutions adopted in connection with the transactions contemplated hereby and thereby.

(f) Seller shall have received a certificate of the Secretary or an Assistant Secretary (or equivalent officer) of Buyer and Recruiter certifying the names and signatures of the officers of Buyer and Recruiter authorized to sign this Agreement, the Transaction Documents and the other documents to be delivered hereunder and thereunder.

## **ARTICLE VIII** **INDEMNIFICATION**

Section 8.01 Survival. Subject to the limitations and other provisions of this Agreement, the representations and warranties contained herein shall survive the Closing and shall remain in full force and effect until the date that is (a) in the case of General Warranties, eighteen (18) months following the Closing Date, (b) in the case of Fundamental Warranties, until the expiration of the relevant statute of limitations, and (c) in the case of Tax Warranties, seven (7) years following the Closing Date. None of the covenants or other agreements contained in this Agreement shall survive the Closing Date other than those that by their terms contemplate performance after the Closing Date, and each such surviving covenant and agreement shall survive the Closing for the period contemplated by its terms. For the avoidance of doubt, the Parties hereby agree and acknowledge that the survival period set forth in this Section 8.01 is a contractual statute of limitations and any claim brought by any party pursuant to this Article VIII must be brought or filed prior to the expiration of the survival period. Notwithstanding the foregoing, any claims asserted in good faith with reasonable specificity (to the extent known at such time) and in writing by notice from the non-breaching party to the breaching party prior to the expiration date of the applicable survival period shall not thereafter be barred by the expiration of such survival period and such claims shall survive until finally resolved.

Section 8.02 Indemnification by Seller. Subject to the other terms and conditions of this ARTICLE VIII, the Seller shall indemnify Buyer and Recruiter against, and shall hold Buyer and Recruiter harmless from and against, any and all Losses incurred or sustained by, or imposed upon, Buyer or Recruiter based upon, arising out of, with respect to or by reason of:



(a) any inaccuracy in or breach of any of the representations or warranties of the Seller contained in this Agreement;

(b) any breach or non-fulfillment of any covenant, agreement or obligation to be performed by the Seller pursuant to this Agreement or other Transaction Document; or

(c) any Excluded Asset or any Excluded Liability.

Section 8.03 Indemnification by Buyer and Recruiter. Subject to the other terms and conditions of this ARTICLE VIII, Buyer and Recruiter shall indemnify the Seller against, and shall hold the Seller harmless from and against, any and all Losses incurred or sustained by, or imposed upon, the Seller based upon, arising out of, with respect to or by reason of:

(a) any inaccuracy in or breach of any of the representations or warranties of Buyer or Recruiter contained in this Agreement;

(b) any breach or non-fulfillment of any covenant, agreement or obligation to be performed by Buyer or Recruiter pursuant to this Agreement or other Transaction Document; or

---

S-32

(c) any Assumed Liability.

Section 8.04 Certain Limitations. The party making a claim under this ARTICLE VIII is referred to as the "Indemnified Party", and the party against whom such claims are asserted under this ARTICLE VIII is referred to as the "Indemnifying Party". The indemnification provided for in Section 8.02 and Section 8.03 shall be subject to the following limitations:

(a) The Indemnifying Party shall not be liable to the Indemnified Party for indemnification under Section 8.02(a) or Section 8.03(a), as the case may be, until the aggregate amount of all Losses in respect of indemnification under Section 8.02(a) or Section 8.03(a) exceeds \$20,000 (the "Deductible"), in which event the Indemnifying Party shall only be liable for Losses in excess of the Deductible.

(b) Subject to Section 8.04(c), the aggregate amount of all Losses for which an Indemnifying Party shall be liable pursuant to Section 8.02(a) or Section 8.03(a), as the case may be, shall not exceed \$429,120.

(c) Notwithstanding the foregoing, the limitations set forth in Section 8.04(a) and Section 8.04(b) shall not apply to Losses based upon, arising out of, with respect to or by reason of (i) any inaccuracy in or breach of any Fundamental Warranties or Tax Warranties, with respect to which, the aggregate liability of Seller Parties shall not exceed the Base Purchase Price (the "Cap"), or (ii) Fraud on the part of a party hereto, with respect to which, the aggregate liability of Seller Parties shall not exceed 1.2 times the Base Purchase Price.

(d) Payments by an Indemnifying Party pursuant to Section 8.02 or Section 8.03 in respect of any Loss shall be limited to the amount of any Liability or damage that remains after deducting therefrom any insurance proceeds and any indemnity, contribution or other similar payment received or reasonably expected to be received by the Indemnified Party in respect of any such claim. The Indemnified Party shall use its commercially reasonable efforts to recover under insurance policies or indemnity, contribution or other similar agreements for any Losses prior to seeking indemnification under this Agreement.

(e) Payments by an Indemnifying Party pursuant to Section 8.02 or Section 8.03 in respect of any Loss shall be reduced by an amount equal to any Tax benefit realized or reasonably expected to be realized as a result of such Loss by the Indemnified Party.

(f) In no event shall any Indemnifying Party be Liable to any Indemnified Party for any punitive, incidental, consequential, special or indirect damages, including loss of future revenue or income, loss of business reputation or opportunity relating to the breach or alleged breach of Section 8.02 or Section 8.03, as the case may be, or diminution of value or any damages based on any type of multiple.

(g) Each Indemnified Party shall take and cause its Affiliates to use commercially reasonable efforts to mitigate any Loss upon becoming aware of any event or circumstance that would be reasonably expected to, or does, give rise thereto.

Section 8.05 Indemnification Procedures. Whenever any claim shall arise for indemnification hereunder, the Indemnified Party shall promptly provide written notice of such claim to the Indemnifying Party. Such notice by the Indemnified Party shall: (a) describe the claim in reasonable detail; (b) include copies of all material written evidence thereof; and (c) indicate the estimated amount, if reasonably practicable, of the Loss that has been or may be sustained by the Indemnified Party. In connection with any claim giving rise to indemnity hereunder resulting from or arising out of any Action by a Person who is not a party to this Agreement, the Indemnifying Party, at its sole cost and expense and upon written notice to the Indemnified Party, may assume the defense of any such Action with counsel reasonably satisfactory to the Indemnified Party. The Indemnified Party shall be entitled to participate in the defense of any such Action, with its counsel and at its own cost and expense, subject to the Indemnifying Party's right to control the defense thereof. If the Indemnifying Party does not assume the defense of any such Action, the Indemnified Party may, but shall not be obligated to, defend against such Action in such manner as it may deem appropriate after giving notice of it to the Indemnifying Party, on such terms as the Indemnified Party may deem appropriate and no action taken by the Indemnified Party in accordance with such defense and settlement shall relieve the Indemnifying Party of its indemnification obligations herein provided with respect to any damages resulting therefrom. Seller, Recruiter and Buyer shall cooperate with each other in all reasonable respects in connection with the defense of any claim, including: (i) making available (subject to the provisions of Section 6.05) records relating to such claim; and (ii) furnishing, without expense (other than reimbursement of actual out-of-pocket expenses) to the defending party, management employees of the non-defending party as may be reasonably necessary for the preparation of the defense of such claim. The Indemnifying Party shall not settle any Action without the Indemnified Party's prior written consent (which consent shall not be unreasonably withheld, delayed or conditioned).

---

S-33

Section 8.06 Tax Treatment of Indemnification Payments. All indemnification payments made under this Agreement shall be treated by the parties as an adjustment to the Purchase Price for Tax purposes, unless otherwise required by Law.

Section 8.07 Exclusive Remedies.

(a) Subject to Section 2.07, Section 6.06, and Section 9.12, the parties acknowledge and agree that their sole and exclusive remedy with respect to any and all claims (other than claims arising from Fraud on the part of a party hereto in connection with the transactions contemplated by this Agreement) for any breach of any representation, warranty, covenant, agreement or obligation set forth herein or otherwise relating to the subject matter of this Agreement, shall be pursuant to the indemnification provisions set forth in this ARTICLE VIII. In furtherance of the foregoing, except with respect to Section 2.07, Section 6.06, and Section 9.12, each party hereby waives, to the fullest extent permitted under Law, any and all rights, claims and causes of action for any breach of any representation, warranty, covenant, agreement or obligation set forth herein or otherwise relating to the subject matter of this Agreement it may have against the other parties hereto and their Affiliates and each of their respective Representatives arising under or based upon any Law, except pursuant to the indemnification provisions set forth in this ARTICLE VIII. Nothing in this Section 8.07 shall limit any Person's right to seek and obtain any equitable relief to which any Person shall be entitled pursuant to Section 9.12 or to seek any remedy on account of any Fraud by any party hereto.

(b) In furtherance of the foregoing, Buyer and Recruiter acknowledge and agree that the Indemnity Holdback Amount is the sole and exclusive remedy of Buyer and Recruiter following the Closing Date for Losses with respect to any breach by or inaccuracy of any General Warranties of Seller. In the event of a breach of the Fundamental Warranties, Tax Warranties or Fraud by Seller or its Affiliates, the Buyer and Recruiter shall have recourse against Seller for any or all such amounts payable pursuant to this Agreement to be first satisfied by reducing the amounts in the Indemnity Holdback Amount to the extent then available, and thereafter to be satisfied from Seller Shareholders, jointly and severally.

Section 8.08 Release of Indemnity Holdback Amount. On the date that is 18 months after the Closing Date, the Buyer and Recruiter will disburse to the Shareholder Representative, the remainder of the Indemnity Holdback Amount, if any, that (a) has not been disbursed to Buyer and Recruiter to compensate Buyer and Recruiter for any indemnification claim pursuant to Section 8.02, (b) has not been retained to satisfy unresolved claims for indemnification pursuant to this ARTICLE VIII, if any, or (c) is not currently under dispute in connection with any unresolved claims pursuant to this ARTICLE VIII. Any amount of the Indemnity Holdback Amount retained to satisfy any such unresolved claims will be released to the Shareholder Representative, Recruiter or the Buyer, as applicable promptly following the final determination of each such claim.

---

S-34

---

**ARTICLE IX**  
**MISCELLANEOUS**

Section 9.01 Expenses. Except as otherwise expressly provided herein (including Section 6.12 hereof), all costs and expenses, including, without limitation, fees and disbursements of counsel, financial advisors and accountants, incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the party incurring such costs and expenses, whether or not the Closing shall have occurred.

Section 9.02 Notices. All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by email of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section 9.02):

If to Buyer: Recruiter.com Group, Inc.  
  
Attn: Evan Sohn  
Phone: (855) 931-1500  
Email: evan@recruiter.com

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

Lucosky Brookman, LLP  
101 Wood Avenue South  
Woodbridge, New Jersey 08830  
Attention: Joseph Lucosky  
Phone: (732) 395-4400  
Email: jlucosky@lucbro.com

If to Seller: Upsider Inc.  
  
1 Washington Place, 7<sup>th</sup> Floor  
Newark, NJ 07102  
Phone:  
Attn: Josh McBride, CEO  
Email: josh@upsider.co

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

Kilpatrick Townsend & Stockton LLP  
 1100 Peachtree St., NE, Suite 2800  
 Atlanta, GA 30309-4528  
 Attention: Michael Cochran  
 Phone: (404) 815-6307  
 Email: mcochran@kilpatricktownsend.com

Section 9.03 Interpretation. For purposes of this Agreement, (a) the words “include,” “includes” and “including” shall be deemed to be followed by the words “without limitation”; (b) the word “or” is not exclusive; and (c) the words “herein,” “hereof,” “hereby,” “hereto” and “hereunder” refer to this Agreement as a whole. Unless the context otherwise requires, references herein: (x) to Articles, Sections, Disclosure Schedules and Exhibits mean the Articles and Sections of, and Disclosure Schedules and Exhibits attached to, this Agreement; (y) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The Disclosure Schedules and Exhibits referred to herein shall be construed with, and as an integral part of, this Agreement to the same extent as if they were set forth verbatim herein.

Section 9.04 Disclosure Schedules. All section headings in the Disclosure Schedules correspond to the sections of this Agreement, but information provided in any section of the Disclosure Schedules shall constitute disclosure for purposes of each section of this Agreement where such information is relevant. Unless the context otherwise requires, all capitalized terms used in the Disclosure Schedules shall have the respective meanings assigned to such terms in this Agreement. Certain information set forth in the Disclosure Schedules is included solely for informational purposes, and may not be required to be disclosed pursuant to this Agreement. No reference to or disclosure of any item or other matter in the Disclosure Schedules shall be construed as an admission or indication that such item or other matter is required to be referred to or disclosed in the Disclosure Schedules. No disclosure in the Disclosure Schedules relating to any possible breach or violation of any agreement or Law shall be construed as an admission or indication that any such breach or violation exists or has actually occurred. The inclusion of any information in the Disclosure Schedules shall not be deemed to be an admission or acknowledgment by Seller that in and of itself, such information is material to or outside the ordinary course of the business or is required to be disclosed on the Disclosure Schedules. No disclosure in the Disclosure Schedules shall be deemed to create any rights in any third party.

Section 9.05 Headings. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

Section 9.06 Severability. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

Section 9.07 Entire Agreement. This Agreement and the other Transaction Documents constitute the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein and therein, and supersede all prior and contemporaneous representations, warranties, understandings and agreements, both written and oral, with respect to such subject matter. In the event of any inconsistency between the statements in the body of this Agreement and those in the other Transaction Documents, the Exhibits and Disclosure Schedules (other than an exception expressly set forth as such in the Disclosure Schedules), the statements in the body of this Agreement will control.

Section 9.08 Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns. Neither party may assign its rights or obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld, conditioned or delayed. No assignment shall relieve the assigning party of any of its obligations hereunder.

Section 9.09 No Third-Party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other Person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

Section 9.10 Amendment and Modification; Waiver. This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each party hereto. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

Section 9.11 Governing Law.

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

(b) The parties hereto agree that any dispute seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement or any Transaction Document shall be brought in any federal court located in the State of New Jersey or any New Jersey state court, and each of the parties hereby irrevocably consents to the jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such proceeding and irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of the venue of any such proceeding in any such court or that any such proceeding brought in any such court has been brought in an inconvenient forum. Process in any such proceeding may be served on any party anywhere in the world, whether within or without the jurisdiction of any such court. Without limiting the foregoing, each party agrees that service of process on such party as provided in Section 9.02 shall be deemed effective service of process on such party.

(c) **Waiver of Jury Trial.** EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTION DOCUMENTS CONTEMPLATED HEREBY.

Section 9.12 Specific Performance. The parties agree that irreparable damage would occur if any provision of this Agreement were not performed in accordance with the terms hereof and that the parties shall be entitled to specific performance of the terms hereof.

Section 9.13 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

Section 9.14 Non-Recourse. This Agreement may only be enforced against, and any claim, action, suit or other legal proceeding based upon, arising out of, or related to this Agreement, or the negotiation, execution or performance of this Agreement, may only be brought against the Persons that are expressly named as parties hereto and then only with respect to the specific obligations set forth herein with respect to such party. No past, present or future director, officer, employee, incorporator, manager, member, partner, stockholder, Affiliate, agent, attorney or other Representative of any party hereto or of any Affiliate of any party hereto, or any of their successors or permitted assigns, shall have any liability for any obligations or liabilities of any party hereto under this Agreement or for any claim, action, suit or other legal proceeding based on, in respect of or by reason of the transactions contemplated hereby.

[Signatures follow]

## REGISTRATION RIGHTS AGREEMENT

by and between

**RECRUITER.COM GROUP, INC.**

and

**UPSIDER, INC.**

**Dated as of March 25, 2021**

## REGISTRATION RIGHTS AGREEMENT

**THIS REGISTRATION RIGHTS AGREEMENT** (this “**Agreement**”), dated as of March 25, 2021, is by and between Recuriter.com Group, Inc., a Delaware corporation (the “**Company**”) and Upsider, Inc., a Delaware corporation (“**Upsider**”).

### RECITALS

WHEREAS, pursuant to the Asset Purchase Agreement and Plan of Reorganization, dated as of the date hereof, by and between the Company and Upsider (as such agreement may be amended from time to time, the “**Asset Purchase Agreement**”), Upsider agreed to sell and assign to Company, and Company agreed to purchase and assume from Upsider, substantially all the assets and certain specified liabilities of the Business (as defined in the Asset Purchase Agreement), in exchange for a base purchase price of \$2,860,800, of which such amount shall include the Closing Stock Payment (as defined in the Asset Purchase Agreement);

WHEREAS, in connection with the transactions contemplated by the Asset Purchase Agreement, the Company and Upsider wish to define certain registration rights granted to Upsider on the terms and conditions set out in this Agreement; and

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

1. Definitions. In addition to capitalized terms defined elsewhere in this Agreement, the following capitalized terms shall have the following meanings when used in this Agreement:

“**Affiliate**” means as to any specified Person, any other Person directly or indirectly controlling or controlled by or under common control with such specified Person. For purposes of this definition, “**control**,” as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise. For purposes of this definition, the terms “**controlling**,” “**controlled by**” and “**under common control with**” have correlative meanings.

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

“**Board**” means the Board of Directors of the Company.

“**Business Day**” as defined in the Asset Purchase Agreement.

“**Closing**” as defined in the Asset Purchase Agreement.

“**Commission**” means the U.S. Securities and Exchange Commission and any successor agency performing comparable functions.

“**Common Stock**” means the common stock, par value \$0.0001 per share, of the Company.

“**Company**” as defined in the Preamble.

“**Demand Registrations**” as defined in Section 2.3(a).

“**Demand Registration Statements**” as defined in Section 2.3(a).

“**Exchange Act**” means the Securities Exchange Act of 1934, as amended, or any successor federal statute, and the rules and regulations of the Commission thereunder, as the same shall be in effect from time to time.

**“Governmental Authority”** means any regional, federal, state or local legislative, executive or judicial body or agency, any court of competent jurisdiction, any department, political subdivision or other governmental authority or instrumentality, or any arbitral authority, in each case, whether domestic or foreign.

**“Indemnified Party”** as defined in Section 7.3.

**“Indemnifying Party”** as defined in Section 7.3.

**“Upsider”** as defined in the Preamble.

**“Long-Form Demand Registration”** as defined in Section 2.1(b).

**“Long-Form Demand Registration Statement”** as defined in Section 2.1(a).

**“Person”** means an individual, a corporation, a partnership, a joint venture, a limited liability company or limited liability partnership, an association, a trust, estate or other fiduciary or any other legal entity, and any Governmental Authority.

**“Piggyback Registration”** as defined in Section 3.1.

**“Piggyback Registration Statement”** as defined in Section 3.1.

**“Public Offering”** means any offering by the Company of its equity securities to the public pursuant to an effective registration statement under the Securities Act or any comparable statement under any comparable federal statute then in effect (other than any registration statement on Form S-8 or Form S-4 or any successor forms thereto).

**“Registrable Securities”** means all shares of Common Stock acquired pursuant to the Asset Purchase Agreement, and any securities into which the Common Stock may be converted or exchanged pursuant to any merger, consolidation, sale of all or any part of its assets, corporate conversion or other extraordinary transaction of the Company and any equity securities of the Company then outstanding that were issued or issuable as a dividend, stock split or other distribution with respect to or in replacement of such shares of Common Stock. As to any Registrable Securities, such securities will cease to be Registrable Securities when: (i) a registration statement covering such Registrable Securities has been declared effective and such Registrable Securities have been disposed of pursuant to such effective registration statement; (ii) such Registrable Securities shall have been sold pursuant to Rule 144 (or any similar provision then in effect) under the Securities Act; (iii) such Registrable Securities may be sold pursuant to Rule 144 (or any similar provision then in effect) without limitation thereunder on volume or manner of sale; (iv) such Registrable Securities cease to be outstanding, or (v) such Registrable Securities have been sold in a private transaction in which the transferor’s rights under this Agreement are not assigned to the transferee of the securities.

**“Registration Expenses”** as defined in Section 6.1.

**“Rule 144”** means Rule 144 promulgated by the Commission pursuant to the Securities Act, as such rule may be amended from time to time, or any similar rule or regulation hereafter adopted by the Commission as a replacement thereto.

**“Securities Act”** means the Securities Act of 1933, as amended, or any successor federal statute, and the rules and regulations of the Commission thereunder, as the same shall be in effect from time to time.

**“Shelf Demand Registration”** as defined in Section 2.3(a).

**“Shelf Registration Statement”** as defined in Section 2.3(a).

**“Short-Form Demand Registration”** as defined in Section 2.2.

**“Short-Form Demand Registration Statement”** as defined in Section 2.2.

**“Six Month Anniversary”** means the six-month period immediately following the closing.

**“Upsider”** means Upsider Inc., a Delaware corporation.

**“Underwritten Offering”** means an offering registered under the Securities Act in which securities of the Company are sold to one or more underwriters on a firm-commitment basis for reoffering to the public, and the plan of distribution contemplates a customary “road show” (including an “electronic road show”) or other substantial marketing effort by the Company and the underwriters.

## 2. Demand Registration Rights.

### 2.1 Long-Form Registration.

(a) At any time within the Demand Period, Upsider shall be entitled to request registration under the Securities Act of the resale of all or part of Upsider’s Registrable Securities (a **“Long-Form Demand Registration Statement”**); *provided, however*, that with respect to any request under this Section 2.1(a): (i) the Company shall not otherwise be eligible at the time of the request to file a registration statement on Form S-3 or any similar short form registration statement for the resale of Registrable Securities, and (ii) such request shall cover at least 25% of the Registrable Securities.

(b) Upon receipt of any written request pursuant to this Section 2.1, the Company will use its reasonable best efforts to effect the registration under the Securities Act. A registration requested pursuant to this Section 2.1 is referred to herein as a **“Long-**

2.2 Short-Form Registration. In addition to the Long-Form Demand Registration right provided pursuant to Section 2.1 above, at any time within the Demand Period, when the Company is eligible to use Form S-3, Upsider shall be entitled to request, and the Company shall use reasonable best efforts to cause, registration under the Securities Act of the resale of all or part of their Registrable Securities on Form S-3 or any similar short-form registration statement (a “**Short-Form Demand Registration Statement**”). A registration requested pursuant to this Section 2.2 is referred to herein as a “**Short-Form Demand Registration**.”

2.3 Shelf Registration.

(a) At any time after the Company is eligible to use Form S-3 or similar short-form registration statement and within the three (3) year period immediately following the Six Month Anniversary, Upsider shall be entitled to request that the Company file a shelf registration statement on Form S-3 (provided that in the event the Company is a well-known seasoned issuer as defined by Securities Act Rule 405 at the time of the filing of such registration, such registration will be an automatic shelf registration statement if requested by Upsider), to register the resale of all or part of Upsider’s Registrable Securities (including the prospectus, amendments and supplements to the shelf registration statement or prospectus, including pre- and post-effective amendments, all exhibits thereto and all material incorporated by reference or deemed incorporated by reference, if any, in such shelf registration statement) (the “**Shelf Registration Statement**” and, together with the Long-Form Demand Registration Statement and the Short-Form Demand Registration Statement, the “**Demand Registration Statements**”). A registration requested pursuant to this Section 2.3(a), including a shelf takedown from a Shelf Registration Statement, is referred to herein as a “**Shelf Demand Registration**” (and, together with the Long-Form Demand Registration and the Short-Form Demand Registration, the “**Demand Registrations**”).

(b) The Company shall use its reasonable best efforts to cause the Shelf Registration Statement to become or be declared effective by the Commission as soon as practicable after such filing, and shall use its reasonable best efforts to keep the Shelf Registration Statement effective, from the date such Shelf Registration Statement becomes effective until the earlier to occur (i) the first date as of which all of the shares of Registrable Securities included in the Shelf Registration Statement have been sold or (ii) a period of three (3) years.

(c) Upsider shall be limited to a total of two (2) Demand Registrations, including a limit of one Demand Registration pursuant to a Long-Form Demand Registration.

2.4 Payment of Expenses for Demand Registrations. The Company will pay all Registration Expenses (as defined in Section 6.1 below) for the Demand Registrations permitted under Section 2.1, Section 2.2 and Section 2.3. Other than as provided by Section 2.4 and Section 6.1, a registration will not count as a Demand Registration until the registration statement has become effective and, with respect to an underwritten shelf takedown, the prospectus supplement for such offer has been filed with the Commission; *provided, however* that if Upsider fails to reimburse the Company for reasonable and documented Registration Expenses with respect to a withdrawn Demand Registration in accordance with Section 6.1, Upsider shall forfeit such withdrawn Demand Registration.

2.5 Restrictions.

(a) The Company will not be obligated to effect any Demand Registration within one hundred eighty (180) days after the effective date of a previous Piggyback Registration Statement under which Upsider requesting the Demand Registration had piggyback rights pursuant to Section 3.1 below wherein Upsider was permitted to register and sold at least 50% of the Registrable Securities included in such Piggyback Registration Statement.

(b) The Company may postpone the filing of a Demand Registration Statement for a reasonable “blackout period” not in excess of one hundred twenty (120) days (and the time periods with respect to filing or effectiveness thereof shall be tolled correspondingly), if (i) the Board determines that such registration or offering could materially interfere with a bona fide business, financing or business combination transaction of the Company or is reasonably likely to require premature disclosure of material non-public information, which premature disclosure could materially and adversely affect the Company, (ii) such registration would require the Company to recast its historical financial statements or prepare pro forma financial statements, acquired business financial statements or other information, with which requirement the Company is reasonably unable to comply, or (iii) render the Company unable to comply with requirements under the Securities Act or the Exchange Act.

(c) Such blackout period will end upon the earlier to occur of, (i) in the case of a bona fide business, financing or business combination transaction, or rendering the Company unable to comply with requirements under the Securities Act or the Exchange Act, a date not later than one hundred twenty (120) days from the date such deferral commenced, (ii) in the case of disclosure of non-public information, the earlier to occur of (x) the filing by the Company of its next succeeding Form 10-K or Form 10-Q, or (y) the date upon which such information is otherwise disclosed, (iii) in the case of the recasting of historical financial statements, the date upon which such financial statements are filed by the Company with the Commission; provided, however, the Company shall use its reasonable best efforts to file such statements as promptly as practicable, and (iv) in the case of preparation of pro forma or acquired business financial statements, a date not later than seventy-five (75) days after the date of such acquisition. In no event shall there be more than one (1) blackout period during any rolling period of three hundred sixty-five (365) days.

3. Piggyback Registration.

3.1 Right to Piggyback. For a period of three (3) years following the Six Month Anniversary, whenever the Company proposes to register the issuance or sale of any of its Common Stock under the Securities Act for its own account or otherwise, and the registration form to be used may be used for the registration of the resale of Registrable Securities (each, a “**Piggyback Registration**”) (except for the registrations on Form S-8 or Form S-4 or any successor form thereto) (a “**Piggyback Registration Statement**”), the Company will give written notice, at least fifteen (15) days prior to the proposed filing of such registration statement, to Upsider of its intention to effect such a registration and will use reasonable best efforts to include in such registration all Registrable Securities with respect to which the Company has received written requests for inclusion, which request shall specify the number of such Registrable Securities desired to be registered

**3.2 Priority on Primary Registrations.** If a Piggyback Registration is an underwritten primary offering on behalf of the Company and the managing underwriters advise the Company in writing that in their opinion the number of Registrable Securities requested to be included in the registration creates a substantial risk that the price per share of the primary securities will be reduced or that the amount of the primary securities intended to be included on behalf of the Company will be reduced, then the managing underwriter and the Company may exclude securities (including Registrable Securities) from the registration and the underwriting, and the number of securities that may be included in such registration and underwriting shall include: (i) first, any securities that the Company proposes to sell, and (ii) the amount of Registrable Securities requested by Upsider.

**3.3 Priority on Secondary Registrations.** If a Piggyback Registration is an underwritten secondary offering on behalf of holders of the Company's securities and the managing underwriters advise the Company in writing that in their opinion the number of securities requested to be included in the registration creates a substantial risk that the price per share of securities offered thereby will be reduced, the Company will include in such registration the Registrable Securities requested to be included therein by Upsider, and any other securities, if any, requested to be included in such registration by other holders having registration rights on a *pro rata* basis based on the total number of Registrable Securities held by Upsider hereunder and the total number of other securities held by other holders having registration rights.

**3.4 Selection of Underwriters.** In connection with any underwritten Piggyback Registration initiated by the Company, the Company shall have the right to (i) determine the plan of distribution and (ii) select the investment banker or bankers and managers to administer the offering, including the lead managing underwriter.

**3.5 Payment of Expenses for Piggyback Registrations.** The Company will pay all Registration Expenses (as defined in Section 6.1 below) for the Piggyback Registrations under this Section 3.

#### **4. Additional Agreements.**

**4.1 Upsider's Agreements.** To the extent not inconsistent with applicable law, Upsider agrees that upon request of the Company or the underwriters managing any Underwritten Offering of the Company's securities, it will (i) not offer, sell, contract to sell, loan, grant any option to purchase, make any short sale or otherwise dispose of, hedge or transfer any of the economic interest in (or offer, agree or commit to do any of the foregoing) any shares of Common Stock, or any options or warrants to purchase any shares of Common Stock, or any securities convertible into, exchangeable for or that represent the right to receive shares of Common Stock, whether now owned or hereinafter acquired by such holder, owned directly (including holding as a custodian) or with respect to which such holder has beneficial ownership within the rules and regulations of the Commission (other than those included by such holder in the offering in question, if any) without the prior written consent of the Company or such underwriters, as the case may be, for up to fourteen (14) days prior to, and during the ninety (90) day period following, the effective date of the registration statement for such Underwritten Offering, and (ii) enter into and be bound by such form of agreement with respect to the foregoing as the Company or such managing underwriter may reasonably request; provided that each executive officer and director of the Company also agrees to substantially similar restrictions.

#### **4.2 Suspension of Resales.**

(a) The Company shall be entitled to suspend the use of the prospectus forming any part of a Demand Registration Statement or Piggyback Registration Statement for a reasonable "blackout period" not in excess of one hundred twenty (120) days (provided the time periods with respect to the effectiveness of such registration statement shall be tolled correspondingly) if (i) the Board determines that such registration or offering could materially interfere with a bona fide business, financing or business combination transaction of the Company or is reasonably likely to require premature disclosure of material non-public information, which premature disclosure could materially and adversely affect the Company, (ii) an offering or sale pursuant to such prospectus would require the Company to recast its historical financial statements or prepare pro forma financial statements, acquired business financial statements or other information, with which requirement the Company is reasonably unable to comply, or (iii) render the Company unable to comply with requirements under the Securities Act or the Exchange Act.

(b) The blackout period will end upon the earlier to occur of (i) in the case of a bona fide business, financing or business combination transaction, or rendering the Company unable to comply with requirements under the Securities Act or the Exchange Act, a date not later than one hundred twenty (120) days from the date such deferral commenced, (ii) in the case of disclosure of non-public information, the earlier to occur of (x) the filing by the Company of its next succeeding Form 10-K or Form 10-Q, or (y) the date upon which such information is otherwise disclosed, (iii) in the case of the recasting of historical financial statements, the date upon which such financial statements are filed by the Company with the Commission, provided however, the Company shall use its reasonable best efforts to file such statements as promptly as practicable and (iv) in the case of preparation of pro forma or acquired business financial statements, a date not later than seventy-five (75) days after the date of such acquisition. In no event shall there be more than one (1) blackout periods during any rolling period of three hundred sixty-five (365) days.

(c) Upon its receipt of a written certification from the Company notifying Upsider of such suspension, Upsider will immediately discontinue the sale of any Registrable Securities pursuant to such registration statement or otherwise until Upsider has received copies of the supplemented or amended prospectus or until such Upsider is advised in writing that the use of the prospectus forming a part of such registration statement may be resumed and has received copies of any additional or supplemental filings that are incorporated by reference in such prospectus.



5.1 Company Obligations. Whenever the Company is required to file a registration statement under this Agreement or to use its reasonable best efforts to effect the registration of Registrable Securities, or whenever Upsider has requested that the resale of any Registrable Securities be registered in accordance with this Agreement, the Company shall, as expeditiously as reasonably practicable:

(a) prepare and, as soon as practicable after the end of the period within which requests for registration may be given to the Company, file with the Commission a registration statement with respect to the resale of such Registrable Securities and use its reasonable best efforts to cause such registration statement to become effective (provided that before filing a registration statement or prospectus, or any amendments or supplements thereto, the Company will furnish copies of all such documents proposed to be filed to one counsel designated by Upsider covered by such registration statement and to the extent practicable under the circumstances, provide such counsel an opportunity to comment on any information pertaining to the holders of Registrable Securities covered by such registration statement contained therein; and the Company shall consider in good faith any corrections reasonably requested by such counsel with respect to such information);

(b) except as otherwise provided in this Agreement (including Section 2.3(b) hereof), prepare and file with the Commission such amendments and supplements to such registration statement and the prospectus(es) used in connection therewith as may be necessary to keep such registration statement effective for a period of not less than the earlier of (i) with respect to a Long Form Demand Registration Statement, one hundred eighty (180) days, and with respect to a Short Form Demand Registration Statement, two (2) years, and (ii) the date that all of the securities covered by the registration statement have been sold, and comply with the provisions of the Securities Act with respect to the disposition of all securities covered by such registration statement during such period in accordance with the intended methods of disposition by the sellers thereof set forth in such registration statement;

(c) in connection with any filing of any registration statement or prospectus or amendment or supplement thereto, cause such document (i) to comply in all material respects with the requirements of the Securities Act and the rules and regulations of the Commission thereunder and (ii) to not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading;

(d) furnish to Upsider and underwriter of Registrable Securities, without charge, such number of copies of such registration statement, each amendment and supplement thereto, the prospectus(es) included in such registration statement (including each preliminary prospectus and summary prospectus) and such other documents as Upsider or underwriter may reasonably request in order to facilitate the disposition of the Registrable Securities owned by Upsider;

---

6

---

(e) use its commercially reasonable efforts to register or qualify such Registrable Securities under such securities or blue sky laws of such jurisdictions as Upsider or underwriter reasonably request, keep each such registration or qualification effective during the period the associated registration statement is required to be kept effective, and do any and all other acts and things which may be reasonably necessary or advisable to enable Upsider or underwriter to consummate the disposition in such jurisdictions of such Registrable Securities (provided that the Company will not be required to (i) qualify generally to do business in any jurisdiction where it would not otherwise be required to qualify but for this subparagraph, (ii) consent to general service of process in any such jurisdiction, or (iii) subject itself or any of its Affiliates to taxation in any such jurisdiction in which it is not subject to taxation);

(f) promptly notify Upsider and underwriter of such Registrable Securities and confirm in writing, when a registration statement has become effective and when any post-effective amendments and supplements thereto become effective;

(g) promptly notify Upsider and underwriter of such Registrable Securities, at any time when a prospectus relating thereto is required to be delivered under the Securities Act, of the happening of any event as a result of which the prospectus included in such registration statement contains an untrue statement of a material fact or omits any fact necessary to make the statements therein not misleading, and, subject to Section 4.2, prepare and deliver a supplement or amendment to such prospectus so that, as thereafter delivered to the purchasers of such Registrable Securities, such prospectus will not contain any untrue statement of a material fact or omit to state any fact necessary to make the statements therein not misleading;

(h) use commercially reasonable efforts to cause all such Registrable Securities to be listed on each securities exchange on which the same or similar securities issued by the Company are then listed or if no such securities are then listed, on a national securities exchange selected by the Company;

(i) provide a transfer agent, registrar and CUSIP number for all such Registrable Securities not later than the effective date of such registration statement;

(j) enter into such customary agreements (including underwriting agreements in customary form) and take all such other customary actions as the holders of Upsider being sold or the underwriters, if any, reasonably request in order to expedite or facilitate the disposition of such Registrable Securities;

(k) use commercially reasonable efforts to cooperate with Upsider and the underwriter or managing underwriter, if any, to facilitate the timely preparation and delivery of certificates representing Registrable Securities to be sold and not bearing any restrictive legends; and enable such Registrable Securities to be in such denominations (consistent with the provisions of the governing documents thereof) and registered in such names as Upsider or the underwriter or managing underwriter, if any, may reasonably request at least three (3) Business Days prior to any sale of Registrable Securities;

(l) subject to confidentiality agreements in form and substance acceptable to the Company, make available for inspection, at such place and in such manner as determined by the Company in its sole discretion, by Upsider, any underwriter participating in any disposition pursuant to such registration statement, and any attorney, accountant or other agent retained by Upsider or underwriter, financial and other records, pertinent corporate documents and properties of the Company reasonably requested by Upsider, underwriter, attorney, accountant or agent in connection with such registration statement, and cause the Company's officers, directors, employees and

independent accountants to supply all information reasonably requested by Upsider, underwriter, attorney, accountant or agent in connection with such registration statement; *provided, however*, that any records, information or documents that are furnished by the Company and that are non-public shall be used only in connection with such registration;

(m) advise Upsider and underwriter of such Registrable Securities, promptly after it shall receive notice or obtain knowledge thereof, of the issuance of any stop order by the Commission suspending the effectiveness of such registration statement or the initiation or threatening of any proceeding for such purpose and promptly use its reasonable best efforts to prevent the issuance of any stop order or to obtain its withdrawal if such stop order should be issued;

(n) make available to its security holders, as soon as reasonably practicable, an earnings statement (which need not be audited) covering at least twelve (12) months which shall satisfy the provisions of Section 11(a) of the Securities Act and Rule 158 thereunder;

(o) cooperate and assist in any filing required to be made with the Financial Industry Regulatory Authority (FINRA);

(p) obtain for delivery to any underwriter of Registrable Securities an opinion or opinions of counsel for the Company in customary form;

(q) at the request of Upsider in connection with an Underwritten Offering, furnish on the date or dates provided for in the underwriting agreement a letter or letters from the independent certified public accountants of the Company addressed to the underwriters and Upsider, covering such matters as such accountants, underwriters and Upsider may reasonably agree upon, in which letter(s) such accountants shall state, without limiting the generality of the foregoing, that they are an independent registered public accounting firm within the meaning of the Securities Act and that in their opinion the financial statements and other financial data of the Company included in the registration statement, the prospectus(es), or any amendment or supplement thereto, comply in all material respects with the applicable accounting requirements of the Securities Act; and

(r) with respect to underwritten Demand Registrations, make senior executives of the Company reasonably available to assist the underwriters with respect to, and participate in, the so-called "road show" in connection with the marketing efforts for, and the distribution and sale of, Registrable Securities pursuant to a registration statement; *provided* such road shows are reasonably requested by the managing underwriter and are customary for underwritten offerings that are comparable to such underwritten Demand Registration in size and the type of securities offered.

## 6. Registration Expenses.

**6.1 The Company's Expenses.** Other than as provided by Section 2.4, the Company will pay all reasonable expenses incident to the Company's performance of or compliance with this Agreement, including: all registration and filing fees; fees and expenses of compliance with securities or blue sky laws; fees and expenses incurred in connection with FINRA and rating agencies; costs and expenses related to analyst and investor presentations and "roadshows"; printing expenses; messenger and delivery expenses; and fees and disbursements of counsel for the Company; fees and disbursements of the Company's registered public accounting firm (including with respect to "comfort letters"); all reasonable fees and disbursements of one counsel for Upsider in connection with the registration; reasonable fees and disbursements of all other Persons retained by the Company; and any other fees and disbursements customarily paid by issuers of securities (all such expenses being herein called "**Registration Expenses**"); *provided, however*, that, as between the Company and Upsider, underwriting discounts, commissions, transfer taxes and underwriter fees and disbursements (in connection with an underwritten Demand Registration) relating to the Registrable Securities will be borne by Upsider. In addition, the Company will pay its internal expenses (including, but not limited to, all salaries and expenses of its officers and employees performing legal or accounting duties), the expense of any annual audit or quarterly review, the expense of any liability insurance obtained by the Company and the expenses and fees for listing the securities to be registered on each securities exchange. Notwithstanding the foregoing, if a request for Demand Registration for which the Company is obligated to pay all Registration Expenses pursuant to Section 2.4 and this Section 6.1 is subsequently withdrawn at the request of Upsider, Upsider shall forfeit such Demand Registration unless Upsider pays (or reimburses the Company) for all reasonable and documented Registration Expenses with respect to such withdrawn Demand Registration; *provided that* if, at the time of such withdrawal, Upsider shall have learned of a material adverse change in the condition, business, or prospects of the Company from that known to Upsider at the time of its request and has withdrawn the request with reasonable promptness after learning of such information, then Upsider shall not be required to pay any of such expenses and shall not forfeit their right to such Demand Registration.

**6.2 Upsider's Expenses.** To the extent that any expenses incident to any registration are not required to be paid by the Company, Upsider will pay all such expenses which are clearly and solely attributable to the registration of the Registrable Securities so included in such registration.

## 7. Indemnification.

**7.1 By the Company.** To the extent permitted by applicable Law, the Company shall indemnify, to the fullest extent permitted by law, Upsider and, as applicable, each of its trustees, Upsiders, members, directors, managers, partners, officers and employees, and each Person who controls such holder (within the meaning of the Securities Act), against all losses, claims, damages, liabilities and expenses (including, but not limited to, reasonable attorneys' fees and expenses) or actions or proceedings in respect thereof (whether or not such indemnified Person is party thereto) arising out of or based upon (a) any untrue or alleged untrue statement of material fact contained in any registration statement, prospectus or preliminary prospectus, or any amendment thereof or supplement thereto (including, in each case, all documents incorporated therein by reference), (b) any omission or alleged omission of a material fact required to be stated therein or

necessary to make the statements therein not misleading or (c) any violation or alleged violation by the Company or any of its Subsidiaries of any federal, state, foreign or common law rule or regulation applicable to the Company or any of its Subsidiaries and relating to action or inaction in connection with any such registration, disclosure document or related document or report, except insofar as the same are caused by or contained in any information furnished in writing to the Company by Upsider expressly for use therein or by Upsider's failure to deliver a copy of the prospectus or any amendments or supplements thereto after the Company has furnished Upsider with a sufficient number of copies of the same. In connection with an Underwritten Offering, the Company will indemnify such underwriters, their officers and directors and each Person who controls such underwriters (within the meaning of the Securities Act) to the same extent as provided above with respect to the indemnification of Upsider. The payments required by this Section 7.1 will be made promptly during the course of the investigation or defense, as and when bills are received or expenses incurred.

**7.2 By Upsider.** In connection with any registration statement in which Upsider is participating, Upsider will furnish to the Company in writing such information relating to such holder as requested by the Company and is reasonably necessary for use in connection with any such registration statement, prospectus or prospectus supplement and, to the fullest extent permitted by law, will indemnify the Company, its Subsidiaries, and, as applicable, each of their directors, employees and officers and each Person who controls the Company (within the meaning of the Securities Act) against any losses, claims, damages, liabilities and expenses (including, but not limited to, reasonable attorneys' fees and expenses) resulting from any untrue or alleged untrue statement of material fact contained in the registration statement, prospectus or preliminary prospectus, or any amendment thereof or supplement thereto (including, in each case, all documents incorporated therein by reference), or any omission or alleged omission of a material fact required to be stated therein or necessary to make the statements therein not misleading, but only to the extent that such untrue statement or omission is contained in or omitted from any information furnished in writing by such holder for the acknowledged purpose of inclusion in such registration statement, prospectus or preliminary prospectus; *provided, however*, the liability of Upsider will be in proportion to and limited to the net amount that it received from the sale of Registrable Securities pursuant to such registration statement, unless such loss, claim, damage, liability or expense resulted from Upsider's fraudulent conduct or willful misconduct.

**7.3 Procedure.** Each party entitled to indemnification under this Section 7 (the **"Indemnified Party"**) shall give written notice to the party required to provide indemnification (the **"Indemnifying Party"**) promptly after such Indemnified Party has received written notice of any claim as to which indemnity may be sought, and shall permit the Indemnifying Party to assume the defense of any such claim or any litigation resulting therefrom, *provided* that the counsel for the Indemnifying Party who is to conduct the defense of such claim or litigation is reasonably satisfactory to the Indemnified Party (whose approval shall not be unreasonably withheld or delayed). The Indemnified Party may participate in such defense at such Indemnified Party's expense; *provided, however*, that the Indemnifying Party shall bear the expense of such defense of the Indemnified Party if (i) the Indemnifying Party has agreed in writing to pay such expenses, (ii) the Indemnifying Party shall have failed to assume the defense of such claim or to employ counsel reasonably satisfactory to the Indemnified Party, or (iii) in the reasonable judgment of the Indemnified Party, based upon the written advice of such Indemnified Party's counsel, representation of both parties by the same counsel would be inappropriate due to actual or potential conflicts of interest; *provided, however*, that in no event shall the Indemnifying Party be liable for the fees and expenses of more than one counsel (excluding one local counsel per jurisdiction as necessary) for all Indemnified Parties in connection with any one action or separate but similar or related actions in the same jurisdiction arising out of the same event, allegations or circumstances. The Indemnified Party shall not make any settlement without the prior written consent of the Indemnifying Party, which consent shall not be unreasonably withheld or delayed. The failure of any Indemnified Party to give notice as provided herein shall not relieve the Indemnifying Party of its obligations under this Section 7 except and only to the extent that such failure to give notice shall materially prejudice the Indemnifying Party in the defense of any such claim or any such litigation. No Indemnifying Party, in the defense of any such claim or litigation, shall, except with the prior written consent of each Indemnified Party, consent to entry of any judgment or enter into any settlement (x) that does not include as an unconditional term thereof the giving by the claimant or plaintiff to such Indemnified Party of a release from all liability in respect to such claim or litigation in form and substance reasonably satisfactory to such Indemnified Party or (y) that includes an admission of fault, culpability or a failure to act, by or on behalf of any Indemnified Party, or requires forms of relief other than the payment of monetary damages by the Indemnifying Party.

**7.4 Survival.** The indemnification provided for under this Agreement will remain in full force and effect regardless of any investigation made by or on behalf of the Indemnified Party or any officer, director or controlling Person of such Indemnified Party and will survive the transfer of securities.

**8. Compliance With Rule 144 And Rule 144a.** For so long as the Company is subject to the report requirements of Section 13 or 15(d) of the Exchange Act, the Company shall take such measures and file such information, documents and reports as shall be required by the Commission as a condition to the availability of Rule 144 or Rule 144A (or any successor provisions) under the Securities Act.

**9. Participation In Underwritten Registrations.** No Person may participate in any registration hereunder which is underwritten unless such Person (i) agrees to sell its securities on the basis provided in any underwriting arrangements approved by such Person or Persons entitled hereunder to approve such arrangements and (ii) completes and executes all questionnaires, powers of attorney, custody agreements, lock-up agreements, indemnities, underwriting agreements and other documents reasonably required under the terms of such underwriting arrangements.

#### **10. Miscellaneous.**

**10.1 Amendments and Waivers.** Any amendment, modification, supplement or restatement of this Agreement must be effected by written agreement of the Company and Upsider.

**10.2 Descriptive Headings.** The descriptive headings of this Agreement are inserted for convenience of reference only and do not constitute a part of and shall not be utilized in interpreting this Agreement.

**10.3 Notices.** Any notice or communication by the Company and Upsider is duly given if in writing and delivered in person or by first class mail (registered or certified, return receipt requested) or electronically:

If to the Company:

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

Lucosky Brookman, LLP  
101 Wood Avenue South  
Woodbridge, New Jersey 08830

If to the Updiser:

Upsider Inc.  
1 Washington Place, 7<sup>th</sup> Floor  
Newark, NJ 07102  
Phone:  
Attn: Josh McBride, CEO  
Email: josh@upsider.co

Kilpatrick Townsend & Stockton LLP  
1100 Peachtree St., NE, Suite 2800  
Atlanta, GA 30309-4528  
Attention: Michael Cochran  
Phone: (404) 815-6307  
Email: mcochran@kilpatricktownsend.com

The Company and Upsider, by notice to the other parties hereto, may designate additional or different addresses for subsequent notices or communications. All notices and communications will be deemed to have been duly given: at the time delivered by hand, if personally delivered; five (5) Business Days after being deposited in the mail, postage prepaid, if mailed; when receipt acknowledged, if transmitted by facsimile; and the next Business Day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery. If a notice or communication is mailed, transmitted or sent in the manner provided above within the time prescribed, it is duly given, whether or not the addressee receives it.

#### 10.4 Governing Law; Waiver of Jury Trial.

(a) This Agreement shall be governed by, and construed in accordance with, the laws of the State of Nevada, regardless of the laws that might otherwise govern under applicable principles of conflicts of laws thereof. Each party irrevocably submits to the exclusive jurisdiction of (a) the courts of the State of New York located in New York, NY, and (b) the United States District Court for the Southern District of New York, for the purposes of any action arising out of this Agreement. Each party agrees to commence any such action either in the United States District Court for the Southern District of New York or if such action may not be brought in such court for jurisdictional reasons, in the courts of the State of New York located in New York, NY. Each party further agrees that service of any process, summons, notice or document by the U.S. registered mail to such party's respective address set forth in Section 12.4 shall be effective service of process for any Action in New York with respect to any matters to which it has submitted to jurisdiction in this Section 12.5(a). Each party irrevocably and unconditionally waives any objection to the laying of venue of any action arising out of this Agreement in (i) the courts of the State of New York located in New York, NY, and (ii) the United States District Court for the Southern District of New York, and hereby and thereby further irrevocably and unconditionally waives and agrees not to plead or claim in any such court that any such action brought in any such court has been brought in an inconvenient forum.

(b) EACH PARTY HERETO WAIVES ITS RIGHT TO TRIAL OF ANY ISSUE BY JURY. Each party hereto (a) certifies that no representative or attorney of any other party has represented, expressly or otherwise, that such party would not, in the event of any action, seek to enforce the foregoing waiver and (b) acknowledges that it and the other party have been induced to enter into this Agreement, by, among other things, the mutual waiver and certifications in this Section 10.5(b).

10.6 Remedies. Each of the parties hereto acknowledges and agrees that in the event of any breach of this Agreement by any of them, the non-breaching party would be irreparably harmed and could not be made whole by monetary damages. Each party accordingly agrees to waive the defense in any action for specific performance that a remedy at law would be adequate and that the parties, in addition to any other remedy to which they may be entitled at law or in equity, shall be entitled to compel specific performance of this Agreement.

10.7 Further Assurances. Each of the parties hereto will, without additional consideration, execute and deliver such further instruments and take such other action as may be reasonably requested by any other party hereto in order to carry out the purposes and intent of this Agreement.

10.8 No Presumption Against Drafter. Each of the parties hereto has jointly participated in the negotiation and drafting of this Agreement. In the event there arises any ambiguity or question of intent or interpretation with respect to this Agreement, this Agreement shall be construed as if drafted jointly by all of the parties hereto and no presumptions or burdens of proof shall arise favoring any party by virtue of the authorship of any of the provisions of this Agreement.

10.9 Severability. If any provision of this Agreement (or any portion thereof) or the application of any such provision (or any portion thereof) to any Person or circumstance shall be held invalid, illegal or unenforceable in any respect by a Governmental Authority, such invalidity, illegality or unenforceability shall not affect any other provision hereof (or the remaining portion thereof) or the application of such provision to any other persons or circumstances. Upon such determination that any provision of this Agreement (or any portion thereof) or the application of any such provision (or any portion thereof) to any Person or circumstance is invalid, illegal or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties hereto as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the extent possible.

10.10 Entire Agreement. This Agreement, together with the other agreements referred to herein, constitute the entire agreement of the parties with respect to the subject matter hereof and supersede and shall supersede all prior agreements and understandings (whether written or oral) between the parties, or any of them, with respect to the subject matter hereof.

10.11 Execution in Counterparts. This Agreement may be executed by any one or more of the parties hereto in any number of counterparts, each of which shall be deemed to be an original, but all such respective counterparts shall together constitute one and the same instrument. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or other electronic image scan shall be effective as delivery of a manually executed counterpart of this Agreement.

10.12 No Third Party Beneficiaries. Nothing in this Agreement is intended or shall be construed to give any Person, other than the parties hereto, their successors and permitted assigns, any legal or equitable right, remedy or claim under or in respect of this Agreement or any provision contained herein.

10.13 Aggregation. All shares of Registrable Securities held or acquired by Affiliates shall be aggregated together for the purpose of determining the availability of any rights under this Agreement and such Affiliated persons may apportion such rights as among themselves in any manner they deem appropriate.

*Signature pages follow.*

**IN WITNESS WHEREOF**, each Upsider and the Company have caused their respective signature page to this Registration Rights Agreement to be duly executed as of the date first written above.

**COMPANY:**

RECRUITER.COM GROUP, INC.

By: //s// Evan Sohn

Name: Evan Sohn

Title: CEO

**UPSIDER:**

UPSIDER, INC.

By: //s// Josh McBride

Name: Josh McBride

Title: CEO

---