**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 EXCHANGE ACT OF 1934**

Date of Report (Date of earliest event reported): **October 24, 2025**

**NAUTICUS ROBOTICS, INC.**
(Exact name of registrant as specified in its charter)

| **Delaware** | **001-40611** | **87-1699753** |
|---|---|---|
| (State or other jurisdiction of incorporation) | (Commission File Number) | (IRS Employer Identification No.) |

**17146 Feathercraft Lane, Suite 450, Webster, TX 77598**
(Address of principal executive offices, including zip code)

Registrant's telephone number, including area code: **(281) 942-9069**

**Not Applicable**
(Former name or former address, if changed since last report)

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

☐ Written communications 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** |
|---|---|---|
| Common Stock | KITT | The Nasdaq Stock Market LLC |
| Warrants | KITTW | The Nasdaq Stock Market LLC |

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

Emerging growth company x

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.**

*Equity Purchase Facility Agreement*

On October 24, 2025, Nauticus Robotics, Inc., a Delaware corporation (the "Company") entered into an equity purchase facility agreement (the "Purchase Agreement") and a registration rights agreement (the "Registration Rights Agreement") with a certain institutional investor ("Investor"), pursuant to which the Investor has committed to purchase up to $250.0 million of the Company's common stock, par value $0.0001 per share (the "Common Stock").

Upon the terms and subject to the satisfaction of the conditions set forth in the Purchase Agreement, the Company has the right, but not the obligation, to sell to the Investor, and the Investor is obligated to purchase, up to $250.0 million (the "Commitment Amount") in shares of Common Stock. Such sales of Common Stock by the Company, if any, are subject to certain limitations set forth in the Purchase Agreement, and may occur from time to time, at the Company's sole discretion, over a period of up to 24 months, commencing on the date of the Purchase Agreement (such period, the "Commitment Period").

During the Commitment Period, the Company may from time to time, by written notice delivered by the Company to the Investor (each, an "Advance Notice"), direct the Investor to purchase a number of shares of Common Stock up to the Maximum Advance Amount (as defined therein) as set forth in the Advance Notice, subject to limitations and adjustments as set forth in the Purchase Agreement. The prices at which such shares will be sold will be based on the applicable Market Price (as defined therein). Unless earlier terminated as provided under the Purchase Agreement, the term of the facility provided under the Purchase Agreement expires on the earlier to occur of (i) the first day of the next month following the 24-month anniversary of the first trading date after the date of the Purchase Agreement (the "Effective Date"), (ii) the date on which the Investor shall have made payment of Advances (as defined therein) pursuant to the Purchase Agreement for shares of Common Stock equal to the Commitment Amount and all shares of Common Stock purchased pursuant to the Purchase Agreement have been delivered, and (iii) the date on which the Company announces or publicly discloses a material restatement of its financial statements for two or more fiscal quarters (the "Lapsed Registration Termination").

Under the Purchase Agreement, the Company will control the timing and amount of sales of Common Stock to the Investor, if any. The Investor has no right to require the Company to sell any shares of Common Stock to the Investor, but the Investor is obligated to make purchases as the Company directs, subject to certain conditions set forth in the Purchase Agreement. Actual sales of shares of Common Stock to the Investor, if any, will depend on a variety of factors to be determined by the Company from time to time, including, among others, market conditions, the trading prices for the Common Stock, and determinations by the Company as to the appropriate sources of funding for the Company and its operations.

Consistent with the applicable Nasdaq listing rules, the aggregate number of shares of Common Stock that the Company may issue to the Investor under the Purchase Agreement may not exceed 19.99% of the shares of Common Stock issued and outstanding as of the execution date of the Purchase Agreement (the "Exchange Cap"), unless the Company first obtains stockholder approval to issue shares of Common Stock in excess of the Exchange Cap in accordance with applicable Nasdaq listing rules.

Pursuant to the Purchase Agreement, the Company is required to provide each stockholder entitled to vote at a meeting of stockholders of the Company (the "Stockholder Meeting"), which shall be promptly called and held not later than 60 days following the date of the Purchase Agreement, a proxy statement in a form reasonably acceptable to the Investor and its counsel, at the expense of the Company to solicit each of the Company's stockholders' affirmative vote at the Stockholder Meeting for approval of the proposal to authorize the issuance of all shares of Common Stock issuable thereunder in compliance with the rules and regulations of Nasdaq, and the Company is required to use its reasonable best efforts to solicit its stockholders' approval of such proposal and to cause the board of directors of the Company to recommend to the stockholders that they approve such proposal.

Additionally, the Company may not direct the Investor to purchase any shares of Common Stock under the Purchase Agreement if such purchase, when aggregated with all other shares of Common Stock then owned by Investor and its affiliates beneficially, would result in Investor and its affiliates beneficially owning (on an aggregated basis) more than 9.99% of the then outstanding voting power or number of shares of Common Stock; provided that, Investor may increase or decrease this ownership limitation, upon notice to the Company, which notice will not be effective until the 61st day following the date such notice is delivered, not to exceed 9.99% of the number of shares of Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock held by the Investor.

The Purchase Agreement and the Registration Rights Agreement contain customary representations, warranties, conditions and indemnification obligations of the parties. The Company has the right to terminate the Purchase Agreement

at any time effective 5 trading days after providing written notice to the Investor, at no cost or penalty, provided that there are no outstanding Advance Notices, the shares of Common Stock under which have yet to be issued.

As consideration for the Investor's commitment to purchase shares of Common Stock in accordance with the Purchase Agreement, the Company agreed to pay a commitment fee in an amount equal to $100,000 (the "Commitment Fee"), issuable either, at the Investor's option, (i) in cash or, (ii) by the issuance to the Investor on the Effective Date of such number of shares of Common Stock that is equal to the Commitment Fee divided by the lowest Daily VWAP (as defined therein) of Common Stock during the 10 trading days immediately prior to the Effective Date (collectively, the "Commitment Shares"). In addition, during the period beginning on the date of the Purchase Agreement through, and including, three calendar months after a Lapsed Registration Termination or any termination of the Purchase Agreement pursuant to Section 9.01(b) thereof, the Company granted to the Investor a right of first refusal with respect to certain third party offers received by the Company regarding the issuance or sale of any equity security or equity-linked or related security by the Company, subject to the notice and other conditions set forth in the Purchase Agreement.

In connection with the Purchase Agreement, on October 24, 2025, the Company also entered into the Registration Rights Agreement with the Investor with respect to the resale of the shares of Common Stock issuable under the Purchase Agreement and the Commitment Shares. The Registration Rights Agreement requires a registration statement registering such shares (the "Resale Registration Statement") to be filed within 30 days following the date of the Registration Rights Agreement and that to be declared effective under the Securities Act of 1933, as amended (the "Securities Act"), by the earlier of the (i) 90th day after following the date the Resale Registration Statement is filed, or (ii) the fifth business day following the date when the SEC notifies the Company that the Resale Registration Statement will not be reviewed or is no longer subject to further review and comments of the SEC.

The foregoing descriptions of the Purchase Agreement and the Registration Rights Agreement are only summaries and are qualified in their entirety by reference to the full text of the Purchase Agreement and the Registration Rights Agreement, copies of which are attached hereto as Exhibit 10.1 and Exhibit 10.2, respectively, and incorporated herein by reference. The representations, warranties and covenants contained in such agreements were made only for purposes of such agreements and as of specific dates, were solely for the benefit of the parties to such agreements and may be subject to limitations agreed upon by the contracting parties.

The offer and sale of the Common Stock pursuant to the Purchase Agreement and the Commitment Shares have not been registered under the Securities Act or any state securities laws. The Common Stock may not be offered or sold in the United States absent registration or an applicable exemption from registration requirements. Neither this Current Report on Form 8-K, nor the exhibits attached hereto, is an offer to sell or the solicitation of an offer to buy the Common Stock described herein or therein.

In the Purchase Agreement, Investor represented to the Company that it is an "accredited investor", as defined in Rule 501 promulgated under the Securities Act, and the Company's offer and sale of the Common Stock under the Purchase Agreement and the Commitment Shares are being made in reliance upon the exemptions from the registration requirements of the Securities Act pursuant to Section 4(a)(2) thereof and Rule 506(b) of Regulation D promulgated thereunder.

*Amendment Agreement to the Term Loan Agreement*

As previously disclosed by the Company in its filings with the SEC, pursuant to the terms of the Senior Secured Term Loan Agreement, dated as of September 18, 2023 (as amended, restated, amended and restated, restructured, supplemented, waived and/or otherwise modified from time to time, the "Term Loan Agreement"), by and among the Company, as borrower, the lenders from time to time party thereto (the "Lenders") and ATW Special Situations Management LLC, as collateral agent (in such capacity, the "Collateral Agent"), the Lenders agreed to make Loans to the Company which Loans are convertible, in whole or in part, into shares of Common Stock of the Company at an initial Conversion Price of $6.00 subject to adjustment from time to time as provided in the Term Loan Agreement. Pursuant to Section 25(c) of the Term Loan Agreement, the Term Loan Agreement, including the Conversion Price, may be amended with the written consent of the Company and the Required Lenders, and any amendment reducing the Conversion Price shall only be effective with respect to the Loan made by any Lender with the written consent of such Lender. The Conversion Price has been adjusted as provided in the Term Loan Agreement to account for the reverse stock splits effective July 18, 2024 and September 5, 2025, respectively, and the Conversion Price was $1,944.00 prior to the amendment disclosed in this Current Report on Form 8-K.

On October 25, 2025, the Company entered into an Amendment Agreement to the Term Loan Agreement (the "Amendment") with each Lender, pursuant to which the conversion price was reduced to $1.76 for the period ending on November 7, 2025.

The foregoing description of the Amendment does not purport to be complete and is qualified in its entirety by reference to the full text thereof, which is filed as Exhibit 10.3 hereto and is incorporated into this report by reference.

The information contained in Items 7.01 and 8.01 of this Current Report on Form 8-K is hereby incorporated by reference into this Item 1.01.

**Item 3.02 Unregistered Sales of Equity Securities**.

The information contained in Item 1.01 of this Current Report on Form 8-K under the caption "Equity Purchase Facility Agreement" and the information contained in Items 7.01 and 8.01 is incorporated by reference in this Item 3.02.

**Item 7.01. Regulation FD Disclosure.**

On October 27, 2025, the Company issued a press release announcing that it has entered into an agreement with existing debtholders to convert $3.7M of debt into common equity. The press release is attached hereto and furnished as Exhibit 99.1 to this Current Report.

On October 27, 2025, the Company issued a press release announcing that it has entered into the $250 million equity line of credit (ELOC) facility. The press release is attached hereto and furnished as Exhibit 99.2 to this Current Report.

The information provided in this Item 7.01, including the accompanying Exhibits 99.1 and 99.2, shall be deemed "furnished" and shall not be deemed "filed" for purposes of Section 18 of the Securities Exchange Act of 1934, as amended ("Exchange Act"), or otherwise subject to the liabilities of such section, nor shall it be incorporated by reference in any filing made by the Company pursuant to the Securities Act of 1933, as amended, or the Exchange Act, regardless of the general incorporation language of such filing, except as expressly set forth by specific reference in such filing.

**Item 8.01. Other Events.**

On October 24, 2025, the Company entered into a Letter of Intent (the "LOI") with certain holders of debt securities of the Company (the "Holders"). Pursuant to the LOI, the Holders will exchange certain existing debt securities (the "Existing Debt") issued by the Company for certain convertible preferred stock of the Company (the "Exchange"). Final terms and conditions, including those customary for transactions such as the Exchange, will be contained within the definitive agreements governing such Exchange, including, but not limited to, an exchange agreement and a certificate of designation for a new series of convertible preferred stock of the Company.

The LOI is filed herewith as Exhibit 99.3 to this Current Report on Form 8-K and is incorporated herein by reference.

**Item 9.01. Financial Statements and Exhibits.**

**(d) Exhibits.**

| Exhibit | Description |
|---|---|
| 10.1*+ | Equity Purchase Facility Agreement, as of dated October 24, 2025, by and between Nauticus Robotics, Inc. and the investor party named therein. |
| 10.2+ | Registration Rights Agreement, dated as of October 24, 2025, by and between Nauticus Robotics, Inc. and the investor party named therein.. |
| 10.3+ | Amendment Agreement, dated October 25, 2025, by and among Nauticus Robotics, Inc. and the lenders signatories thereto. |
| 99.1 | Press Release dated October 27, 2025 |
| 99.2 | Press Release dated October 27, 2025. |
| 99.3 | Letter of Intent dated October 24, 2025 |
| 104 | Cover Page Interactive Data File (embedded within the Inline XBRL document). |

* Schedules and exhibits have been omitted pursuant to Item 601(a)(5) of Regulation S-K. A copy of any omitted schedule and/or exhibit will be furnished to the SEC upon request.

+ Certain portions of this document that constitute confidential information have been redacted pursuant to Item 601(b)(10) of Regulation S-K.

**SIGNATURE**

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.

Dated: October 27, 2025

**Nauticus Robotics, Inc.**

By: /s/ John Symington

Name: John Symington

Title: General Counsel

**EXECUTION VERSION**

CERTAIN IDENTIFIED INFORMATION HAS BEEN EXCLUDED FROM THIS EXHIBIT BECAUSE IT IS NOT MATERIAL AND IS THE TYPE OF INFORMATION THAT THE REGISTRANT CUSTOMARILY AND ACTUALLY TREATS AS PRIVATE AND CONFIDENTIAL. REDACTED INFORMATION IS INDICATED BY [***].

# EQUITY PURCHASE FACILITY AGREEMENT

**THIS EQUITY PURCHASE FACILITY AGREEMENT** (this "Agreement"), dated as of October 23, 2025, is made by and between **[***]**, or its registered assigns (the "Investor") and **NAUTICUS ROBOTICS, INC.**, a Delaware corporation (the "Company"). The Investor and the Company may be referred to herein individually as a "Party" and collectively as the "Parties."

**WHEREAS**, the Parties desire that, upon the terms and subject to the conditions contained herein, the Company shall have the right to issue and sell to the Investor, from time to time as provided herein, and the Investor shall purchase from the Company, up to an aggregate of $250 million (the "Commitment Amount") in newly issued shares of the Company's common stock, par value $0.0001 per share (the "Common Shares");

**WHEREAS**, the Common Shares are listed on The Nasdaq Capital Market under the symbol "KITT";

**WHEREAS**, the offer and sale of the Common Shares issuable hereunder will be made in reliance upon Section 4(a)(2) under the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder (the "Securities Act"), or upon such other exemption from the registration requirements of the Securities Act as may be available with respect to any or all of the transactions to be made hereunder; and

**WHEREAS**, the Parties are concurrently entering into a Registration Rights Agreement in the form attached as Exhibit A hereto (the "Registration Rights Agreement"), pursuant to which the Company shall register the resale of the Registrable Securities (as defined in the Registration Rights Agreement), upon the terms and subject to the conditions set forth therein.

**NOW**, **THEREFORE**, the Parties hereto agree as follows:

## Article I. Certain Definitions

Section 1.01. For purposes of this Agreement, capitalized terms not otherwise defined in this Agreement shall have the respective meanings indicated below, such meanings to be applicable equally to both the singular and plural forms of such terms:

(a) "Accredited Investor" shall have the meaning set forth in Section 3.05.

(b) "Additional Issuance Restricted Period" shall mean the period beginning on the date of this Agreement through, and including, three (3) calendar months after a Lapsed Registration Termination or any termination pursuant to Section 9.01(b).

(c) "Adjusted Advance Amount" shall have the meaning set forth in Section 2.02(i).

(d) "Advance" shall mean any issuance and sale of Advance Shares by the Company to the Investor pursuant to this Agreement.

(e) "Advance Date" means the first Trading Day immediately after the expiration of the applicable Pricing Period for each Advance.

(f) "Advance Halt" means, on any day during the Pricing Period (i) the Company notifies the Investor that a Material Outside Event has occurred or shall have occurred, (ii) the Company notifies the Investor of a Black Out Period, or (iii) the Investor learns that an Equity Condition Failure exists.

(g) "Advance Notice" shall mean a written notice in the form of Exhibit B attached hereto to the Investor executed by an officer of the Company and setting forth the number of Advance Shares that the Company desires to issue and sell to the Investor.

(h) "Advance Notice Confirmation" means, in connection with an Advance Notice selecting either an Accelerated Purchase Pricing Period, an Extended Purchase Pricing Period or an Overtime Purchase Pricing Period, written confirmation by the Investor to the Company (which may be delivered by e-mail), at the Investor's discretion, accepting such Advance Notice, subject to the terms and adjustments herein, and, where applicable, specifying the time the Pricing Period begins (at Investor's discretion) for such Advance Notice.

(i) "Advance Notice Date" means each date the Company is deemed to have delivered (in accordance with Section 2.01(b) of this Agreement) an Advance Notice to the Investor, subject to the terms of this Agreement.

(j) "Advance Shares" shall mean the Common Shares that the Company shall issue and sell to the Investor pursuant to the terms of this Agreement.

(k) "Affiliate" shall have the meaning set forth in Section 3.07.

(l) "After Market Trading Day" means a Trading Day during which the close of Regular Trading Hours on the Principal Market ends at 4:00 p.m. New York City time and trading on the Principal Market continues after the close of the Principal Market until 8:00 p.m. New York City time in the form of after-market trading.

(m) "After Market Notice Hours" means, on an After Market Trading Day, the period of time from 4:00 p.m. New York City time until 7:30 p.m. New York City time.

(n) "After Market Trading Hours" means, on an After Market Trading Day, the period of time from 4:00 p.m. New York City time until 8:00 p.m. New York City time.

(o) "After Market Pricing Hours" means the trading hours during any Trading Day that the Principal Market is open, beginning at the start of Regular Trading Hours on such Trading Day and ending at the conclusion of the After Market Trading Hours on such Trading Day.

(p) "Aggregate Purchase Price" means the product of (i) the Purchase Price and (ii) the Adjusted Advance Amount.

(q) "Agreement" shall have the meaning set forth in the preamble of this Agreement.

(r) "Applicable Laws" shall mean all applicable laws, statutes, rules, regulations, orders, executive orders, directives, policies, guidelines and codes having the force of law, whether local, national, or international, as amended from time to time, including without limitation (i) all applicable laws that relate to money laundering, terrorist financing, financial record keeping and reporting, (ii) all applicable laws that relate to anti-bribery, anti-corruption, books and records and internal controls, including the United States Foreign Corrupt Practices Act of 1977, and (iii) any Sanctions laws.

(s) "Applicable VWAP" means the Daily VWAP, Extended Daily VWAP, Hourly VWAP, Extended Hourly VWAP or Overtime VWAP, as applicable.

(t) "Approved Stock Plan" means any employee benefit plan which has been approved by the board of directors of the Company prior to or subsequent to the date hereof pursuant to which Common Shares and standard options to purchase Common Shares may be issued to any employee, officer or director for services provided to the Company in their capacity as such.

(u) "Bankruptcy Law" means Title 11, U.S. Code, or any similar federal, state or similar laws for the relief of debtors.

(v) "Black Out Period" shall have the meaning set forth in Section 6.04(a).

(w) "Block Trades" means any privately negotiated transaction involving the sale or resale of Common Shares, executed outside of the public exchange (including trades executed through alternative trading systems, dark pools, or direct negotiation), involving at least 10,000 Common Shares, including trades where a broker-dealer attempts to sell the securities as agent but may position and resell a portion of the block as principal to facilitate the transaction. Such trades may be conducted without substantial marketing efforts prior to pricing and may include same-day trades, overnight trades or similar transactions.

(x) "Bona Fide Offer" shall have the meaning set forth in Section 6.22.

(y) "Closing" shall have the meaning set forth in Section 2.04.

(z) "Commitment Amount" shall have the meaning set forth in the recitals of this Agreement.

(aa) "Commitment Period" shall mean the period commencing on the date of this Agreement and expiring upon the date of termination of this Agreement in accordance with Section 9.01.

(bb) "Commitment Shares" shall have the meaning set forth in Section 11.04.

(cc) "Common Share Equivalents" means any securities of the Company or the Subsidiaries which would entitle the holder thereof to acquire at any time Common Shares, including, without limitation, any debt, preferred shares, right, option, warrant or other instrument that is at any time convertible into or exercisable or exchangeable for, or otherwise entitles the holder thereof to receive, Common Shares.

(dd) "Common Shares" shall have the meaning set forth in the recitals of this Agreement.

(ee) "Company" shall have the meaning set forth in the preamble of this Agreement.

(ff) "Company Indemnitees" shall have the meaning set forth in Section 5.02.

(gg) "Condition Satisfaction Date" shall have the meaning set forth in Annex I.

(hh) "Confirmation Deadline" means, in connection with (i) an Advance Notice selecting an Accelerated Purchase Pricing Period or Extended Purchase Pricing Period, 4:00 p.m. New York City time (or the conclusion of Regular Trading Hours on the Principal Market, if earlier) on the Trading Day of the applicable Pricing Period, and (ii) an Advance Notice selecting an Overtime Purchase Pricing Period, 8:00 p.m. New York City time on the After Market Trading Day of the applicable Pricing Period.

(ii) "Contingent Obligation" means, as to any Person, any direct or indirect liability, contingent or otherwise, of that Person with respect to any Indebtedness, lease, dividend or other obligation of another Person if the primary purpose or intent of the Person incurring such liability, or the primary effect thereof, is to provide assurance to the obligee of such liability that such liability will be paid or discharged, or that any agreements relating thereto will be complied with, or that the holders of such liability will be protected (in whole or in part) against loss with respect thereto.

(jj) "Convertible Securities" shall mean any capital stock or other security of the Company or any of its Subsidiaries that is at any time and under any circumstances directly or indirectly convertible into, exercisable or exchangeable for, or which otherwise entitles the holder thereof to acquire, any capital stock or other security of the Company (including, without limitation, Common Shares) or any of its Subsidiaries.

(kk) "Current Report" shall have the meaning set forth in Section 6.15.

(ll) "Custodian" means any receiver, trustee, assignee, liquidator or similar official under any Bankruptcy Law.

(mm) "Daily Traded Amount" means the daily trading volume of the Common Shares on the Principal Market during Regular Trading Hours as reported by the Reporting Service.

(nn) "Daily VWAP" means, for any Trading Day, the VWAP for such Trading Day during Regular Trading Hours as reported by the Reporting Service. All such determinations shall be appropriately adjusted for any stock dividend, stock split, stock combination, recapitalization or other similar transaction during such period.

(oo) "Disclosure Schedules" shall have the meaning set forth in Article IV.

(pp) "Effective Date" means the first Trading Day immediately following the date hereof.

(qq) "Environmental Laws" shall have the meaning set forth in Section 4.14.

(rr) "Equity Condition Failure" means a Trading Day during a Pricing Period on which (A) the Company or any of its respective directors, officers, employees or agents has disclosed any material non-public information about the Company to the Investor (unless a public announcement thereof is made by the Company in the manner contemplated by Regulation FD prior to the opening of trading on the Principal Market), or (B) any of the conditions set forth in subparagraphs (b), (c), (f), (h), (i), (n), (o), or (p) to Annex I to this Agreement are not satisfied.

(ss) "Exchange Act" means the U.S. Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

(tt) "Exchange Cap" shall have the meaning set forth in Section 2.02(c).

(uu) "Excluded Day" means a day on which there is no VWAP for the Common Shares.

(vv) "Excluded Securities" means (i) Common Shares or options to purchase Common Shares issued to directors, officers or employees of the Company or its Subsidiaries for services rendered to the Company in their capacity as such pursuant to an Approved Stock Plan, provided that the exercise price of any such options is not lowered, none of such options are amended to increase the number of shares issuable thereunder and none of the terms or conditions of any such options are otherwise materially changed in any manner that adversely affects the Investor; (ii) Common Shares issued upon the conversion or exercise of Convertible Securities (other than options to purchase Common Shares issued pursuant to an Approved Stock Plan that are covered by clause (i) above) issued prior to the date of this Agreement, provided that the conversion, exercise or other method of issuance (as the case may be) of any such Convertible Security is made solely pursuant to the conversion, exercise or other method of issuance (as the case may be) provisions of such Convertible Security that were in effect on the date immediately prior to the date of this Agreement, the conversion, exercise or issuance price of any such Convertible Securities (other than options to purchase Common Shares issued pursuant to an Approved Stock Plan that are covered by clause (i) above) is not lowered, none of such Convertible Securities (other than standard options to purchase Common Shares issued pursuant to an Approved Stock Plan that are covered by clause (i) above) are amended to increase the number of shares issuable thereunder and none of the terms or conditions of any such Convertible Securities (other than options to purchase Common Shares issued pursuant to an Approved Stock Plan that are covered by clause (i) above) are otherwise materially changed in any manner that adversely affects the Investor; (iii) any issuance of Common Stock pursuant to an "at-the-market" offering of Common Stock with a registered broker-dealer under a currently effective registration statement on Form S-3 (the "ATM"), provided, however, that Common Shares may not be sold pursuant to the ATM on any Trading Day on which the Company delivers an Advance Notice to the Investor or a Pricing Period is in effect; and (iv) any Common Shares issued or issuable in connection with any acquisitions (whether by merger, consolidation, purchase of equity, purchase of assets, reorganization or otherwise), mergers, consolidations, or reorganizations approved by a majority of the disinterested directors of the Company, provided that any such issuance shall only be to a Person (or to the equityholders of a Person) which is, itself or through its subsidiaries, an operating company or an owner of an asset in a business complementary with the business of the Company and shall provide to the Company additional benefits in addition to the investment of funds, but shall not include a transaction in which the Company is issuing securities primarily for the purpose of raising capital or to an entity whose primary business is investing in securities.

(ww) "Extended Daily VWAP" means, for any Trading Day, the Extended VWAP for such Trading Day during Extended Trading Hours as reported by the Reporting Service. All such determinations shall be appropriately adjusted for any stock dividend, stock split, stock combination, recapitalization or other similar transaction during such period.

(xx) "Extended Hourly VWAP" means, for any Trading Day, the Extended VWAP during any given one-hour interval beginning at 4:00 a.m. New York City time through 4:00 p.m. New York City time, as reported by the Reporting Service. In the event that, for the relevant Pricing Period, the Extended Trading Hours results in a fractional hour, then the last fractional hour of trading of the Extended Trading Hours on such Trading Day will count as the final "one-hour" interval of such Trading Day. All such determinations shall be appropriately adjusted for any stock dividend, stock split, stock combination, recapitalization or other similar transaction during such period.

(yy) "Extended Trading Hours" means the trading hours during any Trading Day that the Principal Market is open, beginning at 4:00 a.m. New York City time and ending 4:00 p.m. New York City time (or at the time the Principal Market closes, if earlier) on such Trading Day. All such determinations shall be appropriately adjusted for any stock dividend, stock split, stock combination, recapitalization or other similar transaction during such period.

(zz) "Extended VWAP" means, for any Trading Day that the Common Shares is then listed or quoted on a Principal Market, the volume weighted average price of the Common Shares for the applicable measurement period on the Principal Market during the Extended Trading Hours on such Trading Day as reported by the Reporting Service. All such determinations shall be appropriately adjusted for any stock dividend, stock split, stock combination, recapitalization or other similar transaction during such measurement period.

(aaa) "GAAP" shall have the meaning set forth in Section 4.07.

(bbb) "GDPR" shall have the meaning set forth in Section 4.36.

(ccc) "Hazardous Materials" shall have the meaning set forth in Section 4.14.

(ddd) "HIPAA" shall have the meaning set forth in Section 4.36.

(eee) "Hourly VWAP" means, for any Trading Day, the VWAP during any given one-hour interval beginning at 9:30 a.m. New York City time through 4:00 p.m. New York City time (or the close of trading on the Principal Market, if earlier), as reported by the Reporting Service. The last 30 minutes (or fraction of an hour) of the Regular Trading Hours of such Trading Day will count as the final "one-hour" interval of such Trading Day.

(fff) "Indebtedness" means (i) all indebtedness for borrowed money, (ii) all obligations issued, undertaken or assumed as the deferred purchase price of property or services (including, without limitation, "capital leases" in accordance with GAAP) (other than trade payables entered into in the ordinary course of business consistent with past practice), (iii) all reimbursement or payment obligations with respect to letters of credit, surety bonds and other similar instruments, (iv) all obligations evidenced by notes, bonds, debentures or similar instruments, including obligations so evidenced incurred in connection with the acquisition of property, assets or businesses, (v) all indebtedness created or arising under any conditional sale or other title retention agreement, or incurred as financing, in either case with respect to any property or assets acquired with the proceeds of such indebtedness (even though the rights and remedies of the seller or bank under such agreement in the event of default are limited to repossession or sale of such property), (vi) all monetary obligations under any leasing or similar arrangement which, in connection with GAAP, consistently applied for the periods covered thereby, is classified as a capital lease, (vii) all indebtedness referred to in clauses (i) through (vi) above secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any lien upon or in any property or assets (including accounts and contract rights) owned by any Person, even though the Person which owns such assets or property has not assumed or become liable for the payment of such indebtedness, and (viii) all Contingent Obligations in respect of indebtedness or obligations of others of the kinds referred to in clauses (i) through (vii) above.

(ggg) "Indemnified Liabilities" shall have the meaning set forth in Section 5.01.

(hhh) "Insolvent" shall mean, whether on a consolidated or individual basis, (i) the Company and its Subsidiaries are unable to pay their debts and liabilities, subordinated, contingent or otherwise, as such debts and liabilities become absolute and matured, (ii) the present fair saleable value of the Company's and its Subsidiaries' assets is less than the amount required to pay the Company's and its Subsidiaries' total Indebtedness or (iii) the Company and its Subsidiaries intend to incur or believe that they will incur debts that would be beyond their ability to pay as such debts mature. Neither the Company nor any of its Subsidiaries has engaged in any business or in any transaction, and is not about to engage in any business or in any transaction, for which the Company's or such Subsidiary's remaining assets constitute unreasonably small capital with which to conduct the business in which it is engaged as such business is now conducted and is proposed to be conducted.

(iii) "Investor" shall have the meaning set forth in the preamble of this Agreement.

(jjj) "Investor Indemnitees" shall have the meaning set forth Section 5.01.

(kkk) "IT Systems" shall have the meaning set forth in Section 4.36.

(lll) "Lapsed Registration Termination" shall have the meaning set forth in 9.01(a).

(mmm) "Limitation Date" shall have the meaning set forth in Section 6.21(b)(i).

(nnn) "Market Price" shall mean the Accelerated Purchase Market Price, Regular Purchase Market Price, Extended Purchase Market Price or Overtime Purchase Market Price, as applicable (in each case, to be appropriately adjusted for any reorganization, recapitalization, non-cash dividend, stock split or other similar transaction that occurs on or after the date of the Original Agreement):

(i) "Accelerated Purchase Market Price" for an Accelerated Purchase Pricing Period, the lower of (i) the lowest price the Common Shares traded during the Regular Trading Hours of the Trading Day applicable to the Accelerated Purchase Pricing Period and (ii) the lowest Hourly VWAP of the Common Shares during the Regular Trading Hours of the Trading Day applicable to the Accelerated Purchase Pricing Period;

(ii) "Regular Purchase Market Price" for a Regular Purchase Pricing Period the lower of (i) the lowest price the Common Shares traded during the relevant Pricing Period; and (ii) the lowest Daily VWAP of the Common Shares during the relevant Regular Purchase Pricing Period. (For avoidance of doubt, the Regular Purchase Pricing Period includes any Excluded Day during the relevant Pricing Period);

(iii) "Extended Purchase Market Price" for an Extended Purchase Pricing Period, the lower of (i) the lowest price the Common Shares traded during the Extended Trading Hours on the Trading Day applicable to the Extended Purchase Pricing Period and (ii) the lowest Extended Hourly VWAP of the Common Shares on the Trading Day applicable to the Extended Purchase Pricing Period; and

(iv) "Overtime Purchase Market Price" for an Overtime Purchase Pricing Period, the lower of (i) the lowest price the Common Shares traded during the After Market Pricing Hours on the Trading Day applicable to the Overtime Purchase Pricing Period and (ii) the lowest Overtime Hourly VWAP of the Common Shares during the Trading Day applicable to the Overtime Purchase Pricing Period.

(ooo) "Material Adverse Effect" means any material adverse effect on (i) the business, properties, assets, liabilities, operations (including results thereof), condition (financial or otherwise) or prospects of the Company or any Subsidiary, individually or taken as a whole, (ii) the transactions contemplated hereby or in any of the other Transaction Documents or any other agreements or instruments to be entered into in connection herewith or therewith or (iii) the authority or ability of the Company or any of its Subsidiaries to perform any of their respective obligations under any of the Transaction Documents.

(ppp) "Material Outside Event" shall have the meaning set forth Section 6.11.

(qqq) "Maximum Advance Amount" means the Accelerated Purchase Maximum Advance Amount, Regular Purchase Maximum Advance Amount or Extended Purchase Maximum Advance Amount, as applicable, *provided, however,* notwithstanding anything herein to the contrary, the Maximum Advance Amount shall not exceed the limitations set forth in Section 2.02 of this Agreement:

(i) "Accelerated Purchase Maximum Advance Amount" in respect of each Advance Notice with an Accelerated Purchase Pricing Period, an amount of Common Shares equal to the lower of (i) four hundred percent (400%) of the median Daily Traded Amount during the ten (10) consecutive Trading Days immediately preceding an Advance Notice Date, and (ii) such number of Common Shares equal to $2,500,000 as of the date of each Advance Notice (determined based on the last closing price of the Common Shares on the Principal Market prior to delivery of such Advance Notice), or such other amount of Common Shares as agreed upon by the Parties in writing, which may be made via e-mail;

(ii) "Regular Purchase Maximum Advance Amount" in respect of each Advance Notice with a Regular Purchase Pricing Period, an amount of Common Shares equal to the lower of (i) one hundred percent (100%) the median Daily Traded Amount during the ten (10) consecutive Trading Days immediately preceding an Advance Notice Date, and (ii) such number of Common Shares equal to $1,000,000 as of the date of each Advance Notice (determined based on the last closing price of the Common Shares on the Principal Market prior to delivery of such Advance Notice);

(iii) "Extended Purchase Maximum Advance Amount" in respect of each Advance Notice with an Extended Purchase Pricing Period, an amount of Common Shares equal to the lower of (i) four hundred percent (400%) of the median Daily Traded Amount during the ten (10) consecutive Trading Days immediately preceding an Advance Notice Date, and (ii) such number of Common Shares equal to $2,500,000 as of the date of each Advance Notice (determined based on the last closing price of the Common Shares on the Principal Market prior to delivery of such Advance Notice), or such other amount of Common Shares as agreed upon by the Parties in writing, which may be made via e-mail; and

(iv) "Overtime Purchase Maximum Advance Amount" in respect of each Advance Notice with an Overtime Purchase Pricing Period, an amount of Common Shares equal to the lower of (i) four hundred percent (400%) of the median Daily Traded Amount during the ten (10) consecutive Trading Days immediately preceding an Advance Notice Date, and (ii) such number of Common Shares equal to $2,500,000 as of the date of each Advance Notice (determined based on the last closing price of the Common Shares on the Principal Market prior to delivery of such Advance Notice), or such other amount of Common Shares as agreed upon by the Parties in writing, which may be made via e-mail.

(rrr) "Money Laundering Laws" shall have the meaning set forth in Section 4.32.

(sss) "OFAC" shall have the meaning set forth in Section 4.31.

(ttt) "Offer Notice" shall have the meaning set forth in Section 6.22.

(uuu) "Ownership Limitation" shall have the meaning set forth in Section 2.02(a).

(vvv) "Overtime Daily VWAP" means, for any After Market Trading Day, the Overtime VWAP for such After Market Trading Day during the After Market Trading Hours, starting at the beginning of the Overtime Purchase Pricing Period and ending at 8:00 p.m., as reported by the Reporting Service. All such determinations shall be appropriately adjusted for any stock dividend, stock split, stock combination, recapitalization or other similar transaction during such period.

(www) "Overtime Hourly VWAP" means, for any Trading Day, the Overtime VWAP during any given one-hour interval beginning at the start of Regular Trading Hours through the conclusion of After Market Trading Hours, as reported by the Reporting Service. In the event that, for the relevant Pricing Period, the After Market Pricing Hours results in a fractional hour, then the last fractional hour of trading of the After Market Pricing Hours on such Trading Day will count as the final "one-hour" interval of such Trading Day. All such determinations shall be appropriately

adjusted for any stock dividend, stock split, stock combination, recapitalization or other similar transaction during such period.

(xxx) "Overtime VWAP" means, for any After Market Trading Day, the volume weighted average price of the Common Shares on the Principal Market during the After Market Pricing Hours as reported by the Reporting Service for the applicable measurement period but in no event after the conclusion of the After Market Trading Hours, *provided, however,* that for purposes of calculating the volume weighted average price of the Common Shares, the "Overtime VWAP" shall exclude Block Trades. All such determinations shall be appropriately adjusted for any stock dividend, stock split, stock combination, recapitalization or other similar transaction during such measurement period.

(yyy) "Party" and "Parties" shall each have the meaning set forth in the recitals of this Agreement.

(zzz) "Person" shall mean an individual, a corporation, a partnership, a limited liability company, a trust or other entity or organization, including a government or political subdivision or an agency or instrumentality thereof.

(aaaa) "Personal Data" shall have the meaning set forth in Section 4.36.

(bbbb) "Plan of Distribution" shall mean the section of a Registration Statement disclosing the plan of distribution of the Shares.

(cccc) "Pricing Period" shall mean either the Accelerated Purchase Pricing Period, the Regular Purchase Pricing Period, the Extended Purchase Pricing Period or the Overtime Purchase Pricing Period, as applicable:

(i) "Accelerated Purchase Pricing Period" means, with respect to an Advance Notice selecting an Accelerated Purchase Pricing Period, the period commencing at the Accelerated Deemed Delivered Time (or the start of Regular Trading Hours on the Principal Market on such Trading Day, if later) and ending at 4:00 p.m. New York City time (or the close of Regular Trading Hours on the Principal Market, if earlier) on the applicable date of the Accelerated Deemed Delivered Time; provided however, that in the event of an Advance Halt, the Accelerated Purchase Pricing Period shall expire at the time of such Advance Halt;

(ii) "Regular Purchase Pricing Period" means, with respect to an Advance Notice selecting a Regular Purchase Pricing Period, the Regular Trading Hours of the three consecutive Trading Days commencing at the applicable Deemed Delivered Time; provided, however, that in the event of an Advance Halt, the Regular Purchase Pricing Period shall end at the time of such Advance Halt;

(iii) "Extended Purchase Pricing Period" means, with respect to an Advance Notice selecting an Extended Purchase Pricing Period, the period commencing at the Extended Deemed Delivered Time and ending at 4:00 p.m. New York City time (or the close of Regular Trading Hours on the Principal Market, if earlier) on the applicable date of the Extended Deemed Delivered Time; provided however, that in the event of an Advance Halt, the Extended Purchase Pricing Period shall expire at the time of such Advance Halt; and

(iv) "Overtime Purchase Pricing Period" means, with respect to an Advance Notice selecting an Overtime Purchase Pricing Period, the period commencing at the Overtime Deemed Delivered Time and ending at the conclusion of the After Market Pricing Hours on the date of the Deemed Delivered Time; provided however, that in the event of an Advance Halt, the Overtime Purchase Pricing Period shall expire at the time of such Advance Halt.

(dddd) "Principal Market" shall mean the Nasdaq Capital Market, provided however, that in the event the Common Shares are ever listed or traded on any of the Trading Markets, then the "Principal Market" shall mean such Trading Market on which the Common Shares are then listed or traded to the extent such other market or exchange is the principal trading market or exchange for the Common Shares.

(eeee) "Prospectus" shall mean any prospectus (including, without limitation, all amendments and supplements thereto) used by the Company in connection with a Registration Statement, including documents incorporated by reference therein.

(ffff) "Prospectus Supplement" shall mean any prospectus supplement to a Prospectus filed with the SEC pursuant to Rule 424(b) under the Securities Act, including documents incorporated by reference therein.

(gggg) "Purchase Price" shall mean the price per Advance Share in respect of any Advance Notice:

(i) For an Advance Notice selecting an Accelerated Purchase Pricing Period or Extended Purchase Pricing Period, the applicable Market Price multiplied by one hundred percent (100%);

(ii) For an Advance Notice selecting a Regular Purchase Pricing Period, the applicable Regular Purchase Market Price multiplied by one hundred percent (100%); and

(iii) For an Advance Notice selecting an Overtime Purchase Pricing Period, the applicable Overtime Purchase Market Price multiplied by one hundred percent (100%).

(hhhh) "Real Property" shall mean the real property, leases in real property, facilities or other interests in real property owned or held by the Company or any of its Subsidiaries.

(iiii) "Registrable Securities" shall have the meaning set forth in the Registration Rights Agreement.

(jjjj) "Registration Limitation" shall have the meaning set forth in Section 2.02(b).

(kkkk) "Registration Rights Agreement" shall have the meaning set forth in the recitals of this Agreement.

(llll) "Registration Statement" shall have the meaning set forth in the Registration Rights Agreement.

(mmmm) "Regular Trading Hours" means the regular trading hours during any Trading Day that the Principal Market is open, starting 9:30 a.m. New York City time and ending 4:00 p.m. New York City time (or at the time the Principal Market closes, if earlier) on such Trading Day (for avoidance of doubt, Regular Trading Hours excludes pre-market and post-market trading).

(nnnn) "Regulation D" shall mean the provisions of Regulation D promulgated under the Securities Act.

(oooo) "Reporting Service" means either Bloomberg L.P. or FactSet Research Systems Inc., as determined by the Investor from time to time.

(pppp) "Required Approvals" shall have the meaning set forth in Section 4.02.

(qqqq) "Reservation Estimate" shall have the meaning set forth in Section 6.26.

(rrrr) "Restricted Period" shall have the meaning set forth in Section 6.19.

(ssss) "Restricted Person" shall have the meaning set forth Section 6.19.

(tttt) "Rule 144" shall have the meaning set forth in Section 6.08.

(uuuu) "Sanctions" shall have the meaning set forth in Section 4.31.

(vvvv) "Sanctioned Countries" shall have the meaning set forth in Section 4.31.

(wwww) "SEC" shall mean the U.S. Securities and Exchange Commission.

(xxxx) "SEC Documents" means (1) any registration statement filed by the Company with the SEC, including the financial statements, schedules, exhibits and all other documents filed as a part thereof or incorporated therein and all information deemed to be a part thereof as of the effective date of such registration statement under the Securities Act, (2) any proxy statement or prospectus filed by the Company with the SEC, including all documents

incorporated or deemed incorporated therein by reference, whether or not included in a registration statement, in the form in which such proxy statement or prospectus has most recently been filed with the SEC pursuant to Rule 424(b) under the Securities Act, (3) all reports, periodic reports, schedules, registrations, forms, statements, information and other documents filed with or furnished to the SEC by the Company pursuant to Section 13(a), 13(c), 14 or 15(d) of the Exchange Act during the two years prior to the date hereof, including, without limitation, the Current Report, (4) each Registration Statement, as the same may be amended from time to time, the Prospectus contained therein and each Prospectus Supplement thereto and (5) all information contained in such filings and all documents and disclosures that have been and heretofore shall be incorporated by reference therein.

(yyyy) "Securities Act" shall have the meaning set forth in the recitals of this Agreement.

(zzzz) "Settlement Document" in respect of an Advance Notice delivered by the Company, shall mean a settlement document in the form set out on Exhibit C.

(aaaaa) "Stockholder Approval" shall have the meaning set forth in Section 6.25.

(bbbbb) "Shares" means the Common Shares to be issued from time to time hereunder pursuant to an Advance.

(ccccc) "Subsequent Placement" means the issuance, offer, sale, grant any option or right to purchase, or otherwise disposition of (or announcement of any issuance, offer, sale, grant of any option or right to purchase or other disposition of) any equity security or equity-linked or related security (including, without limitation, any "equity security" (as that term is defined under Rule 405 promulgated under the Securities Act)), any Convertible Securities, any debt, any preferred stock or any purchase rights (any such issuance, offer, sale, grant, disposition or announcement (whether occurring during the Additional Issuance Restricted Period or at any time thereafter)).

(ddddd) "Subsidiaries" means any Person in which (I) the accounts of which would be consolidated with those of the Company in the Company's consolidated financial statements if such financial statements were prepared in accordance with GAAP or (II) the Company, directly or indirectly, (i) owns any of the outstanding capital stock or holds any equity or similar interest of such Person or (ii) controls or operates all or any part of the business, operations or administration of such Person, and each of the foregoing, is individually referred to herein as a "Subsidiary".

(eeeee) "Trading Day" means any day during which the Principal Market shall be open for business.

(fffff) "Trading Market" shall mean the New York Stock Exchange, the NYSE American, the Nasdaq Global Select Market, the Nasdaq Global Market, the Nasdaq Capital Market, or the NYSE Euronext, whichever is at the time the principal trading exchange or market for the Common Shares.

(ggggg) "Transaction Documents" means, collectively, this Agreement, the Registration Rights Agreement and each of the other agreements and instruments entered into or delivered by any of the parties hereto in connection with the transactions contemplated hereby and thereby, as may be amended from time to time.

(hhhhh) "Transactions" shall have the meaning set forth in the recitals.

(iiiii) "Transfer Agent" means Continental Stock Transfer & Trust Company, the current transfer agent of the Company, with a mailing address of One State Street, 30th Floor, New York, New York 10004 and a facsimile number of (212) 616-7612, and any successor transfer agent of the Company.

(jjjjj) "Variable Rate Transaction" means a transaction in which the Company (i) issues or sells any Common Shares or Common Share Equivalents that are convertible into, exchangeable or exercisable for, or include the right to receive additional Common Shares or Common Share Equivalents either (A) at a conversion price, exercise price, exchange rate or other price that is based upon and/or varies with the trading prices of or quotations for the Common Shares at any time after the initial issuance of such equity or debt securities (including, without limitation, pursuant to any "cashless exercise" provision), or (B) with a conversion, exercise or exchange price that is subject to being reset at some future date after the initial issuance of such equity or debt security or upon the occurrence of

specified or contingent events directly or indirectly related to the business of the Company or the market for the Common Shares (including, without limitation, any "full ratchet," "share ratchet," "price ratchet," or "weighted average" anti-dilution provisions, but not including any standard anti-dilution protection for any reorganization, recapitalization, non-cash dividend, share split, reverse share split or other similar transaction), (ii) issues or sells any equity or debt securities, including without limitation, Common Shares or Common Share Equivalents, either (A) at a price that is subject to being reset at some future date after the initial issuance of such debt or equity security or upon the occurrence of specified or contingent events directly or indirectly related to the business of the Company or the market for the Common Shares (other than standard anti-dilution protection for any reorganization, recapitalization, non- cash dividend, share split, reverse share split or other similar transaction), or (B) that is subject to or contains any put, call, redemption, buy-back, price- reset or other similar provision or mechanism (including, without limitation, a "Black-Scholes" put or call right) that provides for the issuance of additional equity securities of the Company or the payment of cash by the Company, or (iii) enters into any agreement, including, but not limited to, an at-the-market offering or "equity line of credit" (that is not an Excluded Securities) or other continuous offering or similar offering of Common Shares or Common Share Equivalents whereby the Company may sell Common Shares or Common Share Equivalents at a future determined price.

(kkkkk) "Volume Limit" means,

(i) For an Advance Notice selecting either an Accelerated Purchase Pricing Period or Extended Purchase Pricing Period, the trading volume of the Common Shares on the Principal Market, excluding any Block Trades, during the applicable Pricing Period as reported by the Reporting Service multiplied by ten percent (10%);

(ii) For an Advance Notice selecting a Regular Purchase Pricing Period, the trading volume of the Common Shares on the Principal Market, excluding any Block Trades, during the Regular Trading Hours of such Pricing Period (excluding any Excluded Day, if applicable) as reported by the Reporting Service multiplied by ten percent (10%); and

(iii) For an Advance Notice selecting an Overtime Purchase Pricing Period, the trading volume of the Common Shares on the Principal Market, excluding any Block Trades, during the applicable Pricing Period as reported by the Reporting Service multiplied by ten percent (10%).

(llll) "Volume Threshold" means a number of Shares equal to the quotient of the number of Advance Shares requested by the Company in an Advance Notice divided by 0.10.

(mmmmm) "Volume Adjusted Advance Amount" shall have the meaning set forth in Section 2.02(e).

(nnnnn) "Volume Threshold Failure" shall have the meaning set forth in Section 2.02(e).

(ooooo) "VWAP" means, for any Trading Day that the Common Shares is then listed or quoted on the Principal Market, the volume weighted average price of the Common Shares for applicable measurement period on the Principal Market during the Regular Trading Hours of the Principal Market as reported by the Reporting Service. All such determinations shall be appropriately adjusted for any stock dividend, stock split, stock combination, recapitalization or other similar transaction during such measurement period.

## Article II. Advances

Section 2.01. Advances; Mechanics. Upon the terms and subject to the conditions of this Agreement, at any time during the Commitment Period, the Company, in its sole discretion, shall have the right, but not the obligation, to issue and sell to the Investor, and the Investor shall subscribe for and purchase from the Company, Advance Shares by the delivery to the Investor of Advance Notices, on the following terms:

(a) Advance Notice. At any time during the Commitment Period the Company may require the Investor to purchase Common Shares by delivering an Advance Notice to the Investor, subject to the satisfaction or waiver by the Investor of the conditions set forth herein and in Annex I, and in accordance with the following provisions:

(i) the Company shall, in its sole discretion, select the number of Advance Shares, not to exceed the Maximum Advance Amount, it desires to issue and sell to the Investor in each Advance Notice and the time it desires to deliver each Advance Notice;

(ii) there shall be no mandatory minimum Advances and there shall be no non-usages fee for not utilizing the Commitment Amount or any part thereof; and

(iii) in the event that the bid price for the Common Shares is at or below $1.00 (the "Trigger Price"), an Advance Notice shall not be deemed delivered without the prior written consent of the Investor. Notwithstanding anything to the contrary herein, the Trigger Price shall not be adjusted for any stock dividend, stock split, stock combination, recapitalization or other similar transaction,

(b) Date and Time of Delivery of Advance Notice.

(i) Accelerated Purchase Pricing Period. An Advance Notice sent in accordance with the terms herein and selecting an Accelerated Purchase Pricing Period shall be deemed delivered if such notice is received by the Investor via e-mail on a Trading Day and the Investor delivers to the Company an Advance Notice Confirmation for such Advance Notice, at the Investor's discretion and (i) if such Advance Notice is received by the Investor via e-mail before 9:00 a.m. New York City time on such Trading Day and the Investor delivers to the Company an Advance Notice Confirmation, such Advance Notice shall be deemed delivered on such Trading Day at the start of Regular Trading Hours of the Principal Market on such Trading Day, (ii) if such Advance Notice is received via e-mail after 9:00 a.m. New York City time and before 4:00 p.m. New York City time on such Trading Day and the Investor delivers to the Company an Advance Notice Confirmation, such Advance Notice shall be deemed delivered on such Trading Day at the time specified by the Investor in the Advance Notice Confirmation, or (iii) if such notice is received via e-mail after 4:00 p.m. New York City time and the Investor delivers to the Company an Advance Notice Confirmation, such Advance Notice shall be deemed delivered as of the start of Regular Trading Hours of the Principal Market on the immediately succeeding Trading Day (each instance, as applicable, the "Accelerated Deemed Delivered Time").

(ii) Regular Purchase Pricing Period. An Advance Notice sent in accordance with the terms herein and selecting a Regular Purchase Pricing Period shall be deemed delivered on (i) the Trading Day it is received by the Investor if such notice is received by e-mail at or before 9:00 a.m. New York City time (or at such later time if agreed to by the Investor in its discretion), or (ii) the immediately succeeding Trading Day if it is received by e-mail after 9:00 a.m. New York City time (each instance, as applicable, the "Regular Deemed Delivered Time"). In the event that the Company delivers a valid Advance Notice selecting an (i) Accelerated Purchase Pricing Period or Extended Purchase Pricing Period on a Trading Day prior to 9:00 a.m. New York City time, or (ii) Overtime Purchase Pricing Period on an After Market Trading Day during After Market Notice Hours, and in either instance, as applicable, the Investor has not sent an Advance Notice Confirmation prior to the Confirmation Deadline, the Advance Notice shall be accepted or rescinded as provided in Section 2.01(b)(v).

(iii) Extended Purchase Pricing Period. An Advance Notice sent in accordance with the terms herein and selecting an Extended Purchase Pricing Period shall be deemed delivered if such notice is received by the Investor via e-mail on a Trading Day and the Investor delivers to the Company an Advance Notice Confirmation for such Advance Notice, at the Investor's discretion and (i) if such Advance Notice is received by the Investor via e-mail before 4:00 p.m. New York City time on such Trading Day and the Investor delivers to the Company an Advance Notice Confirmation, such Advance Notice shall be deemed delivered on such Trading Day at the time specified by the Investor in the Advance Notice Confirmation, or (ii) if such notice is received via e-mail after 4:00 p.m. New York City time, such Advance Notice shall be deemed delivered on the immediately succeeding Trading Day, at the time specified by the Investor in the Advance Notice Confirmation (each instance, as applicable, the "Extended Deemed Delivered Time" and, together with the Accelerated Deemed Delivered Time and Regular Deemed Delivered Time, the "Deemed Delivered Time"). In the event that the Company delivers an Advance Notice selecting an Extended Purchase Pricing Period on a Trading Day prior to 9:00 a.m. New York City time on a Trading Day, and the Investor has not sent an Advance Notice Confirmation prior to the Confirmation Deadline, the Advance Notice shall be accepted or rescinded as provided in the Advance Notice.

(iv) Overtime Purchase Pricing Period. An Advance Notice sent in accordance with the terms herein and selecting an Overtime Purchase Pricing Period shall be deemed delivered if such notice is received by the

Investor via e-mail on an After Market Trading Day and during the After Market Notice Hours, and (A) if the Investor delivers to the Company an Advance Notice Confirmation for such Advance Notice, at the Investor's discretion, such Advance Notice shall be deemed delivered on such After Market Trading Day at the time specified by the Investor in the Advance Notice Confirmation (each instance, as applicable, the "Overtime Deemed Delivered Time" and, together with the Accelerated Deemed Delivered Time, Regular Deemed Delivered Time and Extended Deemed Delivered Time, the "Deemed Delivered Time"), or (B) if the Investor does not deliver to the Company an Advance Notice Confirmation for such Advance Notice prior to the Confirmation Deadline, the Advance Notice shall be accepted or rescinded as provided in Section 2.01(b)(v).

(v) Automatic Adjustment to Regular Purchase Pricing Period.

(A) If the Company delivers an Advance Notice on a Trading Day selecting either an Accelerated Purchase Pricing Period or Extended Purchase Pricing Period and such Advance Notice is received by Investor before 9:00 a.m. New York City time on such Trading Day, in the event the Investor does not deliver an Advance Notice Confirmation to the Company prior to the Confirmation Deadline and the Company is eligible to deliver an Advance Notice with a Regular Purchase Pricing Period, then such Advance Notice with the Accelerated Purchase Pricing Period or Extended Purchase Pricing Period shall automatically be deemed to have been delivered selecting a Regular Purchase Pricing Period with the "Deemed Delivered Time" being the start of Regular Trading Hours on the Trading Day immediately succeeding the Confirmation Deadline, *provided, however,* that if the Investor has not delivered an Advance Notice Confirmation to the Company, the Company may rescind such Advance Notice before 12:00 p.m. New York City time on the date of the Confirmation Deadline.

(B) If the Company delivers an Advance Notice on an After Market Trading Day selecting an Overtime Purchase Pricing Period and such Advance Notice is received by Investor during the After Market Notice Hours on such After Market Trading Day, in the event the Investor has not delivered an Advance Notice Confirmation to the Company prior to the Confirmation Deadline and the Company is eligible to deliver an Advance Notice with a Regular Purchase Pricing Period, then such Advance Notice with the Overtime Purchase Pricing Period shall automatically be deemed to have been delivered selecting a Regular Purchase Pricing Period with the "Deemed Delivered Time" being the start of Regular Trading Hours on the Trading Day immediately succeeding the Confirmation Deadline, *provided, however,* that if the Investor has not delivered an Advance Notice Confirmation to the Company, the Company may rescind such Advance Notice before 12:00 p.m. New York City time on the date of the Confirmation Deadline.

Section 2.02. Advance Limitations, Regulatory. Regardless of the Advance requested in an Advance Notice, the final number of Shares to be issued and sold pursuant to such Advance Notice shall be reduced (if at all) in accordance with each of the following limitations:

(a) Ownership Limitation; Commitment Amount. At the request of the Company, the Investor will inform the Company in writing of the number of Common Shares the Investor currently beneficially owns. At the request of the Investor, the Company shall promptly confirm orally or in writing to the Investor the number of Common Shares then outstanding. Notwithstanding anything to the contrary contained in this Agreement, the Investor shall not be obligated to purchase or acquire, and shall not purchase or acquire, any Common Shares under this Agreement which, when aggregated with all other Common Shares beneficially owned by the Investor and its Affiliates (as calculated pursuant to Section 13(d) of the Exchange Act and Rule 13d-3 promulgated thereunder), would result in the beneficial ownership by the Investor and its Affiliates (on an aggregated basis) to exceed 9.99% of the then outstanding voting power or number of Common Shares (the "Ownership Limitation"). In connection with each Advance Notice, any portion of an Advance that would (i) cause the Investor to exceed the Ownership Limitation or (ii) cause the aggregate number of Shares issued and sold to the Investor hereunder to exceed the Commitment Amount shall automatically be withdrawn with no further action required by the Company, and such Advance Notice shall be deemed automatically modified to reduce the Advance by an amount equal to such withdrawn portion; provided that in the event of any such automatic withdrawal and automatic modification, the Investor will promptly notify the Company of such event. The Investor, upon notice to the Company, may increase or decrease the Ownership Limitation provisions of this Section 2.02, provided that the Ownership Limitation in no event exceeds 9.99% of the number of Common Shares outstanding immediately after giving effect to the issuance of Shares held by the Investor and the Ownership Limitation provisions of this Section 2.02 shall continue to apply. Any increase in the Ownership

Limitation will not be effective until the sixty-first (61st) day after such notice is delivered to the Company. Since the Investor will not be obligated to report to the Company the number of Shares it may hold at the time of an Advance Notice, unless the Advance Notice at issue would result in the issuance of Shares in excess of the Ownership Limitation without regard to any other shares which may be beneficially owned by the Investor or an Affiliate thereof, the Investor shall have the authority and obligation to determine whether the restriction contained in this Section 2.02 will limit any particular Advance Notice and to the extent that the Investor determines that the limitation contained in this Section 2.02 applies, the determination of which portion of the principal amount of the applicable Advance Notice shall be the responsibility and obligation of the Investor.

(b) Registration Limitation. In no event shall an Advance exceed the amount registered in respect of the transactions contemplated hereby under the Registration Statement then in effect (the "Registration Limitation"). In connection with each Advance Notice, any portion of an Advance that would exceed the Registration Limitation shall automatically be withdrawn with no further action required by the Company and such Advance Notice shall be deemed automatically modified to reduce the aggregate amount of the requested Advance by an amount equal to such withdrawn portion; provided that in the event of any such automatic withdrawal and automatic modification, the Investor will promptly notify the Company of such event.

(c) Compliance with Rules of Principal Market. Notwithstanding anything to the contrary herein, the Company shall not effect any sales under this Agreement and the Investor shall not have the obligation to purchase Shares under this Agreement to the extent (but only to the extent) that after giving effect to such purchase and sale the aggregate number of Common Shares issued under this Agreement would exceed 19.99% of the aggregate number of Common Shares issued and outstanding as of the execution date of this Agreement, which number shall be reduced, on a share-for-share basis, by the number of Common Shares issued or issuable pursuant to any transaction or series of transactions that may be aggregated with the transactions contemplated by this Agreement under the applicable rules of the Principal Market (such maximum number of shares, the "Exchange Cap") unless the Company has obtained Stockholder Approval for the issuance of Common Shares pursuant to this Agreement in excess of the Exchange Cap in accordance with the applicable rules of the Principal Market. In connection with each Advance Notice, any portion of an Advance that would exceed the Exchange Cap shall automatically be withdrawn with no further action required by the Company and such Advance Notice shall be deemed automatically modified to reduce the aggregate amount of the requested Advance by an amount equal to such withdrawn portion in respect of each Advance Notice.

(d) [Reserved].

(e) Volume Threshold Limitation In connection with any Advance Notice, if the total number of Common Shares traded on the Principal Market during the applicable Pricing Period (excluding any Block Trades and, in the case of a Regular Purchase Pricing Period, any Excluded Days in the case of), is less than the applicable Volume Threshold (the "Volume Threshold Failure"), then the number of Advance Shares issued and sold pursuant to such Advance Notice shall automatically be reduced to the greater of (i) the applicable Volume Limit and (ii) the number of Shares sold by the Investor during such Pricing Period (the "Volume Adjusted Advance Amount"), but in each case not to exceed the amount requested in the Advance Notice or any limitations set forth in Section 2.02.

(f) [Reserved].

(g) [Reserved].

(h) Advance Halt. Notwithstanding anything to the contrary in this Agreement, if on any day during the Pricing Period an Advance Halt exists, the parties agree that the Pricing Period of the pending Advance shall end and the final number of Common Shares to be purchased by the Investor at the Closing for such Advance shall be equal to the number of Common Shares sold by the Investor during the applicable Pricing Period prior to the notification from the Company of such Advance Halt, but in each case not to exceed the amount requested in the Advance Notice (the "Halt Adjusted Advance Amount").

(i) Adjusted Advance Amount. For avoidance of doubt, in connection with a given Pricing Period for which a Volume Adjusted Advance Amount or a Halt Adjusted Advance Amount applies, the Advance Shares for such Pricing Period shall be automatically adjusted to the lower of (i) the Volume Adjusted Advance Amount, and (ii) the

Halt Adjusted Advance Amount, but in each case not to exceed the amount requested in the Advance Notice or any limitations set forth in Section 2.02 (the "Adjusted Advance Amount").

Section 2.03. Unconditional Contract. Notwithstanding any other provision in this Agreement, the Company and the Investor acknowledge and agree that upon the Investor's receipt of a valid Advance Notice from the Company the Parties shall be deemed to have entered into an unconditional contract binding on both Parties for the purchase and sale of Advance Shares pursuant to such Advance Notice in accordance with the terms of this Agreement and (i) subject to Applicable Laws and (ii) subject to Section 6.20, the Investor may sell Common Shares after receipt of an Advance Notice, including during a Pricing Period.

Section 2.04. Closings. The closing of each Advance and each sale and purchase of Advance Shares (each, a "Closing") shall take place as soon as practicable on each applicable Advance Date in accordance with the procedures set forth below. The Company acknowledges that the final number of Common Shares to be issued and sold pursuant to an Advance Notice and the Purchase Price will not be known at the time an Advance Notice is delivered but shall be determined on each Closing based on the daily prices of the Common Shares that are the inputs to the determination of the Purchase Price, the Volume Threshold and the Adjusted Advance Amount. In connection with each Closing, the Company and the Investor shall fulfill each of its obligations as set forth below:

(a) On or prior to each Advance Date, the Investor shall deliver to the Company a Settlement Document along with a report by the Reporting Service, indicating the applicable Market Price for the applicable Trading Days during the Pricing Period, in each case in accordance with the terms and conditions of this Agreement.

(b) Promptly after receipt of the Settlement Document with respect to each Advance (and, in any event, not later than one Trading Day after such receipt), the Company will, or will cause its transfer agent to, electronically transfer such number of Advance Shares to be purchased by the Investor (as set forth in the Settlement Document) by crediting the Investor's account or its designee's account at The Depository Trust Company through its Deposit Withdrawal at Custodian System or by such other means of delivery as may be mutually agreed upon by the parties hereto, and transmit notification to the Investor that such share transfer has been requested. Within one (1) Trading Day following the receipt of the Advance Shares by the Investor, the Investor shall pay to the Company the Aggregate Purchase Price of the Advance Shares (as set forth in the Settlement Document), in cash via wire transfer of immediately available funds to an account designated by the Company in writing and transmit notification to the Company that such funds transfer has been requested. No fractional shares shall be issued, and any fractional amounts shall be rounded to the next higher whole number of shares. To facilitate the transfer of the Common Shares by the Investor, the Common Shares will not bear any restrictive legends so long as there is an effective Registration Statement covering the resale of such Common Shares (it being understood and agreed by the Investor that notwithstanding the lack of restrictive legends, the Investor may only sell such Common Shares pursuant to the Plan of Distribution set forth in the Prospectus included in the Registration Statement and otherwise in compliance with the requirements of the Securities Act (including any applicable prospectus delivery requirements) or pursuant to an available exemption).

(c) On or prior to the applicable Advance Date, each of the Company and the Investor shall deliver to the other all documents, instruments and writings expressly required to be delivered by either of them pursuant to this Agreement in order to implement and effect the transactions contemplated herein.

(d) Notwithstanding anything to the contrary in this Agreement, if on any day during the Pricing Period (i) the Company notifies the Investor that a Material Outside Event has occurred, or (ii) the Company notifies the Investor of a Black Out Period, the parties hereto agree that any pending Advance shall end and the final number of Advance Shares to be purchased by the Investor at the Closing for such Advance shall be equal to the number of Common Shares sold by the Investor during the applicable Pricing Period prior to the notification from the Company of a Material Outside Event or Black Out Period.

Section 2.05. Hardship.

(a) In the event the Investor sells Common Shares after receipt, or deemed receipt, of an Advance Notice and the Company fails to perform its obligations as mandated in this Agreement, the Company agrees that in addition to and in no way limiting the rights and obligations set forth in Article V hereto and in addition to any other remedy to which the Investor is entitled at law or in equity, including, without limitation, specific performance, it will hold the Investor harmless against any loss, claim, damage, or expense (including reasonable legal fees and expenses), as incurred, arising out of or in connection with such default by the Company and acknowledges that irreparable damage may occur in the event of any such default. It is accordingly agreed that the Investor shall be entitled to an injunction or injunctions to prevent such breaches of this Agreement and to specifically enforce (subject to Applicable Laws and the rules of the Principal Market), without the posting of a bond or other security, the terms and provisions of this Agreement.

(b) In the event the Company provides an Advance Notice and the Investor fails to perform its obligations as mandated in Section 2.02, the Investor agrees that in addition to and in no way limiting the rights and obligations set forth in Article V hereto and in addition to any other remedy to which the Company is entitled at law or in equity, including, without limitation, specific performance, it will hold the Company harmless against any loss, claim, damage, or expense (including reasonable legal fees and expenses), as incurred, arising out of or in connection with such default by the Investor and acknowledges that irreparable damage may occur in the event of any such default. It is accordingly agreed that the Company shall be entitled to an injunction or injunctions to prevent such breaches of this Agreement and to specifically enforce (subject to the Securities Act and the rules of the Principal Market), without the posting of a bond or other security, the terms and provisions of this Agreement.

## Article III. Representations and Warranties of the Investor

The Investor hereby represents and warrants to the Company, as of the date hereof, as of each Advance Notice Date and as of the date of each Closing that:

Section 3.01. Organization and Authorization. The Investor is duly organized, validly existing and in good standing under the laws of the State of Delaware and has the requisite corporate power and authority to enter into and perform its obligations under the Transaction Documents to which it is a party and to purchase or acquire Common Shares in accordance with the terms hereof. The decision to invest and the execution and delivery of the Transaction Documents to which it is a party by the Investor, the performance by the Investor of its obligations hereunder and the consummation by the Investor of the transactions contemplated hereby have been duly authorized and require no other proceedings on the part of the Investor. The undersigned has the right, power and authority to execute and deliver the Transaction Documents to which it is a party and all other instruments on behalf of the Investor or its stockholders. This Agreement and the Transaction Documents to which it is a party have been duly executed and delivered by the Investor and, assuming the execution and delivery hereof and acceptance thereof by the Company, will constitute the legal, valid and binding obligations of the Investor, enforceable against the Investor in accordance with its terms.

Section 3.02. Evaluation of Risks. The Investor has such knowledge and experience in financial, tax and business matters as to be capable of evaluating the merits and risks of, and bearing the economic risks entailed by, an investment in the Common Shares and of protecting its interests in connection with the transactions contemplated hereby. The Investor acknowledges and agrees that its investment in the Company involves a high degree of risk, and that the Investor may lose all or a part of its investment.

Section 3.03. No Legal, Investment or Tax Advice from the Company. The Investor acknowledges that it had the opportunity to review the Transaction Documents and the transactions contemplated by the Transaction Documents with its own legal counsel and investment and tax advisors. The Investor is relying solely on such counsel and advisors and not on any statements or representations of the Company or any of the Company's representatives or agents for legal, tax, investment or other advice with respect to the Investor's acquisition of Common Shares hereunder, the transactions contemplated by this Agreement or the laws of any jurisdiction, and the Investor acknowledges that the Investor may lose all or a part of its investment.

Section 3.04. Investment Purpose. The Investor is acquiring the Common Shares for its own account, for investment purposes and not with a view towards, or for resale in connection with, the public sale or distribution

thereof, except pursuant to sales registered under or exempt from the registration requirements of the Securities Act; provided, however, that by making the representations herein, the Investor does not agree, or make any representation or warranty, to hold any of the Shares for any minimum or other specific term and reserves the right to dispose of the Shares at any time in accordance with, or pursuant to, a Registration Statement filed pursuant to this Agreement or an applicable exemption under the Securities Act. The Investor does not presently have any agreement or understanding, directly or indirectly, with any Person to sell or distribute any of the Shares. The Investor acknowledges that it will be disclosed as an "underwriter" and a "selling stockholder" in each Registration Statement and in any Prospectus contained therein to the extent required by applicable law and to the extent the Prospectus is related to the resale of Registrable Securities. The Investor is acquiring the Shares hereunder in the ordinary course of its business.

Section 3.05. Accredited Investor. The Investor is an "Accredited Investor" as that term is defined in Rule 501(a)(3) of Regulation D.

Section 3.06. Information. The Investor and its advisors (and its counsel), if any, have been furnished with all materials relating to the business, finances and operations of the Company and information the Investor deemed material to making an informed investment decision. The Investor and its advisors (and its counsel), if any, have been afforded the opportunity to ask questions of the Company and its management and have received answers to such questions. Neither such inquiries nor any other due diligence investigations conducted by such Investor or its advisors (and its counsel), if any, or its representatives shall modify, amend or affect the Investor's right to rely on the Company's representations and warranties contained in this Agreement. The Investor acknowledges and agrees that the Company has not made to the Investor, and the Investor acknowledges and agrees it has not relied upon, any representations and warranties of the Company, its employees or any third party other than the representations and warranties of the Company contained in this Agreement. The Investor understands that its investment involves a high degree of risk. The Investor has sought such accounting, legal and tax advice, as it has considered necessary to make an informed investment decision with respect to the transactions contemplated hereby.

Section 3.07. Not an Affiliate. The Investor is not an officer, director or a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with the Company or any "Affiliate" of the Company (as that term is defined in Rule 405 promulgated under the Securities Act).

Section 3.08. No Prior Short Sales. At no time prior to the date of this Agreement has the Investor, its sole member, any of their respective officers, or any entity managed or controlled by the Investor or its sole member, engaged in or effected, in any manner whatsoever, directly or indirectly, for its own principal account, any (i) "short sale" (as such term is defined in Rule 200 of Regulation SHO of the Exchange Act) of the Common Shares or (ii) hedging transaction, in either case which establishes a net short position with respect to the Common Shares that remains in effect as of the date of this Agreement.

Section 3.09. General Solicitation. Neither the Investor, nor any of its Affiliates, nor any person acting on its or their behalf, has engaged or will engage in any form of general solicitation or general advertising (within the meaning of Regulation D) in connection with any offer or sale of the Common Shares by the Investor.

## Article IV. Representations and Warranties of the Company

Except where specifically set forth below with respect to certain specified representations and warranties or in a disclosure schedule delivered by the Company to the Investor concurrently with this Agreement, which is hereby incorporated by reference in, and constitutes an integral part of, this Agreement (the "Disclosure Schedules"), the Company hereby represents and warrants to the Investor that, as of the date hereof, as of each Advance Notice Date and as of the date of each Closing:

Section 4.01. Organization and Qualification. The Company and each of its Subsidiaries are entities duly formed, validly existing and in good standing under the laws of the jurisdiction in which they are formed and have the requisite power and authority to own their properties and to carry on their business as now being conducted. The Company and each of its Subsidiaries is duly qualified to do business and is in good standing in every jurisdiction in which the nature of the business conducted by it makes such qualification necessary, except to the extent that the failure to be so qualified or be in good standing would not have a Material Adverse Effect.

Section 4.02. Authorization, Enforcement, Compliance with Other Instruments. The Company has the requisite corporate power and authority to enter into and perform its obligations under this Agreement and the other Transaction Documents and to issue the Shares in accordance with the terms hereof and thereof. The execution and delivery of this Agreement and the other Transaction Documents by the Company and its Subsidiaries, and the consummation by the Company and its Subsidiaries of the transactions contemplated hereby and thereby, including, without limitation, have been duly authorized by the Company's board of directors or other governing body, as applicable, and (other than (i) the filing with the SEC of a Form D with respect to the transactions contemplated hereby and the Current Report, (ii) with respect to the applicable Closing, confirmation that Stockholder Approval has been obtained, if applicable, (iii) with respect to any applicable Closings, the filing of an additional listing application with the Principal Market, and (iv) any other filings as may be required by any state securities agencies (collectively, the "Required Approvals")) and no further filing, consent or authorization is required by the Company, its Subsidiaries, their respective boards of directors or their stockholders or other governing body. This Agreement and the other Transaction Documents to which the Company is a party have been (or, when executed and delivered, will be) duly executed and delivered by the Company and, assuming the execution and delivery thereof and acceptance by the Investor, constitute (or, when duly executed and delivered, will be) the legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their respective terms, except as such enforceability may be limited by general principles of equity or applicable bankruptcy, insolvency, reorganization, moratorium, liquidation or other laws relating to, or affecting generally, the enforcement of applicable creditors' rights and remedies and except as rights to indemnification and to contribution may be limited by federal or state securities law. Except for the Required Approvals, neither the Company nor any Subsidiary is required to obtain any consent from, authorization or order of, or make any filing or registration with, any Governmental Entity (as defined below) or any regulatory or self-regulatory agency or any other Person in order for it to execute, deliver or perform any of its respective obligations under or contemplated by the Transaction Documents, in each case, in accordance with the terms hereof or thereof. All consents, authorizations, orders, filings and registrations which the Company or any Subsidiary is required to obtain pursuant to the preceding sentence have been or will be obtained or effected on or prior to such Closing, and neither the Company nor any of its Subsidiaries are aware of any facts or circumstances which might prevent the Company or any of its Subsidiaries from obtaining or effecting any of the registration, application or filings contemplated by the Transaction Documents. Except as disclosed in Schedule 4.02, the Company is not in violation of the requirements of the Principal Market and has no knowledge of any facts or circumstances which could reasonably lead to delisting or suspension of the Common Shares. "Governmental Entity" means any nation, state, county, city, town, village, district, or other political jurisdiction of any nature, federal, state, local, municipal, foreign, or other government, governmental or quasi-governmental authority of any nature (including any governmental agency, branch, department, official, or entity and any court or other tribunal), multinational organization or body; or body exercising, or entitled to exercise, any administrative, executive, judicial, legislative, police, regulatory, or taxing authority or power of any nature or instrumentality of any of the foregoing, including any entity or enterprise owned or controlled by a government or a public international organization or any of the foregoing.

Section 4.03. Authorization of the Common Shares. The issuance of the Common Shares has been duly authorized and, upon issuance in accordance with the terms of the Transaction Documents and against payment therefore as provided herein, the Common Shares shall be validly issued, fully paid and non-assessable and free from all preemptive or similar rights, mortgages, defects, claims, liens, pledges, charges, taxes, rights of first refusal, encumbrances, security interests and other encumbrances with respect to the issuance thereof.

Section 4.04. No Conflict. The execution, delivery and performance of the Transaction Documents by the Company and the consummation by the Company of the transactions contemplated hereby and thereby (including, without limitation, the issuance of the Common Shares) will not (i) result in a violation of the certificate of incorporation or other organizational documents of the Company or its Subsidiaries (with respect to consummation, as the same may be amended prior to the date on which any of the transactions contemplated hereby are consummated), (ii) conflict with, or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation of, any agreement, indenture or instrument to which the Company or its Subsidiaries is a party, or (iii) result in a violation of any law, rule, regulation, order, judgment or decree (including federal and state securities laws and regulations) applicable to the Company or its Subsidiaries or by which any property or asset of the Company or its Subsidiaries is bound or affected except, in the case of clause (ii) or (iii) above, to the extent such violations that would not reasonably be expected to have a Material Adverse Effect.

Section 4.05. Acknowledgement. The Company acknowledges its obligation to issue the Common Shares upon delivery of an Advance Notice is absolute and unconditional, subject to any limitations provided for herein, regardless of the dilutive effect that such issuance may have on the ownership interests of other stockholders of the Company.

Section 4.06. SEC Documents; Financial Statements. Except as set forth in Schedule 4.06, the Company has timely filed (giving effect to permissible extensions in accordance with Rule 12b-25 under the Exchange Act) all SEC Documents. The Company has delivered or made available to the Investor through the SEC's website at http://www.sec.gov, true and complete copies of the SEC Documents, as applicable. Except as disclosed in amendments or subsequent filings to the SEC Documents, as of its filing date (or, if amended or superseded by a filing prior to the date hereof, on the date of such amended or superseded filing), each of the SEC Documents complied in all material respects with the requirements of the Exchange Act or the Securities Act, as applicable, and the rules and regulations of the SEC promulgated thereunder applicable to the SEC Documents, and did not contain any untrue statement of a material fact or omitted 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 4.07. Financial Statements. The consolidated financial statements of the Company included or incorporated by reference in the SEC Documents, together with the related notes and schedules, present fairly, in all material respects, the consolidated financial position of the Company and the Subsidiaries as of the dates indicated and the consolidated results of operations, cash flows and changes in stockholders' equity of the Company for the periods specified and have been prepared in compliance with the requirements of the Securities Act and Exchange Act and in conformity with generally accepted accounting principles in the United States ("GAAP") applied on a consistent basis (except for (i) such adjustments to accounting standards and practices as are noted therein, (ii) in the case of unaudited interim financial statements, to the extent such financial statements may not include footnotes required by GAAP or may be condensed or summary statements and (iii) such adjustments which are not material, either individually or in the aggregate) during the periods involved; the other financial and statistical data with respect to the Company and the Subsidiaries contained or incorporated by reference in the SEC Documents are accurately and fairly presented and prepared on a basis consistent with the financial statements and books and records of the Company; there are no financial statements (historical or pro forma) that are required to be included or incorporated by reference in the SEC Documents that are not included or incorporated by reference as required; the Company and the Subsidiaries do not have any material liabilities or obligations, direct or contingent (including any off-balance sheet obligations), not described in the SEC Documents (including the exhibits thereto); and all disclosures contained or incorporated by reference in the SEC Documents regarding "non-GAAP financial measures" (as such term is defined by the rules and regulations of the SEC), if any, comply in all material respects with Regulation G of the Exchange Act and Item 10 of Regulation S-K under the Securities Act, to the extent applicable. The interactive data in eXtensible Business Reporting Language included or incorporated by reference in the SEC Documents fairly presents the information called for in all material respects and has been prepared in accordance with the SEC's rules and guidelines applicable thereto.

Section 4.08. Registration Statement and Prospectus. The Company and the transactions contemplated by this Agreement meet the requirements for and comply with the conditions for the use of Form S-3 under the Securities Act. Each Registration Statement and the offer and sale of Common Shares as contemplated hereby, if and when filed, will meet the requirements of Rule 415 under the Securities Act and comply in all material respects with said rule. Any statutes, regulations, contracts or other documents that are required to be described in a Registration Statement or a Prospectus, or to be filed as exhibits to a Registration Statement have been so described or filed. Copies of each Registration Statement, any Prospectus, and any such amendments or supplements thereto and all documents incorporated by reference therein that were filed with the SEC on or prior to the date of this Agreement have been delivered, or are available through EDGAR, to the Investor and its counsel. The Company has not distributed and, prior to the later to occur of each Advance Notice Date and completion of the distribution of the Shares, will not distribute any offering material in connection with the offering or sale of the Common Shares other than a Registration Statement and the Prospectus to which the Investor has consented.

Section 4.09. No Misstatement or Omission. Each Registration Statement, when it became or becomes effective, and any Prospectus, on the date of such Prospectus or amendment or supplement, conformed and will conform in all material respects with the requirements of the Securities Act. At each Advance Notice Date, the Registration Statement, and the Prospectus, as of such date, will conform in all material respects with the requirements of the Securities Act. Each Registration Statement, when it became or becomes effective, did not, and will not, contain an

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. Each Prospectus did not, or will not, include an untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. The documents incorporated by reference in a Prospectus or any Prospectus Supplement did not, and any further documents filed and incorporated by reference therein will not, when filed with the SEC, contain an untrue statement of a material fact or omit to state a material fact required to be stated in such document or necessary to make the statements in such document, in light of the circumstances under which they were made, not misleading. The foregoing shall not apply to statements in, or omissions from, any such document made in reliance upon, and in conformity with, information furnished to the Company by the Investor specifically for use in the preparation thereof.

Section 4.10. Conformity with Securities Act and Exchange Act. Each Registration Statement, each Prospectus, or any amendment or supplement thereto, and the documents incorporated by reference in each Registration Statement, Prospectus or any amendment or supplement thereto, when such documents were or are filed with the SEC under the Securities Act or the Exchange Act or became or become effective under the Securities Act, as the case may be, conformed or will conform in all material respects with the requirements of the Securities Act and the Exchange Act, as applicable.

Section 4.11. Equity Capitalization.

(a) Authorized and Outstanding Capital Stock. As of the date hereof, the authorized capital stock of the Company consists of 635,000,000 shares of capital stock consisting of 625,000,000 Common Shares, and 9,960,000 shares of undesignated preferred stock, par value $0.0001 per share. As of the date hereof, the Company has (i) 6,848,991 Common Shares issued and outstanding, (ii) 12,896 shares of Series A convertible preferred stock are issued and outstanding, (iii) 3,000 shares of Series B convertible preferred stock are issued and outstanding (iii) warrants to purchase up to 29,939 Common Shares.

(b) Valid Issuance; Available Shares. All of such outstanding shares of capital stock are duly authorized and have been validly issued and are fully paid and nonassessable.

(c) Existing Securities; Obligations. Except as disclosed in Schedule 4.11: (A) none of the Company's or any Subsidiary's shares, interests or capital stock is subject to preemptive rights or any other similar rights or liens suffered or permitted by the Company or any Subsidiary; (B) there are no outstanding options, warrants, scrip, rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities or rights convertible into, or exercisable or exchangeable for, any shares, interests or capital stock of the Company or any of its Subsidiaries, or contracts, commitments, understandings or arrangements by which the Company or any of its Subsidiaries is or may become bound to issue additional shares, interests or capital stock of the Company or any of its Subsidiaries or options, warrants, scrip, rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities or rights convertible into, or exercisable or exchangeable for, any shares, interests or capital stock of the Company or any of its Subsidiaries; (C) there are no agreements or arrangements under which the Company or any of its Subsidiaries is obligated to register the sale of any of their securities under the Securities Act (except pursuant to this Agreement); (D) there are no outstanding securities or instruments of the Company or any of its Subsidiaries which contain any redemption or similar provisions, and there are no contracts, commitments, understandings or arrangements by which the Company or any of its Subsidiaries is or may become bound to redeem a security of the Company or any of its Subsidiaries; (E) there are no securities or instruments containing antidilution or similar provisions that will be triggered by the issuance of the Shares; and (F) neither the Company nor any Subsidiary has any stock appreciation rights or "phantom stock" plans or agreements or any similar plan or agreement.

Section 4.12. Intellectual Property Rights. The Company and its Subsidiaries own or possess adequate rights or licenses to use all material trademarks, trade names, service marks, service mark registrations, service names, patents, patent rights, copyrights, inventions, licenses, approvals, governmental authorizations, trade secrets and rights, if any, necessary to conduct their respective businesses as now conducted, except as would not cause a Material Adverse Effect. The Company and its Subsidiaries have not received written notice of any infringement by the Company or its Subsidiaries of trademark, trade name rights, patents, patent rights, copyrights, inventions, licenses, service names, service marks, service mark registrations, or trade secrets, except as would not cause a Material Adverse Effect. To the knowledge of the Company, there is no claim, action or proceeding being made or brought against, or to the

Company's knowledge, being threatened against the Company or its Subsidiaries regarding trademark, trade name, patents, patent rights, invention, copyright, license, service names, service marks, service mark registrations, trade secret or other infringement.

Section 4.13. Employee Relations. Except as disclosed in Schedule 4.13, neither the Company nor any of its Subsidiaries is involved in any labor dispute nor, to the knowledge of the Company or any of its Subsidiaries, is any such dispute threatened, in each case which is reasonably likely to cause a Material Adverse Effect.

Section 4.14. Environmental Laws. The Company and its Subsidiaries (i) have not received written notice alleging any failure to comply in all material respects with all Environmental Laws (as defined below), (ii) have received all permits, licenses or other approvals required of them under applicable Environmental Laws to conduct their respective businesses and (iii) have not received written notice alleging any failure to comply with all terms and conditions of any such permit, license or approval where, in each of the foregoing clauses (i), (ii) and (iii), the failure to so comply would be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect. The term "Environmental Laws" means all applicable federal, state and local laws relating to pollution or protection of human health or the environment (including, without limitation, ambient air, surface water, groundwater, land surface or subsurface strata), including, without limitation, laws relating to emissions, discharges, releases or threatened releases of chemicals, pollutants, contaminants, or toxic or hazardous substances or wastes (collectively, "Hazardous Materials") into the environment, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials, as well as all authorizations, codes, decrees, demands or demand letters, injunctions, judgments, licenses, notices or notice letters, orders, permits, plans or regulations issued, entered, promulgated or approved thereunder.

Section 4.15. Title. Except as would not cause a Material Adverse Effect, the Company (or its Subsidiaries) has indefeasible fee simple or leasehold title to its properties and material assets owned by it, free and clear of any pledge, lien, security interest, encumbrance, claim or equitable interest other than such as are not material to the business of the Company. Any real property and facilities held under lease by the Company and its Subsidiaries are held by them under valid, subsisting and enforceable leases with such exceptions as are not material and do not interfere with the use made and proposed to be made of such property and buildings by the Company and its Subsidiaries.

Section 4.16. Insurance. The Company and each of its Subsidiaries are insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as management of the Company believes to be prudent and customary in the businesses in which the Company and its Subsidiaries are engaged. The Company has no reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business at a cost that would not have a Material Adverse Effect.

Section 4.17. Regulatory Permits. Except as would not cause a Material Adverse Effect, the Company and its Subsidiaries possess all material certificates, authorizations and permits issued by the appropriate federal, state or foreign regulatory authorities necessary to own their respective businesses, and neither the Company nor any such Subsidiary has received any written notice of proceedings relating to the revocation or modification of any such certificate, authorization or permits.

Section 4.18. Internal Accounting Controls. Except as set forth in Schedule 4.18, the Company maintains a system of internal accounting controls sufficient to provide reasonable assurance that (i) transactions are executed in accordance with management's general or specific authorizations, (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and to maintain asset accountability, (iii) access to assets is permitted only in accordance with management's general or specific authorization and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences, and management is not aware of any material weaknesses that are not disclosed in the SEC Documents as and when required.

Section 4.19. Absence of Litigation. Except as disclosed in Schedule 4.19, there is no action, suit, proceeding, inquiry or investigation before or by any court, public board, government agency, self-regulatory organization or body pending against or affecting the Company, the Common Shares or any of the Company's Subsidiaries, wherein an unfavorable decision, ruling or finding would have a Material Adverse Effect.

Section 4.20. Absence of Certain Changes. Except as set forth in Schedule 4.20, since the date of the Company's most recent audited financial statements contained in an Annual Report on Form 10-K and the date of the Company's most recent reviewed financial statements contained in a Quarterly Report on Form 10-Q, there has been no material adverse change and no material adverse development in the business, assets, liabilities, properties, operations (including results thereof), condition (financial or otherwise) or prospects of the Company or any of its Subsidiaries. Since the date of the Company's most recent audited financial statements contained in an Annual Report on Form 10-K, except as disclosed in Schedule 4.20, neither the Company nor any of its Subsidiaries has (i) declared or paid any dividends, (ii) sold any assets, individually or in the aggregate, outside of the ordinary course of business or (iii) made any capital expenditures, individually or in the aggregate, outside of the ordinary course of business. Neither the Company nor any of its Subsidiaries has taken any steps to seek protection pursuant to any law or statute relating to bankruptcy, insolvency, reorganization, receivership, liquidation or winding up, nor does the Company or any Subsidiary have any knowledge or reason to believe that any of their respective creditors intend to initiate involuntary bankruptcy proceedings or any actual knowledge of any fact which would reasonably lead a creditor to do so. The Company and its Subsidiaries, individually and on a consolidated basis, are not as of the date hereof, and after giving effect to the transactions contemplated hereby to occur at such Closing, will not be Insolvent (as defined below).

Section 4.21. Subsidiaries. Other than as set forth in the SEC Documents, the Company does not own or control, directly or indirectly, any interest in any other corporation, partnership, association or other business entity.

Section 4.22. Tax Status. Each of the Company and its Subsidiaries (i) has timely made or filed all foreign, federal and state income and all other tax returns, reports and declarations required by any jurisdiction to which it is subject, (ii) has timely paid all taxes and other governmental assessments and charges that are material in amount, shown or determined to be due on such returns, reports and declarations, except those being contested in good faith and (iii) has set aside on its books provision reasonably adequate for the payment of all taxes for periods subsequent to the periods to which such returns, reports or declarations apply. The Company has not received written notification of any unpaid taxes in any material amount claimed to be due by the taxing authority of any jurisdiction, and the officers of the Company and its Subsidiaries know of no basis for any such claim where failure to pay would cause a Material Adverse Effect.

Section 4.23. Certain Transactions. Except as disclosed in the SEC Documents or as not required to be disclosed pursuant to Applicable Laws, none of the officers or directors of the Company is presently a party to any transaction with the Company (other than for services as employees, officers and directors), including any contract, agreement or other arrangement providing for the furnishing of services to or by, providing for rental of real or personal property to or from, or otherwise requiring payments to or from any officer or director, or to the knowledge of the Company, any corporation, partnership, trust or other entity in which any officer or director has a substantial interest or is an officer, director, trustee or partner.

Section 4.24. Rights of First Refusal. The Company is not obligated to offer the Common Shares offered hereunder or any other Company securities offered pursuant to the Transaction Documents on a right of first refusal basis to any third parties including, but not limited to, current or former stockholders of the Company, underwriters, brokers, agents or other third parties.

Section 4.25. Dilution. The Company is aware and acknowledges that issuance of Common Shares hereunder could cause dilution to existing stockholders and could significantly increase the outstanding number of Common Shares.

Section 4.26. Acknowledgment Regarding Investor's Purchase of Shares. The Company acknowledges and agrees that the Investor is acting solely in the capacity of an arm's length investor with respect to this Agreement and the transactions contemplated hereunder. The Company further acknowledges that the Investor is not acting as a financial advisor or fiduciary of the Company (or in any similar capacity) with respect to this Agreement and the transactions contemplated hereunder and any advice given by the Investor or any of its representatives or agents in connection with this Agreement and the transactions contemplated hereunder is merely incidental to the Investor's purchase of the Shares hereunder. The Company is aware and acknowledges that it shall not be able to request Advances under this Agreement if the Registration Statement is not effective or if any issuances of Common Shares pursuant to any Advances would violate any rules of the Principal Market. The Company acknowledges and agrees that it is capable

of evaluating and understanding, and understands and accepts, the terms, risks and conditions of the transactions contemplated by this Agreement.

Section 4.27. Placement Agent's Fees. The Company shall be responsible for the payment of any placement agent's fees, financial advisory fees, or brokers' commissions (other than for Persons engaged by the Investor or its investment advisor) relating to or arising out of the transactions contemplated hereby in connection with the sale of the Common Shares. The Company shall pay, and hold the Investor harmless against, any liability, loss or expense (including, without limitation, attorney's fees and out-of-pocket expenses) arising in connection with any such claim. Neither the Company nor any of its Subsidiaries has engaged any placement agent or other agent in connection with the offer or sale of the Common Shares other than H.C. Wainwright & Co., LLC.

Section 4.28. Relationship of the Parties. Neither the Company, nor any of its subsidiaries, affiliates, nor any person acting on its or their behalf is a client or customer of the Investor or any of its affiliates and neither the Investor nor any of its affiliates has provided, or will provide, any services to the Company or any of its affiliates, its subsidiaries, or any person acting on its or their behalf. The Investor's relationship to Company is solely as investor as provided for in the Transaction Documents.

Section 4.29. Forward-Looking Statements. No forward-looking statement (within the meaning of Section 27A of the Securities Act and Section 21E of the Exchange Act) contained in the Registration Statement or a Prospectus prepared pursuant to the terms of the Registration Rights Agreement will be made or reaffirmed without a reasonable basis or has been disclosed other than in good faith.

Section 4.30. Compliance with Laws. The Company and each of its Subsidiaries are in compliance in all material respects with Applicable Laws; the Company has not received a notice of non-compliance, nor knows of, nor has reasonable grounds to know of, any facts that any director, officer, or employee of the Company or any Subsidiary nor, to the Company's knowledge, any agent, affiliate or other person acting on behalf of the Company or any Subsidiary has, has not complied with Applicable Laws, or could give rise to a notice of non-compliance with Applicable Laws, and is not aware of any pending change or contemplated change to any applicable law or regulation or governmental position; in each case that would have a Material Adverse Effect.

Section 4.31. Sanctions Matters. Neither the Company nor any of its Subsidiaries or, to the knowledge of the Company, any director, officer or controlled affiliate of the Company or any director or officer of any Subsidiary, is a Person that is, or is owned or controlled by a Person that is (i) the subject of any sanctions administered or enforced by the U.S. Department of Treasury's Office of Foreign Asset Control ("OFAC"), the United Nations Security Council, the European Union, His Majesty's Treasury, or other relevant sanctions authorities, including, without limitation, designation on OFAC's Specially Designated Nationals and Blocked Persons List or OFAC's Foreign Sanctions Evaders List or other relevant sanctions authority (collectively, "Sanctions"), or (ii) located, organized or resident in a country or territory that is the subject of Sanctions that broadly prohibit dealings with that country or territory (including, without limitation, the Crimea, Zaporizhzhia and Kherson regions, the Donetsk People's Republic and Luhansk People's Republic in Ukraine, Cuba, Iran, North Korea, Russia, Sudan and Syria (the "Sanctioned Countries")). Neither the Company nor any of its Subsidiaries will, directly or indirectly, use the proceeds from the sale of Common Shares, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other Person (a) for the purpose of funding or facilitating any activities or business of or with any Person or in any country or territory that, at the time of such funding or facilitation, is the subject of Sanctions or is a Sanctioned Country, or (b) in any other manner that will result in a violation of Sanctions or Applicable Laws by any Person (including any Person participating in the transactions contemplated by this Agreement, whether as underwriter, advisor, investor or otherwise). For the past five years, neither the Company nor any of its Subsidiaries has engaged in, and is now not engaged in, any dealings or transactions with any Person, or in any country or territory, that at the time of the dealing or transaction is or was the subject of Sanctions or was a Sanctioned Country. Neither the Company nor any of its Subsidiaries nor any director, officer or controlled affiliate of the Company or any of its Subsidiaries, has ever had funds blocked by a United States bank or financial institution, temporarily or otherwise, as a result of OFAC concerns.

Section 4.32. Money Laundering Laws. The operations of the Company and its Subsidiaries are and have been conducted at all times in compliance with applicable financial recordkeeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, the money laundering statutes of all

jurisdictions, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any Governmental Entity (collectively, the "Money Laundering Laws"); and no action, suit or proceeding by or before any Governmental Entity involving the Company with respect to the Money Laundering Laws is pending or, to the best knowledge of the Company, threatened.

Section 4.33. No Undisclosed Events, Liabilities, Developments or Circumstances. Except as disclosed in Schedule 4.33, no event, liability, development or circumstance has occurred or exists, or is reasonably expected to exist or occur with respect to the Company, any of its Subsidiaries or any of their respective businesses, properties, liabilities, prospects, operations (including results thereof) or condition (financial or otherwise), that (i) would be required to be disclosed by the Company under applicable securities laws in a registration statement on Form S-1 filed with the SEC relating to an issuance and sale by the Company of its Common Shares and which has not been publicly announced, (ii) could have a material adverse effect on the Investor's investment hereunder or (iii) could have a Material Adverse Effect.

Section 4.34. Investment Company Status. The Company is not, and upon consummation of the sale of the Common Shares will not be, an "investment company," an affiliate of an "investment company," a company controlled by an "investment company" or an "affiliated person" of, or "promoter" or "principal underwriter" for, an "investment company" as such terms are defined in the Investment Company Act of 1940, as amended.

Section 4.35. Acknowledgement Regarding Investor's Trading Activity. It is understood and acknowledged by the Company that (i) following the public disclosure of the transactions contemplated by the Transaction Documents in accordance with the terms thereof, the Investor has not been asked by the Company or any of its Subsidiaries to agree, nor has the Investor agreed with the Company or any of its Subsidiaries, to desist from effecting any transactions in or with respect to (including, without limitation, purchasing or selling, long and/or short) any securities of the Company or "derivative" securities based on securities issued by the Company, or to hold any securities of the Company or "derivative" securities based on securities issued by the Company for any specified term; (ii) the Investor, and counterparties in "derivative" transactions to which the Investor is a party, directly or indirectly, presently may have a "short" position in the Common Shares which was established prior to the Investor's knowledge of the transactions contemplated by the Transaction Documents; and (iii) the Investor shall not be deemed to have any affiliation with or control over any arm's length counterparty in any "derivative" transaction. The Company acknowledges that such aforementioned hedging and/or trading activities do not constitute a breach of this Agreement or any other Transaction Document or any of the documents executed in connection herewith or therewith.

Section 4.36. Cybersecurity. The Company and its Subsidiaries' information technology assets and equipment, computers, systems, networks, hardware, software, websites, applications, and databases (collectively, "IT Systems") are adequate for, and operate and perform in all material respects as required in connection with the operation of the business of the Company and its subsidiaries as currently conducted, free and clear of all material bugs, errors, defects, Trojan horses, time bombs, malware and other corruptants that would reasonably be expected to have a Material Adverse Effect on the Company's business. The Company and its Subsidiaries have implemented and maintained commercially reasonable physical, technical and administrative controls, policies, procedures, and safeguards reasonably designed to maintain and protect their material confidential information and the integrity, continuous operation, redundancy and security of all IT Systems and data, including "Personal Data," used in connection with their businesses. "Personal Data" means (i) a natural person's name, street address, telephone number, e-mail address, photograph, social security number or tax identification number, driver's license number, passport number, credit card number, bank information, or customer or account number; (ii) any information which would qualify as "personally identifying information" under the Federal Trade Commission Act, as amended; (iii) "personal data" as defined by the European Union General Data Protection Regulation ("GDPR") (EU 2016/679); (iv) any information which would qualify as "protected health information" under the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology for Economic and Clinical Health Act (collectively, "HIPAA"); and (v) any other piece of information that allows the identification of such natural person, or his or her family, or permits the collection or analysis of any data related to an identified person's health or sexual orientation. There have been no breaches, violations, outages or unauthorized uses of or accesses to same, except for those that have been remedied without material cost or liability or the duty to notify any other person or such, nor any incidents under internal review or investigations relating to the same except in each case, where such would not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect. The Company and its Subsidiaries are presently in compliance with all applicable laws or statutes and all judgments, orders, rules and regulations of any court or

arbitrator or governmental or regulatory authority, internal policies and contractual obligations relating to the privacy and security of IT Systems and Personal Data and to the protection of such IT Systems and Personal Data from unauthorized use, access, misappropriation or modification except in each case, where such would not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

## Article V. Indemnification

Section 5.01. Indemnification by the Company. In consideration of the Investor's execution and delivery of this Agreement and acquiring the Shares hereunder, and in addition to all of the Company's other obligations under this Agreement, the Company shall defend, protect, indemnify and hold harmless the Investor and its investment manager and each of their respective officers, directors, managers, members, partners, employees and agents (including, without limitation, those retained in connection with the transactions contemplated by this Agreement) and each person who controls the Investor within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act (collectively, the "Investor Indemnitees") from and against any and all actions, causes of action, suits, claims, losses, costs, penalties, fees, liabilities and damages, and reasonable and documented expenses in connection therewith (irrespective of whether any such Investor Indemnitee is a party to the action for which indemnification hereunder is sought), and including reasonable attorneys' fees and disbursements (the "Indemnified Liabilities"), incurred by the Investor Indemnitees or any of them as a result of, or arising out of, or relating to (a) any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement for the registration of the Shares as originally filed or in any amendment thereof, or in any related prospectus, or in any amendment thereof or supplement thereto, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading; provided, however, that the Company will not be liable in any such case to the extent that any such loss, claim, damage or liability arises out of or is based upon any such untrue statement or alleged untrue statement or omission or alleged omission made therein in reliance upon and in conformity with written information furnished to the Company by or on behalf of the Investor specifically for inclusion therein; (b) any material misrepresentation or breach of any material representation or material warranty made by the Company in this Agreement or any other certificate, instrument or document contemplated hereby or thereby; or (c) any material breach of any material covenant, material agreement or material obligation of the Company contained in this Agreement or any other certificate, instrument or document contemplated hereby or thereby. To the extent that the foregoing undertaking by the Company may be unenforceable under Applicable Law, the Company shall make the maximum contribution to the payment and satisfaction of each of the Indemnified Liabilities, which is permissible under Applicable Law.

Section 5.02. Indemnification by the Investor. In consideration of the Company's execution and delivery of this Agreement, and in addition to all of the Investor's other obligations under this Agreement, the Investor shall defend, protect, indemnify and hold harmless the Company, its Subsidiaries and all of its and their officers, directors, stockholders, employees and agents (including, without limitation, those retained in connection with the transactions contemplated by this Agreement) and each person who controls the Company within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act (collectively, the "Company Indemnitees") from and against any and all Indemnified Liabilities incurred by the Company Indemnitees or any of them as a result of, or arising out of, or relating to (a) any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement for the registration of the Shares as originally filed or in any amendment thereof, or in any related prospectus, or in any amendment thereof or supplement thereto, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading; provided, however, that the Investor will only be liable for written information relating to the Investor furnished to the Company by or on behalf of the Investor specifically for inclusion in the documents referred to in the foregoing indemnity, and will not be liable in any such case to the extent that any such loss, claim, damage or liability arises out of or is based upon any such untrue statement or alleged untrue statement or omission or alleged omission made therein in reliance upon and in conformity with written information furnished to the Investor by or on behalf of the Company specifically for inclusion therein; (b) any misrepresentation or breach of any representation or warranty made by the Investor in this Agreement or any instrument or document contemplated hereby or thereby executed by the Investor; or (c) any breach of any covenant, agreement or obligation of the Investor contained in this Agreement or any other certificate, instrument or document contemplated hereby or thereby executed by the Investor. To the extent that the foregoing undertaking by the Investor may be unenforceable under Applicable Laws, the Investor shall make the maximum contribution to the payment and satisfaction of each of the Indemnified Liabilities, which is permissible under Applicable Laws.

Section 5.03. Notice of Claim. Promptly after receipt by an Investor Indemnitee or Company Indemnitee of notice of the commencement of any action or proceeding (including any governmental action or proceeding) involving an Indemnified Liability, such Investor Indemnitee or Company Indemnitee, as applicable, shall, if a claim for an Indemnified Liability in respect thereof is to be made against any indemnifying party under this Article V, deliver to the indemnifying party a written notice of the commencement thereof; but the failure to so notify the indemnifying party will not relieve it of liability under this Article V except to the extent the indemnifying party is prejudiced by such failure. The indemnifying party shall have the right to participate in, and, to the extent the indemnifying party so desires, jointly with any other indemnifying party similarly noticed, to assume control of the defense thereof with counsel mutually reasonably satisfactory to the indemnifying party and the Investor Indemnitee or Company Indemnitee, as the case may be; provided, however, that an Investor Indemnitee or Company Indemnitee shall have the right to retain its own counsel with the actual and reasonable third party fees and expenses of not more than one counsel for such Investor Indemnitee or Company Indemnitee to be paid by the indemnifying party, if, in the reasonable opinion of counsel retained by the indemnifying party, the representation by such counsel of the Investor Indemnitee or Company Indemnitee and the indemnifying party would be inappropriate due to actual or potential differing interests between such Investor Indemnitee or Company Indemnitee and any other party represented by such counsel in such proceeding. The Investor Indemnitee or Company Indemnitee shall cooperate fully with the indemnifying party in connection with any negotiation or defense of any such action or claim by the indemnifying party and shall furnish to the indemnifying party all information reasonably available to the Investor Indemnitee or Company Indemnitee which relates to such action or claim. The indemnifying party shall keep the Investor Indemnitee or Company Indemnitee reasonably apprised as to the status of the defense or any settlement negotiations with respect thereto. No indemnifying party shall be liable for any settlement of any action, claim or proceeding effected without its prior written consent, provided, however, that the indemnifying party shall not unreasonably withhold, delay or condition its consent. No indemnifying party shall, without the prior written consent of the Investor Indemnitee or Company Indemnitee, consent to entry of any judgment or enter into any settlement or other compromise which does not include as an unconditional term thereof the giving by the claimant or plaintiff to such Investor Indemnitee or Company Indemnitee of a release from all liability in respect to such claim or litigation. Following indemnification as provided for hereunder, the indemnifying party shall be subrogated to all rights of the Investor Indemnitee or Company Indemnitee with respect to all third parties, firms or corporations relating to the matter for which indemnification has been made. The indemnification required by this Article V shall be made by periodic payments of the amount thereof during the course of the investigation or defense, as and when bills are received and payment therefor is due.

Section 5.04. Remedies. The remedies provided for in this Article V are not exclusive and shall not limit any right or remedy which may be available to any indemnified person at law or equity. The obligations of the parties to indemnify or make contribution under this Article V shall survive expiration or termination of this Agreement.

Section 5.05. Limitation of liability. Notwithstanding the foregoing, no party shall seek, nor shall any be entitled to recover from the other party be liable for, special, incidental, indirect, consequential, punitive or exemplary damages.

## Article VI. Covenants

The Company covenants with the Investor, and the Investor covenants with the Company, as follows, which covenants of one party are for the benefit of the other party, during the Commitment Period:

Section 6.01. Effective Registration Statement. From the time that the initial Registration Statement is declared effective by the SEC and continuing thereafter during the Commitment Period, the Company shall maintain the continuous effectiveness of a Registration Statement filed with the SEC under the Securities Act pursuant to and in accordance with the Registration Rights Agreement.

Section 6.02. Listing. The Company shall use its best efforts to continue the listing and trading of its Common Shares and the listing of the Shares on the Principal Market and to comply with the Company's reporting, filing and other obligations under the rules and regulations of the Principal Market; *provided* that if the Company receives any final and non-appealable notice that the listing or quotation of the Common Shares on the Principal Market shall be terminated on a date certain or if the Company fails to maintain compliance with the continued listing requirements of the Principal Market, the Company shall promptly (and in any case within 24 hours) notify the Investor of such fact

in writing and shall use its commercially reasonable efforts to cause the Common Shares to be listed or quoted on another Principal Market.

Section 6.03. Blue Sky. The Company shall take such action, if any, as is necessary by the Company in order to obtain an exemption for or to qualify the Shares for issuance by the Company to the Investor pursuant to the Transaction Documents, and at the request of the Investor, the subsequent resale of Registrable Securities by the Investor, in each case, under applicable state securities or "Blue Sky" laws and shall provide evidence of any such action so taken to the Investor from time to time during the Commitment Period; provided, however, that the Company shall not be required in connection therewith or as a condition thereto to (x) qualify to do business in any jurisdiction where it would not otherwise be required to qualify, (y) subject itself to general taxation in any such jurisdiction, or (z) file a general consent to service of process in any such jurisdiction.

Section 6.04. Suspension of Registration Statement.

(a) Establishment of a Black Out Period. During the Commitment Period, the Company from time to time may suspend the use of a Registration Statement by written notice to the Investor in the event that the Company determines in its sole discretion in good faith that such suspension is necessary to (A) delay the disclosure of material nonpublic information concerning the Company, the disclosure of which at the time is not, in the good faith opinion of the Company, in the best interests of the Company or (B) amend or supplement the Registration Statement or Prospectus so that such Registration Statement or Prospectus shall not include an 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, in light of the circumstances under which they were made, not misleading (a "Black Out Period").

(b) No Sales by Investor During the Black Out Period. During such Black Out Period, the Investor agrees not to sell any Common Shares pursuant to such Registration Statement, but may sell Common Shares pursuant to an exemption from registration, if available, subject to the Investor's compliance with Applicable Laws.

(c) Limitations on the Black Out Period. The Company shall not impose any Black Out Period that is longer than 45 days or in a manner that is more restrictive (including, without limitation, as to duration) than the comparable restrictions that the Company may impose on transfers of the Company's equity securities by its directors and senior executive officers. In addition, the Company shall not deliver any Advance Notice during any Black Out Period. If the public announcement of such material, nonpublic information is made during a Black Out Period, the Black Out Period shall terminate after the end of the first Trading Day after such announcement, and the Company shall immediately notify the Investor of the termination of the Black Out Period.

Section 6.05. Listing of Common Shares. As of each Advance Notice Date, the Common Shares to be issued and sold by the Company from time to time hereunder will have been registered under Section 12(b) of the Exchange Act and approved for listing on the Principal Market, subject to official notice of issuance. As of each Advance Notice Date, the Common Shares shall not have been limited or suspended from trading on the Principal Market (other than suspensions of not more than two (2) Trading Days and occurring prior to the applicable date of determination due to business announcements by the Company) nor shall delisting or suspension by the Principal Market have been threatened (with a reasonable prospect of delisting occurring after giving effect to all applicable notice, appeal, compliance and hearing periods (it being understood by the Company and the Investor that no reasonable prospect of delisting will occur prior to the Company holding an annual or special meeting of its stockholders in order to obtain Stockholder Approval, including any postponement thereof) or any communications from the Principal Market related to such notice that do not actually effect the delisting or suspension of the Common Shares) or be reasonably likely to occur or pending as evidenced by (A) a writing by such Principal Market or (B) the Company falling below the minimum listing maintenance requirements of the Principal Market on which the Common Shares are then listed, provided that the Investor may waive such condition at the Investor's sole option.

Section 6.06. Opinion of Counsel. Prior to the date of the delivery by the Company of the first Advance Notice, the Investor shall have received an opinion letter from counsel to the Company in form and substance reasonably satisfactory to the Investor.

Section 6.07. Exchange Act Registration. The Company will file in a timely manner all reports and other documents required of it as a reporting company under the Exchange Act and, during the Commitment Period, will

not take any action or file any document (whether or not permitted by Exchange Act or the rules thereunder) to terminate or suspend its reporting and filing obligations under the Exchange Act.

Section 6.08. Legal Opinions; Restrictive Legends. The Company is obligated to cause its legal counsel to deliver legal opinions to the Transfer Agent in connection with any legend removal requested pursuant to and in accordance with Rule 144, within one (1) Trading Day of such legend removal request, subject to the Investor providing customary representations and other documentation, if any, as reasonably requested by the Company, its counsel or the Transfer Agent. In addition, within one (1) Trading Day after the initial Registration Statement which covers the Shares is declared effective by the SEC, the Company shall deliver, and shall cause its legal counsel to deliver, to the Transfer Agent (with copies to the Investor) a legal opinion stating that such Shares are registered for resale pursuant to such Registration Statement that has been declared effective by the SEC and that any restrictive legends on the Shares shall be removed in connection with the resale of such Shares by the Investor pursuant to such Registration Statement. To the extent that a legal opinion is not provided (either timely or at all), then, in addition to being a breach of the covenant in this Section 6.08 hereunder, the Company agrees to reimburse the Investor for all costs incurred by the Investor in connection with any legal opinions paid for by the Investor in connection with the sale or transfer of the Shares. The Investor shall notify the Company of any such costs and expenses it incurs that are referred to in this section from time to time and all amounts owed hereunder shall be paid by the Company promptly.

Section 6.09. Transfer Agent Instructions. For any time while there is a Registration Statement in effect for this transaction, the Company shall (if required by the transfer agent for the Common Shares) deliver to the transfer agent for the Common Shares (with a copy to the Investor) (i) instructions to issue Common Shares to the Investor free of restrictive legends upon each Advance if the delivery of such instructions are consistent with Applicable Law, in each case supported as needed by an opinion from legal counsel for the Company and (ii) an opinion of Company counsel, stating that Rule 144 promulgated under the Securities Act ("Rule 144") is available as an exemption from registration for the resale of the Common Shares.

Section 6.10. Corporate Existence. The Company will use commercially reasonable efforts to preserve and continue the corporate existence of the Company during the Commitment Period.

Section 6.11. Notice of Certain Events Affecting Registration; Suspension of Right to Make an Advance. The Company will promptly notify the Investor, and confirm in writing, upon its becoming aware of the occurrence of any of the following events in respect of a Registration Statement or related Prospectus (such information to be held in strict confidence by Investor until such time as it is publicly disclosed by the Company): (i) the issuance by the SEC or any other federal governmental authority of any stop order suspending the effectiveness of the Registration Statement or the initiation of any proceedings for that purpose; or (ii) the happening of any event that makes any statement made in the Registration Statement or related Prospectus or any document incorporated or deemed to be incorporated therein by reference untrue in any material respect or that requires the making of any changes in the Registration Statement, related Prospectus or documents so that, in the case of the Registration Statement, it will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading, and that in the case of the related Prospectus, it will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, or of the necessity to amend the Registration Statement or supplement a related Prospectus to comply with the Securities Act or any other law (and the Company will promptly make available to the Investor any such supplement or amendment to the related Prospectus). The Company shall not deliver to the Investor any Advance Notice, and the Company shall not sell any Shares pursuant to any pending Advance Notice (other than as required pursuant to Section 2.01), during the continuation of any of the foregoing events (each of the events described in the immediately preceding clauses (i) through (ii), inclusive, a "Material Outside Event").

Section 6.12. Consolidation. If an Advance Notice has been delivered to the Investor, then the Company shall not effect any consolidation of the Company with or into, or a transfer of all or substantially all the assets of the Company to another entity before the transaction contemplated in such Advance Notice has been closed in accordance with Section 2.04 hereof, and all Shares in connection with such Advance have been received by the Investor.

Section 6.13. Issuance of the Common Shares. The issuance and sale of the Common Shares to the Investor hereunder shall be made in accordance with the provisions and requirements of Section 4(a)(2) of the Securities Act and any applicable state securities law.

Section 6.14. Expenses. The Company, whether or not the transactions contemplated hereunder are consummated or this Agreement is terminated, will pay all expenses incident to the preparation, negotiation and execution of this Agreement and the other Transaction Documents and any amendment or modifications hereto or thereto and the performance of its obligations hereunder or thereunder, including, but not limited to, (i) the preparation, printing and filing of the Registration Statement and each amendment and supplement thereto, of each Prospectus and of each amendment and supplement thereto; (ii) the preparation, issuance and delivery of any Shares issued pursuant to this Agreement, (iii) all fees and disbursements of the Company's counsel, accountants and other advisors and the fees and disbursements of any counsel to the Investor, (iv) the qualification of the Shares under securities laws in accordance with the provisions of this Agreement, including filing fees in connection therewith, (v) the printing and delivery of copies of any Prospectus and any amendments or supplements thereto requested by the Investor, (vi) the fees and expenses incurred in connection with the listing or qualification of the Shares for trading on the Principal Market and (vii) filing fees of the SEC and the Principal Market.

Section 6.15. Current Report. The Company shall, not later than 9:30 a.m., New York City time, on the first Trading Day following the date of this Agreement, file with the SEC a Current Report on Form 8-K describing all the material terms of the transactions contemplated by the Transaction Documents in the form required by the Exchange Act and attaching all the material Transaction Documents (including any exhibits thereto, the "Current Report"), which Current Report shall include all material, nonpublic information required to be disclosed in connection with the transactions contemplated by the Transaction Documents. The Company shall provide the Investor and its legal counsel a reasonable opportunity to comment on a draft of the Current Report prior to filing the Current Report with the SEC and shall give due consideration to all such comments that are timely received by the Company. Should the Company choose to issue a press release announcing this Agreement, then such press release shall be issued on the same day the Current Report is filed with the SEC. Until the Current Report is filed with the SEC, the Company shall not deliver any Advance Notices pursuant to this Agreement. In addition, effective upon the filing of the Current Report, the Company acknowledges and agrees that any and all confidentiality or similar obligations, whether written or oral, between the Company, any of its Subsidiaries or any of their respective officers, directors, affiliates, employees or agents, on the one hand, and Investor or any of its respective officers, directors, affiliates, employees or agents, on the other hand shall terminate. The Company shall not, and the Company shall cause each of its Subsidiaries and each of its and their respective officers, directors, employees and agents not to, provide the Investor with any material, non-public information regarding the Company or any of its Subsidiaries without the express prior written consent of the Investor (which may be granted or withheld in the Investor's sole discretion). The Company understands and confirms that the Investor will rely on the foregoing representations in effecting resales of Shares.

Section 6.16. Use of Proceeds. The proceeds from any sale of Shares by the Company to the Investor hereunder shall be used by the Company in the manner as will be set forth in the Prospectus included in any Registration Statement (and any post-effective amendment thereto) and any Prospectus Supplement thereto filed pursuant to this Agreement, including for working capital purposes for the Company and its Subsidiaries. Neither the Company nor any Subsidiary will, directly or indirectly, use the proceeds of the transactions contemplated herein to repay any advances or loans to any executives or employees of the Company or any Subsidiary or to make any payments in respect of any related party obligations, including without limitation any payables or notes payable to related parties of the Company or any Subsidiary whether or not such amounts are described on the balance sheets of the Company in any SEC Documents and any Subsidiary or described in any "Related Party Transactions" section of any SEC Documents.

Section 6.17. Market Activities. Neither the Company, nor any Subsidiary, nor any of their respective officers, directors or controlling persons will, directly or indirectly, (i) take any action designed to cause or result in, or that constitutes or might reasonably be expected to constitute or result, in the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of Common Shares or (ii) sell, bid for, or purchase Common Shares in violation of Regulation M, or pay anyone any compensation for soliciting purchases of the Shares.

Section 6.18. Trading Information. On the first Trading Day of each week (provided the Investor sold any shares during the prior week) and otherwise upon the Company's reasonable request, the Investor agrees to provide the

Company with trading reports setting forth the number and average sales prices of shares of Common Shares sold by the Investor during the prior trading week.

Section 6.19. Selling Restrictions.

(a) Short Sales. Except as expressly set forth in this Agreement and subject to Section 6.19(b), the Investor covenants that from and after the date hereof through and including the Trading Day following the expiration or termination of this Agreement as provided in Section 9.01 (the "Restricted Period"), none of the Investor or any entity managed or directly controlled by the Investor (collectively, the "Restricted Persons" and each of the foregoing is referred to herein as a "Restricted Person") shall, directly or indirectly, (i) engage in any "short sale" (as such term is defined in Rule 200 of Regulation SHO of the Exchange Act) of the Common Shares, or (ii) engage in any hedging transaction, which establishes a net short position with respect to the Common Shares, in each case either for its own principal account or for the principal account of any other Restricted Person (each instance, as applicable, a "Short Sale"). Notwithstanding the foregoing, it is expressly understood and agreed that nothing contained herein shall (without implication that the contrary would otherwise be true) prohibit any Restricted Person during the Restricted Period from: (1) selling "long" (as defined under Rule 200 promulgated under Regulation SHO) the Shares; or (2) selling a number of Common Shares equal to the number of Advance Shares that such Restricted Person is unconditionally obligated to purchase under a pending Advance Notice but has not yet received from the Company or the transfer agent pursuant to this Agreement.

(b) Notwithstanding anything to the contrary contained in Section 6.19(a), in the event any Restricted Persons holds any form of security or instrument that is (or may become) convertible into, or exercisable for, Common Shares (an "Owned Instrument") than the Restricted Persons may engage in hedging and/or trading activities (including, without limitation, the location and/or reservation of borrowable Common Shares) at various times during the period that Owned Instrument remains outstanding, including, without limitation, during the periods that the value and/or number of the Common Shares underlying the Owned Instrument, as applicable, deliverable with respect to the Owned Instrument are being determined. The Company acknowledges that such aforementioned hedging and/or trading activities do not constitute a breach of this Agreement or any other Transaction Document or any of the documents executed in connection herewith or therewith.

Section 6.20. Assignment. Neither this Agreement nor any rights or obligations of the parties hereto may be assigned to any other Person, provided however that the Investor may assign its rights and obligations hereunder to an Affiliate.

Section 6.21. No Frustration; No Variable Rate Transactions, Etc.

(a) No Frustration. The Company shall not enter into, announce or recommend to its stockholders any agreement, plan, arrangement or transaction in or of which the terms thereof would restrict, materially delay, conflict with or impair the ability or right of the Company to perform its obligations under the Transaction Documents to which it is a party, including, without limitation, the obligation of the Company to deliver the Shares to the Investor in respect of an Advance Notice.

(b) No Variable Rate Transactions.

(i) Variable Rate Transaction. From the date hereof until the earlier of (i) 12 months after the date on which the initial Registration Statement is declared effective by the SEC and (ii) three (3) months after the date of termination of this Agreement in accordance with Section 9.01 herein (the "Limitation Date"), the Company and each Subsidiary shall be prohibited from effecting or entering into an agreement to effect any Subsequent Placement of Common Shares or Common Share Equivalents (or a combination thereof) involving a Variable Rate Transaction, other than in connection with the issuance of Excluded Securities or with the prior written consent of the Investor. The Investor shall be entitled to seek injunctive relief against the Company to preclude any such issuance, which remedy shall be in addition to any right to collect damages, without the necessity of showing economic loss and without any bond or other security being required.

(ii) Notwithstanding anything herein to the contrary this Section shall not apply to any issuance of Shares pursuant to this Agreement.

Section 6.22. Right of First Refusal.

(a) During the Additional Issuance Restricted Period, in the event that the Company receives a Bona Fide Offer (defined below) of a Subsequent Placement, then the Company must, and irrevocably agrees to, first offer such opportunity to the Investor to provide such capital or financing to the Company on the same or similar terms as the respective third party's terms, and the Investor may in its sole discretion determine whether the Investor will provide such capital or financing for such Subsequent Placement. Upon receipt of the third-party offer, the Company shall promptly provide notice thereof to the Investor (the "Offer Notice") and provide copies of the pending transaction documents. Should the Investor be unwilling or unable to provide such capital or financing to the Company within two (2) Trading Days from the Investor's receipt of the Offer Notice from the Company, then the Company may obtain such capital or financing from such third party on the exact same terms and conditions offered by the Company to the Investor and such transaction must be completed within seven (7) Trading Days of the date of the Offer Notice. If the Company does not receive the capital or financing from the respective third party within seven (7) Trading Days of the date of the respective Offer Notice, then the Company must again offer the capital or financing opportunity to the Investor as described above, and the process detailed above shall be repeated. A "Bona Fide Offer" is one in which the third party purchaser is irrevocably and contractually bound to purchase the subject securities from the Company, subject to the Investor's right of first refusal.

Section 6.23. [Reserved].

Section 6.24. Non-Public Information. Neither the Company, nor any of their respective directors, officers, employees or agents shall disclose any material non-public information about the Company to the Investor, unless a simultaneous public announcement thereof is made by the Company in the manner contemplated by Regulation FD. In the event of a breach of the foregoing covenant by the Company, or any of their respective directors, officers, employees and agents (as determined in the reasonable good faith judgment of the Investor), (i) the Investor shall promptly provide written notice of such breach to the Company and (ii) after such notice has been provided to the Company and, provided that the Company shall have failed to publicly disclose such material, non-public information within 24 hours following demand therefor by the Investor, in addition to any other remedy provided herein or in the other Transaction Documents, the Investor shall have the right to make a public disclosure, in the form of a press release, public advertisement or otherwise, of such material, non-public information without the prior approval by the Company, any of its Subsidiaries, or any of their respective directors, officers, employees or agents. The Investor shall not have any liability to the Company, any of its Subsidiaries, or any of their respective directors, officers, employees, stockholders or agents, for any such disclosure. The Company shall not disclose any material non-public information to the Investor without the Investor's prior written consent.

Section 6.25. Stockholder Approval. The Company shall provide each stockholder entitled to vote at a meeting of stockholders of the Company (the "Stockholder Meeting"), which shall be promptly called and held not later than sixty (60) days following the date hereof (the "Stockholder Meeting Deadline"), a proxy statement in a form reasonably acceptable to the Investor and Sullivan & Worcester LLP, at the expense of the Company, with the Company obligated to reimburse the expenses of Sullivan & Worcester LLP incurred in connection therewith. The proxy statement, if any, shall solicit each of the Company's stockholders' affirmative vote at the Stockholder Meeting for approval of the proposal ("Stockholder Proposal") to authorize the issuance of all of the Shares issuable hereunder in compliance with the rules and regulations of the Principal Market (such affirmative approval being referred to herein as the "Stockholder Approval", and the date such Stockholder Approval is obtained, the "Stockholder Approval Date"), and the Company shall use its reasonable best efforts to solicit its stockholders' approval of such proposal(s) and to cause the board of directors of the Company to recommend to the stockholders that they approve such proposal(s). The Company shall be obligated to seek to obtain the Stockholder Approval by the Stockholder Meeting Deadline. If, despite the Company's reasonable best efforts the Stockholder Approval is not obtained by such Stockholder Approval Date, the Company shall adjourn and reconvene the Stockholder Meeting at least as often as every thirty (30) calendar days thereafter until such Stockholder Approval is obtained, but in no event later than the three hundred and sixty-fifth (365th) calendar day after the date hereof.

Section 6.26. Reservation. As of the date hereof, the Company shall have reserved from its duly authorized capital stock not less than 100% of the Common Shares issuable hereunder, which number of Common Shares shall be calculated assuming a price per share equal to 80% of the lower of (i) the 3 day VWAP prior to the measurement date and (ii) the last closing price per Common Share (the "Reservation Estimate"); provided; however, that if the Company does not have sufficient authorized Common Shares available for the Reservation Estimate, then the Company shall reserve the maximum amount available as of the date hereof and shall thereafter increase such reserve amount on the first day of every successive month until the reserve amount is equal to the Reservation Estimate; provided, further that, without the prior written consent of the Investor, the Company may not deliver an Advance Notice hereunder if the reserve amount is less than the number of Advance Shares to be purchased in such Advance. Any consent provided by the Investor pursuant to this Section 6.26 shall only apply to the applicable Advance Notice and shall not be deemed to be a consent to any additional Advance Notices.

Section 6.27. Market Activities. The Company will not, directly or indirectly, take any action designed to cause or result in, or that constitutes or might reasonably be expected to constitute, the stabilization or manipulation of the price of any security of the Company under Regulation M of the Exchange Act.

Section 6.28. Use of Name. The Company shall not, directly or indirectly, use the names "***", "***", or any derivations thereof, or logos associated with these names, as the case may be, in any manner or take any action that may imply any relationship with the Investor or any of its Affiliates without the prior written consent of the Investor, provided, however, the Investor hereby consents to all lawful uses of these names in the prospectus, statement and other materials that are required by applicable laws or pursuant to the disclosure requirements of the SEC or any state securities authority.

**Article VII. Non-Exclusive Agreement.**

Section 7.01. Except as provided herein, this Agreement and the rights awarded to the Investor hereunder are non-exclusive, and the Company may, at any time throughout the term of this Agreement and thereafter, issue and allot, or undertake to issue and allot, to any person or persons any shares and/or securities and/or convertible notes, bonds, debentures, options to acquire shares or other securities and/or other facilities which may be converted into or replaced by Common Shares or other securities of the Company, and to extend, renew and/or recycle any bonds and/or debentures, and/or grant any rights with respect to its existing and/or future share capital.

**Article VIII. Choice of Law/Jurisdiction**

Section 8.01. This Agreement, and any and all claims, proceedings or causes of action relating to this Agreement or arising from this Agreement or the transactions contemplated herein, including, without limitation, tort claims, statutory claims and contract claims, shall be interpreted, construed, governed and enforced under and solely in accordance with the substantive and procedural laws of the State of Delaware, in each case as in effect from time to time and as the same may be amended from time to time, and as applied to agreements performed wholly within the State of Delaware, without giving effect to any choice of law or conflict of law provision or rule (whether the State of Delaware, or any other jurisdictions) that would cause the application of the laws of any jurisdictions other than the State of Delaware. The Parties further agree that any action between them shall be heard in the state and federal courts sitting in New Castle County, Delaware and expressly consent to the jurisdiction and venue of the state and federal courts sitting in New Castle County, Delaware, for the adjudication of any civil action asserted pursuant to this Agreement.

EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREIN, THE PERFORMANCE THEREOF OR THE FINANCINGS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTY HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS PARAGRAPH.

## Article IX. Termination

Section 9.01. Termination.

(a) Unless earlier terminated as provided hereunder, this Agreement shall terminate automatically on the earliest of (i) the first day of the next month following the 24-month anniversary of the Effective Date, (ii) the date on which the Investor shall have made payment of Advances pursuant to this Agreement for Common Shares equal to the Commitment Amount and all Advance Shares have been delivered, and (iii) the date on which the Company announces or publicly discloses a material restatement of its financial statements for two (2) or more fiscal quarters (the "Lapsed Registration Termination"). The Investor may terminate this Agreement at any time at the Investor's sole option if the Registration Statement is not declared effective by the one hundred and twentieth (120) day following the date hereof.

(b) The Company may terminate this Agreement effective upon five (5) Trading Days' prior written notice to the Investor; provided that there are no outstanding Advance Notices, the Common Shares under which have yet to be issued. Following the effectiveness of a Registration Statement, the Investor may terminate this Agreement effectively immediately if the effectiveness of such Registration Statement, or any post-effective amendment thereto, lapses for any reason (including, without limitation, the issuance of a stop order by the Commission) or such Registration Statement or any post-effective amendment thereto, the Prospectus contained therein or any Prospectus Supplement thereto otherwise becomes unavailable to the Investor for the resale of all of the Registrable Securities included therein in accordance with the terms of the Registration Rights Agreement, and such lapse or unavailability continues for a period of ten (10) consecutive Trading Days or for more than an aggregate of twenty (20) Trading Days in any 365-day period. This Agreement may be terminated at any time by the mutual written consent of the parties, effective as of the date of such mutual written consent unless otherwise provided in such written consent.

(c) Nothing in this Section 9.01 shall be deemed to release the Company or the Investor from any liability for any breach under this Agreement, or to impair the rights of the Company and the Investor to compel specific performance by the other party of its obligations under this Agreement. The indemnification provisions contained in Article V shall survive termination hereunder.

## Article X. Notices

Other than with respect to Advance Notices, which must be in writing and will be deemed delivered on the day set forth in Section 2.01(b), any notices, consents, waivers, or other communications required or permitted to be given under the terms of this Agreement must be in writing and will be deemed to have been delivered (a) upon receipt, when delivered personally; (b) upon receipt, when sent by e-mail to all addresses noted below if sent on a Trading Day, or, if not sent on a Trading Day, on the immediately following Trading Day; (c) 5 days after being sent by U.S. certified mail, return receipt requested, (d) one day after deposit with a nationally recognized overnight delivery service, in each case properly addressed to the party to receive the same. The addresses for such communications (except for Advance Notices which shall be delivered in accordance with Exhibit B hereof) shall be:

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| If to the Company, to: | NAUTICUS ROBOTICS, INC.<br>17146 Feathercraft Lane, Suite 450<br>Webster, Texas 77598<br>Attn: General Counsel<br>Telephone: [***]<br>Email: [***] |
| With a copy to (which shall not constitute notice or delivery of process) to: | Norton Rose Fulbright US LLP<br>1301 Avenue of the Americas<br>New York, New York 10019<br>Attn: Amelia Zhang; Robert Morris<br>Telephone: [***]<br>Email: [***]<br>[***] |

| | |
|---|---|
| If to the Investor(s): | [***] |
| With a copy (which shall not constitute notice or delivery of process) to: | Sullivan & Worcester LLP<br>1251 Avenue of the Americas<br>New York, New York 10020<br>Attn: David Danovitch, Esq.<br>Telephone: [***]<br>Email: [***] |

or at such other address and/or e-mail and/or to the attention of such other person as the recipient party has specified by written notice given to each other party three Trading Days prior to the effectiveness of such change. Written confirmation of receipt (i) given by the recipient of such notice, consent, waiver or other communication, (ii) electronically generated by the sender's email service provider containing the time, date, recipient email address or (iii) provided by a nationally recognized overnight delivery service shall be rebuttable evidence of personal service in accordance with clause (i), (ii) or (iii) above, respectively.

**Article XI. Miscellaneous**

Section 11.01. Counterparts. This Agreement may be executed in identical counterparts, both which shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to the other party. Facsimile or other electronically scanned and delivered signatures (including any electronic signature covered by the U.S. federal ESIGN Act of 2000, Uniform Electronic Transactions Act, the Electronic Signatures and Records Act or other applicable law, *e.g.*, www.docusign.com), including by e-mail attachment, shall be deemed to have been duly and validly delivered and be valid and effective for all purposes of this Agreement.

Section 11.02. Entire Agreement; Amendments. This Agreement supersedes all other prior oral or written agreements between the Investor, the Company, their respective affiliates and persons acting on their behalf with respect to the matters discussed herein, and this Agreement contains the entire understanding of the parties with respect to the matters covered herein and, except as specifically set forth herein, neither the Company nor the Investor makes any representation, warranty, covenant or undertaking with respect to such matters. No provision of this Agreement may be waived or amended other than by an instrument in writing signed by the parties to this Agreement.

Section 11.03. Reporting Entity for Common Shares. The reporting entity relied upon for the determination of the trading price or trading volume of the Common Shares on any given Trading Day for the purposes of this Agreement shall be the Reporting Service or any successor thereto. The written mutual consent of the Investor and the Company shall be required to employ any other reporting entity.

Section 11.04. Fees and Expenses; Commitment Fee. The Company shall reimburse the Investor for all legal fees and expenses and reasonable costs and expenses incurred by it or its affiliates in connection with the structuring, documentation, diligence, negotiation, applicable closing and post-closing, as applicable, including related amendments, waivers, enforcement actions, compliance checks or legal audits, of the transactions contemplated by the Transaction Documents irrespective of whether or not any Closings occur (including, without limitation, as applicable, any other reasonable and documented fees and expenses in connection with the structuring, documentation, negotiation and closing of the transactions contemplated by the Transaction Documents and due diligence and regulatory filings in connection therewith) (the "Transaction Expenses") and such Transaction Expenses not otherwise paid by the Company shall be withheld by the Investor from its Aggregate Purchase Price at each applicable Closing; provided, that the Company shall promptly reimburse Sullivan & Worcester LLP (and/or the Investor, as applicable) on demand for all Transaction Expenses applicable thereto in accordance hereto not so reimbursed through such withholding at such applicable Closing. The Company shall be responsible for the payment of any placement agent's fees, financial advisory fees, transfer agent fees, Depository Trust Company fees or broker's commissions (other than for Persons engaged by the Investor) relating to or arising out of the transactions contemplated hereby. The Company shall pay, and hold the Investor harmless against, any liability, loss or expense (including, without limitation,

reasonable attorneys' fees and out-of-pocket expenses) arising in connection with any claim relating to any such payment. The Company shall pay a commitment fee in an amount equal to $100,000 (the "Commitment Fee") either, at the Investor's option, (i) in cash or, (ii) by the issuance to the Investor on the Effective Date of such number of Common Shares that is equal to the Commitment Fee divided by the lowest Daily VWAP of the Common Shares during the ten (10) Trading Days immediately prior to the Effective Date (collectively, the "Commitment Shares"). The resale of the Commitment Shares issued hereunder shall be included on the initial Registration Statement.

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**IN WITNESS WHEREOF**, the parties hereto have caused this Equity Purchase Facility Agreement to be executed by the undersigned, thereunto duly authorized, as of the date first set forth above.

**COMPANY:**

**NAUTICUS ROBOTICS, INC.**

By: /s/ John W Gibson Jr
Name: John W Gibson Jr
Title: President & CEO

**INVESTOR:**

[***]

[*Signature Page to Equity Purchase Facility Agreement*]

**ANNEX I TO THE**
**EQUITY PURCHASE FACILITY AGREEMENT**
**CONDITIONS PRECEDENT TO THE RIGHT OF THE COMPANY**
**TO DELIVER AN ADVANCE NOTICE**

The right of the Company to deliver an Advance Notice and the obligations of the Investor hereunder with respect to an Advance are subject to the satisfaction or waiver, on each Advance Notice Date (a "Condition Satisfaction Date"), of each of the following conditions:

(a) Accuracy of the Company's Representations and Warranties. The representations and warranties of the Company in the Agreement, of which this Annex I is attached shall be true and correct in all material respects as of the Advance Notice Date, except to the extent such representations and warranties are as of another date, such representations and warranties shall be true and correct as of such other date.

(b) Registration of the Shares with the SEC. There is an effective Registration Statement pursuant to which the Investor is permitted to utilize the Prospectus thereunder to resell all of the Shares issuable pursuant to such Advance Notice.

(c) Public Information. The Current Report shall have been filed with the SEC and the Company shall have filed with the SEC in a timely manner all reports, notices and other documents required under the Exchange Act and applicable SEC regulations during the twelve-month period immediately preceding the applicable Condition Satisfaction Date.

(d) Authority. The Company shall have obtained all permits and qualifications required by any applicable state for the offer and sale of all the Common Shares issuable pursuant to such Advance Notice, or shall have the availability of exemptions therefrom. The sale and issuance of such Common Shares shall be legally permitted by all laws and regulations to which the Company is subject.

(e) Board. The board of directors of the Company shall have approved the transactions contemplated by the Transaction Documents; said approval has not been amended, rescinded or modified and remains in full force and effect as of the date hereof, and a true, correct and complete copy of such resolutions duly adopted by the board of directors of the Company shall have been provided to the Investor.

(f) No Material Outside Event. No Material Outside Event shall have occurred and be continuing.

(g) Performance by the Company. The Company shall have performed, satisfied and complied in all material respects with all covenants, agreements and conditions required by this Agreement to be performed, satisfied or complied with by the Company at or prior the applicable Condition Satisfaction Date including, without limitation, the delivery of all Common Shares issuable pursuant to all previously delivered Advance Notices.

(h) No Injunction. No statute, rule, regulation, executive order, decree, ruling or injunction shall have been enacted, entered, promulgated or endorsed by any court or governmental authority of competent jurisdiction that prohibits or directly, materially and adversely affects any of the transactions contemplated by this Agreement.

(i) No Suspension of Trading in or Delisting of Common Shares. The Advance Shares have been approved for trading on the Principal Market, subject to official notice of issuance. Trading in the Common Shares shall not have been suspended by the SEC, the Principal Market or FINRA, the Company shall not have received any final and non-appealable notice that the listing or quotation of the Common Shares on the Principal Market shall be terminated on a date certain (unless, prior to such date certain, the Common Shares is listed on any subsequent Principal Market), nor shall there have been imposed any suspension of, or restriction on, accepting additional deposits of the Common Shares, electronic trading or book-entry services by The Depository Trust Company ('DTC") with respect to the Common Shares that is continuing, the Company shall not have received any notice from DTC to the effect that a suspension of, or restriction on, accepting

additional deposits of the Common Shares, electronic trading or book-entry services by DTC with respect to the Common Shares is being imposed or is contemplated (unless, prior to such suspension or restriction, DTC shall have notified the Company in writing that DTC has determined not to impose any such suspension or restriction).

(j) Authorized. All of the Shares issuable pursuant to the applicable Advance Notice shall have been duly authorized by all necessary corporate action of the Company. All Shares relating to all prior Advance Notices required to have been received by the Investor under this Agreement shall have been delivered to the Investor in accordance with this Agreement.

(k) Advance Notice. The representations contained in the applicable Advance Notice shall be true and correct in all material respects as of the applicable Condition Satisfaction Date.

(l) Consecutive Advance Notices. Unless the Investor consents in writing (which may be by e-mail at any time prior to the expiration of the Pricing Period for such applicable Additional Notices), the Pricing Period for all prior Advances has been completed and settled.

(m) Stockholder Approval. The Company shall have obtained Stockholder Approval to issue Common Shares in excess of the Exchange Cap hereunder, if required by the applicable rules of the Principal Market.

(n) Material Adverse Effect. No Material Adverse Effect shall have occurred and be continuing.

(o) Delivery. Furthermore, the Company shall not have the right to deliver an Advance Notice to the Investor if any of the following shall occur:

(i) the Company breaches any representation or warranty in any material respect, or breaches any covenant or other term or condition under any Transaction Document in any material respect;

(ii) if any Person commences a proceeding against the Company pursuant to or within the meaning of any Bankruptcy Law for so long as such proceeding is not dismissed;

(iii) if the Company is at any time insolvent, or, pursuant to or within the meaning of any Bankruptcy Law, (1) commences a voluntary case, (2) consents to the entry of an order for relief against it in an involuntary case, (3) consents to the appointment of a Custodian of it or for all or substantially all of its property, or (4) makes a general assignment for the benefit of its creditors or (5) the Company is generally unable to pay its debts as the same become due;

(iv) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that (1) is for relief against the Company in an involuntary case, (2) appoints a Custodian of the Company or for all or substantially all of its property, or (3) orders the liquidation of the Company or any Subsidiary for so long as such order, decree or similar action remains in effect; or

(v) if at any time the Company is not eligible or is unable to transfer its Shares to Investor, including, without limitation, electronically through FAST.

(p) Non-Public Information. The Investor shall have neither received, nor be in possession of, any material, non-public information regarding the Company or any of its Subsidiaries.

**EXHIBIT A**
**FORM OF REGISTRATION RIGHTS AGREEMENT**

**(See Attached)**

**EXHIBIT B**
**ADVANCE NOTICE**

VIA EMAIL TO ALL
[***]

**Date:** _____ **Advance Notice Number:** _____

The undersigned, _____, hereby certifies, with respect to the sale of Common Shares of Nauticus Robotics, Inc. (the "Company") issuable in connection with this Advance Notice, delivered pursuant to that certain Equity Purchase Facility Agreement, dated as of October 23, 2025 (the "Agreement"), as follows (with capitalized terms used herein without definition having the same meanings as given to them in the Agreement):

1. **Authorization**: The undersigned is the duly elected _____ of the Company.

2. **Registration**: There are no fundamental changes to the information set forth in the Registration Statement which would require the Company to file a post-effective amendment to the Registration Statement.

3. **Conditions Precedent Compliance**: The Company has performed in all material respects all covenants and agreements to be performed by the Company contained in this Agreement on or prior to the Advance Notice Date. All conditions to the delivery of this Advance Notice are satisfied as of the date hereof.

4. **Common Shares Outstanding**: The number of Common Shares of the Company outstanding as of the date hereof is _____.

5. **Advance Amount:** The number of Advance Shares the Company is requesting is _____.

6. **Pricing Period**: This is an Advance Notice for a(n) _____[1] Pricing Period.

7. **Automatic Pricing Period Adjustment**: If this Advance Notice is for an Accelerated Pricing Period, Extended Pricing Period or Overtime Pricing Period delivered in accordance with Section 2.01(b)(v) of the Agreement and the Investor has not sent an Advance Notice Confirmation prior to the Confirmation Deadline, the Company hereby _____[2] elect(s) to rescind this Advance Notice after the expiration of the Confirmation Deadline (if not rescinded, this Advance Notice will automatically transfer the Pricing Period selection to a Regular Purchase Pricing Period, with the Pricing Period starting at the beginning of Regular Trading Hours on the Trading Day immediately succeeding the Confirmation Deadline).

The undersigned has executed this Advance Notice as of the date first set forth above.

NAUTICUS ROBOTICS, INC.

By: _____

[1] Select either a Regular, Accelerated, Extended or Overtime Purchase Pricing Period.
[2] Enter "does not" If the Company wishes not to rescind, otherwise, if left blank, the Company has elected to rescind.

**EXHIBIT C**
**SETTLEMENT DOCUMENT**

**VIA EMAIL**

[•]
Attn:
Email:

Advance Notice Date: _____, 202__

Below please find the settlement information with respect to the Advance Notice Number: _____

1. Number of Common Shares requested in the Advance Notice: _____
2. Number of Excluded Days (if any): _____
3. Volume Threshold Adjusted Advance Amount: _____
4. Halt Adjusted Advance Amount: _____
5. Adjusted Advance Amount *(the lesser of (i) row 1, and (ii) the greater of (A) row 3, and (B) row 4)*: _____
6. Market Price: $ _____
7. Purchase Price per share: $ _____
8. Aggregate Purchase Price due to Company *(row 5 multiplied by row 7)*: $ _____

**Please issue the number of Advance Shares due to the Investor to the account of the Investor as follows:**

**Investor's DTC participant #:**

**ACCOUNT NAME:**
**ACCOUNT NUMBER:**
**ADDRESS:**
**CITY:**
**COUNTRY:**
**Contact person:**
**Number and/or email:**

**Sincerely,**

**[__]**

**Agreed and approved By:**

**NAUTICUS ROBOTICS, INC.:**

_____
**Name:**
**Title:**

**EXECUTION VERSION**

CERTAIN IDENTIFIED INFORMATION HAS BEEN EXCLUDED FROM THIS EXHIBIT BECAUSE IT IS NOT MATERIAL AND IS THE TYPE OF INFORMATION THAT THE REGISTRANT CUSTOMARILY AND ACTUALLY TREATS AS PRIVATE AND CONFIDENTIAL. REDACTED INFORMATION IS INDICATED BY [***].

# REGISTRATION RIGHTS AGREEMENT

**THIS REGISTRATION RIGHTS AGREEMENT** (this "Agreement"), dated as of October 23, 2025, is made by and between [***] (the "Investor"), and NAUTICUS ROBOTICS, INC., a company incorporated under the laws of the State of Delaware (the "Company"). The Investor and the Company may be referred to herein individually as a "Party" and collectively as the "Parties".

**WHEREAS**, the Company and the Investor have entered into that certain Equity Purchase Facility Agreement, dated as of the date hereof (the "Purchase Agreement"), pursuant to which the Company may issue, from time to time, to the Investor up to $250 million of newly issued shares (the "Common Shares") of Common Stock (as defined below); and

**WHEREAS,** pursuant to the terms of, and in consideration for the Investor entering into, the Purchase Agreement, and to induce the Investor to execute and deliver the Purchase Agreement, the Company has agreed to provide the Investor with certain registration rights under the Securities Act of 1933, as amended, and the rules and regulations thereunder, or any similar successor statute (collectively, the "Securities Act").

## AGREEMENT

**NOW, THEREFORE,** in consideration of the premises and the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and the Investor hereby agree as follows:

1. DEFINITIONS.

Capitalized terms used herein and not otherwise defined herein shall have the respective meanings set forth in the Purchase Agreement. As used in this Agreement, the following terms shall have the following meanings:

(a) "Business Day" means any day except Saturday, Sunday and any day which shall be a federal legal holiday in the United States or a day on which the Federal Reserve Bank of New York is closed and/or any of the following exchanges on which the Common Stock is traded and listed, or any successor(s) thereto, is not open for at least five (5) hours of trading: the Nasdaq Capital Market; the Nasdaq Global Market; the Nasdaq Global Select Market, the New York Stock Exchange; or the NYSE American; and any successor to any of the foregoing markets or exchanges.

(b) "Common Stock" means (x) the Company's shares of common stock, $0.0001 par value per share, and (y) any capital stock into which such common stock shall have been changed or any share capital resulting from a reclassification of such common stock.

(c) "Effectiveness Deadline" means, with respect to the initial Registration Statement filed hereunder, the 90th calendar day following the date such initial Registration Statement is filed, provided, however, in the event the Company is notified by the U.S. Securities and Exchange Commission ("SEC") that the Registration Statement will not be reviewed or is no longer subject to further review and comments, the Effectiveness Deadline as to such Registration Statement shall be the fifth Business Day following the date on which the Company is so notified if such date precedes the date required above. Notwithstanding the foregoing, in the event the Registration Statement is subject to a full SEC review, or the Company is required to update the financial statements therein, which causes the Registration Statement not to be declared effective by the Effectiveness Deadline, the Effectiveness Deadline shall automatically be deemed to be extended for so long as necessary provided that the Company is using its best efforts to promptly respond and satisfy the requests of the SEC, and during such period, the Company shall not be deemed to be in default of satisfying the Effectiveness Deadline.

(d) "Exchange Act" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

(e) "Filing Deadline" means, with respect to the initial Registration Statement required hereunder, the 30th calendar day following the date hereof.

(f) "Person" means a corporation, a limited liability company, an association, a partnership, an organization, a business, an individual, a governmental or political subdivision thereof or a governmental agency.

(g) "Prospectus" means the prospectus included in a Registration Statement (including, without limitation, a prospectus that includes any information previously omitted from a prospectus filed as part of an effective registration statement in reliance upon Rule 430A promulgated under the Securities Act), as amended or supplemented by any prospectus supplement, with respect to the terms of the offering of any portion of the Registrable Securities covered by a Registration Statement, and all other amendments and supplements to the Prospectus, including post-effective amendments, and all material incorporated by reference or deemed to be incorporated by reference in such Prospectus.

(h) "Registrable Securities" means all of (i) the Common Shares, (ii) the Commitment Shares and (iii) any shares of capital stock issued or issuable with respect to the Common Shares and Commitment Shares, including, without limitation, (1) as a result of any stock split, stock dividend or other distribution, recapitalization or similar event or otherwise, and (2) shares of capital stock of the Company into which the Common Shares and Commitment Shares are converted or exchanged and shares of capital stock of a successor entity into which the Common Shares and Commitment Shares are converted or exchanged.

(i) "Registration Statement" means any registration statement of the Company filed pursuant to this Agreement, including the Prospectus, amendments and supplements to such registration statement or Prospectus, including post-effective amendments, all exhibits thereto, and all material incorporated by reference or deemed to be incorporated by reference in such registration statement.

(j) "Rule 144" means Rule 144 under the Securities Act or any successor rule thereto.

(k) "Rule 415" means Rule 415 promulgated by the SEC 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 SEC having substantially the same purpose and effect as such Rule.

(l) "SEC" means the Securities and Exchange Commission or any other federal agency administering the Securities Act and the Exchange Act at the time.

(m) "Securities Act" shall have the meaning set forth in the Recitals above.

2. REGISTRATION.

(a) The Company's registration obligations set forth in this Section 2 including its obligations to file Registration Statements, obtain effectiveness of Registration Statements, and maintain the continuous effectiveness of any Registration Statement that has been declared effective shall begin on the date hereof and continue until the earlier of (i) the date on which the Investor has sold all of the Registrable Securities, (ii) the date of termination of the Purchase Agreement if as of such termination date the Investor holds no Registerable Securities and (iii) the date on which all of the Registrable Securities have been sold or may be sold without any restriction pursuant to Rule 144 as determined by the counsel to the Company pursuant to a written opinion letter to such effect, addressed and acceptable to the Company's transfer agent (the "Registration Period").

(b) Subject to the terms and conditions of this Agreement, the Company shall (i) as soon as practicable, but in no case later than the Filing Deadline, prepare and file with the SEC an initial Registration Statement on S-1 or any successor form thereto covering the resale by the Investor of the maximum number of Registrable Securities as shall be permitted to be included thereon in accordance with applicable SEC rules, regulations and interpretations so as to permit the resale of such Registrable Securities by the Investor under Rule 415 at then prevailing market prices (and not fixed prices), subject to the aggregate number of authorized shares of Common Stock then available for issuance in its Certificate of Incorporation. The Registration Statement shall contain "Selling Stockholders" and "Plan of

Distribution" sections and shall contain the customary language about the Investor as required by applicable law or by the SEC staff. The Investor shall furnish all information reasonably requested by the Company for inclusion therein. The Company shall use its best efforts to have the Registration Statement declared effective by the SEC as soon as practicable, but in no event later than the Effectiveness Deadline. By 9:30 am, Eastern Time, on the Business Day following the date of effectiveness, the Company shall file with the SEC in accordance with Rule 424 under the Securities Act the final Prospectus to be used in connection with sales pursuant to such Registration Statement. Prior to the filing of the Registration Statement with the SEC, the Company shall furnish a draft of the Registration Statement to the Investor for their review and comment. The Investor shall furnish comments on the Registration Statement to the Company within 24 hours of the receipt thereof from the Company.

(c) Sufficient Number of Shares Registered. If at any time during the Registration Period, all Registrable Securities are not covered by a Registration Statement filed pursuant to Section 2(a) as a result of Section 2(e) or otherwise, the Company shall use its best efforts to file with the SEC one or more additional Registration Statements so as to cover all of the Registrable Securities not covered by such initial Registration Statement, in each case as soon as practicable (taking into account any position of the staff of the SEC with respect to the date on which the Staff will permit such additional Registration Statement(s) to be filed with the SEC and the rules and regulations of the SEC). The Company shall use its best efforts to cause each such new Registration Statement to become effective as soon as reasonably practicable following the filing thereof with the SEC.

(d) During the Registration Period, the Company shall (i) promptly prepare and file with the SEC such amendments (including post-effective amendments) and supplements to a Registration Statement and the Prospectus used in connection with a Registration Statement, which Prospectus is to be filed pursuant to Rule 424 promulgated under the Securities Act, as may be necessary to keep such Registration Statement effective at all times during the Registration Period, (ii) prepare and file with the SEC additional Registration Statements in order to register for resale under the Securities Act all of the Registrable Securities; (iii) cause the related Prospectus to be amended or supplemented by any required Prospectus supplement (subject to the terms of this Agreement), and as so supplemented or amended to be filed pursuant to Rule 424; (iv) respond as promptly as reasonably possible to any comments received from the SEC with respect to a Registration Statement or any amendment thereto and as promptly as reasonably possible provide the Investor true and complete copies of all correspondence from and to the SEC relating to a Registration Statement (provided that the Company may redact any information contained therein which would constitute material non-public information as to any Investor which has not executed a confidentiality agreement with the Company); and (v) comply with the provisions of the Securities Act with respect to the disposition of all Registrable Securities of the Company covered by such Registration Statement until such time as all of such Registrable Securities shall have been disposed of in accordance with the intended methods of disposition by the seller or sellers thereof as set forth in such Registration Statement. In the case of amendments and supplements to a Registration Statement which are required to be filed pursuant to this Agreement (including pursuant to this Section 2(d)) by reason of the Company's filing a report on Form 10-K, Form 10-Q, or Form 8-K or any analogous report under the Exchange Act, the Company shall incorporate such report by reference into the Registration Statement, if applicable, or shall file such amendments or supplements with the SEC on the same day on which the Exchange Act report is filed which created the requirement for the Company to amend or supplement the Registration Statement.

(e) Reduction of Registrable Securities Included in a Registration Statement. Notwithstanding anything contained herein, in the event that the SEC requires the Company to reduce the number of Registrable Securities to be included in a Registration Statement in order to allow the Company to rely on Rule 415 with respect to a Registration Statement, then the Company shall reduce the number of Registrable Securities to be included in such Registration Statement (after consultation with the Investor as to the specific Registrable Securities to be removed therefrom) to the maximum number of securities as is permitted to be registered by the SEC. In the event of any reduction in Registrable Securities pursuant to this paragraph, the Company shall use its best efforts to file one or more New Registration Statements with the Commission in accordance with Section 2(c) until such time as all Registrable Securities have been included in Registration Statements that have been declared effective and the Prospectuses contained therein are available for use by the Investor.

(f) Failure to Maintain Effectiveness of the Registration Statement or Remain Current; Partial Liquidated Damages. If: (i) after the effectiveness, a Registration Statement ceases for any reason to remain continuously effective as to all Registrable Securities for which it is required to be effective, or (ii) after effectiveness, the Investor is not permitted to utilize the Prospectus therein to resell such Registrable Securities for more than 30 consecutive calendar days or more than an aggregate of 60 calendar days during any 12-month period (which need not be consecutive calendar days), or (iii) if after the date that is six months from the date hereof, the Company fails to meet the adequate

current public information requirement as set forth in Rule 144(c) (any such failure or breach being referred to as an "Event" and the date of any such Event, the "Event Date"), then in addition to any other rights the Investor may have hereunder or under applicable law, the Company shall be in breach of the term and conditions of this Agreement and such Event shall be deemed an event of default for so long as such Event remains uncured. During the period of the existence of an uncured Event, the Investor shall have no obligation to accept an Advance Notice or accept or purchase any Advance Shares (other than any Advance Shares purchased by the Investor prior to the occurrence of the Event). In addition, on each such Event Date and on each monthly anniversary of each such Event Date thereafter (if the applicable Event shall not have been cured by such date) or any pro rata portion thereof, until the applicable Event is cured or sixty (60) calendar days after the applicable Event Date, whichever occurs first, the Company shall pay to the Investor an amount in cash, as partial liquidated damages and not as a penalty, equal to the product of two percent (2.0%) multiplied by the total purchase price of each outstanding Advance Notice (other than the purchase price for any Advance Shares purchased by the Investor prior to the occurrence of the Event); provided, that the maximum aggregate amount payable thereunder shall not exceed 4% of such amount. For example, if the total purchase price of all outstanding Advance Notices (other than the purchase price for any Advance Shares purchased by the Investor prior to the occurrence of the Event) is $1,000,000 at an Event Date which shall occur after the date hereof, then, on the Event Date and on each monthly anniversary of such Event Date thereafter (if the applicable Event shall not have been cured by such date) the Company shall pay partial liquidated damages on such amount equal to $20,000, up to an aggregate of $40,000. If the Company fails to pay any partial liquidated damages pursuant to this Section 2(f) in full within seven (7) calendar days after the date payable, the Company shall pay interest thereon at a rate of eighteen percent (18%) per annum (or such lesser maximum amount that is permitted to be paid by applicable regulation) to the Investor, accruing daily from the date such partial liquidated damages are due until such amounts, plus all such interest thereon, are paid in full.

(g) Piggy-Back Registrations. Commencing on the Filing Deadline, if at any time there is not an effective Registration Statement covering all of the Registrable Securities and the Company proposes to register the offer and sale of any shares of Common Stock under the Securities Act (other than a registration (i) pursuant to a registration statement on Form S-8 ((or other registration solely relating to an offering or sale to employees or directors of the Company pursuant to any employee stock plan or other employee benefit arrangement), (ii) pursuant to a registration statement on Form S-4 (or similar form that relates to a transaction subject to Rule 145 under the Securities Act or any successor rule thereto), or (iii) in connection with any dividend or distribution reinvestment or similar plan), whether for its own account or for the account of one or more stockholders of the Company and the form of registration statement to be used may be used for any registration of Registrable Securities, the Company shall give prompt written notice (in any event no later than five days prior to the filing of such registration statement) to the holders of Registrable Securities of its intention to effect such a registration and, shall include in such registration all Registrable Securities with respect to which the Company has received written requests for inclusion from the holders of Registrable Securities; provided, however, that, the Company shall not be required to register any Registrable Securities pursuant to this Section 2(g) that have been sold or may be sold without any restrictions pursuant to Rule 144, as determined by the counsel to the Company pursuant to a written opinion letter to such effect, addressed and acceptable to the Company's transfer agent.

(h) No Inclusion of Other Securities. In no event shall the Company include any securities other than Registrable Securities in any Registration Statement pursuant to Section 2(a) or Section 2(c) without obtaining the prior written consent of the Investor prior to filing such Registration Statement with the SEC.

3. RELATED OBLIGATIONS.

(a) The Company shall, not less than three Business Days prior to the filing of each Registration Statement and not less than one Business Day prior to the filing of any related amendments and supplements to all Registration Statements (except for Annual Reports on Form 10-K, supplements and amendments to update the Registration Statement solely for information reflected in the Company's Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q or Current Reports on Form 8-K), furnish to the Investor copies of all such documents proposed to be filed, which documents (other than those incorporated or deemed to be incorporated by reference) will be subject to the reasonable and prompt review of such Investor. The Company shall not file a Registration Statement or any such Prospectus or any amendments or supplements thereto to which the Investor shall reasonably object in good faith.

(b) The Company shall furnish to the Investor whose Registrable Securities are included in any Registration Statement, without charge (i) at least one copy (which may be in electronic form) of such Registration Statement as declared effective by the SEC and any amendment(s) thereto, including financial statements and schedules, all

documents incorporated therein by reference, all exhibits and each preliminary prospectus, (ii) at least one copy (which may be in electronic form) of the final prospectus included in such Registration Statement and all amendments and supplements thereto, and (iii) any documents, which are not publicly available through EDGAR, as such Investor may reasonably request from time to time in order to facilitate the disposition of the Registrable Securities owned by such Investor.

(c) The Company shall use its best efforts to (i) register and qualify the Registrable Securities covered by a Registration Statement under such other securities or "blue sky" laws of such jurisdictions in the United States as any Investor reasonably requests, (ii) prepare and file in those jurisdictions, such amendments (including post-effective amendments) and supplements to such registrations and qualifications as may be necessary to maintain the effectiveness thereof during the Registration Period, (iii) take such other actions as may be necessary to maintain such registrations and qualifications in effect at all times during the Registration Period, and (iv) take all other actions reasonably necessary or advisable to qualify the Registrable Securities for sale in such jurisdictions; provided, however, that the Company shall not be required in connection therewith or as a condition thereto to (w) make any change to its articles of incorporation or by-laws, (x) qualify to do business in any jurisdiction where it would not otherwise be required to qualify but for this Section 3(c), (y) subject itself to general taxation in any such jurisdiction, or (z) file a general consent to service of process in any such jurisdiction. The Company shall promptly notify the Investor who holds Registrable Securities of the receipt by the Company of any notification with respect to the suspension of the registration or qualification of any of the Registrable Securities for sale under the securities or "blue sky" laws of any jurisdiction in the United States or its receipt of actual notice of the initiation or threat of any proceeding for such purpose.

(d) As promptly as practicable after becoming aware of such event or development, the Company shall notify the Investor in writing of the happening of any event as a result of which the Prospectus included in a Registration Statement, as then in effect, includes an untrue statement of a material fact or omission to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading (provided that in no event shall such notice contain any material, nonpublic information), and promptly prepare a supplement or amendment to such Registration Statement to correct such untrue statement or omission and deliver one electronic copy of such supplement or amendment to the Investor. The Company shall also promptly notify the Investor in writing (i) when a Prospectus or any Prospectus supplement or post-effective amendment has been filed, and when a Registration Statement or any post-effective amendment has become effective (notification of such effectiveness shall be delivered to the Investor by email on the same day of such effectiveness), (ii) of any request by the SEC for amendments or supplements to a Registration Statement or related prospectus or related information, and (iii) of the Company's reasonable determination that a post-effective amendment to a Registration Statement would be appropriate. The Company shall respond as promptly as reasonably practicable to any comments received from the SEC with respect to a Registration Statement or any amendment thereto.

(e) The Company shall use its best efforts to prevent the issuance of any stop order or other suspension of effectiveness of a Registration Statement, or the suspension of the qualification of any of the Registrable Securities for sale in any jurisdiction within the United States of America and, if such an order or suspension is issued, to obtain the withdrawal of such order or suspension at the earliest possible moment and to notify the Investor who holds Registrable Securities being sold of the issuance of such order and the resolution thereof or its receipt of actual notice of the initiation or threat of any proceeding for such purpose.

(f) Without limiting any obligation of the Company under the Purchase Agreement, the Company shall use best efforts to cause all of the Registrable Securities covered by each Registration Statement to be listed on the Principal Market. The Company shall pay all fees and expenses in connection with satisfying its obligation under this Section 3(f).

(g) The Company shall hold in confidence and not make any disclosure of information concerning the Investor provided to the Company unless (i) disclosure of such information is necessary to comply with federal or state securities laws, (ii) the disclosure of such information is necessary to avoid or correct a misstatement or omission in any Registration Statement, (iii) the release of such information is ordered pursuant to a subpoena or other final, non-appealable order from a court or governmental body of competent jurisdiction, or (iv) such information has been made generally available to the public other than by disclosure in violation of this Agreement or any other agreement. The Company agrees that it shall, upon learning that disclosure of such information concerning an Investor is sought in or by a court or governmental body of competent jurisdiction or through other means, give prompt written notice

to such Investor and allow such Investor, at the Investor's expense, to undertake appropriate action to prevent disclosure of, or to obtain a protective order for, such information.

(h) The Company shall cooperate with the holders of the Registrable Securities to facilitate the timely preparation and delivery of certificates representing the Registrable Securities to be sold pursuant to such Registration Statement or Rule 144 and representing such number of Common Shares and registered in such names as the holders of the Registrable Securities may reasonably request a reasonable period of time prior to sales of Registrable Securities pursuant to such Registration Statement or Rule; provided, that the Company may satisfy its obligations hereunder without issuing physical stock certificates through the issuance of the Registrable Securities in book entry form.

(i) The Company shall use its best efforts to cause the Registrable Securities to be registered with or approved by such other governmental agencies or authorities as may be necessary to consummate the disposition of such Registrable Securities.

(j) The Company shall otherwise use its best efforts to comply with all applicable rules and regulations of the SEC in connection with any registration hereunder.

(k) Within two Business Days after a Registration Statement which covers Registrable Securities is declared effective by the SEC, the Company shall deliver, and shall cause legal counsel for the Company to deliver, to the transfer agent for such Registrable Securities (with copies to the Investor) an opinion of legal counsel for the Company stating that such Registrable Securities are registered for resale pursuant to such Registration Statement that has been declared effective by the SEC and that, in connection with a resale of any Common Shares pursuant to such Registration Statement, the Common Shares shall be transferred free of any restrictive legends.

(l) The Company shall take all other reasonable actions necessary to expedite and facilitate disposition by the Investor of Registrable Securities pursuant to a Registration Statement.

4. OBLIGATIONS OF THE INVESTOR.

(a) The Investor agrees that, upon receipt of any notice from the Company of the happening of any event of the kind described in Section 3(d) such Investor shall as soon as reasonably practicable discontinue disposition of Registrable Securities pursuant to any Registration Statement covering such Registrable Securities until the Investor's receipt of the copies of the supplemented or amended prospectus contemplated by Section 3(d) or receipt of notice that no supplement or amendment is required. Notwithstanding anything to the contrary, subject to compliance with the securities laws, the Company shall cause its transfer agent to deliver unlegended certificates for Common Shares to a transferee of an Investor in accordance with the terms of the Purchase Agreement in connection with any sale of Registrable Securities with respect to which an Investor has entered into a contract for sale prior to the Investor's receipt of a notice from the Company of the happening of any event of the kind described in Section 3(d) and for which the Investor has not yet settled.

(b) The Investor covenants and agrees that it will comply with the prospectus delivery requirements of the Securities Act as applicable to it or an exemption therefrom in connection with sales of Registrable Securities pursuant to the Registration Statement.

(c) The Investor, by its acceptance of the Registrable Securities, agrees to cooperate with the Company as reasonably requested by the Company in connection with the preparation and filing of each Registration Statement hereunder, unless the Investor has notified the Company in writing of the Investor's election to exclude all of the Investor's Registrable Securities from such Registration Statement.

5. EXPENSES OF REGISTRATION.

All expenses incurred by the Company in complying with its obligations pursuant to this Agreement and in connection with the registration and disposition of Registrable Securities shall be paid by the Company, including, without limitation, all registration, listing and qualifications fees, printers, fees and expenses of the Company's counsel and accountants (including legal fees of Investor's counsel associated with the review of each Registration Statement).

6. INDEMNIFICATION.

With respect to Registrable Securities which are included in a Registration Statement under this Agreement:

(a) To the fullest extent permitted by law, the Company will, and hereby does, indemnify, hold harmless and defend the Investor, the directors, officers, partners, employees, agents, representatives of, and each Person, if any, who controls the Investor within the meaning of the Securities Act or the Exchange Act (each, an "Indemnified Person"), against any losses, claims, damages, liabilities, judgments, fines, penalties, charges, costs, reasonable attorneys' fees, amounts paid in settlement or expenses, joint or several (collectively, "Claims") incurred in investigating, preparing or defending any action, claim, suit, inquiry, proceeding, investigation or appeal taken from the foregoing by or before any court or governmental, administrative or other regulatory agency, body or the SEC, whether pending or threatened, whether or not an indemnified party is or may be a party thereto ("Indemnified Damages"), to which any of them may become subject insofar as such Claims (or actions or proceedings, whether commenced or threatened, in respect thereof) arise out of or are based upon: (i) any untrue statement or alleged untrue statement of a material fact in a Registration Statement or any post-effective amendment thereto or in any filing made in connection with the qualification of the offering under the securities or other "blue sky" laws of any jurisdiction in which Registrable Securities are offered ("Blue Sky Filing"), or the omission or alleged omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading; (ii) any untrue statement or alleged untrue statement of a material fact contained in any final prospectus (as amended or supplemented, if the Company files any amendment thereof or supplement thereto with the SEC) or the omission or alleged omission to state therein any material fact necessary to make the statements made therein, in light of the circumstances under which the statements therein were made, not misleading; or (iii) any violation or alleged violation by the Company of the Securities Act, the Exchange Act, any other law, including, without limitation, any state securities law, or any rule or regulation there under relating to the offer or sale of the Registrable Securities pursuant to a Registration Statement (the matters in the foregoing clauses (i) through (iii) being, collectively, "Violations"). The Company shall reimburse the Investor and each controlling person promptly as such expenses are incurred and are due and payable, for any legal fees or disbursements that are reasonably incurred by them or other reasonable expenses incurred by them in connection with investigating or defending any such Claim. Notwithstanding anything to the contrary contained herein, the indemnification agreement contained in this Section 6(a): (x) shall not apply to a Claim by an Indemnified Person arising out of or based upon a Violation which occurs in reliance upon and in conformity with information furnished in writing to the Company by such Indemnified Person expressly for use in connection with the preparation of the Registration Statement or any such amendment thereof or supplement thereto; (y) shall not be available to the extent such Claim is based on a failure of the Investor to deliver or to cause to be delivered the prospectus made available by the Company, if such prospectus was timely made available by the Company pursuant to Section 3(b); and (z) shall not apply to amounts paid in settlement of any Claim if such settlement is effected without the prior written consent of the Company, which consent shall not be unreasonably withheld. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of the Indemnified Person.

(b) In connection with a Registration Statement, the Investor agrees to indemnify, hold harmless and defend, to the same extent and in the same manner as is set forth in Section 6(a), the Company, each of its directors, each of its officers, employees, representatives, or agents and each Person, if any, who controls the Company within the meaning of the Securities Act or the Exchange Act (each an "Indemnified Party"), against any Claim or Indemnified Damages to which any of them may become subject, under the Securities Act, the Exchange Act or otherwise, insofar as such Claim or Indemnified Damages arise out of or is based upon any Violation, in each case to the extent, and only to the extent, that such Violation occurs (i) in reliance upon and in conformity with written information furnished to the Company by the Investor expressly for use in connection with such Registration Statement or (ii) from the Investor's violation of any prospectus delivery requirements under the Securities Act, the Exchange Act, any other law, including, without limitation, any state securities law, or any rule or regulation there under relating to the offer or sale of the Registrable Securities pursuant to a Registration Statement; and, subject to Section 6(d), such Investor will reimburse any legal or other expenses reasonably incurred by them in connection with investigating or defending any such Claim; provided, however, that the indemnity agreement contained in this Section 6(b) and the agreement with respect to contribution contained in Section 7 shall not apply to amounts paid in settlement of any Claim if such settlement is effected without the prior written consent of such Investor, which consent shall not be unreasonably withheld, conditioned or delayed; provided, further, however, that, absent fraud or gross negligence, the Investor shall be liable under this Section 6(b) for only that amount of a Claim or Indemnified Damages as does not exceed the net proceeds to such Investor as a result of the sale of Registrable Securities pursuant to such Registration Statement. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of such Indemnified Party. Notwithstanding anything to the contrary contained herein, the indemnification agreement contained in this Section 6(b) with respect to any prospectus shall not inure to the benefit of any Indemnified Party if the untrue

statement or omission of material fact contained in the prospectus was corrected and such new prospectus was delivered to the Investor prior to such Investor's use of the prospectus to which the Claim relates.

(c) Promptly after receipt by an Indemnified Person or Indemnified Party under this Section 6 of notice of the commencement of any action or proceeding (including any governmental action or proceeding) involving a Claim, such Indemnified Person or Indemnified Party shall, if a Claim in respect thereof is to be made against any indemnifying party under this Section 6, deliver to the indemnifying party a written notice of the commencement thereof, and the indemnifying party shall have the right to participate in, and, to the extent the indemnifying party so desires, jointly with any other indemnifying party similarly noticed, to assume control of the defense thereof with counsel reasonably mutually satisfactory to the indemnifying party and the Indemnified Person or the Indemnified Party, as the case may be; provided, however, that an Indemnified Person or Indemnified Party shall have the right to retain its own counsel with the fees and expenses of not more than one (1) counsel for such Indemnified Person or Indemnified Party to be paid by the indemnifying party, if, in the reasonable opinion of counsel retained by the indemnifying party, the representation by such counsel of the Indemnified Person or Indemnified Party and the indemnifying party would be inappropriate due to actual or potential differing interests between such Indemnified Person or Indemnified Party and any other party represented by such counsel in such proceeding. The Indemnified Party or Indemnified Person shall cooperate fully with the indemnifying party in connection with any negotiation or defense of any such action or claim by the indemnifying party and shall furnish to the indemnifying party all information reasonably available to the Indemnified Party or Indemnified Person which relates to such action or claim. The indemnifying party shall keep the Indemnified Party or Indemnified Person fully apprised at all times as to the status of the defense or any settlement negotiations with respect thereto. No indemnifying party shall be liable for any settlement of any action, claim or proceeding effected without its prior written consent; provided, however, that the indemnifying party shall not unreasonably withhold, delay or condition its consent. No indemnifying party shall, without the prior written consent of the Indemnified Party or Indemnified Person, which consent shall not be unreasonably withheld, conditioned or delayed, consent to entry of any judgment or enter into any settlement or other compromise which does not include as an unconditional term thereof the giving by the claimant or plaintiff to such Indemnified Party or Indemnified Person of a release from all liability in respect to such claim or litigation. Following indemnification as provided for hereunder, the indemnifying party shall be subrogated to all rights of the Indemnified Party or Indemnified Person with respect to all third parties, firms or corporations relating to the matter for which indemnification has been made. The failure to deliver written notice to the indemnifying party within a reasonable time of the commencement of any such action shall not relieve such indemnifying party of any liability to the Indemnified Person or Indemnified Party under this Section 6, except to the extent that the indemnifying party is prejudiced in its ability to defend such action.

(d) The indemnification required by this Section 6 shall be made by periodic payments of the amount thereof during the course of the investigation or defense, as and when bills are received or Indemnified Damages are incurred.

(e) The indemnity agreements contained herein shall be in addition to (i) any cause of action or similar right of the Indemnified Party or Indemnified Person against the indemnifying party or others, and (ii) any liabilities the indemnifying party may be subject to pursuant to the law.

7. CONTRIBUTION.

To the extent any indemnification by an indemnifying party is prohibited or limited by law, the indemnifying party agrees to make the maximum contribution with respect to any amounts for which it would otherwise be liable under Section 6 to the fullest extent permitted by law; provided, however, that: (i) no seller of Registrable Securities guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any seller of Registrable Securities who was not guilty of fraudulent misrepresentation; and (ii) contribution by any seller of Registrable Securities shall be limited in amount to the net amount of proceeds received by such seller from the sale of such Registrable Securities.

8. REPORTS UNDER THE EXCHANGE ACT.

With a view to making available to the Investor the benefits of Rule 144 promulgated under the Securities Act or any similar rule or regulation of the SEC that may at any time permit the Investor to sell securities of the Company to the public without registration, and as a material inducement to the Investor's purchase of the Common Shares, the Company represents, warrants, and covenants to the following:

(a) The Company is subject to the reporting requirements of section 13 or 15(d) of the Exchange Act and has filed all required reports under section 13 or 15(d) of the Exchange Act during the 12 months prior to the date hereof (or for such shorter period that the issuer was required to file such reports).

(b) During the Registration Period, the Company shall file with the SEC in a timely manner all required reports under section 13 or 15(d) of the Exchange Act (it being understood that the filings prior to any permitted filing deadline extension under Rule 12b-25 under the Exchange Act shall be deemed timely and it being further understood that nothing herein shall limit the Company's obligations under the Purchase Agreement) and such reports shall conform to the requirement of the Exchange Act and the SEC for filing thereunder.

(c) The Company shall furnish to the Investor so long as such Investor owns Registrable Securities, promptly upon request, (i) a written statement by the Company that it has complied with the reporting requirements of Rule 144, (ii) a copy of the most recent annual or quarterly report of the Company and such other reports and documents so filed by the Company, and (iii) such other information as may be reasonably requested to permit the Investor to sell such securities pursuant to Rule 144 without registration following the required holding period pursuant to Rule 144.

9. AMENDMENT OF REGISTRATION RIGHTS.

Provisions of this Agreement may be amended and the observance thereof may be waived (either generally or in a particular instance and either retroactively or prospectively), only with the written consent of the Company and the Investor. Any amendment or waiver effected in accordance with this Section 9 shall be binding upon each of the Investor and the Company. No consideration shall be offered or paid to any Person to amend or consent to a waiver or modification of any provision of any of this Agreement unless the same consideration also is offered to all of the parties to this Agreement.

10. MISCELLANEOUS.

(a) A Person is deemed to be a holder of Registrable Securities whenever such Person owns or is deemed to own of record such Registrable Securities or owns the right to receive the Registrable Securities. If the Company receives conflicting instructions, notices or elections from two or more Persons with respect to the same Registrable Securities, the Company shall act upon the basis of instructions, notice or election received from the registered owner of such Registrable Securities.

(b) Any notices, consents, waivers or other communications required or permitted to be given under the terms of this Agreement must be in writing and will be deemed to have been delivered pursuant to the notice provisions of the Purchase Agreement or to such other address and/or electronic mail address and/or to the attention of such other person as the recipient party has specified by written notice given to each other party five (5) days prior to the effectiveness of such change. Written confirmation of receipt (A) given by the recipient of such notice, consent, waiver or other communication, (B) electronically generated by the sender's email service provider containing the time, date, and recipient email or (C) provided by a courier or overnight courier service shall be rebuttable evidence of personal service, receipt by facsimile or receipt from a nationally recognized overnight delivery service in accordance with this Section 10(b).

(c) Failure of any party to exercise any right or remedy under this Agreement or otherwise, or delay by a party in exercising such right or remedy, shall not operate as a waiver thereof.

(d) The laws of the State of Delaware shall govern all issues concerning the relative rights of the Company and the Investor as its stockholder. All other questions concerning the construction, validity, enforcement and interpretation of this Agreement shall be governed by the internal laws of the State of Delaware, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of Delaware or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Delaware. Each party hereby irrevocably submits to the non-exclusive jurisdiction of the state and federal courts sitting in the City of Wilmington, New Castle County, State of Delaware, for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such suit, action or proceeding is brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper. Each party hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof to such party at the address for such notices to it under

this Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any manner permitted by law. If any provision of this Agreement shall be invalid or unenforceable in any jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of the remainder of this Agreement in that jurisdiction or the validity or enforceability of any provision of this Agreement in any other jurisdiction. EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE, AND AGREES NOT TO REQUEST, A JURY TRIAL FOR THE ADJUDICATION OF ANY DISPUTE HEREUNDER OR IN CONNECTION HEREWITH OR ARISING OUT OF THIS AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY.

(e) This Agreement shall inure to the benefit of and be binding upon the permitted successors and assigns of each of the parties hereto.

(f) The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meaning hereof.

(g) This Agreement may be executed in identical counterparts, both of which shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to the other party. Facsimile or other electronically scanned and delivered signatures (including any electronic signature covered by the U.S. federal ESIGN Act of 2000, Uniform Electronic Transactions Act, the Electronic Signatures and Records Act or other applicable law, e.g., www.docusign.com), including by e-mail attachment, shall be deemed to have been duly and validly delivered and be valid and effective for all purposes of this Agreement.

(h) Each party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as the other party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

(i) The language used in this Agreement will be deemed to be the language chosen by the parties to express their mutual intent and no rules of strict construction will be applied against any party.

(j) This Agreement is intended for the benefit of the parties hereto and their respective permitted successors and assigns, and is not for the benefit of, nor may any provision hereof be enforced by, any other Person.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

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

**COMPANY:**
**NAUTICUS ROBOTICS, INC.**

By: /s/ John W Gibson Jr
Name: John W Gibson Jr
Title: President & CEO

**INVESTOR:**
**[***]**

*[Signature Page to Registration Rights Agreement (Equity Purchase Facility Agreement)]*

**Execution Version**

CERTAIN IDENTIFIED INFORMATION HAS BEEN EXCLUDED FROM THIS EXHIBIT BECAUSE IT IS NOT MATERIAL AND IS THE TYPE OF INFORMATION THAT THE REGISTRANT CUSTOMARILY AND ACTUALLY TREATS AS PRIVATE AND CONFIDENTIAL. REDACTED INFORMATION IS INDICATED BY [***].

# AMENDMENT TO TERM LOAN AGREEMENT

This Amendment to Term Loan Agreement (this "**Amendment**") is entered into as October __, 2025 (the "**Effective Date**"), by and among Nauticus Robotics, Inc. ("**Company**") and the undersigned Lender ("**Lender**"). Company and Lender are sometimes referred to herein individually as a "**Party**" and collectively as the "**Parties**".

A. The Parties are party to that Senior Secured Term Loan Agreement, dated as of September 18, 2023 by and among the Company, ATW Special Situations Management LLC, as collateral agent, and the lenders (including the Lender) (collectively, the "**Lenders**") from time to time party thereto (as amended, restated, amended and restated, restructured, supplemented, waived and/or otherwise modified from time to time, the "**Loan Agreement**");

B. The Conversion Price under the Loan Agreement has been adjusted as provided in the Loan Agreement to account for the reverse stock splits effective July 18, 2024 and September 5, 2025, respectively, and the Conversion Price is $1,944.00 as of the date hereof;

C. Pursuant to Section 25(c) of the Loan Agreement, the Loan Agreement may be amended with the written consent of the Company and the Required Lenders (as defined in the Loan Agreement), and any amendment reducing the Conversion Price shall only be effective with respect to the Loan made by any lender with the written consent of such lender;

D. The Parties have agreed, subject to the terms, amendments, conditions and understandings expressed in this Amendment, to reduce the Conversion Price for a limited period of time on and subject to the terms hereof; and

E. Concurrently herewith, each other Lender has had the opportunity to execute an amendment to the Loan Agreement in the form of this Amendment (each, an "**Other Amendment**", and together with this Amendment, the "**Amendments**") and the Company desires to obtain the consent of all of the Lenders to the Amendments (such time as the Company and the Required Lenders shall have, severally, executed Amendments, the "**Effective Time**").

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Recitals. Each of the Parties acknowledges and agrees that the recitals set forth above in this Amendment are true and accurate and are hereby incorporated into and made a part of this Amendment.

2. Defined Terms. Capitalized terms used but not defined herein shall have their respective meanings in the Loan Agreement.

3. Conversion Price. Effective as of the Effective Time, the Conversion Price of the Loans is hereby reduced to $2.015 for the period commencing on the date hereof and ending on November 7, 2025.

4. Trading Volume Limitations. Effective as of the Effective Time, and thereafter, until April 24, 2026, the Lender hereby agrees not to sell any Conversion Shares during any given Trading Day in an amount in excess of 10% of the average daily trading volume of the Common Stock over the 10 Trading Days immediately preceding such Trading Day, as reported by Bloomberg, LP.

5. Other Terms Unchanged. The Note, as amended by this Amendment as of the Effective Time, remains and continues in full force and effect, constitutes legal, valid, and binding obligations of each of the Parties, and is in all respects agreed to, ratified, and confirmed. Any reference to the Note after the Effective Time is deemed to be a reference to the Note as amended by this Amendment. If there is a conflict between the terms of this Amendment and the Note, the terms of this Amendment shall control. No forbearance or waiver may be implied by this Amendment. Except as expressly set forth herein, the execution, delivery, and performance of this Amendment shall not operate as a waiver of, or as an amendment to, any right, power, or remedy of Lender under the Note, as in effect prior to the date hereof.

6. Counterparts. This Amendment may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Counterparts may be delivered via facsimile, electronic mail (including pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, e.g., www.docusign.com) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

7. Further Assurances. Each Party shall do and perform or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as the other Party may reasonably request in order to carry out the intent and accomplish the purposes of this Amendment and the consummation of the transactions contemplated hereby.

8. Disclosure of Transactions and Other Material Information. The Company shall, on or before 9:30 a.m., New York time, on the first Business Day after the date of this Agreement, file a Current Report on Form 8-K, describing all the material terms of the transactions contemplated by this Amendment in the form required by the 1934 Act, and attaching this Amendment (including all attachments, the "**8-K Filing**"). From and after the 8-K Filing, the Company shall have disclosed all material, non-public information (if any) delivered to the Lender by the Company or any of its Subsidiaries, or any of their respective officers, directors, employees or agents in connection with the transactions contemplated by the Amendments. In addition, effective upon the filing of the 8-K Filing, the Company acknowledges and agrees that any and all confidentiality or similar obligations under any agreement, whether written or oral, between the Company, any of its Subsidiaries or any of their respective officers, directors, affiliates, employees or agents, on the one hand, and the Lender or any of its affiliates, on the other hand, shall terminate.

9. Independent Nature of Lender's Obligations and Rights. The obligations of the Lender under this Amendment are several and not joint with the obligations of any Other Lender, and the Lender shall not be responsible in any way for the performance of the obligations of any Other Lender under any Other Amendment. Nothing contained herein or in any Other Amendment, and no action taken by the Lender pursuant hereto, shall be deemed to constitute the Lender and Other Lenders as, and the Company acknowledges that the Lender and the Other Lenders do not so constitute, a partnership, an association, a joint venture or any other kind of entity, or create a presumption that the Lender and Other Lenders are in any way acting in concert or as a group, and the Company will not assert any such claim, with respect to such obligations or the transactions contemplated by this Amendment or any Other Amendment and the Company acknowledges that, to the best of its knowledge, the Lender and the Other Lenders are not acting in concert or as a group with respect to such obligations or the transactions contemplated by this Amendment or any Other Amendment. The Company and the Lender confirm that the Lender has independently participated in the negotiation of the transactions contemplated hereby with the advice of its own counsel and advisors. The Lender shall be entitled to independently protect and enforce its rights, including, without limitation, the rights arising out of this Amendment, and it shall not be necessary for any Other Lender to be joined as an additional party in any proceeding for such purpose.

14. Miscellaneous. Section 25 of the Loan Agreement (as amended hereby) is hereby incorporated by reference herein, mutatis mutandis.

*[Remainder of page intentionally left blank]*

IN WITNESS WHEREOF, the undersigned have executed this Amendment as of the date set forth above.

**COMPANY:**

NAUTICUS ROBOTICS, INC.

By: /s/ John W Gibson Jr
Name: John W Gibson Jr
Title: President & CEO

*[Signature Page to Amendment to Term Loan Agreement]*

**LENDERS:**

[***]

*[Signature Page to Amendment to Term Loan Agreement]*

## Nauticus Robotics Improves Balance Sheet Through Converting $3M Debt to Equity

**HOUSTON, October 27, 2025** – Nauticus Robotics, Inc. (NASDAQ: KITT), a leading innovator in autonomous subsea robotics and software solutions, today announced that it has entered into an agreement with existing debtholders to convert $3.7M of debt into common equity. The company anticipates that this conversion will allow it to substantially deleverage the balance sheet. Additionally, if required, existing debtholders have agreed to exchange outstanding debt into preferred equity with the intention to bring the company in compliance with previously reported NASDAQ issues.

About Nauticus Robotics

Nauticus Robotics, Inc. develops autonomous robots for the ocean industries. Autonomy requires the extensive use of sensors, artificial intelligence, and effective algorithms for perception and decision allowing the robot to adapt to changing environments. The company's business model includes using robotic systems for service, selling vehicles and components, and licensing of related software to both the commercial and defense business sectors. Nauticus has designed and is currently testing and certifying a new generation of vehicles to reduce operational cost and gather data to maintain and operate a wide variety of subsea infrastructure. Besides a standalone service offering and forward-facing products, Nauticus' approach to ocean robotics has also resulted in the development of a range of technology products for retrofit/upgrading traditional ROV operations and other third-party vehicle platforms. Nauticus' services provide customers with the necessary data collection, analytics, and subsea manipulation capabilities to support and maintain assets while reducing their operational footprint, operating cost, and greenhouse gas emissions, to improve offshore health, safety, and environmental exposure. https://nauticusrobotics.com/.

Cautionary Language Regarding Forward-Looking Statements

This press release contains forward-looking statements within the meaning of Section 21E of the Securities Exchange Act of 1934, as amended (the "Act"), and are intended to enjoy the protection of the safe harbor for forward-looking statements provided by the Act as well as protections afforded by other federal securities laws. Such forward-looking statements include but are not limited to: the expected timing of product commercialization or new product releases; customer interest in Nauticus' products; estimated operating results and use of cash; and Nauticus' use of and needs for capital. Generally, statements that are not historical facts, including statements concerning possible or assumed future actions, business strategies, events, or results of operations, are forward-looking statements. These statements may be preceded by, followed by, or include the words "believes," "estimates," "expects," "projects," "forecasts," "may," "will," "should," "seeks," "plans," "scheduled," "anticipates," "intends," or "continue" or similar expressions. Forward-looking statements inherently involve risks and uncertainties that may cause actual events, results, or performance to differ materially from those indicated by such statements. These forward-looking statements are based on Nauticus' management's current expectations and beliefs, as well as a number of assumptions concerning future events. There can be no assurance that the events, results, or trends identified in these forward-looking statements will occur or be achieved. Forward-looking statements speak only as of the date they are made, and Nauticus is not under any obligation and expressly disclaims any obligation, to update, alter, or otherwise revise any forward-looking statement, whether as a result of new information, future events, or otherwise, except as required by law. Readers should carefully review the statements set forth in the reports which Nauticus has filed or will file from time to time with the Securities and Exchange Commission (the "SEC") for a more complete discussion of the risks and uncertainties facing the Company and that could cause actual

outcomes to be materially different from those indicated in the forward-looking statements made by the Company, in particular the sections entitled “Risk Factors” and “Cautionary Note Regarding Forward-Looking Statements” in documents filed from time to time with the SEC, including Nauticus’ Annual Report on Form 10-K filed with the SEC on April 15, 2025 and subsequent Quarterly Reports on Form 10-Q filed with the SEC from time to time. Should one or more of these risks, uncertainties, or other factors materialize, or should assumptions underlying the forward-looking information or statements prove incorrect, actual results may vary materially from those described herein as intended, planned, anticipated, believed, estimated, or expected. The documents filed by Nauticus with the SEC may be obtained free of charge at the SEC’s website at www.sec.gov.

# Nauticus Robotics Secures $250 Million Equity Facility and Launches Strategic Initiative to Enter Deep-Sea Rare Earth Mineral Exploration Market

**Houston, TX, October 27, 2025.** Nauticus Robotics, Inc. (NASDAQ: KITT, "Nauticus"), a leading innovator in autonomous subsea robotics and software solutions, today announced that it has secured a $250 million Equity Line of Credit ("ELOC") facility to accelerate its next phase of growth and innovation. The facility will provide Nauticus with the flexibility to pursue strategic acquisitions that expand its technological capabilities and position the company to enter the rapidly emerging market for deep-sea rare earth and mineral exploration.

This new initiative is part of Nauticus' broader strategy to leverage its advanced robotics, artificial intelligence, and subsea automation technologies in industries essential to the global energy transition. It also aligns the company with the Trump administration's priorities on securing strategic minerals to reduce reliance on international producers. Nauticus intends to identify and acquire businesses and technologies that complement its autonomous systems portfolio and support responsible exploration of rare earth elements and other critical minerals found in ultra-deepwater environments.

"Access to rare earth minerals is vital for the clean energy, electronics, and defense industries, and Nauticus is uniquely positioned to play a key role in enabling that supply chain," said John Gibson, President and CEO of Nauticus Robotics. "The $250 million equity facility provides us with the strategic and financial flexibility to acquire the right capabilities and partnerships to participate responsibly in this important emerging market."

Mr. Gibson brings 10+ years of experience in critical mineral production via his work with Orocobre Ltd. This experience is expected to directly translate into the subsea mining space.

**Strategic Highlights**

- $250 million equity line of credit facility to fund acquisitions and growth initiatives
- Launch of a deep-sea rare earth and mineral exploration strategy through targeted acquisitions
- Focus on sustainable innovation and environmental stewardship in subsea resource development
- Builds on recent milestones, including the acquisition of SeaTrepid International, expanding Nauticus' subsea service and ROV capabilities

The initiative underscores Nauticus' commitment to driving technological leadership and responsible innovation in subsea industries. The company anticipates providing updates on prospective acquisition targets and strategic partnerships as it advances toward enabling autonomous, data-driven exploration of the ocean's rare mineral resources.

About Nauticus Robotics

Nauticus Robotics, Inc. develops autonomous robots for the ocean industries. Autonomy requires the extensive use of sensors, artificial intelligence, and effective algorithms for perception and decision allowing the robot to adapt to changing environments. The company's business model includes using robotic systems for service, selling vehicles and components, and licensing of related software to both the commercial and defense business sectors. Nauticus has designed and is currently testing and certifying a new generation of vehicles to reduce operational cost and gather data to maintain and operate a wide

variety of subsea infrastructure. Besides a standalone service offering and forward-facing products, Nauticus' approach to ocean robotics has also resulted in the development of a range of technology products for retrofit/upgrading traditional ROV operations and other third-party vehicle platforms. Nauticus' services provide customers with the necessary data collection, analytics, and subsea manipulation capabilities to support and maintain assets while reducing their operational footprint, operating cost, and greenhouse gas emissions, to improve offshore health, safety, and environmental exposure. https://nauticusrobotics.com/

Cautionary Language Regarding Forward-Looking Statements

This press release contains forward-looking statements within the meaning of Section 21E of the Securities Exchange Act of 1934, as amended (the "Act"), and are intended to enjoy the protection of the safe harbor for forward-looking statements provided by the Act as well as protections afforded by other federal securities laws. Such forward-looking statements include but are not limited to: the expected timing of product commercialization or new product releases; customer interest in Nauticus' products; estimated operating results and use of cash; and Nauticus' use of and needs for capital. Generally, statements that are not historical facts, including statements concerning possible or assumed future actions, business strategies, events, or results of operations, are forward-looking statements. These statements may be preceded by, followed by, or include the words "believes," "estimates," "expects," "projects," "forecasts," "may," "will," "should," "seeks," "plans," "scheduled," "anticipates," "intends," or "continue" or similar expressions. Forward-looking statements inherently involve risks and uncertainties that may cause actual events, results, or performance to differ materially from those indicated by such statements. These forward-looking statements are based on Nauticus' management's current expectations and beliefs, as well as a number of assumptions concerning future events. There can be no assurance that the events, results, or trends identified in these forward-looking statements will occur or be achieved. Forward-looking statements speak only as of the date they are made, and Nauticus is not under any obligation and expressly disclaims any obligation, to update, alter, or otherwise revise any forward-looking statement, whether as a result of new information, future events, or otherwise, except as required by law. Readers should carefully review the statements set forth in the reports which Nauticus has filed or will file from time to time with the Securities and Exchange Commission (the "SEC") for a more complete discussion of the risks and uncertainties facing the Company and that could cause actual outcomes to be materially different from those indicated in the forward-looking statements made by the Company, in particular the sections entitled "Risk Factors" and "Cautionary Note Regarding Forward-Looking Statements" in documents filed from time to time with the SEC, including Nauticus' Annual Report on Form 10-K filed with the SEC on April 15, 2025 and subsequent Quarterly Reports on Form 10-Q filed with the SEC from time to time. Should one or more of these risks, uncertainties, or other factors materialize, or should assumptions underlying the forward-looking information or statements prove incorrect, actual results may vary materially from those described herein as intended, planned, anticipated, believed, estimated, or expected. The documents filed by Nauticus with the SEC may be obtained free of charge at the SEC's website at www.sec.gov.

ATW Special Situations I LLC, ATW Special Situations II LLC, ATW Special Situations III LLC
ONE PENN
1 Pennsylvania Plaza, Suite 4810
New York, N.Y. 10119

October 24, 2025

Nauticus Robotics, Inc.
17146 Feathercraft Lane, Suite 450
Webster, Texas 77598
Attention: John W. Gibson, Jr., CEO

Re: Proposal by ATW Special Situations I LLC, ATW Special Situations II LLC, and ATW Special Situations III LLC to Exchange Certain Securities of Nauticus Robotics, Inc.

Dear Mr. Gibson:

In accordance with our recent discussions, this letter of intent ("**LOI**"), subject to the terms and conditions herein, outlines the circumstances pursuant to which ATW Special Situations I LLC, ATW Special Situations II LLC, and ATW Special Situations III LLC (collectively, "**ATW**") will exchange the certain existing debt securities (the "**Existing Debt**") issued by Nauticus Robotics, Inc. (the "**Company**") for certain convertible preferred stock of the Company (the "**Exchange**"). This LOI sets out the basic terms and conditions upon which the parties will proceed with the Exchange. The following is not intended to be complete. Final terms and conditions, including those customary for transactions such as the Exchange, shall be contained within the definitive agreements governing such Exchange, including, but not limited to, an exchange agreement and a certificate of designation for a new or existing series of convertible preferred stock of the Company (the "**Preferred Stock**," and together with the exchange agreement, the "**Definitive Agreements**"). The intent of such Exchange is to (i) satisfy the Company's shareholder equity deficiency announced via 8-K on October 22, 2025 and (ii) bring the Company back into compliance with NASDAQ continued listing standards. The value of debt securities that ATW may exchange into Preferred Stock will be the lower of (i) $5,000,000, which ATW understands to be the shareholder equity deficiency as of the date hereof, and (ii) the value of the actual shareholder equity deficiency as of the date of such Exchange. Unless otherwise defined herein, capitalized terms used herein shall have the meanings ascribed to such terms in the New Debenture.

The parties hereto acknowledge that this letter does not contain all matters upon which an agreement must be reached in order for the Exchange to be consummated. Further, among other conditions specified herein or otherwise agreed to by the parties, the obligations of the parties hereto to consummate the Exchange are subject to the negotiation and execution of the Definitive Agreements. Accordingly, this letter is intended solely as a basis for further discussion. It is agreed that any party may cease pursuit of the Exchange at any time for any or no reason.

1. **The Exchange**

Pursuant to Section 4(a)(2) and Rule 144(d)(3)(ii) of the Securities Act of 1933, as amended, ATW will convey, assign and transfer some or all Existing Debt to the Company in exchange for which the Company shall issue to ATW certain shares of Preferred Stock. The parties shall endeavor to consummate the Definitive Agreements before the end of any extension period provided by NASDAQ.

**2. Expenses**

The Company shall be responsible for its own expenses, as well as the reasonable and documented fees and costs incurred by ATW in connection with this LOI, the preparation and completion of the Definitive Agreements and the contemplated Exchange.

**3. Conditions to Consummation of the Transaction**

The obligations of ATW with respect to the Exchange shall be subject to satisfaction of conditions, in ATW's sole discretion, customary to transactions of this type, including, without limitation, (a) execution of the Definitive Agreements by the parties; (b) the obtaining of all requisite regulatory, administrative or governmental authorizations and consents; (c) the obtaining of the approval of the Exchange from the Company's shareholders as required; (d) absence of a material adverse change in the condition (financial or otherwise), business, properties, assets or prospects of the Company; and (e) absence of material litigation, investigations or other matters affecting the Company's ability to operate.

**4. Public Announcement**

The Company shall, on or before 9:00 a.m., New York time, on the first (1st) business day after the date of this LOI, file a Current Report on Form 8-K describing all the material terms of the transactions contemplated by this LOI (the "**8-K Filing**"). From and after the filing of the 8-K Filing, the Company shall have disclosed all material, non-public information (if any) provided to ATW by the Company or any of its subsidiaries or any of their respective officers, directors, employees or agents in connection with the transactions contemplated by this LOI. In addition, effective upon the filing of the 8-K Filing, the Company acknowledges and agrees that any and all confidentiality or similar obligations under any agreement, whether written or oral, between the Company, any of its subsidiaries or any of their respective officers, directors, affiliates, employees or agents, on the one hand, and ATW on the other hand, shall terminate.

**5. Effect of this Letter of Intent**

This LOI represents an outline of the general understandings discussed between the parties in regard to the Exchange. It is an expression of intent of the parties with respect to the Exchange and the matters set forth herein. Notwithstanding the foregoing, the parties acknowledge and agree that Sections 2, 4, 5, 6 and 7 of this LOI shall be binding on the parties.

**6. Governing Law**

This LOI and the terms and conditions set forth herein, shall be governed by and construed solely and exclusively in accordance with the internal laws of the State of New York without regard to the conflicts of laws principles thereof. The parties hereto hereby expressly and irrevocably agree that any suit or proceeding arising directly and/or indirectly pursuant to or under this Agreement shall be brought solely in a federal or state court located in the City, County and State of New York. By its execution hereof, the parties hereto covenant and irrevocably submit to the in personam jurisdiction of the federal and state courts located in the City, County and State of New York and agree that any process in any such action may be served upon any of them personally, or by certified mail or registered mail upon them or their agent, return receipt requested, with the same full force and effect as if personally served upon them in New York, New York. The parties hereto expressly and irrevocably waive any claim that any such jurisdiction is not a convenient forum for any such suit or proceeding and any defense or lack of in personam jurisdiction with respect thereto. In the event of any such action or proceeding, the party prevailing therein shall be entitled to payment from the other parties hereto of all of its reasonable counsel fees and disbursements.

**7. Counterparts; Facsimile/Electronic Execution**

This Letter of Intent may be executed in one or more counterparts, all of which when fully-executed and delivered by all parties hereto and taken together shall constitute a single document and may be signed and transmitted by facsimile, PDF format (or other electronic means) with the same validity as if it were an originally signed document.

[SIGNATURE PAGE TO FOLLOW]

If the terms and conditions of the LOI are acceptable to you, please indicate your acknowledgement by executing and returning the signed LOI to the writer.

Yours truly,

**ATW SPECIAL SITUATIONS I LLC**

By:____/s/ Antonio Ruiz Jimenez_____
Name: Antonio Ruiz Jimenez
Title: Authorized signatory

**ATW SPECIAL SITUATIONS II LLC**

By:____/s/ Antonio Ruiz Jimenez_____
Name: Antonio Ruiz Jimenez
Title: Authorized signatory

**ATW SPECIAL SITUATIONS III LLC**

By:____/s/ Antonio Ruiz Jimenez_____
Name: Antonio Ruiz Jimenez
Title: Authorized signatory

The foregoing expresses the intent of the undersigned with respect to the provisions contained herein dated this October 24, 2025.

**NAUTICUS ROBOTICS, INC.**

By:__/s/ John W. Gibson_Jr_____
Name: John W. Gibson Jr.
Title: CEO