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): May 7, 2024

RUBICON TECHNOLOGIES, INC.

(Exact name of registrant as specified in its charter)

Delaware	001-40910	88-3703651
(State or other jurisdiction of incorporation)	(Commission File Number)	(IRS Employer Identification No.)

950 E Paces Ferry Rd NE Suite 810 Atlanta, GA	30326
(Address of principal executive offices)	(Zip Code)

(844) 479-1507
(Registrant's telephone number, including area code)

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

Check the appropriate box below if the Form 8-K 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
Class A common stock, par value $0.0001 per share	RBT	New York Stock Exchange

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 ☒

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 Definitive Material Agreement.

Sale of Software-as-a-Service Business

On May 7, 2024, Rubicon Technologies, Inc. (the "**Company**"), a company incorporated under the laws of the State of Delaware, entered into an Asset Purchase Agreement (the "**Asset Purchase Agreement**") by and among the Company, Rubicon Technologies Holdings, LLC, a Delaware limited liability company ("**Holdings**"), Wastech Corp. ("**Wastech**"), an affiliate of Rodina Capital ("**Rodina**"), and, solely for purposes of guaranteeing certain obligations of Wastech under the Asset Purchase Agreement, GAFAPA, S.A. de C.V., an affiliate of Rodina. Pursuant to the Asset Purchase Agreement, the Company agreed to sell to Wastech its software-as-a-service business, including the RUBICONSmartCity, RUBICONPro and RUBICONPremier product offerings (the "**Technology Business**"), for an approximate aggregate purchase price of $68,000,000. The Asset Purchase Agreement also provides a potential earn-out payment of $12,500,000 from Wastech to the Company if the Technology Business achieves a certain annual recurring revenue target on or prior to December 31, 2024.

The foregoing description of the Asset Purchase Agreement does not purport to be complete and is qualified in its entirety by reference to the full text of the same, which is attached to this Current Report on Form 8-K as Exhibit 10.1 and incorporated by reference herein.

Securities Purchase Agreement

On May 7, 2024, the Company entered into a Securities Purchase Agreement (the "**Purchase Agreement**"), by and between the Company and MBI Holdings, LP (the "**Buyer**"), an affiliate of Rodina. Pursuant to the Purchase Agreement, the Company agreed to issue and sell the Buyer 20,000 shares of the Company's Series A Convertible Perpetual Preferred Stock, par value $0.0001 per share (the "**Preferred Stock**"), having the designation, preferences, rights, privileges, powers and terms and conditions as specified in the Certificate of Designations, Preferences and Rights of Series A Convertible Perpetual Preferred Stock (the "**Certificate of Designations**"), for an aggregate purchase price of $20,000,000. The Buyer is affiliated with Rodina, a significant shareholder of the Company. The issuance and sale of the Preferred Stock by the Company to the Buyer closed on May 7, 2024. The Company will use the proceeds of sale for general corporate purposes.

Certificate of Designations

The Preferred Stock issued at the closing of the Purchase Agreement has the powers, designations, preferences and other rights set forth in the form of Certificate of Designations.

The Preferred Stock is entitled to receive, whether or not declared, dividends at the rate of 8.0% per annum of the stated value per share of Preferred Stock. On the second anniversary of the closing date and each anniversary thereafter, the dividend rate on the Preferred Stock will increase by 1.0% per annum, up to a maximum dividend rate not to exceed 11.0% per annum. In the event of certain non-compliance by the Company with the Certificate of Designations, the dividend rate will immediately increase by 5.0% per annum during the continuance of such event. The dividend rate on the Preferred Stock may not exceed 16.0% per annum. Accrued dividends will increase the stated value of the Preferred Stock and result in an increase in the liquidation preference of the Preferred Stock to the extent not paid in cash on any dividend payment date. The Preferred Stock is entitled to participate in any dividends declared and paid on the Company's Class A common stock on an as-converted basis.

Each holder of Preferred Stock has the right, at its option, to convert its Preferred Stock, in whole or in part, into fully paid and non-assessable shares of Class A common stock of the Company (the "**Common Stock**"), subject to certain conditions and certain customary adjustments in the event of certain events affecting the Common Stock. The conversion price is equivalent to $0.35 per share, which is the closing price of the Common Stock on the NYSE immediately prior to the execution of the Purchase Agreement. As of May 7, 2024, the Preferred Stock is convertible into 57,142,857 shares of Common Stock, representing approximately 51% of the Company's outstanding Common Stock and Class V common stock (assuming issuance of such shares of Common Stock upon conversion of the Preferred Stock).

Upon the earliest date on which the following would not result in an event of default or similar event under the debt agreements of the Company as in effect and as amended as of the closing date, the Buyer will have the right to require the Company to redeem the Preferred Stock at a redemption price equal to the greater of the accumulated liquidation preference and 2.0 times the initial liquidation preference (the "**Redemption Value**"). Upon a change of control as defined in the Certificate of Designations, the Company may redeem the Preferred Stock at a price equal to the Redemption Value. Redemption of the Preferred Stock shall be payable in cash.

The Preferred Stock will rank senior to the Common Stock and any other capital stock of the Company, with respect to dividend rights and rights upon voluntary or involuntary liquidation, dissolution, or winding up of the affairs of the Company. The Preferred Stock will vote on an as-converted basis with the Common Stock and the Class V common stock.

The Certificate of Designations contains certain consent rights of the holders of Preferred Stock, including restrictions on amendments to organizational documents, dividends, issuances of additional shares of Common Stock and other negative covenants (subject to certain exceptions and qualifications). The Certificate of Designations provides that Buyer will have the right to nominate a number of directors to the board of directors of the Company (the "**Board**") equal to the proportionate number of directors of the Board represented by Buyer and its affiliates', including Rodina, voting power in the Company (rounded up) at each election of directors with such rights to terminate if Buyer and its affiliates cease to beneficially own stock with voting power of less than 5.0% of the outstanding voting stock of the Company.

Registration Rights Agreement

Holders of Preferred Stock and Common Stock issuable upon conversion of, or payments of dividends on, Preferred Stock pursuant to the Purchase Agreement will have certain customary registration rights with respect to such shares of Common Stock pursuant to the terms of the Registration Rights Agreement, a form of which is attached as Exhibit B to the Purchase Agreement (the "**Registration Rights Agreement**").

The foregoing description of the terms of the Purchase Agreement, the Certificate of Designations, the Registration Rights Agreement and the transactions contemplated thereby does not purport to be complete and is qualified in its entirety by reference to the full text of the Certificate of Designations, the Purchase Agreement and the Registration Rights Agreement, which are attached to this Current Report on Form 8-K as Exhibits 3.1, 10.2 and 10.3, respectively, and which are each incorporated by reference herein.

This Current Report on Form 8-K does not constitute an offer to sell, or a solicitation of an offer to buy, any security and shall not constitute an offer, solicitation or sale in any jurisdiction in which such offer, solicitation or sale would be unlawful.

Amendment to Credit, Security and Guaranty Agreement

On May 7, 2024, the Company entered into Amendment No. 2 to Credit, Security and Guaranty Agreement ("**Term Loan Amendment No. 2**") by and among Holdings, Rubicon Technologies International, Inc., a Delaware corporation, Rubicon Global, LLC, a Delaware limited liability company, Cleanco LLC, a New Jersey limited liability company, Charter Waste Management, Inc., a Delaware corporation, RiverRoad Waste Solutions, Inc., a New Jersey corporation (each individually as a "**Borrower**", and collectively as "**Borrowers**"), Rubicon Technologies, Inc., a Delaware corporation ("**Parent**"), Acquiom Agency Services LLC, as Agent (in such capacity, together with its successors and assigns, "**Term Loan Agent**") and the other financial institutions or other entities from time to time parties to the Term Loan Credit Agreement referenced below, each as a Lender, constituting the Required Lenders (as defined therein).

Amendment No. 2 further amends the Credit, Security and Guaranty Agreement, dated as of June 7, 2023 (as amended by that certain Limited Waiver and Amendment No. 1 to Credit, Security and Guaranty Agreement, dated as of September 17, 2023, the "**Term Loan Credit Agreement**") by (i) permitting the transactions contemplated by the Asset Purchase Agreement and (ii) making certain other amendments set forth therein. Amendment No. 2 also amends existing warrants issued to certain lenders under the Credit Agreement (collectively, the "**Existing Warrants**") by amending (i) Section (2)(a)(i) of each Existing Warrant and (ii) Section (2)(a)(ii) of each Existing Warrant, in each case by replacing the number "18" with the number "30". Subject to the terms of Amendment No. 2, and upon certain conditions in the Purchase Agreement, as the case may be, the Company is required to have received and delivered evidence of the same to the Buyer: (i) a waiver from each holder of Existing Warrants of the pre-emptive rights granted to such holder which would have been triggered as a result of the transactions contemplated by the Purchase Agreement, including Buyer and its affiliates' acquisition of Preferred Stock and/or Common Stock upon the conversion of Preferred Stock and (ii) a waiver from certain Company employees of any payment or benefit that would become payable, pursuant to the respective employee's employment agreement with the Company or its subsidiaries ("**Employment Agreement**"), to such employee upon a "Sale Event" or a "Change in Control" (each, as defined in the Employment Agreement) as a result of the transactions contemplated by the Purchase Agreement, including Buyer and its affiliates' acquisition of Common Stock upon the conversion of Preferred Stock (each, a "**Waiver Agreement**").

The foregoing description of Amendment No. 2 does not purport to be complete and is qualified in its entirety by reference to the full text of the same, which is attached to this Current Report on Form 8-K as Exhibit 10.4 and incorporated by reference herein. Capitalized terms used herein but not defined herein shall have the meaning set forth for such terms in the Term Loan Credit Agreement, as amended.

Amendment to Credit, Security and Guaranty Agreement

On May 7, 2024, the Company entered into Amendment No. 4 to Credit, Security and Guaranty Agreement ("**Revolving Loan Amendment No. 4**") by and among Holdings, the Borrowers, Parent, Acquiom Agency Services LLC, as Agent (in such capacity, together with its successors and assigns, "**Revolving Loan Agent**") and the other financial institutions or other entities from time to time parties to the Revolving Loan Credit Agreement referenced below, each as a Lender, constituting the Required Lenders (as defined therein).

Revolving Loan Amendment No. 4 further amends the Credit, Security and Guaranty Agreement, dated as of June 7, 2023 (as amended by that certain Limited Waiver and Amendment No. 1 to Credit, Security and Guaranty Agreement, dated as of September 17, 2023, that certain Amendment No. 2 to Credit, Security and Guaranty Agreement, dated as of December 5, 2023 and that certain Amendment No. 3 to Credit, Security and Guaranty Agreement, dated as of January 24, 2024, the "**Revolving Loan Credit Agreement**") by (i) permitting the transactions contemplated by the Asset Purchase Agreement and (ii) making certain other amendments set forth therein.

The foregoing description of Revolving Loan Amendment No. 4 does not purport to be complete and is qualified in its entirety by reference to the full text of the same, which is attached to this Current Report on Form 8-K as Exhibit 10.5 and incorporated by reference herein. Capitalized terms used herein but not defined herein shall have the meaning set forth for such terms in the Revolving Loan Credit Agreement, as amended.

Amendment to Loan and Security Agreement

On May 7, 2024, the Company entered into Sixth Amendment to Loan and Security Agreement ("**Third Lien Sixth Amendment**") by and among Holdings, the Borrowers, Parent, Mizzen Capital, LP, as Agent (in such capacity, together with its successors and assigns, "**Third Lien Agent**") and the other financial institutions or other entities from time to time parties to the Third Lien Credit Agreement referenced below, each as a Lender, constituting the Required Lenders (as defined therein).

Third Lien Sixth Amendment further amends the Credit, Security and Guaranty Agreement, dated as of December 22, 2021 (as amended by that certain First Amendment to Loan and Security Agreement, dated as of November 18, 2022, that certain Second Amendment to Loan and Security Agreement, dated as of March 22, 2023, that certain Third Amendment to Loan and Security Agreement, dated as of May 19, 2023, that certain Fourth Amendment to Loan and Security Agreement, dated as of June 7, 2023 and that certain Fifth Amendment to Loan and Security Agreement, dated as of September 17, 2023 the "**Third Lien Credit Agreement**") by (i) permitting the transactions contemplated by the Asset Purchase Agreement and (ii) making certain other amendments set forth therein.

The foregoing description of Third Lien Sixth Amendment does not purport to be complete and is qualified in its entirety by reference to the full text of the same, which is attached to this Current Report on Form 8-K as Exhibit 10.6 and incorporated by reference herein. Capitalized terms used herein but not defined herein shall have the meaning set forth for such terms in the Third Lien Credit Agreement, as amended.

Item 3.02. Unregistered Sale of Equity Securities.

The information set forth in Item 1.01 of this Current Report on Form 8-K under "Certificate of Designations" is incorporated by reference into this Item 3.02.

Item 3.03. Material Modification to Rights of Security Holders.

The information set forth in Item 1.01 of this Current Report on Form 8-K under "Certificate of Designations" is incorporated by reference into this Item 3.03.

Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

In connection with the Purchase Agreement, on May 7, 2024, certain of the Company's executives, including Phil Rodoni (Chief Executive Officer), Kevin Schubert (President and Chief Financial Officer) and Tom Owston (Chief Commercial Officer), executed a Waiver Agreement. A form of the Waiver Agreement is attached hereto as Exhibit 10.7.

Item 5.03. Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.

The information set forth in Item 1.01 of this Current Report on Form 8-K under "Certificate of Designations" is incorporated by reference into this Item 5.03.

In connection with the adoption of the transactions described in Item 1.01 above, on May 6, 2024, the Company's Board approved the Certificate of Designations, which sets forth the rights, powers and preferences of the Preferred Stock. The Certificate of Designations was filed with the Secretary of State of the State of Delaware on May 7, 2024 and became effective upon filing. A copy of the Certificate of Designations is attached to this Current Report on Form 8-K as Exhibit 3.1 and incorporated by reference herein.

Item 8.01. Other Events.

On May 7, 2024, the Company issued a press release announcing the consummation of the Asset Purchase Agreement, the Purchase Agreement and the transactions contemplated therein. The press release is attached as Exhibit 10.8 to this Current Report on Form 8-K and incorporated by reference herein.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits

Exhibit	Description
3.1	Certificate of Designations, Preferences and Rights of Series A Convertible Perpetual Preferred Stock of Rubicon Technologies, Inc.
10.1	Asset Purchase Agreement, dated May 7, 2024, by and among Rubicon Technologies, Inc., Rubicon Technologies Holdings, LLC and Wastech Corp. and, solely for the limited purposes set forth therein, GAFAPA, S.A. de C.V.
10.2	Securities Purchase Agreement, dated May 7, 2024, by and between Rubicon Technologies, Inc. and MBI Holdings, LP
10.3	Registration Rights Agreement, dated May 7, 2024, by and among Rubicon Technologies, Inc. and the Stockholder Parties thereto
10.4	Form of Amendment No. 2 to Credit, Security and Guaranty Agreement, dated May 7, 2024, by and between Rubicon Technologies, Inc. and the Parties thereto
10.5	Amendment No. 4 to Credit, Security and Guaranty Agreement, dated May 7, 2024, by and among Holdings, the Borrowers, Parent, Acquiom Agency Services LLC, as Agent
10.6	Third Lien Sixth Amendment further amends the Credit, Security and Guaranty Agreement, dated as of December 22, 2021
10.7	Form of Waiver Agreement, dated May 7, 2024
10.8	Press Release, dated May 7, 2024
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

Forward Looking Statements

This Current Report on Form 8-K includes statements concerning the Company and its future expectations, plans and prospects that constitute "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. For this purpose, any statements contained herein that are not statements of historical fact may be deemed to be forward-looking statements. In some cases, you can identify forward-looking statements by terms such as "may," "should," "expects," "plans," "anticipates," "could," "intends," "target," "projects," "contemplates," "believes," "estimates," "predicts," "potential," or "continue," or the negative of these terms or other similar expressions. Forward-looking statements in this Current Report on Form 8-K include a statement regarding the Company's intention to develop and submit the Plan to bring it into compliance with the Minimum Market Capitalization Standard within the required time frame. Although the Company believes that its plans, intentions and expectations reflected in or suggested by these forward-looking statements are reasonable, the Company cannot assure you that it will achieve or realize these plans, intentions, or expectations. Forward-looking statements are inherently subject to risks, uncertainties, and assumptions. Generally, statements that are not historical facts, including statements concerning possible or assumed future actions, business strategies, events or results of operations, and any statements that refer to projections, forecasts or other characterizations of future events or circumstances, including any underlying assumptions, are forward looking statements. These forward-looking statements are not guarantees of performance. You should understand that these statements are affected by factors set forth in the Company's filings with the SEC, including but not limited to those described under the heading "Risk Factors" in the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2023 filed with the SEC on March 28, 2024, and in its other filings made with the SEC from time to time, which are available via the SEC's website at www.sec.gov. The company assumes no obligation to update any forward-looking statements contained in this Current Report on Form 8-K, whether as a result of any new information, future events, or otherwise.

SIGNATURES

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

RUBICON TECHNOLOGIES, INC.

By: /s/ Philip Rodoni
Name: Philip Rodoni
Title: Chief Executive Officer

Date: May 7, 2024

Exhibit 3.1

Execution Version

CERTIFICATE OF DESIGNATIONS, PREFERENCES AND RIGHTS OF SERIES A CONVERTIBLE PERPETUAL PREFERRED STOCK OF RUBICON TECHNOLOGIES, INC.

Pursuant to Section 151 of the Delaware General Corporation Law (as amended, supplemented or restated from time to time, the "**DGCL**"), Rubicon Technologies, Inc., a corporation organized and existing under the laws of the State of Delaware (the "**Corporation**"), in accordance with the provisions of Section 103 of the DGCL DOES HEREBY CERTIFY

FIRST: That, the Certificate of Incorporation of the Corporation dated August 15, 2022 as amended by that certain Certificate of Amendment dated September 26, 2023 (as amended, supplemented or restated from time to time in accordance with the terms of this Certificate of Designations, the "**Certificate of Incorporation**") authorizes the issuance of up to Ten Million (10,000,000) shares of preferred stock and each such share has a par value of $0.0001, of the Corporation ("**Preferred Stock**") in one or more series and expressly vests the Board of Directors of the Corporation (the "**Board**") with the authority to fix by resolution or resolutions the designations and the powers, preferences and relative, participating, optional or other rights, and qualifications, limitations or restrictions of any series of shares of Preferred Stock, and to fix the number of shares constituting any such series, and to increase or decrease the number of shares of any such series (but not below the number of shares thereof then outstanding);

SECOND: That, pursuant to the authority vested in the Board by the Certificate of Incorporation, the Board on May 6, 2024, adopted the following resolution designating a new series of Preferred Stock as "Series A Convertible Perpetual Preferred Stock":

NOW, THEREFORE, BE IT RESOLVED, that, pursuant to the authority vested in the Board in accordance with the provisions of Article IV of the Certificate of Incorporation and the provisions of Section 151 of the DGCL, a series of Preferred Stock of the Corporation designated as "Series A Convertible Perpetual Preferred Stock" is hereby authorized, and the designations, rights, preferences, powers, restrictions and limitations of the Series A Convertible Perpetual Preferred Stock shall be as follows:

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1. Designation. There shall be a series of Preferred Stock that shall be designated as "Series A Convertible Perpetual Preferred Stock" (the "**Series A Preferred Stock**") and the number of shares constituting such series ("**Shares**") shall be 20,000 with an initial Stated Value (as defined below) of $1,000.00 per Share. The rights, preferences, powers, restrictions and limitations of the Series A Preferred Stock shall be as set forth herein. The Series A Preferred Stock shall be issued in book-entry form on the Corporation's share ledger, subject to the rights of holders to receive certificated Shares under the DGCL.

2. Defined Terms. For purposes hereof, the following terms shall have the following meanings:

"**Accumulated Stated Value**" has the meaning set forth in **Section 4.1**.

"**Affiliate**" means, as to any Person, any other Person that, directly or indirectly, controls, or is controlled by, or is under common control with, such Person; *provided*, *however*, that the Corporation and its Subsidiaries shall not be deemed to be Affiliates of any holder of Shares of Series A Preferred Stock or any of their Affiliates (other than the Corporation and its Subsidiaries). For this purpose, "control" (including, with its correlative meanings, "controlled by" and "under common control with") shall mean the possession, directly or indirectly, of the power to direct or cause the direction of management or policies of a Person, whether through the ownership of securities or partnership or other ownership interests, by contract or otherwise.

"**as-converted basis**" means (i) with respect to the outstanding shares of Common Stock as of any date, all outstanding shares of Common Stock calculated on a basis in which all shares of Common Stock issuable upon conversion of the outstanding Shares of Series A Preferred Stock (at the Conversion Price in effect on such date) are assumed to be outstanding as of such date and (ii) with respect to any outstanding Shares of Series A Preferred Stock as of any date, the number of shares of Common Stock issuable upon conversion of such Shares of Series A Preferred Stock on such date (at the Conversion Price in effect on such date).

"**beneficially own**", "**beneficial ownership of**", or "**beneficially owning**" any securities shall have the meaning set forth in Rule 13d-3 of the rules and regulations under the Exchange Act; provided, that any Person shall be deemed to beneficially own any securities that such Person has the right to acquire, whether or not such right is exercisable immediately (including assuming conversion of all Preferred Stock, if any, owned by such Person to Common Stock).

"**Board**" has the meaning set forth in the Recitals.

"**Business Day**" means a day other than a Saturday, Sunday or other day on which the SEC or banks in the City of New York are authorized or required by law to close.

"**Certificate of Designations**" means this Certificate of Designations, Preferences and Rights of Series A Convertible Perpetual Preferred Stock of Rubicon Technologies, Inc., as it may be amended from time to time. For the avoidance of doubt, Schedule I and each other Schedule hereto shall be deemed to be part of this Certificate of Designations.

"**Certificate of Incorporation**" has the meaning set forth in the Recitals.

"**Change in Tax Law**" has the meaning set forth in **Section 8.6(a)**.

"**Change of Control**" means any of the following events after the Original Issue Date:

(a) a "person" or "group" within the meaning of Section 13(d) of the Exchange Act, other than the Corporation, its Wholly-owned Subsidiaries, the employee benefit plans of the Corporation and its Wholly-owned Subsidiaries or the Investor and/or its Affiliates, files a Schedule TO or any schedule, form or report under the Exchange Act that discloses that such person or group has become the direct or indirect "beneficial owner," as defined in Rule 13d-3 under the Exchange Act, of the Common Stock representing more than 50% of the voting power of the Common Stock; or

(b) the consummation of (i) any recapitalization, reclassification or change of the Common Stock (other than changes resulting from a subdivision or combination) as a result of which the Common Stock is converted into, or exchanged for, stock, other securities, other property or assets; (ii) any share exchange, consolidation or merger of the Corporation pursuant to which the Common Stock will be converted into cash, securities or other assets; or (iii) any sale, lease or other transfer in one transaction or a series of transactions of all or substantially all of the consolidated assets of the Corporation and its Subsidiaries, taken as a whole, to any person or group other than any of the Corporation's Wholly-owned Subsidiaries or the Investor and/or its Affiliates; *provided*, *however*, that a transaction described in clause (ii) in which the holders of all classes of the Corporation's Common Stock immediately prior to such transaction own, directly or indirectly, more than 50% of all classes of Common Stock of the continuing or surviving corporation or transferee or the parent thereof immediately after such shall not be a Change of Control pursuant to this clause (b).

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

"**Common Stock**" means the Class A Common Stock, par value $0.0001 per share, of the Corporation.

"**Compounded Dividends**" has the meaning set forth in **Section 4.1**.

"**Conversion Date**" has the meaning set forth in **Section 8.2(d)**.

"**Conversion Price**" means, initially $0.35 per Share, as adjusted from time to time in accordance with **Section 8.6**.

"**Conversion Shares**" means the shares of Common Stock or other capital stock of the Corporation then issuable upon conversion of the Series A Preferred Stock in accordance with the terms of **Section 8**.

"**Corporation**" has the meaning set forth in the Preamble.

"**Corporation Redemption**" has the meaning set forth in **Section 7.2**.

"**Corporation Redemption Date**" has the meaning set forth in **Section 7.5(b)**.

"**Corporation Redemption Notice**" has the meaning set forth in **Section 7.2**.

"**Current Market Price**" means, on any day, the average of the Daily VWAP for the five (5) consecutive Trading Days ending the Trading Day immediately prior to the day in question.

"**Daily VWAP**" means the consolidated volume-weighted average price per share of Common Stock as displayed under the heading "Bloomberg VWAP" on the Bloomberg page for the "<equity> AQR" page corresponding to the "ticker" for such Common Stock (or its equivalent successor if Bloomberg ceases to publish such price, or such page is not available) in respect of the period from the scheduled open of trading until the scheduled close of trading of the primary trading session on such Trading Day (or if such volume-weighted average price is unavailable, the closing price of one share of such Common Stock on such Trading Day). The "volume weighted average price" shall be determined without regard to after-hours trading or any other trading outside of the regular trading session trading hours.

"**DGCL**" has the meaning set forth in the Preamble.

"**Dividend Payment Date**" has the meaning set forth in **Section 4.2**.

"**Dividend Period**" means each period from, and including, a Dividend Payment Date (or, in the case of the first Dividend Period, from, and including, the Original Issue Date) to, but excluding, the next Dividend Payment Date.

"**Dividend Rate**" means 8.00% *per annum*, which amount shall increase by 1.00% *per annum* on the second anniversary of the Original Issue Date and on each anniversary thereafter up to a maximum Dividend Rate not to exceed 11.00% per annum; *provided*, that if and for so long as any Event of Noncompliance occurs and is continuing, then the then-current Dividend Rate shall automatically increase by an additional 5.00% per annum up to a maximum Dividend Rate not to exceed 16.00% *per annum*. For the avoidance of doubt of doubt, the maximum Dividend Rate shall not exceed 16.00% *per annum*.

"**Dividends**" has the meaning set forth in **Section 4.1**.

"**Equity Securities**" has the meaning ascribed to such term in Rule 405 promulgated under the Securities Act as in effect on the date hereof, and in any event includes any stock, any partnership interest, any limited liability company interest and any other interest, right or security convertible into, or exchangeable or exercisable for, capital stock, partnership interests, limited liability company interests or otherwise having the attendant right to vote for directors or similar representatives.

"**Event of Noncompliance**" means (i) the failure by the Corporation to issue Common Stock upon receipt of a Notice of Conversion pursuant to the terms of **Section 8.2(a)**, (ii) the failure by the Corporation to comply with the provisions of **Section 10** (including Schedule I hereto), (iii) the failure by the Corporation to comply with the provisions of **Section 14(a)**, (iv) the failure by the Corporation to redeem any Share on a Redemption Date with respect to such Shares and (v) the failure of the Corporation to comply with the other terms of this Certificate of Designations and such failure continues for thirty (30) days from the earliest of (1) receiving written notice from the Investor of such failure or (2) the date on which the Corporation becomes aware of any such failure.

"**Ex-Dividend Date**" means the first date on which shares of Common Stock trade on the applicable exchange or in the applicable market, regular way, without the right to receive the issuance, dividend or distribution in question, from the Corporation or, if applicable, from the seller of Common Stock on such exchange or market (in the form of due bills or otherwise) as determined by such exchange or market.

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

"**Existing Debt Agreement**" means each agreement listed on Schedule I-C hereto (as in effect on the Original Issue Date after giving effect to any amendments, waivers or modifications which become effective on such date).

"**Expiration Date**" has the meaning set forth in **Section 8.6(f)**.

"**Governmental Authority**" means any government, court, regulatory or administrative agency, commission, arbitrator (public or private) or authority or other legislative, executive or judicial governmental entity (in each case including any self-regulatory organization), whether federal, state or local, domestic, foreign or multinational.

"**Holder Optional Redemption**" has the meaning set forth in **Section 7.1**.

"**Holder Optional Redemption Date**" has the meaning set forth in in **Section 7.4**.

"**Holder Optional Redemption Notice**" has the meaning set forth in **Section 7.1**.

"**HSR Act**" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations promulgated thereunder.

"**Insolvency Event**" means:

(a) any voluntary or involuntary liquidation, dissolution or winding up of the Corporation;

(b) an involuntary proceeding shall be commenced or an involuntary petition shall be filed in a court of competent jurisdiction seeking (i) relief in respect of the Corporation, or of a substantial part of the property or assets of the Corporation, under Title 11 of the United States Code, as now constituted or hereafter amended, or any other federal, state or foreign bankruptcy, insolvency, receivership or similar law, (ii) the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Corporation or for a substantial part of the property or assets of the Corporation or (iii) the winding-up or liquidation of the Corporation, and such proceeding or petition shall continue undismissed for 60 days or an order or decree approving or ordering any of the foregoing shall be entered; or

(c) the Corporation shall (i) voluntarily commence any proceeding or file any petition seeking relief under Title 11 of the United States Code, as now constituted or hereafter amended, or any other federal, state or foreign bankruptcy, insolvency, receivership or similar law, (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or the filing of any petition described in clause (b) above, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Corporation or for a substantial part of the property or assets of the Corporation, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors or (vi) become unable or admit in writing its inability or fail generally to pay its debts as they become due.

"**Investment Agreement**" means the Securities Purchase Agreement dated the Original Issue Date between the Corporation and the Investor.

"**Investor**" means MBI Holdings, LP.

"**IRS**" means the United States Internal Revenue Service.

"**Junior Securities**" means, collectively, the Common Stock and each other class or series of capital stock now existing or hereafter authorized, classified or reclassified, the terms of which do not expressly provide that such class or series ranks on a parity basis with or senior to the Series A Preferred Stock as to dividend rights and rights on the distribution of assets on any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

"**Last Reported Sale Price**" of the Common Stock on any date means the closing sale price per share (or if no closing sale price is reported, the average of the bid and ask prices or, if more than one in either case, the average of the average bid and the average ask prices) on that date as reported in composite transactions for the principal U.S. national or regional securities exchange on which the Common Stock is traded. If the Common Stock is not listed for trading on a U.S. national or regional securities exchange on the relevant date, the "**Last Reported Sale Price**" shall be the last quoted bid price per share for the Common Stock in the over-the-counter market on the relevant date as reported by OTC Markets Group Inc. or a similar organization. If the Common Stock is not so quoted, the "**Last Reported Sale Price**" shall be the average of the mid-point of the last bid and ask prices per share for the Common Stock on the relevant date from each of at least three nationally recognized independent investment banking firms selected by the Corporation for this purpose. The "**Last Reported Sale Price**" shall be determined without regard to after-hours trading or any other trading outside of regular trading session hours.

"**Latest Maturity Date**" means the first date on which the satisfaction by the Corporation of a Holder Optional Redemption would not, as reasonably determined by the disinterested directors of the Board (who, in making such determination may reasonably rely on such opinions of counsel or certificates as deemed appropriate), result in an "event of default" or similar concept under any Existing Debt Agreement.

"**Laws**" mean all state or federal laws, common law, statutes, ordinances, codes, rules or regulations, orders, executive orders, judgments, injunctions, governmental guidelines or interpretations have the force of law, Permits, decrees, or other similar requirement enacted, adopted, promulgated, or applied by any Governmental Authority.

"**Liquidation**" has the meaning set forth in **Section 5.1**.

"**Liquidation Preference**" has the meaning set forth in **Section 5.1**.

"MP0" means the average of the Daily VWAP of the Common Stock over the twenty (20) consecutive Trading Days immediately following, but including, the Spin-Off Ex-Dividend Date.

"**Notice of Conversion**" has the meaning set forth in **Section 8.2(a)**.

"**NYSE**" means the New York Stock Exchange.

"**Original Issue Date**" means May 7, 2024.

"**Parity Securities**" means any class or series of capital stock, the terms of which expressly provide that such class ranks pari passu with the Series A Preferred Stock as to dividend rights and rights on the distribution of assets on any voluntary or involuntary bankruptcy, liquidation, dissolution or winding up of the affairs of the Corporation.

"**Participating Dividend**" has the meaning set forth in **Section 4.4**.

"**Permits**" mean all licenses, franchises, permits, certificates, approvals and authorizations from Governmental Authorities.

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

"**Preferred Stock**" has the meaning set forth in the Recitals.

"**Preferred Stock Director**" has the meaning set forth in Section 9.

"**Preferred Stock Director Nomination Right Condition**" has the meaning set forth in Section 9.

"**Preferred Stock Nominee**" has the meaning set forth in Section 9.

"**Redemption Dates**" has the meaning set forth in **Section 7.5(b)**.

"**Redemption Price**" means, as of any Redemption Date, an amount in cash per Share of Series A Preferred Stock equal to the greatest of (i) the Accumulated Stated Value, (ii) the product of (A) the number of shares of Common Stock such Share of Series A Preferred Stock is convertible into at the Conversion Price immediately prior to the applicable redemption *multiplied* by (B) the greater of (x) the Current Market Price on the Trading Day prior to the applicable Redemption Date and (y) the Last Reported Sale Price on the Trading Day prior to the applicable Redemption Date and (iii) the product of 2.0 *multiplied* by the Stated Value.

"**Regulatory Laws**" shall mean, collectively, any Laws that are designed or intended to prohibit, restrict or regulate actions having the purpose or effect of monopolization or lessening of competition through merger or acquisition or restraint of trade or that affect foreign investment, outbound investment, foreign exchange, national security or national interest of any jurisdiction.

"**Reorganization Event**" has the meaning set forth in **Section 8.6(g)**.

"**Securities Act**" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"**Senior Securities**" means any class or series of capital stock, the terms of which expressly provide that such class ranks senior to any series of the Series A Preferred Stock, has preference or priority over the Series A Preferred Stock as to dividend rights and rights on the distribution of assets on any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

"**Series A Preferred Stock**" has the meaning set forth in **Section 1**.

"**Shares**" has the meaning set forth in **Section 1**.

"**Stated Value**" means, with respect to any Share on any given date, $1,000.00.

"**Subsequent Transaction**" has the meaning set forth in **Section 8.1**.

"**Subsidiary**" when used with respect to any Person, means any corporation, limited liability company, partnership, association, trust or other entity of which (x) securities or other ownership interests representing more than 50% of the ordinary voting power (or, in the case of a partnership, more than 50% of the general partnership interests) or (y) sufficient voting rights to elect at least a majority of the board of directors or other governing body are, as of such date, owned by such Person or one or more Subsidiaries of such Person or by such Person and one or more Subsidiaries of such Person.

"**Tax**" and "**Taxes**" means any and all United States federal, state, local or non-United States taxes, fees, levies, duties, tariffs, imposts, and other similar charges (together with any and all interest, penalties and additions to tax) imposed by any Governmental Authority, including taxes or other charges on or with respect to income, franchises, windfall or other profits, gross receipts, property, sales, use, capital stock, payroll, employment, social security, workers' compensation, unemployment compensation or net worth; taxes or other charges in the nature of excise, withholding, ad valorem, stamp, transfer, value added or gains taxes; license, registration and documentation fees; and customs duties, tariffs and similar charges, together with any interest, or penalties and additions to tax imposed by any Governmental Authority.

"**Trading Day**" means a Business Day on which NYSE (or any other securities exchange or market on which the Common Stock is listed or quoted at such time) is open for business.

"**Wholly-owned Subsidiary**" means, at any time, any Subsidiary of which all of the issued and outstanding Equity Securities (other than directors' qualifying shares and shares held by a resident of the jurisdiction, in each case, as required by law) are owned by any one (1) or more of the Corporation and the Corporation's other Wholly-owned Subsidiaries at such time.

3. Rank. With respect to payment of dividends and distribution of assets upon liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, including any voluntary or involuntary Insolvency Event of the Corporation, all Shares of the Series A Preferred Stock shall rank (a) senior to all Junior Securities, (b) pari passu with any Parity Securities in issue from time to time, and (c) junior to all Senior Securities; *provided* that all Shares of the Series A Preferred Stock shall rank senior to any other series of shares of preferred stock of the Corporation.

4. Dividends.

4.1 Accrual of Dividends. From and after the Original Issue Date of the Shares, cumulative dividends ("**Dividends**") on each such Share shall accrue whether or not there are funds legally available for the payment of dividends, on a daily basis in arrears at the applicable Dividend Rate on the sum of (i) the Stated Value thereof *plus*, (ii) once compounded, any Compounded Dividends thereon, *plus* (iii) all accrued but unpaid Dividends (the sum of clauses (i), (ii) and (iii), the "**Accumulated Stated Value**"). All accrued but unpaid dividends on any Share shall, unless declared and paid in cash pursuant to **Section 4.2**, compound quarterly on the last day of March, June, September and December of each calendar year and shall be added to the then current Accumulated Stated Value.

4.2 Payment of Dividends. If, as and when declared by the Board out of funds legally available therefor to the maximum extent not prohibited by Delaware law, the Corporation shall make each dividend payment on the Series A Preferred Stock in cash on the last day of March, June, September and December of each calendar year (each such date, a "**Dividend Payment Date**") at the applicable Dividend Rate; *provided*, that if the Corporation elects and declares and pays in cash any such dividend payments, the Corporation shall elect and declare and pay in cash such dividend payments on the same *pro rata* portion of each holder's Shares. The record date for payment of dividends on the Series A Preferred Stock will be the fifteenth (15th) day of the calendar month of the applicable Dividend Payment Date, whether or not such date is a Business Day, and dividends shall only be payable to registered holders of record of the Series A Preferred Stock as such holders appear on the stock register of the Corporation at the close of business on the related record date. If any Dividend Payment Date is not a Business Day, the applicable payment shall be due on the next succeeding Business Day and no additional dividend amount for such period shall be payable during such period as a result of such delay, but shall be paid on the next succeeding Dividend Payment Date. All dividends that the Corporation does not elect to declare and pay in cash shall compound quarterly pursuant to **Section 4.1** on the last day of such quarterly period and shall be added to the then current Accumulated Stated Value ("**Compounded Dividends**"). For the avoidance of doubt, (i) no Dividend may be declared by the Board in respect of the Series A Preferred Stock unless paid immediately in cash, and (ii) no Dividend shall be declared or paid upon delivery of a redemption notice or conversion notice of the Series A Preferred Stock (including in connection with a liquidation pursuant to **Section 5**).

4.3 Dividend Calculations. Dividends on the Series A Preferred Stock shall accrue on the basis of a 360-day year, consisting of twelve (12), thirty (30) calendar day periods, and shall accrue daily commencing on the Original Issue Date, and shall be deemed to accrue from such date whether or not earned or declared and whether or not there are profits, surplus or other funds of the Corporation legally available for the payment of dividends.

4.4 Dividends on the Common Stock. If the Corporation declares a dividend or makes a distribution of cash or any other property (or any other distribution treated as a dividend under Section 301 of the Code) on its Common Stock, each holder of Shares of Series A Preferred Stock shall be entitled to participate in such dividend or distribution in an amount equal to the largest number of whole shares of Common Stock into which all Shares of Series A Preferred Stock (including any unpaid Compounded Dividends and, without duplication, accrued but unpaid dividends up to, but excluding, the record date for the applicable distribution) held of record by such holder is convertible pursuant to **Section 8** herein as of the record date for such dividend or distribution or, if there is no specified record date, as of the date of such dividend or distribution (each such dividend, a "**Participating Dividend**"). For the avoidance of doubt, the payment of a Participating Dividend with respect to a Share of Series A Preferred Stock shall not reduce or otherwise effect the Accumulated Stated Value of such Share.

4.5 Conversion Prior to or Following a Record Date. If the Conversion Date for any Shares is prior to the close of business on the record date for a dividend as provided in **Section 4.2**, the holder of such Shares shall not be entitled to any dividend in respect of such record date. If the Conversion Date for any Shares is after the close of business on the record date for a dividend as provided in **Section 4.2** but prior to the corresponding Dividend Payment Date, the holder of such Shares as of the applicable record date shall be entitled to receive such dividend, notwithstanding the conversion of such Shares prior to the applicable Dividend Payment Date.

5. Liquidation.

5.1 Liquidation. In the event of any Insolvency Event of the Corporation (a "**Liquidation**"), the holders of Shares of Series A Preferred Stock then outstanding shall be entitled to be paid out of the assets of the Corporation available for distribution to its stockholders, pari passu with any payment to the holders of any Parity Securities and subject to the rights of Senior Securities and the Corporation's creditors, but before any distribution or payment out of the assets of the Corporation shall be made to the holders of Junior Securities by reason of their ownership thereof, an amount in cash per Share of Series A Preferred Stock equal to the greater of (i) the Accumulated Stated Value and (ii) such amount as would have been payable had all Shares of the Series A Preferred Stock been converted into Common Stock at the Conversion Price immediately prior to such Liquidation (the "**Liquidation Preference**").

5.2 Insufficient Assets. If upon any Liquidation the remaining assets of the Corporation available for distribution to its stockholders shall be insufficient to pay the holders of the Shares of Series A Preferred Stock the Liquidation Preference to which they are entitled under **Section 5.1**, (a) the holders of the Shares shall share ratably in any distribution of the remaining assets and funds of the Corporation in proportion to the respective full preferential amounts which would otherwise be payable in respect of the Series A Preferred Stock and any Parity Securities in the aggregate upon such Liquidation if all amounts payable on or with respect to such Shares were paid in full, taking into account the Liquidation Preference payable in respect of such Series A Preferred Stock, and (b) the Corporation shall not make or agree to make, or set aside for the benefit of the holders of Junior Securities, any payments to the holders of Junior Securities.

5.3 Notice Requirement. In the event of any Liquidation, the Corporation shall, within ten (10) days of the date the Board approves such action, or no later than twenty (20) days of any stockholders' meeting called to approve such action, or within twenty (20) days of the commencement of any involuntary proceeding, whichever is earlier, give each holder of Shares of Series A Preferred Stock written notice of the proposed action. Such written notice shall describe the material terms and conditions of such proposed action, including a description of the stock, cash and property to be received by the holders of Shares upon consummation of the proposed action and the date of delivery thereof. If any material change in the facts set forth in the initial notice shall occur, the Corporation shall promptly give written notice to each holder of Shares of such material change.

6. Voting. Each holder of outstanding Shares of Series A Preferred Stock shall be entitled to vote with holders of outstanding shares of Common Stock, voting together as a single class, with respect to any and all matters presented to the stockholders of the Corporation for their action or consideration (whether at a meeting of stockholders of the Corporation, by written action of stockholders in lieu of a meeting or otherwise), except as provided by law and provided, that no holder of Shares of Series A Preferred Stock shall be entitled to vote with the holders of outstanding shares of Common Stock until the expiration or early termination of the applicable waiting period under the HSR Act, if a filing under the HSR Act is required for such holder with respect to its acquisition of such shares of Series A Preferred Stock or any conversion of the Series A Preferred Stock. In any such vote, each holder of Shares of Series A Preferred Stock shall be entitled to vote on an as-converted basis as of the record date for such vote or written consent or, if there is no specified record date, as of the date of such vote or written consent. Each holder of outstanding Shares of Series A Preferred Stock shall be entitled to notice of all stockholder meetings (or requests for written consent) in accordance with the Corporation's bylaws. As long as any Share of Series A Preferred Stock is outstanding, the Corporation shall not amend, modify or supplement any provision of this Certificate of Designations, unless the prior written approval of the holders of a majority of the Series A Preferred Stock issued and outstanding has been obtained.

7. Redemption.

7.1 Holder Optional Redemption. Subject to the provisions of this **Section 7**, on or after the Latest Maturity Date, each holder of Series A Preferred Stock shall have the right to require the Corporation to redeem, and the Corporation shall redeem, out of funds legally available therefor, any or all of the then-outstanding Shares of Series A Preferred Stock held by such holder (a "**Holder Optional Redemption**") for a price per Share equal to the Redemption Price. Any such Holder Optional Redemption shall occur not less than sixty (60) days and not more than ninety (90) days following receipt by the Corporation of a written election notice (the "**Holder Optional Redemption Notice**") from the applicable holder(s) of Series A Preferred Stock. In exchange for the cancellation of Shares of Series A Preferred Stock of their certificate or certificates, if any, or an affidavit of loss, representing such Shares on or after the applicable Holder Optional Redemption Date in accordance with **Section 7.7** below, the Redemption Price for the Shares being redeemed shall be payable in cash by the Corporation in immediately available funds to the respective holders of the Series A Preferred Stock, except to the extent prohibited by applicable Delaware law.

7.2 Corporation Redemption. Subject to the provisions of this **Section 7**, the Corporation shall have the right, but not the obligation, to redeem, out of funds legally available therefor, all (but not less than all) of the then-outstanding Shares of Series A Preferred Stock (a "**Corporation Redemption**") upon a Change of Control for a price per Share equal to the Redemption Price. Any such Corporation Redemption shall occur not less than sixty (60) days following receipt by the applicable holder(s) of Series A Preferred Stock of a written election notice (the "**Corporation Redemption Notice**") from the Corporation. Notwithstanding anything to the contrary herein, no Company Redemption shall occur prior to the effectiveness of the applicable Change of Control and unless such Change of Control occurs without prior notice to the Company, no Company Redemption shall occur other than substantially concurrently with the effectiveness of the applicable Change of Control. Following the notice period required by the Corporation Redemption Notice, the Corporation shall redeem all of the Shares of Series A Preferred Stock. In exchange for the surrender to the Corporation by the respective holders of Shares of Series A Preferred Stock of their certificate or certificates, if any, or an affidavit of loss, representing such Shares on or after the applicable Corporation Redemption Date in accordance with **Section 7.7** below, the Redemption Price for the Shares being redeemed shall be payable in cash by the Corporation in immediately available funds to the respective holders of the Series A Preferred Stock, except to the extent prohibited by applicable Delaware law. Notwithstanding anything to the contrary contained herein, each holder of Shares of Series A Preferred Stock shall have the right to elect, prior to the Corporation Redemption Date, to exercise the conversion rights, if any, in accordance with **Section 8**.

7.3 Insolvency Redemption. Upon the occurrence of an Insolvency Event, the Corporation shall immediately redeem out of assets legally available therefor all the then outstanding Shares of Series A Preferred Stock for an amount equal to the Liquidation Preference. In exchange for the surrender to the Corporation by the respective holders of Shares of Series A Preferred Stock of their certificate or certificates, if any, or an affidavit of loss, representing such Shares on or after the applicable Insolvency Event in accordance with **Section 7.7** below, the Liquidation Preference for the Shares being redeemed shall be payable in cash by the Corporation in immediately available funds to the respective holders of the Series A Preferred Stock, except to the extent prohibited by applicable Delaware law and subject to the rights of the holders of any Parity Securities or Senior Securities and the rights of the Corporation's existing and future creditors.

7.4 Holder Optional Redemption Notice. Each Holder Optional Redemption Notice shall state:

(a) the number of Shares of Series A Preferred Stock held by the holder that the holder requires the Corporation to redeem on the Holder Optional Redemption Date specified in the Holder Optional Redemption Notice; and

(b) the date of the closing of the redemption, which pursuant to **Section 7.1** shall be no earlier than sixty (60) days and not later than ninety (90) days following circulation by the holder of Series A Preferred Stock to the Corporation of the Optional Redemption Notice (the applicable date, the "**Holder Optional Redemption Date**").

7.5 Corporation Redemption Notice. Each Corporation Redemption Notice shall state:

(a) the number of Shares of Series A Preferred Stock held by the holder that the Corporation proposes to redeem on the Corporation Redemption Date specified in the Corporation Redemption Notice;

(b) the date of the closing of the redemption, which pursuant to **Section 7.2** shall be no earlier than sixty (60) days following circulation by the Corporation of the Corporation Redemption Notice (the applicable date, the "**Corporation Redemption Date**" and, together with the Holder Optional Redemption Date, the "**Redemption Dates**") and the Redemption Price;

(c) the current Conversion Price of the Series A Preferred Stock, after giving effect to any adjustments pursuant to **Section 8.6**; and

(d) the manner and place designated for surrender by the holder to the Corporation of his, her or its certificate or certificates, if any, representing the Shares of Series A Preferred Stock to be redeemed.

7.6 Insufficient Funds; Remedies For Nonpayment.

(a) Insufficient Funds. If on any Holder Optional Redemption Date the assets of the Corporation legally available are insufficient to pay the full Redemption Price for the total number of Shares to be redeemed, the Corporation shall (i) take all commercially reasonable actions required and permitted under applicable law to maximize the assets legally available for paying the Redemption Price, as applicable, (ii) redeem out of all such assets legally available therefor on the applicable Holder Optional Redemption Date the maximum possible number of Shares that it can redeem on such date, *pro rata* among the holders of such Shares to be redeemed in proportion to the aggregate number of Shares to be redeemed by each such holder on the applicable Holder Optional Redemption Date and (iii) following the applicable Holder Optional Redemption Date, at any time and from time to time when additional assets of the Corporation become legally available to redeem the remaining Shares, the Corporation shall use such assets to pay the remaining balance of the aggregate applicable Redemption Price.

(b) Remedies For Nonpayment. If on any Holder Optional Redemption Date or Corporation Redemption Date all of the Shares elected to be redeemed pursuant to such redemption are not redeemed in full by the Corporation by paying the entire applicable redemption price until such Shares are fully redeemed and the aggregate redemption price is paid in full, all of the unredeemed Shares shall remain outstanding and continue to have the rights, preferences and privileges expressed herein, including the accrual and accumulation of dividends thereon as provided in **Section 4**.

7.7 Surrender of Certificates. On or before the applicable Redemption Date, each holder of Shares of Series A Preferred Stock being redeemed shall surrender the certificate or certificates, if any, representing such Shares to the Corporation in the manner and place designated in the Holder Optional Redemption Notice or Corporation Redemption Notice, as applicable, or to the Corporation's corporate secretary at the Corporation's headquarters, duly assigned or endorsed

for transfer to the Corporation (or accompanied by duly executed stock powers relating thereto), or, in the event such certificate or certificates are lost, stolen or missing, shall deliver an affidavit of loss, in the manner and place designated in the Holder Optional Redemption Notice or Corporation Redemption Notice, as applicable. Each surrendered certificate shall be canceled and retired and the Corporation shall thereafter make payment of the Redemption Price by certified check or wire transfer to the holder of record of such certificate; *provided*, that if less than all the Shares represented by a surrendered certificate are redeemed, then a new stock certificate representing the unredeemed Shares shall be issued in the name of the applicable holder of record of the canceled stock certificate.

7.8 Rights Subsequent to Redemption. If on the applicable Redemption Date the Redemption Price is paid (or tendered for payment) for any of the Shares to be redeemed on such Redemption Date, then on such date all rights of the holder in the Shares so redeemed and paid or tendered, including any rights to dividends on such Shares (other than such holder's rights pursuant to **Section 15** and **Section 16**), shall cease, and such Shares shall no longer be deemed issued and outstanding.

8. Conversion.

8.1 Holders' Optional Right to Convert. Subject to the provisions of this **Section 8**, at any time and from time to time any holder of Series A Preferred Stock shall have the right by written election to the Corporation to convert all or any portion of the outstanding Shares of Series A Preferred Stock (including any fraction of a Share) held by such holder into an aggregate number of shares of Common Stock as is determined by *multiplying* the number of Shares (including any fraction of a Share) to be converted by the rate per Share determined by *dividing* (i) the sum of (x) the Accumulated Stated Value, *plus* (y) Compounded Dividends (if such Dividends have not yet been added to the Accumulated Stated Value) *plus* (z) any accrued and unpaid dividends for the most recent Dividend Period by (ii) the Conversion Price in effect immediately prior to such conversion, and in addition thereto the holder shall receive cash in lieu of any fractional shares as set out in **Section 8.2(c);** provided that no such conversion by any holder shall be permitted until the expiration or early termination of the applicable waiting period, if any, under the HSR Act with respect to any conversion of the Series A Preferred Stock by such holder.

8.2 Procedures for Conversion; Effect of Conversion.

(a) Procedures for Holder Conversion. In order to effectuate a conversion of Shares of Series A Preferred Stock pursuant to **Section 8.1** a holder or the Corporation, as applicable, shall (i) submit a written election to the Corporation or the holders, as applicable, that such holder or the Corporation elects to convert Shares specifying the number of Shares elected to be converted (a "**Notice of Conversion**"). The holders shall surrender, along with a Notice of Conversion, if applicable, to the Corporation the certificate or certificates, if any, representing the Shares being converted, duly assigned or endorsed for transfer to the Corporation (or accompanied by duly executed stock powers relating thereto) or, in the event such certificate or certificates are lost, stolen or missing, accompanied by an affidavit of loss executed by the holder. The conversion of such Shares hereunder shall be deemed effective as of the date of submission of the Notice of Conversion and surrender of such Series A Preferred Stock certificate or certificates, if any, or delivery of such affidavit of loss, if applicable. Upon the receipt by the Corporation or the holders,

as applicable, of a Notice of Conversion and the surrender of such certificate(s) and accompanying materials (if any), the Corporation shall as promptly as practicable (but in any event within ten (10) days thereafter) deliver to the relevant holder or holders, as applicable (A) the number of shares of Common Stock (including, subject to **Section 8.2(c)**, any fractional share) to which such holder or holders shall be entitled upon conversion of the applicable Shares as calculated pursuant to **Section 8.1**, as applicable, and, if applicable (B) the number of Shares of Series A Preferred Stock delivered to the Corporation for conversion but otherwise not elected to be converted pursuant to the written election, in each case in book-entry form on the Corporation's share ledger. All shares of capital stock issued hereunder by the Corporation shall be duly and validly issued, fully paid and non-assessable, free and clear of all Taxes, liens, charges and encumbrances with respect to the issuance thereof.

(b) [Reserved].

(c) Fractional Shares. The Corporation shall not issue any fractional shares of Common Stock upon conversion of Series A Preferred Stock. Instead the Corporation shall pay a cash adjustment to the holder of Series A Preferred Stock being converted based upon the Current Market Price on the Trading Day prior to the Conversion Date.

(d) Effect of Conversion. All Shares of Series A Preferred Stock converted as provided in **Section 8.1** shall no longer be deemed outstanding as of the applicable Conversion Date and all rights with respect to such Shares shall immediately cease and terminate as of such time (including, without limitation, any rights to Dividends or the right of redemption pursuant to **Section 7**), other than the right of the holder to receive shares of Common Stock and payment in lieu of any fraction of a Share in exchange therefor and the holder's rights pursuant to **Section 15** and **Section 16**. The "**Conversion Date**" means the date on which such holder complies with the procedures in **Section 8.2(a)** (including the submission of the written election to the Corporation of its election to convert).

8.3 Reservation of Stock. The Corporation shall at all times when any Shares of Series A Preferred Stock are outstanding reserve and keep available out of its authorized but unissued shares of capital stock, solely for the purpose of issuance upon the conversion of the Series A Preferred Stock, such number of shares of Common Stock issuable upon the conversion of all outstanding Series A Preferred Stock pursuant to this **Section 8**, taking into account any adjustment to such number of shares so issuable in accordance with **Section 8.6** hereof. The Corporation shall take all such actions as may be necessary to assure that all such shares of Common Stock may be so issued without violation of any applicable law or governmental regulation or any requirements of any domestic securities exchange upon which shares of Common Stock may be listed (except for official notice of issuance which shall be immediately delivered by the Corporation upon each such issuance). The Corporation shall not close its books against the transfer of any of its capital stock in any manner which would prevent the timely conversion of the Shares of Series A Preferred Stock.

8.4 No Charge or Payment. The issuance of certificates for shares of Common Stock upon conversion of Shares of Series A Preferred Stock pursuant to **Section 8.1** shall be made without payment of additional consideration by, or other charge, cost or Tax to, the holder in respect thereof.

8.5 Conversion Right in Connection with Redemption. Notwithstanding anything to the contrary set forth in this Certificate of Designations, any holder may elect to convert any Shares of Series A Preferred Stock as provided in **Section 8.1** in connection with any Holder Optional Redemption or Corporation Redemption prior to the applicable Redemption Date, *provided that*, for the avoidance of doubt, any holder may elect to convert any Shares of Series A Preferred Stock as provided in **Section 8.1** following such Redemption Date in respect of Shares of Series A Preferred Stock to be redeemed in accordance with **Section 7** if the closing of the redemption of such Shares does not occur on the applicable Redemption Date and so long as such Shares are not otherwise redeemed.

8.6 Adjustment to Conversion Price and Number of Conversion Shares. In order to prevent dilution of the conversion rights granted under this **Section 8**, the Conversion Price and the number of Conversion Shares issuable on conversion of the Shares of Series A Preferred Stock shall be subject to adjustment, without duplication, from time to time as provided in this **Section 8.6**, except that the Corporation shall not make any adjustment to the Conversion Price if each holder of the Series A Preferred Stock participates, at the same time and upon the same terms as all holders of Common Stock and solely as a result of holding Series A Preferred Stock, in any transaction described in this **Section 8.6**, without having to convert its Series A Preferred Stock, as if each such holder held a number of shares of Common Stock that would be issuable upon conversion of such Series A Preferred Stock in accordance with **Section 8.1**.

(a) Subdivisions and Combinations. In case the outstanding shares of Common Stock shall be subdivided (whether by stock split, recapitalization or otherwise) into a greater number of shares of Common Stock or combined (whether by consolidation, reverse stock split or otherwise) into a lesser number of shares of Common Stock, then the Conversion Price in effect at the opening of business on the day following the day upon which such subdivision or combination becomes effective shall be adjusted to equal the product of the Conversion Price in effect on such date and a fraction the numerator of which shall be the number of shares of Common Stock outstanding immediately prior to such subdivision or combination, and the denominator of which shall be the number of shares of Common Stock outstanding immediately after such subdivision or combination. Such adjustment shall become effective retroactively to the close of business on the day upon which such subdivision or combination becomes effective.

(b) Stock Dividends or Distributions. If the Corporation shall issue shares of Common Stock as a dividend or distribution on all or substantially all shares of Common Stock or if the Corporation effects a stock split or combination of the Common Stock (other than as set forth in **Section 8.6(g)**), the Conversion Price shall be adjusted based on the following formula:

$$CP_1 = CP_0 \times \frac{OS_0}{OS_1}$$

where,

CP_1 = the Conversion Price in effect immediately after the open of business on the Ex-Dividend Date for such dividend or distribution or the effective date of such share split or share combination, as the case may be;

CP_0 = the Conversion Price in effect immediately prior to the open of business on the Ex-Dividend Date for such dividend or distribution or the effective date of such share split or share combination, as the case may be;

OS_0 = the number of shares of Common Stock outstanding immediately prior to the open of business on the Ex-Dividend Date for such dividend or distribution or the effective date of such share split or share combination, as the case may be; and

OS_1 = the number of shares of Common Stock that would be outstanding immediately after giving effect to such dividend, distribution, share split or share combination, as the case may be.

Any adjustment made under this clause (b) shall become effective immediately after the open of business on such Ex-Dividend Date for such dividend or distribution, or immediately after the open of business on the effective date for such share split or share combination, as applicable. If any dividend or distribution of the type described in this clause (b) is declared but not so paid or made, the Conversion Price shall be immediately readjusted, effective as of the date the Board determines not to pay such dividend or distribution, to the Conversion Price that would then be in effect if such dividend or distribution had not been declared or announced.

(c) Distributions of Rights, Options or Warrants. If the Corporation shall distribute to all or substantially all holders of its Common Stock any rights, options or warrants (other than rights, options or warrants distributed in connection with a stockholders' rights plan, in which case the provisions of **Section 8.6(g)** shall apply) entitling them to purchase, for a period of not more than 45 calendar days from the announcement date for such distribution, shares of the Common Stock at a price per share less than the average of the Last Reported Sale Prices of the Common Stock for the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the date of announcement date for such distribution, the Conversion Price shall be decreased based on the following formula:

$$CP_1 = CP_0 \times \frac{OS_0 + X}{OS_0 + Y}$$

where

CP_1 = the Conversion Price in effect immediately after the open of business on the Ex-Dividend Date for such distribution;

CP_0 = the Conversion Price in effect immediately prior to the open of business on the Ex-Dividend Date for such distribution;

OS_0 = the number of shares of the Common Stock outstanding immediately prior to the open of business on the Ex-Dividend Date for such distribution;

X = the number of shares of the Common Stock equal to the aggregate price payable to exercise such rights, options or warrants, *divided* by the average of the Last Reported Sale Prices of the Common Stock over the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the announcement date of such distribution; and

Y = the total number of shares of the Common Stock issuable pursuant to such rights, options or warrants.

Any decrease made under this clause (c) shall be made successively whenever any such rights, options or warrants are distributed and shall become effective immediately after the open of business on the Ex-Dividend Date for such distribution. To the extent that shares of the Common Stock are not delivered after the expiration of such rights, options or warrants, the Conversion Price shall be increased to the Conversion Price that would then be in effect had the increase with respect to the distribution of such rights, options or warrants been made on the basis of delivery of only the number of shares of the Common Stock actually delivered. If such rights, options or warrants are not so distributed, the Conversion Price shall be increased to the Conversion Price that would then be in effect if such record date for such distribution had not occurred.

For purposes of this clause (c), in determining whether any rights, options or warrants entitle the holders to subscribe for or purchase shares of the Common Stock at a price per share less than such average of the Last Reported Sale Prices of the Common Stock for the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the announcement date for such distribution, and in determining the aggregate offering price of such shares of the Common Stock, there shall be taken into account any consideration received by the Corporation for such rights, options or warrants and any amount payable upon exercise or conversion thereof, the value of such consideration, if other than cash, as reasonably determined by the Corporation in good faith.

(d) Distributions of Equity Securities, Indebtedness, other Securities, Assets or Property. If the Corporation distributes shares of its Equity Securities, evidences of its Indebtedness, other assets or property of the Corporation or rights, options or warrants to acquire its Equity Securities or other securities to all or substantially all holders of Common Stock, excluding:

(i) dividends or distributions as to which adjustment is required to be effected pursuant to clause (b) or (c) above;

(ii) rights issued to all holders of the Common Stock pursuant to a rights plan, where such rights are not presently exercisable, trade with the Common Stock and the plan provides that the holders of Shares of Series A Preferred Stock will receive such rights along with any Common Stock received upon conversion of the Notes;

(iii) dividends or distributions in which Series A Preferred Stock participates on an as-converted basis pursuant to **Section 4.4**; and

(iv) Spin-Offs described below in this clause (d) shall apply,

then the Conversion Price shall be decreased based on the following formula:

$$CP_1 = CP_0 \times \frac{SP_0 - FMV}{SP_0}$$

where,

CP_1 = the Conversion Price in effect immediately after the open of business on the Ex-Dividend Date for such distribution;

CP_0 = the Conversion Price in effect immediately prior to the open of business on the Ex-Dividend Date for such distribution;

SP_0 = the average of the Last Reported Sale Prices of the Common Stock over the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the Ex-Dividend Date for such distribution; and

FMV = the fair market value (as determined by the Board in good faith) of the shares of Equity Securities, evidences of Indebtedness, securities, assets or property distributed with respect to each outstanding share of the Common Stock immediately prior to the open of business on the Ex-Dividend Date for such distribution.

Any decrease made under the portion of this clause (d) above shall become effective immediately after the open of business on the Ex-Dividend Date for such distribution. If such distribution is not so paid or made, the Conversion Price shall be increased to be the Conversion Price that would then be in effect if such distribution had not been declared.

Notwithstanding the foregoing, if "FMV" (as defined above) is equal to or greater than "SP_0" (as defined above), in lieu of the foregoing decrease, each holder of Shares of Series A Preferred Stock may elect to receive at the same time and upon the same terms as holders of shares of Common Stock without having to convert its Series A Preferred Stock, the amount and kind of the Equity Securities, evidences of the Corporation's Indebtedness, other assets or property of the Corporation or rights, options or warrants to acquire its Equity Securities or other securities of the Corporation that such holder would have received as if such holder owned a number of shares of Common Stock into which the Share of Series A Preferred Stock was convertible at the Conversion Price in effect on the Ex-Dividend Date for the distribution. If the Board determines the "FMV" (as defined above) of any distribution for purposes of this clause (d) by reference to the actual or when-issued trading market for any securities, it shall in doing so consider the prices in such market over the same period used in computing the Last Reported Sale Prices of the Common Stock over the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the Ex-Dividend Date for such distribution.

With respect to an adjustment pursuant to this clause (d) where there has been a payment of a dividend or other distribution on the Common Stock in shares of Equity Securities of any class or series, or similar equity interests, of or relating to a Subsidiary or other business unit of the Corporation that will be, upon distribution, listed on a U.S. national or regional securities exchange (a "**Spin-Off**"), the Conversion Price shall be decreased based on the following formula:

$$CP_1 = CP_0 \times \frac{MP_0}{FMV + MP_0}$$

where,

CP_1 = Conversion Price in effect immediately after the end of the Valuation Period;

CP_0 = the Conversion Price in effect immediately prior to the end of the Valuation Period;

FMV = the average of the Last Reported Sale Prices of the Equity Securities or similar equity interest distributed to holders of the Common Stock applicable to one share of the Common Stock (determined by reference to the definition of Last Reported Sale Price as set forth in **Section 2** as if references therein to Common Stock were to such Equity Securities or similar equity interest) over the first 10 consecutive Trading Day period after, and including, the Ex-Dividend Date of the Spin-Off (the "**Valuation Period**"); and

MP_0 = the average of the Last Reported Sale Prices of the Common Stock over the Valuation Period.

Any adjustment to the Conversion Price under the preceding paragraph of this clause (d) shall be made immediately after the close of business on the last Trading Day of the Valuation Period. If the Conversion Date for any share of Series A Preferred Stock to be converted occurs on or during the Valuation Period, then, notwithstanding anything to the contrary in this Certificate of Designations, the Corporation will, if necessary, delay the settlement of such conversion until the second (2nd) Business Day after the last Trading Day of the Valuation Period.

Notwithstanding the foregoing, if the "FMV" (as defined above) is equal to or greater than the Daily VWAP of the Common Stock over the Valuation Period, in lieu of the foregoing decrease, each holder of Shares of Series A Preferred Stock may elect to receive at the same time and upon the same terms as holders of shares of Common Stock without having to convert its Shares of Series A Preferred Stock, the amount and kind of Equity Securities or similar equity interest that such holder would have received as if such holder owned a number of shares of Common Stock into which the Series A Preferred Stock was convertible at the Conversion Price in effect on the Ex-Dividend Date for the distribution.

(e) [Reserved].

(f) Tender Offer, Exchange Offer. If the Corporation or any of its Subsidiaries makes a payment in respect of a tender offer or exchange offer for the Common Stock, to the extent that the cash and value of any other consideration included in the payment per share of the Common Stock exceeds the average of the Last Reported Sale Prices of the Common Stock over the 10 consecutive Trading Day period commencing on, and including, the Trading Day next succeeding the last date (the "**Expiration Date**") on which tenders or exchanges may be made pursuant to such tender or exchange offer (as it may be amended), the Conversion Price shall be decreased based on the following formula:

$$CP_1 = CP_0 \times \frac{SP_1 \times OS_0}{AC + (SP_1 \times OS_1)}$$

where,

CP_1 = the Conversion Price in effect immediately after the close of business on the 10th Trading Day immediately following, and including, the Trading Day next succeeding the Expiration Date;

CP_0 = the Conversion Price in effect immediately prior to the close of business on the 10th Trading Day immediately following, and including, the Trading Day next succeeding the Expiration Date;

AC = the aggregate value of all cash and any other consideration (as determined by the Board in good faith) paid or payable for shares purchased or exchanged in such tender or exchange offer;

SP_1 = the average of the Last Reported Sales Prices of the Common Stock of over the ten (10) consecutive Trading Day period beginning on, and including, the Trading Day next succeeding the Expiration Date;

OS_1 = the number of shares of the Common Stock outstanding immediately after the close of business on the Expiration Date (adjusted to give effect to the purchase or exchange of all shares accepted for purchase in such tender offer or exchange offer); and

OS_0 = the number of shares of the Common Stock outstanding immediately prior to the Expiration Date (prior to giving effect to such tender offer or exchange offer).

provided, however, that the Conversion Price will in no event be adjusted up pursuant to this **Section 8.6(f)**, except to the extent provided in the immediately following paragraph. The adjustment to the Conversion Price pursuant to this **Section 8.6(f)** will be calculated as of the close of business on the 10th Trading Day immediately following, and including, the Trading Day next succeeding the Expiration Date. If the Conversion Date for any share of Series A Preferred Stock to be converted occurs on the Expiration Date or during the Tender/Exchange Offer Valuation Period, then, notwithstanding anything to the contrary in this Certificate of Designations, the Corporation will, if necessary, delay the settlement of such conversion until the second (2nd) Business Day after the last Trading Day of the Tender/Exchange Offer Valuation Period.

(g) Adjustment for Reorganization Events. If there shall occur any reclassification, statutory share exchange, reorganization, recapitalization, consolidation or merger involving the Corporation with or into another Person in which the Common Stock (but not the Series A Preferred Stock) is converted into or exchanged for securities, cash or other property (excluding a merger solely for the purpose of changing the Corporation's jurisdiction of incorporation) including a Change of Control (a "**Reorganization Event**"), then, subject to **Section 5**, following any such Reorganization Event, each Share of Series A Preferred Stock shall remain outstanding and be convertible into the number, kind and amount of securities, cash or other property which a holder of such Share of Series A Preferred Stock would have received in such Reorganization Event had such holder converted its Shares of Series A Preferred Stock into the applicable number of shares of Common Stock immediately prior to the effective date of the Reorganization Event using the Conversion Price applicable immediately prior to the effective date of the Reorganization Event; and, in such case, appropriate adjustment (as determined in good faith by the Board) shall be made in the application of the provisions in this **Section 8.6** set forth with respect to the rights and interest thereafter of the holders of Series A Preferred Stock, to the end that the provisions set forth in this **Section 8.6** (including provisions with respect to changes in and other adjustments of the Conversion Price) shall thereafter be applicable, as nearly as reasonably practicable, in relation to any shares of stock or other property thereafter deliverable upon the conversion of the Series A Preferred Stock. The Corporation (or any successor) shall, no less than twenty (20) calendar days prior to the occurrence of any Reorganization Event, provide written notice to the holders of Series A Preferred Stock of the expected occurrence of such event and of the kind and amount of the cash, securities or other property that each Share of Series A Preferred Stock is expected to be convertible into under this **Section 8.6(g)**. Failure to deliver such notice shall not affect the operation of this **Section 8.6(g)**. The Corporation shall not enter into any agreement for a transaction constituting a Reorganization Event unless, to the extent that the Corporation is not the surviving corporation in such Reorganization Event, or will be dissolved in connection with such Reorganization Event, proper provision shall be made in the agreements governing such Reorganization Event for the conversion of the Series A Preferred Stock into stock of the Person surviving such Reorganization Event or such other continuing entity in such Reorganization Event.

(h) Stockholders' Rights Plan. To the extent that any stockholders' rights plan adopted by the Corporation is in effect upon conversion of the Shares of Series A Preferred Stock, the holders of Shares of Series A Preferred Stock will receive, in addition to any Common Stock due upon conversion, the appropriate number of rights, if any, under the applicable rights agreement (as the same may be amended from time to time). However, if, prior to any conversion, the rights have separated from the shares of the Common Stock in accordance with the provisions of the applicable stockholders' rights plan, the Conversion Price will be adjusted at the time of separation as if the Corporation distributed to all holders of the Common Stock, shares of Equity Securities, evidences of Indebtedness, securities, assets or property as described in clause (d) above, subject to readjustment in the event of the expiration, termination or redemption of such rights.

(i) Other Issuances. Except as stated in this **Section 8.6**, the Corporation shall not be required to adjust the Conversion Price for the issuances of shares of Common Stock or any securities convertible into or exchangeable for shares of Common Stock or rights to purchase shares of Common Stock or such convertible or exchangeable securities.

(j) Adjustment at the Discretion of the Board. The Corporation shall be permitted to decrease the Conversion Price by any amount for a period of at least 20 Business Days if the Board determines in good faith that such decrease would be in the best interest of the Corporation. In addition, to the extent permitted by applicable Law and subject to the applicable rules of any exchange on which any of the Corporation's securities are then listed, the Corporation also may (but is not required to) decrease the Conversion Price to avoid or diminish income tax to holders of Common Stock or rights to purchase shares of Common Stock in connection with a dividend or distribution of shares (or rights to acquire shares) or similar event. Whenever the Conversion Price is decreased pursuant to either of the preceding two sentences, the Corporation shall deliver to the holders of the Series A Preferred Stock a notice of the decrease at least fifteen (15) days prior to the date the decreased Conversion Price takes effect, and such notice shall state the decreased Conversion Price and the period during which it will be in effect. Notwithstanding the foregoing, for so long as the Common Stock is listed on the NYSE, no adjustment under this **Section 8.6(j)** shall reduce the Conversion Price below the Minimum Price (as defined in Section 312.03 of the NYSE listed company manual) as of the Original Issuance Date.

(k) Rounding; Par Value; De-minimis Adjustments. All calculations under **Section 8.6** shall be made to the nearest 1/10,000th of a cent or to the nearest 1/10,000th of a share, as the case may be. No adjustment in the Conversion Price shall reduce the Conversion Price below the then par value of the Common Stock. If an adjustment to the Conversion Price otherwise required by this **Section 8.6** would result in a change of less than 1% to the Conversion Price, then, notwithstanding anything to the contrary in this **Section 8.6**, the Corporation may, at its election, defer and carry forward such adjustment, except that all such deferred adjustments must be given effect (i) when all such deferred adjustments would result in an aggregate change to the Conversion Price of at least 1%, (ii) on the Conversion Date of any share of Series A Preferred Stock, (iii) on the effective date of any Reorganization Event and (iv) in connection with Dividends paid on the Common Stock pursuant to **Section 4.4** hereof.

(l) Treatment of Pre-Record Date Adjustments. Notwithstanding this **Section 8.6** or any other provision of this Certificate of Designations, if a Conversion Price adjustment becomes effective on any Ex-Dividend Date, and a holder that has converted its Series A Preferred Stock on or after such Ex-Dividend Date and on or prior to the related record date would be treated as the record holder of the shares of Common Stock as of the related Conversion Date based on an adjusted Conversion Price for such Ex-Dividend Date, then, notwithstanding the Conversion Price adjustment provisions in this **Section 8.6**, the Conversion Price adjustment relating to such Ex-Dividend Date shall not be made for such converting holder. Instead, such holder shall be treated as if such holder were the record owner of the shares of Common Stock on an unadjusted basis and participate in the related dividend, distribution or other event giving rise to such adjustment.

(m) Notwithstanding anything to the contrary in this **Section 8**, the Conversion Price shall not be adjusted:

(i) upon the issuance of any shares of Common Stock or options or rights to purchase those shares pursuant to any employee, director or consultant benefit plan or program of the Corporation, or any other obligation of the Corporation to issue warrants, in each case in effect on the Original Issue Date;

(ii) upon the issuance of any shares of the Common Stock pursuant to any option, warrant, right or exercisable, exchangeable or convertible security not described in clause (ii) of this subsection and outstanding as of Original Issue Date;

(iii) solely for a change in the par value of the Common Stock; or

(iv) for accrued and unpaid Dividends, if any.

(n) Certificate as to Adjustment.

(i) As promptly as reasonably practicable following any adjustment of the Conversion Price, but in any event not later than thirty (30) days thereafter, the Corporation shall furnish to each holder of record of Series A Preferred Stock at the address specified for such holder in the books and records of the Corporation (or at such other address as may be provided to the Corporation in writing by such holder) a certificate of an executive officer setting forth in reasonable detail such adjustment and the facts upon which it is based and certifying the calculation thereof.

(ii) As promptly as reasonably practicable following the receipt by the Corporation of a written request by any holder of Series A Preferred Stock, but in any event not later than thirty (30) days thereafter, the Corporation shall furnish to such holder a certificate of an executive officer certifying the Conversion Price then in effect and the number of Conversion Shares or the amount, if any, of other shares of stock, securities or assets then issuable to such holder upon conversion of the Shares of Series A Preferred Stock held by such holder.

(o) Notices. In the event:

(i) that the Corporation shall take a record of the holders of its Common Stock (or other capital stock or securities at the time issuable upon conversion of the Series A Preferred Stock) for the purpose of entitling or enabling them to receive any dividend or other distribution, to vote at a meeting (or by written consent), to receive any right to subscribe for or purchase any shares of capital stock of any class or any other securities, or to receive any other security; or

(ii) of any capital reorganization of the Corporation, any reclassification of the Common Stock of the Corporation, any consolidation or merger of the Corporation with or into another Person, or sale of all or substantially all of the Corporation's assets to another Person; or

(iii) of the voluntary or involuntary dissolution, liquidation or winding-up of the Corporation;

then, and in each such case, unless the Corporation has previously publicly announced such information (including through filing or furnishing such information with the Securities and Exchange Commission), the Corporation shall send or cause to be sent to each holder of record of Series A Preferred Stock at the address specified for such holder in the books and records of the Corporation (or at such other address as may be provided to the Corporation in writing by such holder) at least ten (10) days prior to the applicable record date or the applicable expected effective date, as the case may be, for the event, a written notice specifying, as the case may be, (A) the record date for such dividend, distribution, meeting or consent or other right or action, and a description of such dividend, distribution or other right or action to be taken at such meeting or by written consent, or (B) the effective date on which such reorganization, reclassification, consolidation, merger, sale, dissolution, liquidation or winding-up is proposed to take place, and the date, if any is to be fixed, as of which the books of the Corporation shall close or a record shall be taken with respect to which the holders of record of Common Stock (or such other capital stock or securities at the time issuable upon conversion of the Series A Preferred Stock) shall be entitled to exchange their shares of Common Stock (or such other capital stock or securities) for securities or other property deliverable upon such reorganization, reclassification, consolidation, merger, sale, dissolution, liquidation or winding-up, and the amount per share and character of such exchange applicable to the Series A Preferred Stock and the Conversion Shares.

9. Director Nomination Rights. For so long as the Investor and/or its Affiliates, in the aggregate, beneficially own Common Stock equivalent to 5.00% of the voting power of the capital stock of the Corporation entitled to vote for the election of directors (the "**Preferred Stock Director Nomination Right Condition**"), the Investor shall have the right to nominate to serve on the Board a number of persons proportionate to the percentage of the Investor's voting power multiplied by the total number of directorships then authorized for the Board (each such nominee, a "**Preferred Stock Nominee**", and each such director, a "**Preferred Stock Director**"), rounded up to the nearest whole number. For so long as the Preferred Stock Director Nomination Right Condition continues to be satisfied, the Corporation shall use its reasonable best efforts to cause the Preferred Stock Nominee(s) to be elected to the Board, including by nominating the Preferred Stock Nominee(s) as designated by the Investor in writing for election (or re-election, as applicable) as a director at the end of each term of the Preferred Stock Director(s) as part of the slate proposed by the Corporation that is included in the proxy statement (or consent solicitation or similar document) of the Corporation relating to the election of the Board and recommending approval of the election of such Preferred Stock Nominee(s) in such proxy statement (or consent solicitation or similar document). At such time as the Preferred Stock Director Nomination Right Condition is no longer satisfied, the Preferred Stock Director(s) shall offer in writing to resign from the Board and any committees thereof effective as of a date within thirty (30) days after the first date that the Preferred Stock Director Nomination Right Condition is no longer satisfied, and, from and after such date, the Investor shall cease to have any rights under this **Section 9**. At all times when the Preferred Stock Director Nomination Right Condition is satisfied, a vacancy in the office of the Preferred Stock Director(s) shall only be filled by the written consent of Investor and the Corporation shall cause such Preferred Stock Nominee(s) designated in such written consent to fill such resulting vacancy.

10. Consent Rights. From and after the Original Issue Date, the Corporation shall not take, and shall cause its Subsidiaries not to take, any of the actions set forth below (including by means of merger, consolidation, reorganization, recapitalization, amendment to the Certificate of Incorporation or other organizational documents or otherwise) without the prior affirmative vote or written consent of holders, voting exclusively as a single class, representing at least a majority of the outstanding shares of Series A Preferred Stock:

(a) authorize, create or issue additional preferred stock, whether ranking senior, pari passu or junior to the Series A Preferred Stock;

(b) reclassify Common Stock into preferred stock, whether ranking senior, pari passu or junior to the Series A Preferred Stock;

(c) amend, alter, repeal or otherwise modify any provision the Certificate of Incorporation (including this Certificate of Designations) or any Subsidiary's organizational documents, in each case in any manner that would adversely affect the powers, preferences, rights or privileges of any holder of Series A Preferred Stock;

(d) declare or pay any dividend or distribution, or purchase or redeem any Equity Securities of the Corporation (other than the redemption of Series A Preferred Stock in accordance with the terms of this Certificate of Designations), other than (i) the repurchase of any equity-based awards issued to employees (or prospective employees who have accepted an offer of employment) of the Corporation or any of its Subsidiaries, pursuant to plans that existed as of the Original Issue Date or (ii) the cashless exercise of warrants to purchase Common Stock outstanding as of the Original Issue Date or any warrants permitted by **Section 10(f)**;

(e) [Reserved];

(f) issue Common Stock or other Equity Securities of the Corporation or its Subsidiaries, other than (i) the Corporation's issuance or grant of shares of Common Stock or options to purchase shares Common Stock, or other equity-based securities, to employees (or prospective employees who have accepted an offer of employment) of the Corporation or any of its Subsidiaries, pursuant to plans in existence as of the Original Issue Date or (ii) the Company's issuance of warrants, or other securities upon the exercise, exchange or conversion of any securities that are in each case exercisable or exchangeable for, or convertible into, shares of Common Stock and which securities or the obligations to issue such warrants were outstanding as of the Original Issue Date, *provided* that such issuance, exercise, exchange or conversion is effected pursuant to the terms of such obligation or securities, as applicable, in each case as in effect on the Original Issue Date;

(g) [Reserved];

(h) take any of the actions set forth on Schedule I hereto; or

(i) agree to do any of the actions prohibited by this **Section 10**.

11. Reissuance of Series A Preferred Stock. Shares of Series A Preferred Stock that have been issued and reacquired by the Corporation in any manner, including shares purchased or redeemed or exchanged or converted, shall (upon compliance with any applicable provisions of the laws of Delaware) have the status of authorized but unissued shares of Preferred Stock of the Corporation undesignated as to series and may be designated or re-designated and issued or reissued, as the case may be, as part of any series of preferred stock of the Corporation, *provided* that any issuance of such shares as Series A Preferred Stock must be in compliance with the terms hereof.

12. Transfers. Subject to this Section 12 and the applicable provisions of the Investment Agreement, Shares of Series A Preferred Stock may be transferred or exchanged from time to time by the holder and the Corporation will cause each such transfer or exchange to be recorded in the Corporation's share ledger; *provided*, however that if the Investor and its Affiliates do not beneficially own at least a majority of the outstanding shares of Series A Preferred Stock at the time of a proposed transfer (or the Investor and its Affiliates would cease to beneficially own at least a majority of the outstanding shares of the Series A Preferred Stock as a result of the proposed transfer), the Corporation will have the right to consent to any transfer to any investor who is not an existing stockholder, lender or an Affiliate thereof as of the Original Issuance Date (such consent not to be unreasonably withheld, delayed or conditioned).

13. Notices. Except as otherwise provided herein, all notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given: (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by e-mail of a PDF document if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient; or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent (a) to the Corporation, at its principal executive offices and (b) to any stockholder, at such holder's address at it appears in the stock records of the Corporation (or at such other address for a stockholder as shall be specified in a notice given in accordance with this **Section 13**).

14. Amendments and Waiver.

(a) Amendments Generally. No provision of this Certificate of Designations may be amended, modified or waived, whether by merger, consolidation or otherwise, except by an instrument in writing executed by the Corporation and holders of a majority of outstanding Shares of Series A Preferred Stock, and any such written amendment, modification or waiver will be binding upon the Corporation and each holder of Series A Preferred Stock; *provided*, that any amendment, whether by merger, consolidation or otherwise, to (i) decrease the Stated Value or Accumulated Stated Value, Redemption Price or Dividend Rate of any Share of Series A Preferred Stock or otherwise amend or modify in any manner adverse to a holder of Series A Preferred Stock the Corporation's obligations to pay, or the circumstances under which the Corporation is obligated to offer or pay the Redemption Price, (ii) adversely affect the right of a holder of Series A Preferred Stock to convert Series A Preferred Stock into Common Stock or otherwise modify the provisions with respect to conversion in a manner adverse to a holder of Series A Preferred Stock, or increase the Conversion Price (or any amendment, modification or waiver, whether by merger or otherwise, which would in its application increase the Conversion Price) (subject to such modifications as are required under this Certificate of Designations) or (iii) otherwise amend any other terms of the Series A Preferred Stock in a manner that would have a disproportionate adverse effect on any holder of the Series A Preferred Stock as compared to other holders of the Series A Preferred Stock, requires the consent of holders of each Share of Series A Preferred Stock adversely affected thereby. The holders of Series A Preferred Stock shall have all remedies available at law or in equity for a breach of this Certificate of Designations, including the right to specific performance. Any action by the Corporation or any Subsidiary without the consent of holders of Shares of Series A Preferred Stock required by this Certificate of Designations (including **Section 10** (including Schedule I hereto) or this **Section 14**) is expressly *ultra vires* and shall be void *ab initio* and any action or attempted action, any contracts, amendments or other documentation thereof or related thereto are expressly null and void.

15. Withholding. The Corporation and its paying agent shall be entitled to withhold Taxes on all payments on the Series A Preferred Stock or Common Stock or other securities issued upon conversion of the Series A Preferred Stock in each case to the extent required by applicable Law; *provided* that to the extent that the holders of Series A Preferred Stock have previously delivered an appropriate IRS Form W-8 or W-9 to the Corporation establishing an exemption for U.S. federal withholding (including backup withholding), the Corporation shall not be permitted to withhold unless the Corporation has used commercially reasonable best efforts to provide such a holder advance written notice of its intent to withhold at least five (5) days prior to the payment of the amount subject to withholding, and has given such a holder a reasonable opportunity to provide any form or certificate available to reduce or eliminate such withholding. Within a reasonable amount of time after making such withholding payment, the Corporation shall furnish the applicable holder with copies of any tax certificate, receipt or other documentation reasonably acceptable to the holder evidencing such payment.

16. Tax Matters.

(a) Absent a change in Tax law (a "**Change in Tax Law**"), or a contrary determination (as defined in Section 1313(a)(1) of the Code), the holders of Series A Preferred Stock and the Corporation agree (i) to treat the Series A Preferred Stock as "common stock" and not "preferred stock" for purposes of Section 305 of the Code and Treasury Regulations Section 1.305-5, and (ii) not to treat any dividend paid on the Corporation's Common Stock in which the Series A Preferred Stock participates as giving rise to a "disproportionate distribution" within the meaning of Section 305(b)(2) of the Code. Absent a Change in Tax Law, or a contrary determination (as defined in Section 1313(a)(1) of the Code), the Corporation shall treat any adjustment to the Conversion Price pursuant to **Section 8.7** as being made pursuant to a "bona fide, reasonable, adjustment formula" within the meaning of Treasury Regulations Section 1.305-7(b) for U.S. federal and applicable state and local income Tax and withholding purposes, and shall not take any position inconsistent with such treatment.

(b) The Company will reasonably cooperate with the applicable holder of Series A Preferred Stock to structure any repurchase or redemption of any Share of Series A Preferred Stock held by such holder in a manner intended to be treated as a payment in exchange for stock pursuant to Section 302(a) of the Code; provided that the Company will not report any repurchase or redemption of any Share of Series A Preferred Stock as other than a payment in exchange for stock pursuant to Section 302(a) of the Code without first consulting with the applicable holder.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Designations, Preferences and Rights to be executed this 7th day of May, 2024.

RUBICON TECHNOLOGIES, INC.

By: /s/ Philip Rodoni
Name: Philip Rodoni
Title: Chief Executive Officer

Exhibit 10.1

Execution Version
CONFIDENTIAL

ASSET PURCHASE AGREEMENT

by and among

RUBICON TECHNOLOGIES, INC.,

RUBICON TECHNOLOGIES HOLDINGS, LLC

and

WASTECH CORP.

Dated as of May 7, 2024

TABLE OF CONTENTS

Exhibits and Schedules

EXHIBITS

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this "***Agreement***") is dated as of May 7, 2024, and is entered into by and among Rubicon Technologies, Inc., a Delaware corporation ("***Parent***"), Rubicon Technologies Holdings, LLC, a Delaware limited liability company ("***Rubicon Tech Holdings***" and together with Parent, "***Sellers***"), Wastech Corp., a Delaware corporation ("***Buyer***"), and, solely for purposes of **Article VII** and **Section 11.18** hereof, GAFAPA, S.A. de C.V., a sociedad anónima de capital variable organized under the Laws of Mexico (the "***Guarantor***"). Sellers and Buyer are sometimes collectively referred to herein as the "***Parties***" and individually as a "***Party***."

RECITALS

WHEREAS, Sellers engage in the business of, among other things, providing (i) fleet management and digitized routing software-as-a-service; (ii) hardware and software to facilitate real-time telematics, service information, vehicle tracking and safety metrics for fleet management; and (iii) cloud-based digital back-office operations for fleet management and third-party logistics software to municipal governments, haulers, recyclers, global waste management, snow removal and street sweeping fleets (including, for the avoidance of doubt, the businesses conducted immediately prior to Closing by Parent and its Subsidiaries under the RUBICONSmartCity, RUBICONPro and RUBICONPremier brands) (the "***Technology Business***");

WHEREAS, subject to the terms and conditions set forth herein, Sellers desire to sell and assign to Buyer, and Buyer desires to purchase and assume from Sellers, at the Closing, the Purchased Assets and the Assumed Liabilities; and

WHEREAS, as a material inducement to Sellers' willingness to enter into this Agreement, the Guarantor desires to unconditionally guarantee the due and punctual payment to Sellers of the Obligations.

NOW, THEREFORE, in consideration of the foregoing and the respective representations, warranties, covenants and agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby confirmed, and subject to the terms and conditions set forth herein, the Parties intending to be legally bound hereby agree as follows:

ARTICLE I
DEFINITIONS

The terms defined in **Exhibit A**, whenever used herein, shall have the meanings set forth on **Exhibit A** for all purposes of this Agreement. The definitions on **Exhibit A** are incorporated into this Agreement as if fully set forth at length herein and all references to a section in such **Exhibit A** are references to such section of this Agreement.

ARTICLE II
THE TRANSACTION

2.1 Purchase and Sale.

(a) Purchased Assets. Upon the terms and subject to the conditions set forth in this Agreement, at the Closing, Sellers shall sell, assign, convey, transfer and deliver to Buyer, and Buyer shall acquire from Sellers, the Purchased Assets, free and clear of any Liens, other than, in the case of the Purchased Assets but excluding the Rubicon International Equity Interests and the Rubicon Germany Equity Interests, Permitted Liens, and Buyer shall assume from Sellers the Assumed Liabilities. Notwithstanding anything herein to the contrary, the Excluded Assets and Excluded Liabilities will be retained by Sellers and not sold, assigned, conveyed, transferred or delivered to Buyer hereunder. For purposes of this Agreement, "***Purchased Assets***" means all of the assets and properties of Sellers of every kind and description, wherever located, whether real, personal, mixed, tangible or intangible, in each case to the extent Used in the Technology Business and as the same shall exist on the Closing Date, including, for the avoidance of doubt, the following:

(i) all prepaid expenses, including credits, advance payments, claims, security and lease deposits, refunds, rights of recovery, rights of set-off, rights of recoupment, deposits, charges, sums and fees (excluding any such item relating to the payment of Taxes) to the extent Used in the Technology Business;

(ii) all inventory, furniture, fixtures, equipment, machinery, tools, vehicles, office equipment, supplies, computers, telephones and other tangible personal property (and any leases related to the foregoing), including, subject to the terms of the Workspace Membership Agreement, any of the foregoing located at the Workspace and all workplans, methodologies and training materials, in each case to the extent Used in the Technology Business (including, for the avoidance of doubt, all business computers and business telephones of the Transferring Employees);

(iii) except for (x) any Unassignable Contract, which shall be treated in accordance with **Section 8.2(a) and (b)**, and (y) any Business Shared Contract, which shall be treated in accordance with **Section 8.9**, each of the Contracts set forth on **Schedule 2.1(a)(iii)** (the "***Assigned Contracts***" and together with the Unassignable Contracts and the Business Shared Contracts, the "***Technology Business Contracts***");

(iv) all rights of Sellers in and to the Workspace, including the Workspace Membership Agreement;

(v) all Intellectual Property, Software and Information Systems (w) owned by any third party to the extent related to the Technology Business (in accordance with **Sections 8.2** and **8.9**), (x) owned or purported to be owned by any Transferred Entity, (y) owned or purported to be owned by any Seller or any of its Subsidiaries and Used in the Technology Business, or (z) otherwise set forth on **Schedule 4.13(a)** and **Schedule 4.13(b)**, in the case of (w) through (y), unless indicated as an Excluded Asset on the Seller Disclosure Schedules (the "***Business Intellectual Property***"), together with all rights of any Seller or any of its Subsidiaries to (A) sue and recover for past, present and future infringement, misappropriation, or other violations thereof and (B) to collect past, present and future royalties, proceeds and other payments in relation thereto;

(vi) the Rubicon International Equity Interests; *provided*, *however*, that Buyer is not acquiring any assets or assuming any liabilities that would not otherwise constitute Purchased Assets or Assumed Liabilities;

(vii) each of the Permits to the extent Used in the Technology Business;

(viii) all rights, claims and defenses, including under warranties, indemnities and all similar rights against third parties, including all rights to causes of action, lawsuits, judgments, claims and demands of any nature available to or being pursued by any Seller, whether arising by way of counterclaim or otherwise, in each case to the extent Used in the Technology Business;

(ix) originals, or where not available, copies, of all files, documents, books and records, including books of account, ledgers and general, financial and accounting records, machinery and equipment maintenance files, customer lists, customer purchasing histories, price lists, distribution lists, supplier lists, production data, quality control records and procedures, customer complaints and inquiry files, research and development files, records and data, sales material and records, strategic plans, internal financial statements and marketing and promotional surveys, material and research, credit information and similar data relating to customers, distributors, resellers, channel partners, strategic partners, vendors, suppliers, contractors and service providers, technical information, drawings, specifications and other engineering data, user data or data associated with or derived from Internet websites, personnel data and employee master payroll information, in each case, to the extent Used in the Technology Business (the "***Business Records***");

(x) fifty percent (50%) of all Included Annual Contract Accounts;

(xi) all Post-Closing Accounts Receivable; and

(xii) all goodwill of the Technology Business or associated with any of the Purchased Assets.

(b) Excluded Assets. Buyer expressly understands and agrees that the Purchased Assets shall not include, and each Seller shall retain, any and all right title and interest in, to and under the properties, assets and rights of every kind and description, wherever located, whether real, personal, mixed, tangible or intangible, of such Seller other than the Purchased Assets (the "***Excluded Assets***"). Specifically, and without in any way limiting the generality of the first sentence of this **Section 2.1(b)**, the Purchased Assets shall not include, and Buyer shall not acquire:

(i) any rights in or to any Seller's franchise to be a limited liability company and its company seal, minute books, equity ledger and other records relating to its existence and capitalization;

(ii) any equity interest in any Seller or in any other Person in which any Seller owns any equity interest (other than Rubicon International);

(iii) the consideration to be delivered by Buyer to any Seller pursuant to this Agreement and all other rights of any Seller under this Agreement and the Seller Documents;

(iv) any Cash and Cash Equivalents of any Seller;

(v) any intercompany receivables of any Seller payable by an Affiliate of such Seller, other than amounts due and owing for products sold and services provided by the Technology Business;

(vi) any rights to refunds or credits with respect to any Taxes paid or incurred by any Seller (and rights to refunds for Taxes relating to the Technology Business, Purchased Assets, or the Transferring Employees for any Pre-Closing Tax Period (or portion thereof)) to the extent such Taxes were paid by Seller, together with any related interest received or due from the relevant taxing authority, any prepaid Taxes or other rights to Taxes paid by or of any Seller;

(vii) any and all rights of any Seller in or to (A) any Intellectual Property, Software and Information Systems (1) owned by a third party to the extent not related to the Technology Business or (2) owned by any Seller or any of its Subsidiaries that are not Used in the Technology Business (but, for the avoidance of doubt, excluding any Business Intellectual Property), (B) the Seller Marks, and (C) any other Intellectual Property or Software indicated as an Excluded Asset on the Seller Disclosure Schedules (but, for the avoidance of doubt, excluding the Business Intellectual Property set forth on **Schedule 4.13(a)** and **Schedule 4.13(b)**);

(viii) any prepaid items, claims for contribution, indemnity rights and similar claims and causes of action and other intangible rights to the extent any of the foregoing relate exclusively or primarily to any Excluded Asset or to any Excluded Liability, and all privileges related thereto;

(ix) subject to Buyer's rights under **Section 8.11**, any Seller's rights in, to and under the Insurance Policies;

(x) any books, records, files or other embodiments of information not otherwise constituting Business Records;

(xi) any Seller's rights, claims or causes of action against third parties primarily or exclusively relating to any Excluded Asset or any Excluded Liability;

(xii) each Employee Plan, including all assets with respect thereto and all related administrative services Contracts;

(xiii) each of the assets set forth on **Schedule 2.1(b)(xiii)**; and

(xiv) all Pre-Closing Accounts Receivable.

(c) Assumed Liabilities. Except as expressly provided in this **Section 2.1(c)**, Buyer shall not assume, in connection with the transactions contemplated by this Agreement, any Liability of any Seller whatsoever, and Sellers shall retain responsibility for all Liabilities accrued as of or on the Closing Date and all Liabilities arising from Sellers' operations prior to or on the Closing Date, whether or not accrued and whether or not disclosed. As the sole exception to the immediately preceding sentence, and subject to **Section 2.1(d)**, upon the terms and subject to the conditions contained in this Agreement, at the Closing, Buyer shall assume and agree to pay, perform and discharge in accordance with their terms, whether arising prior to, on or after the Closing Date (to the extent not performed or satisfied as of the Closing Date), all of Sellers' following Liabilities to the extent primarily or exclusively relating to the Technology Business (collectively, the "***Assumed Liabilities***"):

(i) all trade accounts payable of Sellers to third parties to the extent related to the Technology Business that remain unpaid as of the Closing Date as set forth on **Schedule 2.1(c)(i)** and all other current Liabilities set forth on **Schedule 2.1(c)(i)**; and

(ii) all Liabilities to the extent arising under or relating to the Technology Business Contracts and the Business Shared Contracts (to the extent such Liabilities primarily or exclusively relate to the Technology Business), to the extent such Liabilities are not required to be performed on or prior to the Closing Date, accrue and relate to the operations of the Technology Business subsequent to the Closing Date and do not arise from or relate to any breach or default by any Seller of or under such Assigned Contract; provided, however, that notwithstanding anything to the contrary in this Agreement, Buyer is not acquiring any assets or assuming any liabilities that would not otherwise constitute Purchased Assets or Assumed Liabilities.

(d) Excluded Liabilities. Specifically, and without in any way limiting the generality of the first sentence of **Section 2.1(c)**, the Assumed Liabilities shall not include, and Buyer shall not assume and shall not be responsible to pay, perform or discharge any of the following Liabilities of Sellers (together with all Liabilities that are not Assumed Liabilities, the "***Excluded Liabilities***"):

(i) any intercompany Liabilities owed by a Seller to an Affiliate of such Seller;

(ii) any Indebtedness of any Seller or Rubicon International or Rubicon Germany, including any Liabilities of any Seller, Rubicon International, Rubicon Germany or of the Technology Business under, pursuant to or in connection with any of the Existing Credit Agreements and including, for the avoidance of doubt, any Liabilities under, pursuant to or in connection with any letters of credit, performance bonds, bid bonds or other sureties of any kind whether drawn or undrawn;

(iii) any Transaction Expenses;

(iv) any Liabilities of a Seller relating to or arising out of any of the Excluded Assets;

(v) any Liabilities for any Excluded Tax;

(vi) except as provided in **Section 8.7** or under the TSA, any Liabilities under any Employee Plan, including Liabilities for any sales commissions or incentives and any variable compensation or bonus plans;

(vii) except as provided in **Section 8.7** or under the TSA, any Liabilities to or with respect to Sellers' employment of any current or former employee, officer, director or consultant of Sellers;

(viii) any Liabilities relating to, resulting from or arising out of (A) claims made in pending or future Actions or (B) claims based on violations of Law, breach of Contract, employment practices, or environmental, health and safety matters or any other actual or alleged failure of any Seller to perform any obligation, in each case arising out of, or relating to, (x) events that shall have occurred, (y) services performed, or (z) the operation of the Technology Business, prior to the Closing;

(ix) any Liabilities relating to, resulting from or arising out of any former operations of any Seller or predecessor entities thereof that have been discontinued or disposed of prior to the Closing;

(x) any Liabilities relating to, resulting from or arising out any non-compliance by any Seller with any applicable bulk sales Law;

(xi) except as expressly set forth in **Section 2.1(c)**, all other Liabilities to the extent arising out of or relating to Sellers' ownership or operation of the Technology Business and the Purchased Assets prior to the Closing Date, including any Action arising from Sellers' operation of the Technology Business prior to the Closing Date and all Liabilities relating to compensation or other arrangements with respect to any Transferring Employee prior to the Closing Date; and

(xii) each of the Liabilities set forth on **Schedule 2.1(d)(xii)**.

2.2 Purchase Price. In consideration for the Purchased Assets, Buyer shall (i) assume the Assumed Liabilities as provided in **Section 2.1(c)** and (ii) pay to Parent cash in an amount equal to the Total Consideration. The "***Total Consideration***" shall be equal to (x) the Closing Date Consideration *minus* (y) the Working Capital Adjustment. At the Closing, Buyer shall pay to Parent the Total Consideration.

2.3 [Reserved].

2.4 Earn-Out.

(a) As additional consideration for the Purchased Assets, if applicable, Buyer shall pay to Parent (on behalf of Sellers) $12,500,000 (the "***Earn-Out Payment***") if the Technology Business achieves Annual Recurring Revenue equal to or greater than $29,000,000 (the "***Earn-Out Event***") on or prior to December 31st, 2024.

(i) In the event the date of the Requisite Stockholder Approval of a Take-Private Transaction occurs prior to December 31st, 2024, Buyer shall, prior to the consummation of such Take-Private Transaction, pay $2,500,000 in the aggregate to the holders of record of the issued and outstanding Class A shares of Parent and issued and outstanding Class B units of Rubicon Tech Holdings as of the record date of the meeting at which the Requisite Stockholder Approval is obtained, which payment, for the avoidance of doubt, will be made on a pro rata basis, and the Earn-Out Payment, if payable, shall be decreased by the same amount. For the avoidance of doubt, Buyer agrees and acknowledges that the payment set forth in this **Section 2.4(a)(i)** is not contingent on the occurrence of the Earn-Out Event and shall become payable in full upon any Requisite Stockholder Approval of a Take-Private Transaction which occurs prior to December 31st, 2024. Buyer hereby agrees and acknowledges that the holders of record of the issued and outstanding Class A shares of Parent and issued and outstanding Class B units of Rubicon Tech Holdings as of the record date of the meeting at which the Requisite Stockholder Approval is obtained are express third-party beneficiaries of this **Section 2.4(a)(i)**, entitled to enforce it against Buyer as if they were a party hereto.

(b) Procedures Applicable to Determination of the Earn-Out Payments.

(i) On or before March 31st, 2025 (the "***Earn-Out Calculation Delivery Date***"), Buyer shall prepare and deliver to Parent a written statement (the "***Earn-Out Calculation Statement***") setting forth in reasonable detail its determination of Annual Recurring Revenue for fiscal year 2024 and its calculation of the resulting Earn-Out Payment (the "***Earn-Out Calculation***").

(ii) Parent shall have forty-five (45) days after receipt of the Earn-Out Calculation Statement (the "***Review Period***") to review the Earn-Out Calculation Statement and the Earn-Out Calculation set forth therein. During the Review Period, Parent and its accountants and other Representatives shall have the right to inspect Buyer's books and records (to the extent related to the Technology Business) during normal business hours at Buyer's offices, upon reasonable prior notice and solely for purposes reasonably related to the determinations of Annual Recurring Revenue, the Earn-Out Calculation and the resulting Earn-Out Payment. Prior to the expiration of the Review Period, Parent may object to the Earn-Out Calculation set forth in the Earn-Out Calculation Statement by delivering a written notice of objection (an "***Earn-Out Calculation Objection Notice***") to Buyer. Any Earn-Out Calculation Objection Notice shall specify the items in the applicable Earn-Out Calculation disputed by Parent and shall describe in reasonable detail the basis for such objection, as well as the amount in dispute. If Parent fails to deliver an Earn-Out Calculation Objection Notice to Buyer prior to the expiration of the Review Period, then the Earn-Out Calculation set forth in the Earn-Out Calculation Statement shall be final and binding on the parties hereto. If Parent timely delivers an Earn-Out Calculation Objection Notice, Buyer and Parent shall negotiate in good faith to resolve the disputed items and agree upon the resulting amount of Annual Recurring Revenue and the Earn-Out Payment. If Buyer and Parent are unable to reach agreement within thirty (30) days after such an Earn-Out Calculation Objection Notice has been given, then Buyer and Parent jointly shall engage the dispute resolution group of a nationally-recognized, independent accounting firm (such accounting firm, the "***Accounting Firm***"), who, acting as experts and not arbitrators, shall resolve the unresolved disputed items. Parent and Buyer will enter into a customary engagement agreement (and, for the avoidance of doubt, shall each pay 50% of any advance retainer required by the Accounting Firm) with the Accounting Firm and agree to cooperate in good faith with the Accounting Firm during the term of its engagement. The Accounting Firm shall be directed to render a written report on the

unresolved disputed items with respect to the applicable Earn-Out Calculation as promptly as practicable, but in no event greater than thirty (30) days after such submission to the Accounting Firm, and to resolve only those unresolved disputed items set forth in the Earn-Out Calculation Objection Notice. The Accounting Firm shall (i) resolve the disputed items based solely on the applicable definitions and other terms in this Agreement and the presentations by Buyer and Parent and not by independent review and (ii) shall not assign a value to any item greater than the greatest value for such item claimed by either Party or less than the smallest value for such item claimed by either Party. Following the delivery of the presentations, Buyer and Parent may each submit a response to the other Party's presentation. The resolution of the dispute and the calculation of Annual Recurring Revenue that is the subject of the applicable Earn-Out Calculation Objection Notice by the Accounting Firm shall be final and binding on the parties hereto. Judgment may be entered upon the determination of the Accounting Firm in any court having jurisdiction over the Party against which such determination is to be enforced. The fees and expenses of the Accounting Firm shall be borne by Parent and Buyer in proportion to the amounts by which their respective calculations of Annual Recurring Revenue differ from Annual Recurring Revenue as finally determined by the Accounting Firm.

(c) At any time prior to the payment of the Earn-Out Payment to Parent (or a final determination that no further Earn-Out Payments are or may be payable to Parent), if Buyer effects a sale, lease, exchange or other transfer, directly or indirectly, in one transaction or a series of related transactions, of all or substantially all of the assets of the Technology Business or a merger, consolidation, recapitalization or other transaction in which any Person other than Buyer or any wholly owned subsidiary of Buyer becomes the beneficial owner, directly or indirectly, of 50% or more of the combined voting power or assets of the Technology Business, Buyer (and Guarantor) shall (i) remain responsible for all of its obligations with respect to the Earn-Out Payment set forth in subsection (a) hereof; and (ii) make provision for the transferee, lessee, or successor to assume and succeed to the obligations of Buyer (and Guarantor) set forth in this **Section 2.4**.

(d) Subject to the terms of this Agreement, subsequent to the Closing, Buyer shall have sole discretion with regard to all matters relating to the operation of the Technology Business; *provided*, that Buyer shall not, directly or indirectly, take any actions in bad faith that would have the purpose of avoiding the Earn-Out Payment hereunder.

(e) Buyer shall have the right to withhold and set off against any amount otherwise due to be paid pursuant to this **Section 2.4** (excluding **Section 2.4(a)(i)**) any Losses to which any Buyer Indemnitees may be entitled under **Article IX** of this Agreement or any other Ancillary Agreement.

(f) The Parties hereto understand and agree that (i) the contingent rights to receive any Earn-Out Payment shall not be represented by any form of certificate or other instrument, are not transferable, except by operation of Law relating to descent and distribution, divorce and community property, and do not constitute an equity or ownership interest in Buyer the Technology Business (ii) Sellers shall not have any rights as a securityholder of Buyer as a result of Sellers' contingent right to receive any Earn-Out Payment hereunder, and (iii) no interest is payable with respect to any Earn-Out Payment.

(g) Buyer and Sellers intend that for federal, state, local and foreign Tax purposes, the Earn-Out Payment (excluding any payment in accordance with **Section 2.4(a)(i)**) shall be treated as an adjustment to the consideration for the purchase and sale of the Purchased Assets. Any payment made in accordance with **Section 2.4(a)(i)** shall be treated for U.S. federal income tax purposes as an adjustment to the consideration for the purchase and sale of the Purchased Assets followed by a distribution of the cash proceeds thereof by Sellers, through the legal chain of entities, to the ultimate recipients thereof. Buyer and Sellers shall file all Tax Returns in accordance with such intended treatment as set forth in this **Section 2.4(g)** and shall not take any position inconsistent therewith before any governmental agency charged with the collection of any Tax or in any judicial proceeding.

2.5 Withholding. Sellers and Buyer (as appropriate) shall be entitled to deduct and withhold from amounts otherwise payable pursuant to this Agreement to any Person such amounts as are required by applicable Tax Law to be deducted and withheld with respect to the making of such payment under the Code, or any provision of state, local or foreign Tax Law. If any amounts are to be withheld pursuant to the preceding sentence, Buyer shall give prompt notice to such Person and cooperate with such Person in good faith to reduce or mitigate such withholding. To the extent that amounts are so withheld, such withheld amounts shall be treated for all purposes of this Agreement as having been paid to such Person in respect of which such deduction and withholding was made.

ARTICLE III
CLOSING AND DELIVERIES

3.1 Closing. The closing and consummation of the transactions contemplated hereby (the "***Closing***") shall take place remotely via electronic transmission of documentation (such as by use of .pdf), on the date hereof; *provided*, for accounting purposes, the Closing shall be deemed to have occurred as of 12:01 a.m. EST on the Closing Date (such time, the "***Effective Time***"). The date on which the Closing occurs is herein referred to as the "***Closing Date***." All proceedings to be taken and all documents to be executed and delivered by all the Parties at the Closing shall be deemed to have been taken and executed simultaneously and no proceedings shall be deemed to have been taken nor documents executed or delivered until all have been taken, executed and delivered.

3.2 Deliveries by Sellers. At or prior to the Closing, Sellers shall deliver or cause to be delivered to Buyer the following items:

(a) a Bill of Sale, Assignment and Assumption Agreement, in the form attached hereto as **Exhibit B** (the "***Bill of Sale***"), duly executed by each Seller;

(b) a Transition Services Agreement, in the form attached hereto as **Exhibit C** (the "***TSA***"), duly executed by Rubicon Tech Holdings;

(c) an Assignment of Workspace Membership Agreement, in the form attached hereto as **Exhibit D** (the "***Workspace Assignment***"), with respect to the Workspace, duly executed by Rubicon Tech Holdings;

(d) an Intellectual Property Assignment Agreement, in the form attached hereto as **Exhibit E** (the "***IP Assignment***"), duly executed by Rubicon Tech Holdings;

(e) an Equity Interest Assignment, in the form attached hereto as **Exhibit F** (the "***Equity Interest Assignment***");

(f) a certificate (the "***Seller Officer Certificate***") dated as of the Closing Date, duly executed by an officer of each Seller, given by him or her on behalf of such Seller and not in his or her individual capacity, certifying as to the effectiveness of the resolutions of the Governing Body of such Seller authorizing and approving the execution, delivery and performance of, and the consummation of the transactions contemplated by, this Agreement, and stating that such resolutions have not been amended, modified, revoked or rescinded;

(g) certificates of the Secretary of State of the State in which each Seller is organized as to the good standing of such Seller in such jurisdiction as of a reasonably recent date;

(h) a properly completed and executed IRS Form W-9 from each Seller (each, a "***Seller W-9***");

(i) a certificate, duly completed and executed by each Seller pursuant to Section 1.1445-2(b)(2) of the Treasury Regulations promulgated under the Code, certifying that such Seller is not a "foreign person" within the meaning of Section 1445 of the Code;

(j) the duly executed resignations of all directors, officers and managers of Rubicon International and Rubicon Germany, as applicable, in form and substance reasonably satisfactory to Buyer; and

(k) (i) executed Consents from the lenders or their Representatives and agents under each of the Existing Credit Agreements permitting the purchase of the Purchased Assets by the Buyer and (ii) lien releases (including UCC termination statements or amendments) from the lenders or their Representatives and agents under each of the Existing Credit Agreements releasing the Purchased Assets from any and all Liens under each of the Existing Credit Agreements, in the case of clauses (i) and (ii) in form and substance satisfactory to the Buyer and delivered to Buyer prior to the Closing.

3.3 Deliveries by Buyer. At the Closing, Buyer shall deliver or cause to be delivered to Sellers the following items:

(a) the Closing Date Consideration;

(b) the Bill of Sale, duly executed by Buyer;

(c) the TSA, duly executed by Buyer;

(d) the Workspace Assignment, duly executed by Buyer;

(e) the IP Assignment, duly executed by Buyer;

(f) the Equity Interest Assignment, duly executed by Buyer;

(g) a certificate (the "***Buyer Officer Certificate***") dated as of the Closing Date, duly executed by an officer of Buyer, given by him or her on behalf of Buyer and not in his or her individual capacity, certifying as to the effectiveness of the resolutions of the Governing Body of Buyer authorizing and approving the execution, delivery and performance of, and the consummation of the transactions contemplated by, this Agreement, and stating that such resolutions have not been amended, modified, revoked or rescinded;

(h) a certificate of the Secretary of State of the State in which Buyer is organized as to the good standing of Buyer in such jurisdiction as of a reasonably recent date;

(i) a certificate (the "***Guarantor Officer Certificate***") dated as of the Closing Date, duly executed by an officer of the Guarantor, given by him or her on behalf of the Guarantor and not in his or her individual capacity, certifying as to the effectiveness of the resolutions of the Governing Body of the Guarantor authorizing and approving the execution, delivery and performance of, and the consummation of the transactions contemplated by, this Agreement, and stating that such resolutions have not been amended, modified, revoked or rescinded; and

(j) a Constancia de Situación Fiscal of the Secretary of Finance and Public Credit of Mexico in which the Guarantor is organized as to the good standing of the Guarantor in such jurisdiction as of a reasonably recent date.

ARTICLE IV
REPRESENTATIONS AND WARRANTIES OF SELLERS

Except as set forth in the Schedules referenced in this **Article IV** (collectively, the "***Seller Disclosure Schedules***"), which shall qualify the corresponding representations and warranties of Sellers set forth in this **Article IV** (subject in each case to **Section 11.16**), Sellers, jointly and severally, represent and warrant to and for the benefit of Buyer that the following statements are true as of the Closing Date:

4.1 Organization and Standing. Rubicon Tech Holdings is a limited liability company and is duly formed, validly existing and in good standing under the Laws of the State of Delaware. Parent is a corporation and is duly formed, validly existing and in good standing under the Laws of the State of Delaware. Each Seller is duly qualified to do business, and in good standing, in each jurisdiction in which the character of the properties owned or leased by it or in which the conduct of its business requires it to be so qualified, except where the failure to be so qualified or to be in good standing would not have a Material Adverse Effect.

4.2 No Brokers. Except as set forth on **Schedule 4.2**, no broker, finder or similar agent has been engaged by or on behalf of Sellers, and no Person with which Sellers have had any dealings is entitled to any brokerage commission, finder's fee or any similar compensation, in connection with this Agreement or the transactions contemplated hereby. Following the Closing, neither Buyer nor any of its Affiliates will have any Liability to any broker, finder or similar agent based on any arrangement made by any Seller or any of its Affiliates.

4.3 Authority, Validity and Effect. Each Seller has all power and authority to (a) carry on its respective business as it pertains to the Technology Business and to own, lease and operate its properties and assets related to the Technology Business and (b) enter into and perform its obligations under this Agreement and the other agreements contemplated hereby to which it is a party (the "***Seller Documents***") and to consummate the transactions contemplated hereby and thereby, and this Agreement and the Seller Documents have been, or (as applicable) will be as of the Closing, duly executed and delivered by the Seller party thereto pursuant to all necessary authorizations and are (or will be) the legal, valid and binding obligations of such Seller, enforceable against such Seller in accordance with their respective terms, except as limited by (i) applicable bankruptcy, reorganization, insolvency, moratorium or other similar Laws affecting the enforcement of creditors' rights generally from time to time in effect, and (ii) the availability of equitable remedies (regardless of whether enforceability is considered in a proceeding at Law or in equity) (collectively (i) and (ii) together, the "***General Enforceability Exceptions***").

4.4 No Conflict; Required Filings and Consents.

(a) Neither the execution and delivery of this Agreement or the Seller Documents by either Seller, nor the consummation by Sellers of the transactions contemplated hereby or thereby, nor compliance by Sellers with any of the provisions hereof or thereof, will (i) conflict with or result in a breach of any provisions of any Organizational Document of such Seller or any of its Subsidiaries, (ii) except as set forth on **Schedule 4.4(a)(ii)**, constitute or result in the breach of any term, condition or provision of, or constitute a default under, or give rise to any right of termination, cancellation or acceleration with respect to or material loss of benefit under (in each case, with or without notice or lapse of time or both), any Material Contract, or result in the creation or imposition of a Lien upon the Purchased Assets, in each case, except as would not have a material impact on the Technology Business or the ability of Sellers to consummate the transactions contemplated by this Agreement, or (iii) subject to receipt of the requisite approvals referred to on **Schedule 4.4(b)**, to the Sellers' Knowledge, violate any Order or Law applicable to Sellers or any of their Subsidiaries or their respective properties or assets.

(b) Except as set forth on **Schedule 4.4(b)**, no Consent is required to be obtained by Sellers or any of their Subsidiaries in connection with the execution or performance of or the consummation by Sellers of the transactions contemplated by this Agreement and the Seller Documents, other than any Consent which, if not obtained, would not be material to the Technology Business.

4.5 Financial Statements.

(a) Copies of the following financial statements are attached to **Schedule 4.5(a)**: (i) the profit and loss statement of the Technology Business (the "***Interim Financial Data***") for each calendar month during the twenty-four (24)-month period ended December 31, 2023, (ii) the unaudited summary of working capital of the Technology Business for each calendar month during the twelve (12)-month period ended December 31, 2023 and (iii) the unaudited summary of working capital for the Technology Business (the "***Interim Summary of Working Capital***") for the two (2)-month period ended February 29, 2024 (the "***Working Capital Date***"). The financial data and summaries of working capital referred to in **Sections 4.5(a)(i)**, **(a)(ii)** and **(a)(iii)** (collectively referred to as the "***Financial Statements***") fairly present in all material respects (A) the financial position, condition, assets and liabilities of the Technology Business as of the dates therein specified and (B) the results of operations of the Technology Business for the periods indicated therein.

(b) The Financial Statements were derived from (i) the books and records of Parent and (ii) other than with respect to the Interim Financial Data and the Interim Summary of Working Capital, the audited, consolidated financial statements of Parent for the same year-end periods then ending, which were prepared in accordance with GAAP.

(c) Neither the Technology Business nor any Seller to the extent related to the Purchased Assets has any material Liabilities except (i) Liabilities reflected in the Financial Statements, (ii) Liabilities that have arisen after the Working Capital Date in the Ordinary Course of Business, or (iii) Liabilities arising in connection with the negotiation, documentation and execution of this Agreement and the transactions contemplated hereby.

(d) Neither the Technology Business nor any Seller maintains any "off-balance-sheet arrangement" within the meaning of Item 303 of Regulation S-K of the Securities Act.

4.6 Taxes. Except as set forth on **Schedule 4.6**:

(a) Sellers (i) have timely filed or caused to be filed (taking into account available extensions) all material Tax Returns that are required to be filed (A) by it that relate to the Technology Business, the Purchased Assets, or the Transferring Employees or (B) by the Transferred Entities, (ii) paid (or caused to be paid) all Taxes which are due and payable on such Tax Returns, and (iii) paid (or caused to be paid) all material Taxes otherwise due and payable by the Transferred Entities or that relate to the Technology Business, the Purchased Assets, or the Transferring Employees.

(b) Solely with respect to the Technology Business, Sellers have withheld all material Taxes from payments to its employees, agents, contractors, and nonresidents and remitted such amounts to the proper Governmental Authority in accordance with applicable Law. The Transferred Entities have withheld all material Taxes from payments to its employees, agents, contractors, and nonresidents and remitted such amounts to the proper Governmental Authority in accordance with applicable Law.

(c) There are no Liens for unpaid Taxes on the Purchased Assets, which Liens will remain after Closing. There are no Liens for unpaid Taxes on any assets of the Transferred Entities, other than Permitted Liens.

(d) With respect to any Tax year the statute of limitations with respect to which is open, no claim has been made in writing by a Tax authority in a jurisdiction in which a Seller or a Transferred Entity, as the case may be, does not file Tax Returns that such Seller or Transferred Entity is subject to taxation by that jurisdiction with respect to the Technology Business or the Purchased Assets.

(e) With respect to any Tax year the statute of limitations with respect to which is open, Sellers have collected and remitted to the appropriate Taxing jurisdictions all material sales and use Taxes with respect to the Technology Business. With respect to any Tax year the statute of limitations with respect to which is open, the Transferred Entities have collected and remitted to the appropriate Taxing jurisdictions all material sales and use Taxes.

(f) There is no claim, audit, action, suit, investigation, or other proceeding pending or threatened in writing against, or with respect to, a material amount of Taxes relating to the Transferred Entities, the Technology Business, or the Purchased Assets that could reasonably be expected to give rise to a Liability for Buyer or any of its Subsidiaries (including the Transferred Entities).

(g) None of the Transferred Entities (i) are or have ever been a member of an affiliated group within the meaning of Section 1504(a) of the Code, or any other tax group under any provision of state, local, or foreign Tax Law, or (ii) have any liability for Taxes of any other Person as transferee or successor, by contract, or otherwise.

(h) Rubicon Germany is classified as a corporation for U.S. federal income tax purposes and is a "controlled foreign corporation" (within the meaning of Section 957 of the Code) with respect to which Rubicon International is a United States shareholder (within the meaning of Section 951(b) of the Code).

(i) None of the Transferred Entities has been a "controlled corporation" or a "distributing corporation" in any distribution occurring during the two (2)-year period ending on the date of this Agreement that was purported or intended to be governed by Section 355 of the Code (or any similar provision of state, local, or foreign Tax Law).

(j) Rubicon International will not be required to recognize after the Closing Date any taxable income as a result of any inclusion under Section 965 of the Code or any election under Section 965(h) of the Code.

4.7 Title to Personal Property; Sufficiency of Assets.

(a) Each Seller has, and Buyer will acquire pursuant to the transactions contemplated by this Agreement, (in the case of owned personal property) good title to, or (in the case of leased personal property), a valid leasehold interest in all of the Purchased Assets or thereafter acquired by Sellers (to the extent such assets constitute Purchased Assets hereunder), free and clear of all Liens except for, in the case of the Purchased Assets but excluding the Rubicon International Equity Interests and the Rubicon Germany Equity Interests, Permitted Liens. The Business Employees are the only individuals who are employed by any Seller or any of its Affiliates who devote 50% or more of his or her services to the Technology Business. No Seller has guaranteed any obligations of the Technology Business under any letter of credit, bid bond or performance bond.

(b) On the Closing Date (assuming receipt of all Consents relating to the matters set forth in **Schedule 4.4(a)** or as contemplated by **Section 4.4(b)**), except (i) for Cash and Cash Equivalents and (ii) as set forth on **Schedule 4.7(b)**, the Purchased Assets will, taking into account the TSA, constitute all of the assets (A) necessary to conduct the Technology Business immediately following the Closing in all material respects as it is presently conducted and (B) Used in the Technology Business; *provided*, *however*, that nothing in this **Section 4.7(b)** shall be deemed to constitute a representation or warranty as to the adequacy of the amounts of the Technology Business' net working capital (or the availability of the same); *provided*, *further*, that this **Section 4.7(b)** shall not be deemed to be breached as a result of any action for which Buyer has provided its consent.

(c) The Purchased Assets are in good operating condition (normal wear and tear excepted) and are fit, in all material respects, for use in the Ordinary Course of Business. No Person holds any option, right of first offer, right of refusal or similar right to purchase any Purchased Asset. All of the Purchased Assets have been operated and maintained in accordance with relevant industry standards, in all material respects. Assuming continued maintenance is carried out in accordance with past practice, the Purchased Assets are adequate and available for their current use, except as would not reasonably be expected to be, individually or in the aggregate, material to the Technology Business.

(d) Except as set forth on **Schedule 4.7(d)**, there are no Shared Contracts (such Shared Contracts, the "***Business Shared Contracts***").

4.8 Real Property.

(a) Sellers do not own, and have not owned, any real property Used in the Technology Business.

(b) **Schedule 4.8(b)** sets forth the address of the Workspace, and a true and complete list of each agreement under which a Seller has rights to use or occupy the Workspace. A true and complete copy of the Workspace Membership Agreement has been made available to the Buyer.

(c) (i) The Workspace Membership Agreement is legal, binding, enforceable and in full force and effect and a Seller has a valid; (ii) no Seller is and, to the Sellers' Knowledge, none of the other counterparties thereto is, in material breach or default under the Workspace Membership Agreement, and no event has occurred or circumstance exists which, with the delivery of notice, the passage of time or both, would constitute a breach or default, or permit the termination, modification or acceleration of rent under the Workspace Membership Agreement; and (iii) no Seller has subleased, licensed or otherwise granted any Person the right to use or occupy the Workspace or any portion thereof.

(d) The Workspace identified on **Schedule 4.8(b)** comprises all of the real property Used in the Technology Business.

(e) Neither Seller nor any of its Affiliates has received written notice under the Workspace Membership Agreement claiming that any Seller is in default in its material obligations as tenant under the Workspace Membership Agreement.

4.9 Permits. Each Seller possesses, and is in compliance in all material respects with all terms and conditions of, all licenses, approvals, permits, registrations and authorizations of any Governmental Authority necessary to operate the Technology Business as currently conducted and to own, lease and operate its properties and assets related to the Technology Business (collectively, "***Permits***") and all such Permits are valid, final, and in full force and effect, except

those the absence of which or the failure with which to comply would not reasonably be expected to be material to the Technology Business. No Seller is in default or violation under any of the Permits, and, to the Sellers' Knowledge, no event, circumstances or state of facts has occurred which, with notice or the lapse of time or both, would constitute a default of or violation under any of the Permits, except for those defaults or violations that would not reasonably be expected to be material to the Technology Business. There are no Actions pending or, to the Sellers' Knowledge, threatened relating to the suspension, revocation or modification of any of the Permits.

4.10 Employee Benefit Plans.

(a) **Schedule 4.10(a)** sets forth a complete list of (i) all "employee benefit plans," as defined in Section 3(3) of ERISA, whether or not subject to ERISA, and (ii) all other severance pay, salary continuation, bonus, incentive compensation, stock option, stock purchase, equity incentive, retirement, pension, profit sharing, welfare, fringe benefit, retention, change of control, employment or deferred compensation, fringe benefit, commission, termination and any other benefit or compensation plans, Contracts, programs, funds, or arrangements of any kind that, in each case, are sponsored, maintained or contributed to by Sellers or any of their Affiliates for the benefit of any current or former Business Employee, or with respect to which any Seller has any Liability in respect of any current or former Business Employee, including as a result of an affiliation with an ERISA Affiliate (all of the above being hereinafter individually or collectively referred to as "***Employee Plan***" or "***Employee Plans***," respectively).

(b) Copies of the following materials have been delivered or made available to Buyer with respect to each Employee Plan, to the extent applicable: (i) all current plan documents for each Employee Plan or, in the case of an unwritten Employee Plan, a written description thereof, (ii) all determination, advisory or opinion letters from the Internal Revenue Service (the "***IRS***") with respect to any of the Employee Plans, (iii) all current summary plan descriptions and all summaries of material modifications thereto, and the most recent annual reports and summary annual reports with respect to any of the Employee Plans and (iv) all insurance policies, trust agreements, or other funding arrangements.

(c) Except as would not reasonably be expected to result in any liability to Buyer, each Employee Plan has been maintained, funded, operated, and administered in all material respects in compliance with its terms and any related documents or agreements and with all applicable Laws.

(d) Each Employee Plan intended to be qualified under Section 401(a) of the Code has been determined by the IRS to be so qualified (or, in the case of a preapproved plan, is entitled to rely on a favorable opinion or advisory letter issued to the preapproved plan sponsor by the IRS), and each trust created thereunder has been determined by the IRS to be exempt from tax under the provisions of Section 501(a) of the Code, and no event has occurred and no condition or circumstance has existed that resulted or is likely to result in the loss of such tax exemption.

(e) Except as set forth on **Schedule 4.10(e)**, no Seller maintains or contributes to or has any Liability under, or has at any time within the prior six (6) years maintained or had an obligation to contribute to, (i) a "defined benefit plan" as defined in Section 3(35) of ERISA, whether or not subject to ERISA; (ii) a pension plan that is or was subject to the funding standards of Section 302 of ERISA or Section 412 of the Code; or (iii) a "multiemployer plan" as defined in Section 3(37) of ERISA or Section 414(f) of the Code; (iv) a plan subject to Title IV of ERISA; or (v) a multiple employer plan, as described in Section 413(c) of ERISA or a plan described in Sections 4063 or 4064 of ERISA.

(f) With respect to each group health plan benefiting any current or former Business Employee that is subject to Section 4980B of the Code, Sellers have complied in all material respects with the continuation coverage requirements of Section 4980B of the Code and Part 6 of Subtitle B of Title I of ERISA ("***COBRA***").

(g) Except as set forth on **Schedule 4.10(g)**, no Employee Plan provides for any Business Employee benefits, including death or medical benefits, beyond termination of service or retirement other than coverage mandated by COBRA for which the recipient pays the entire premium cost.

(h) Except as set forth on **Schedule 4.10(h)**, no amount that could be received (whether in cash or property or the vesting of property) as a result of any of the transactions contemplated by this Agreement, either alone or in conjunction with any other event, by any Business Employee who is a "disqualified individual" (as such term is defined in Treasury Regulation Section 1.280G-1) under any employment, severance or termination agreement, other compensation arrangement or Employee Plan currently in effect would be characterized as an "excess parachute payment" (as such term is defined in Section 280G(b)(1) of the Code).

4.11 Material Contracts.

(a) Set forth on **Schedule 4.11(a)** is a list of the following Contracts to which any Seller or its Subsidiaries is a party and that relate to the Technology Business (the Contracts required to be set forth on **Schedule 4.11(a)**, collectively, the "***Material Contracts***"):

(i) each Contract (A) limiting the right of a Seller or any of its Subsidiaries to (x) engage in or compete with any Person in any business or in any geographical area or (y) solicit or hire any customer, (B) containing exclusivity or minimum purchase obligations binding on any Seller or any of its Subsidiaries or (C) containing any "most favored nation" or similar pricing provision binding on any Seller or any of its Subsidiaries or that contains a right of first refusal, first offer, first negotiation or any other exclusivity, requirements or output provisions, including any Contract that is considered a so called take-or-pay or keep well Contract;

(ii) each (A) collective bargaining Contract or other Contract with any labor union, organization or association and (B) Contract with a professional employer organization, temp agency, employee leasing agency or labor contractor;

(iii) each Contract providing for severance, retention, change in control or other similar payments or benefits for any Business Employee;

(iv) (A) each Contract pertaining to employment arrangements with any Business Employee that provides for annual compensation in excess of $200,000 and which is not terminable on ninety (90) or fewer days' notice by a Seller or any of its Subsidiaries without liability for any material penalty or severance payment, and (B) each Contract with any consultant or independent contractor that provides for annual compensation in excess of $200,000 and which is not terminable on ninety (90) or fewer days' notice by a Seller or any of its Subsidiaries without liability for any material penalty or termination payment;

(v) each Contract with any Seller or any Affiliate of a Seller, including any Related Party Agreement;

(vi) each Contract with a Significant Vendor;

(vii) each Contract with a Significant Customer;

(viii) each outstanding statement of work or outstanding purchase order relating to statements of work issued under any Contract referred to in clause (vii) above that involves aggregate payments of over $750,000.

(ix) each Contract with any Governmental Authority;

(x) each Contract that is a settlement or conciliation agreement that imposes any obligations upon the Technology Business after the date of this Agreement;

(xi) each Contract (or group of related Contracts) requiring any capital commitment or capital expenditure (or series of capital expenditures) by either Seller or any of its Subsidiaries after the date hereof in an amount in excess of $300,000 individually or $750,000 in the aggregate;

(xii) each Contract pursuant to which any Seller or any of its Subsidiaries is the lessee of any personal property, which provides for annual payments in excess of $300,000;

(xiii) the Workspace Membership Agreement;

(xiv) each joint venture Contract or Contract that creates a "partnership" under applicable Law;

(xv) each Contract relating to the acquisition or disposition of any business (whether by merger, purchase or sale of stock, purchase or sale of assets or otherwise);

(xvi) each Contract (i) relating to Indebtedness or (ii) that subjects any Purchased Asset to a Lien;

(xvii) each Contract with respect to Intellectual Property, Software or Information Systems, in each case, (A) that is material to the Technology Business and (B) that is not otherwise set forth on **Schedule 4.11(a)**; and

(xviii) each Contract with respect to any continuing earn-out or indemnification obligations, except in the case of indemnification obligations, entered into in the Ordinary Course of Business.

(b) Sellers have heretofore made available to Buyer true and correct copies of all Material Contracts, including all amendments and modifications thereto. Except as set forth on **Schedule 4.11(b)**, each Material Contract is in full force and effect in all material respects and constitutes a legal, valid and binding obligation of one or more Sellers or their respective Subsidiaries, and, to the Sellers' Knowledge, of the other parties thereto, subject only to the General Enforceability Exceptions. There is no material breach or default by any Seller or any of its Subsidiaries or, to the Sellers' Knowledge, by any third party under any Material Contract, and no event has occurred which, with notice or lapse of time or both, would constitute a material breach or default would permit termination, modification or acceleration thereof by any party to such Material Contract. No Seller or any of its Subsidiaries has received written notice of the intention of any third party under any Material Contract to cancel, terminate or modify the terms of any such Material Contract, or accelerate the obligations of such Seller or its Subsidiary thereunder.

4.12 Legal Proceedings and Compliance. Except as set forth on **Schedule 4.12**, (a) there is, and since the Lookback Date has been, no Action pending or, to the Sellers' Knowledge, threatened against or involving the Technology Business, except as would not, individually or in the aggregate, reasonably be expected to be material to the Technology Business, and (b) each of the Sellers and their Subsidiaries is, and since the Lookback Date has been, in compliance with all applicable Laws and Orders in all respects, except in each case where such noncompliance with Law or Order would not, individually or in the aggregate, reasonably be expected to be material to the Technology Business.

4.13 Intellectual Property.

(a) **Schedule 4.13(a)** contains a list of all Business Intellectual Property owned or purported to be owned by any Seller or any of its Subsidiaries that is the subject of an issued patent or a trademark, copyright or domain name registration or an application for any of the foregoing or that is material to the Technology Business.

(b) **Schedule 4.13(b)** contains a list of all Software that is Business Intellectual Property owned, purported to be owned or Used by any Seller or any of its Subsidiaries and that is material to the Technology Business.

(c) Except as set forth on **Schedule 4.13(c)**, (i) a Seller exclusively owns the entire right, title and interest in and to the Business Intellectual Property listed on **Schedule 4.13(a)**, free and clear of all Liens, except for Permitted Liens, and (ii) a Seller either (A) exclusively owns the entire right, title and interest in and to the Software listed on **Schedule 4.13(b)**, free and clear of all Liens, except for Permitted Liens; or (B) has a valid contractual right or license to use the same in the conduct of the Technology Business except, in each case, as would not reasonably be expected to adversely affect the Technology Business (taken as a whole) in any material respect.

(d) Except as set forth on **Schedule 4.13(d)**, to the Sellers' Knowledge: (i) all registrations for Business Intellectual Property identified on **Schedule 4.13(a)** are valid and in force, and all applications to register Business Intellectual Property so identified are pending and in good standing, all without challenge of any kind; (ii) the Business Intellectual Property (other than with respect to pending applications) is valid and in force; and (iii) no other Person is infringing, misappropriating or otherwise violating on any of the Business Intellectual Property.

(e) Except as set forth on **Schedule 4.13(e)**, since the Lookback Date: (i) no infringement, misappropriation or other violation by the Technology Business of any Intellectual Property of any other Person has occurred from the conduct of the Technology Business; and (ii) no written notice of a claim of any infringement, misappropriation or other violation of any Intellectual Property of any other Person has been received by any Seller or any of their Subsidiaries in respect of the conduct of the Technology Business.

(f) Except as set forth on **Schedule 4.13(f)**, no Actions are pending or, to the Sellers' Knowledge, threatened against any Seller or any of their Subsidiaries, which challenges the validity, enforceability or ownership of any Business Intellectual Property, except, in each case, as would not reasonably be expected to adversely affect the Technology Business (taken as a whole) in any material respect.

(g) The use and distribution of all Open Source Software by the Technology Business complies in all material respects with all open source licenses applicable thereto (not including attribution notice requirements). The Technology Business has not incorporated or used Open Source Software in connection with Software included in the Business Intellectual Property that is owned by any Seller or any of its Subsidiaries in a manner that: (i) prohibits or restricts the Technology Business' ability to charge a royalty or receive consideration in connection with the licensing or distribution of such Software (other than for the Open Source Software itself); (ii) requires the distribution or making available of source code for such Software to third parties (other than source code for the Open Source Software); (iii) except as specifically permitted by Law, grants any right to any Person or otherwise allows any such Person to decompile, disassemble or otherwise reverse-engineer any such Software (other than the Open Source Software); or (iv) requires the licensing of any such Software (other than the Open Source Software) for the purpose of making derivative works.

(h) The Business Intellectual Property constitutes all Intellectual Property necessary to conduct the Technology Business immediately following the Closing in all material respects as it is presently conducted. There exist no restrictions on the disclosure, use, license or transfer of the Business Intellectual Property. The consummation of the transactions contemplated by this Agreement will not alter, encumber, impair or extinguish any Business Intellectual Property.

(i) All current and former managers, members, officers, employees, consultants, contractors and agents of each Seller and each of its Subsidiaries and any other Person who participated in the creation of, or contributed to, the conception or development of any Business Intellectual Property that is owned or purported to be owned by a Seller or any of its Subsidiaries have entered into Contracts with a Seller or one of its Subsidiaries whereby such Person is obligated to assign to Seller or one of its Subsidiaries all of such Person's right, title and interest in and to such Business Intellectual Property or a Seller or one of its Subsidiaries is the owner of such Business Intellectual Property as a matter of Law.

(j) Each Seller and each of their Subsidiaries takes reasonable measures to protect and maintain the Know-How included in the Business Intellectual Property, including the value of the trade secrets (including proprietary source code) included in the Business Intellectual Property that are owned by a Seller or any of its Subsidiaries, and to the Sellers' Knowledge there has been no material unauthorized disclosure or use thereof. None of Sellers or any of their Subsidiaries is subject to any outstanding Order restricting the use of any of the Business Intellectual Property by any Seller or any of its Subsidiaries.

(k) All Information Systems that are Used in the Technology Business are reasonably sufficient for the conduct of the Technology Business as currently conducted. Sellers and each of their Subsidiaries, in respect of the Technology Business, use commercially reasonable means to protect the security and integrity of all such Information Systems. Sellers and their Subsidiaries use commercially reasonable efforts to protect such Information Systems and Software included in the Business Intellectual Property from becoming infected by viruses and other malicious code. Sellers maintain, with respect to the Technology Business, commercially reasonable disaster recovery and business continuity plans, procedures and facilities in connection with their respective businesses as presently conducted and have at all times acted and currently act in compliance in all material respects therewith. Sellers have taken commercially reasonable steps to provide for the back-up of the Information Systems and to ensure the recovery of data and information stored or contained therein.

4.14 Insurance. **Schedule 4.14** sets forth all policies of insurance and all fidelity or surety bonds, in each case, Used in the Technology Business (the "***Insurance Policies***"). All Insurance Policies are in full force and effect in all material respects. Except as set forth on **Schedule 4.14** and excluding insurance policies that have expired and been replaced in the Ordinary Course of Business, no Insurance Policy has been cancelled by the insurer since the Lookback Date. There is not, and since the Lookback Date there has not been, any pending claim that has been denied or rejected by any insurer. Each Insurance Policy is valid and binding and in full force and effect. All premiums with respect to each Insurance Policy covering all current periods have been paid to the extent due. There is no breach or default, and no event has occurred that, with notice or the lapse of time, would constitute a breach or default or permit termination, modification or acceleration under any Insurance Policy. No party to any Insurance Policy has repudiated any provision thereof or providing any notice of cancellation, termination or non-renewal thereof.

4.15 Personnel.

(a) With respect to the Technology Business, no Seller is, or since the Lookback Date has been, a party to or subject to any collective bargaining agreements, and, (i) no labor union, works council or other collective bargaining unit represents or, to Sellers' Knowledge, claims to represent any of the Business Employees, (ii) no union organizing activities are underway or, to the Sellers' Knowledge, threatened with respect to the Technology Business, and (iii) no strike, walkout, lockout, work slowdown, work stoppage or other material labor dispute is underway or, to the Sellers' Knowledge, threatened.

(b) Solely with respect to the Business Employees, since the Lookback Date, Sellers have not implemented any plant closing, mass layoff, other termination or layoff of employees that could implicate or create any Liabilities for any Seller under the Worker Adjustment and Retraining Notification Act of 1988, as amended, or any similar Law (collectively, the "***WARN Act***"), and no such plant closing or layoff is currently planned or anticipated.

(c) **Schedule 4.15(c)** sets forth a true and complete list of (i) all Business Employees or independent contractors employed or otherwise engaged by any Seller primarily or exclusively for and in connection with the Technology Business and the country and state in which the individual normally works, (ii) the position, date of hire, current annual rate of compensation (or with respect to such employees, consultants or independent contractors compensated on an hourly or per diem basis, the hourly or per diem rate of compensation), including any bonus, commission, and estimated or target annual incentive compensation of each such person, (iii) the exempt or non-exempt classification of such person under the Fair Labor Standards Act, (iv) the visa status of all Business Employees including the type and expiration date, (v) whether any Business Employees are currently on a leave of absence and the expected return to work date, if known, and (vi) the accrued but unused vacation and paid time off as of February 29, 2024 with respect to each Business Employee.

(d) All Business Employees are legally authorized to work in the jurisdiction in which they perform services for any Seller. With respect to Business Employees in the United States, the Sellers have at all times properly completed and retained I-9 forms for all such Business Employees. No Governmental Authority responsible for the enforcement of labor and employment Laws has provided notice to any Seller to the effect that it is conducting or intends to conduct an investigation with respect to or relating to any Seller and, to the Sellers' Knowledge, no such investigation is otherwise pending or threatened.

(e) Except as would not reasonably be expected to result in any Liability to Buyer, each Seller is, and since the Lookback Date has been, in compliance with all Laws pertaining to employment and employment practices to the extent they relate to the Business Employees, including all applicable Laws respecting labor, employment, fair employment practices (including equal employment opportunity Laws), terms and conditions of employment, workers' compensation, occupational safety and health, affirmative action, employee privacy, proper classification of employees as exempt or non-exempt, withholdings and wages and hours. Except as would not reasonably be expected to result in any Liability to Buyer, all Business Employees characterized and treated by the Sellers as consultants or independent contractors are and have, since the Lookback Date, been properly treated as independent contractors under all applicable Laws. There are no material Actions with respect to the Business Employees pending, or to the Sellers' Knowledge, threatened in connection with the Business Employees, including any claim relating to unfair labor practices, employment discrimination, harassment, retaliation, equal pay or any other labor or employment related matter arising under applicable Laws.

(f) Each Seller has paid all wages, salaries, bonuses, commissions, fees, and other compensation due and payable to the Business Employees in the Ordinary Course of Business and all contractors or independent contractors performing services for any of the Sellers pursuant to applicable Law, Contracts or policy.

(g) To the Sellers' Knowledge, no Business Employee is in violation of any term of any employment Contract, non-competition Contract or any restrictive covenant to a former employer relating to such employee's employment with such Seller because of the nature of the business conducted or presently proposed to be conducted by Sellers or to the use of trade secrets or proprietary information of others.

4.16 Environmental Matters. Except as set forth on **Schedule 4.16**: (a) with respect to the Technology Business each Seller is, and since the Lookback Date has been, in compliance in all material respects with all applicable Environmental Laws, (b) since the Lookback Date, with respect to the Technology Business, each Seller has timely obtained and maintained in full force and effect all Permits required under applicable Environmental Laws, and is in compliance in all material respects with the respective requirements of such Permits, (c) no Hazardous Material has been physically stored, treated, disposed of, released, or transported in violation of or in a manner that may result in liability under any applicable Environmental Law to, from, on or under any property by Sellers with respect to the Technology Business or as a result of any activity of Sellers with respect to the Technology Business, (d) there have been no environmental investigations, studies, audits, tests, reviews, or other analyses regarding compliance or noncompliance with any Environmental Law or Permit required under applicable Environmental Laws relating to the activities of the Technology Business performed on behalf of, or at the request of, either Seller, and (e) with respect to the Technology Business, no Seller has assumed or provided an indemnity with respect to liability of any other Person under any Environmental Law.

4.17 Conduct of Business in Ordinary Course. Except for the transactions contemplated hereby, and except as set forth on **Schedule 4.17(a)**, since December 31, 2023, (i) Sellers and their Subsidiaries have conducted the Technology Business in the Ordinary Course of Business and (ii) there has not been a Material Adverse Effect.

4.18 Vendors and Customers. Set forth on **Schedule 4.18** is a complete and correct list of the twenty-five (25) largest vendors (each a "***Significant Vendor***") and twenty-five (25) largest customers (each a "***Significant Customer***") of the Technology Business in terms of the dollar volume of payments or receipts, as applicable, during the calendar year ending on December 31, 2023. Since January 1, 2024, no Significant Vendor or Significant Customer has provided written notice of its intent, or taken any action, to cancel, or materially alter or decrease the volume of payments or sales, or, to the Sellers' Knowledge, threatened to do any of the foregoing, with respect to any arrangement with the Technology Business.

4.19 Related Persons Transactions. **Schedule 4.19** sets forth a list of any Contracts (other than an employment or similar Contracts) by and between any Seller with respect to the Technology Business or the Transferred Entities, on the one hand, and Sellers, any Affiliate of Sellers or any officer, director, manager, employee, trustee or beneficiary (or member of the immediate family thereof) of Sellers or any Affiliate of Sellers, on the other hand (the "***Related Party Agreements***").

4.20 Data Security & Privacy. With respect to the Technology Business, each Seller is in compliance in all material respects with all applicable Privacy and Security Requirements. With respect to the Technology Business, no Seller has experienced any Security Breaches, and no Seller has received any written notices from any Person regarding such Seller's non-compliance with Privacy and Security Requirements. With respect to the Technology Business, each Seller has a valid and legal right to access or use all Personal Information and Confidential Data that is Processed by or on behalf of the Technology Business in connection with the use and/or operation of its products, services and business, and the execution, delivery, or performance of this Agreement will not affect the foregoing rights. With respect to the Technology Business, each Seller has implemented commercially reasonable safeguards to protect Personal Information and Confidential Data under its control.

4.21 Included Annual Contract Accounts. All Included Annual Contract Accounts are valid and genuine and arose from *bona fide* transactions in the Ordinary Course of Business. No Person has any Liens, except for Permitted Liens, on any Included Annual Contract Accounts or any part thereof. To the Sellers' Knowledge, as of the date hereof, there is no pending Action with respect to the validity of any amount of any such Included Annual Contract Accounts.

4.22 Anti-Corruption Matters.

(a) There are no unresolved investigations or claims concerning any Liability of any Seller with respect to any Laws prohibiting bribery or corruption of public officials, in each case, related to the Technology Business. Sellers, with respect to the Technology Business, are in compliance, and have, since the Lookback Date, complied, with the applicable provisions of Laws relating to anti-money laundering and similar matters. Each Seller has policies and procedures in place that are designed to (i) prevent, detect and deter bribery and corruption in the conduct of the Technology Business and (ii) achieve compliance by the Technology Business with all applicable Laws prohibiting bribery and corruption of public officials. No officer, director or employee of any Seller with respect to the Technology Business is a Governmental Official.

(b) Since the Lookback Date, neither any Seller with respect to the Technology Business nor, to the Sellers' Knowledge, any of their respective Representatives, has offered or given, money or thing of value to any Person while knowing or having reason to know that all or a portion of such money or thing of value may be offered, given or promised, directly or indirectly, for the purpose of the following: (i) influencing any action or decision of such Person, in such Person's official capacity, including a decision to fail to perform such Person's official function; (ii) inducing such Person to use such Person's influence with any Governmental Authority to affect or influence any act or decision of such Governmental Authority to assist the Technology Business in obtaining or retaining business for, with, or directing business to, any Person; or (iii) where such payment would constitute a bribe, kickback or illegal or improper payment to assist the Technology Business in obtaining or retaining business for, with, or directing business to, any Person.

(c) Since the Lookback Date, there have been no intentionally false or fictitious entries made in the books and records of Sellers with respect to the Technology Business relating to any illegal payment or secret or unrecorded fund.

4.23 Solvency; No Fraudulent Conveyance. Immediately prior to the Closing and immediately after giving effect to the transactions contemplated by this Agreement and the Ancillary Agreements, Parent and its Subsidiaries and each Seller will be solvent for all purposes including under federal bankruptcy and applicable state fraudulent transfer and fraudulent conveyance Laws, and the transactions contemplated hereby do not constitute fraudulent transfers or fraudulent conveyances under such Laws. For purposes hereof, the term "solvent" means that: (a) the fair, salable value of Parent and its Subsidiaries' and each Seller's tangible assets is in excess of the total amount of its liabilities (including, for purposes of this definition, all known liabilities, whether or not reflected on a balance sheet prepared in accordance with generally accepted accounting principles, and whether direct or indirect, fixed or contingent, secured or unsecured, and disputed or undisputed); (b) each of Parent and its Subsidiaries and each Seller is able to pay its known debts or obligations in the ordinary course as they mature and does not intend to incur debts or obligations beyond its ability to pay in the ordinary course as they become due; and (c) each of Parent and its Subsidiaries and each Seller has capital sufficient to carry on the operation of its business, and does not have unreasonably small capital for the continued operation of its business prior to and after giving effect to the transactions contemplated by this Agreement and the Ancillary Agreements. No transfer of property or assets is being made and no obligation is being incurred in connection with the transactions contemplated by this Agreement and the Ancillary Agreements with the intent to hinder, delay or defraud either present or future creditors of Parent or any Seller or any of their Affiliates. As of the Closing Date, there are no known threatened or pending bankruptcy or insolvency proceedings of Parent or any Seller or any of their Affiliates.

ARTICLE V
REPRESENTATIONS AND WARRANTIES OF SELLERS WITH RESPECT TO THE RUBICON INTERNATIONAL EQUITY INTERESTS AND RUBICON GERMANY EQUITY INTERESTS

Except as set forth in the Schedules referenced in the Seller Disclosure Schedules, which shall qualify the corresponding representations and warranties of Sellers set forth in this **Article V** (subject in each case to **Section 11.16**), Sellers, jointly and severally, represent and warrant to and for the benefit of Buyer that the following statements are true as of the Closing Date:

5.1 Organization and Standing. Rubicon International is a corporation and is duly formed, validly existing and in good standing under the Laws of the State of Delaware. Rubicon Germany is a German entrepreneurial company with limited liability (*Unternehmergesellschaft* (*haftungsbeschränkt*)) and is duly formed, validly existing and in good standing under the Laws of Germany. Each of Rubicon International and Rubicon Germany is duly qualified to do business, and in good standing, in each jurisdiction in which the character of the properties owned or leased by it or in which the conduct of its business requires it to be so qualified, except where the failure to be so qualified or to be in good standing would not have a Material Adverse Effect.

5.2 Capitalization.

(a) The Rubicon International Equity Interests constitute all of the issued and outstanding equity capitalization of Rubicon International. All of the Rubicon International Equity Interests have been duly authorized, are validly issued, fully paid and non-assessable, and are owned of record and beneficially by Rubicon Tech Holdings, free and clear of all Liens. Upon consummation of the transactions contemplated by this Agreement, Buyer shall own all of the Rubicon International Equity Interests, free and clear of all Liens.

(b) The Rubicon Germany Equity Interests constitute all of the issued and outstanding equity capitalization of Rubicon Germany. All of the Rubicon Germany Equity Interests have been duly authorized, are validly issued, fully paid and non-assessable, and are owned of record and beneficially by Rubicon International, free and clear of all Liens.

(c) All of the Rubicon International Equity Interests were issued in compliance with applicable Laws. None of the Rubicon International Equity Interests were issued in violation of any agreement, arrangement or commitment to which any Seller is a party or is subject to or in violation of any preemptive or similar rights of any Person.

(d) All of the Rubicon Germany Equity Interests were issued in compliance with applicable Laws. None of the Rubicon Germany Equity Interests were issued in violation of any agreement, arrangement or commitment to which any Seller is a party or is subject to or in violation of any preemptive or similar rights of any Person.

(e) There are no outstanding or authorized options, warrants, convertible securities or other rights, agreements, arrangements or commitments of any character relating to the capital stock of Rubicon International or obligating any Seller or Rubicon International to issue or sell any shares of capital stock of, or any other interest in, Rubicon International. Rubicon International does not have outstanding or authorized any stock appreciation, phantom stock, profit participation or similar rights. There are no voting trusts, stockholder agreements, proxies or other agreements or understandings in effect with respect to the voting or transfer of any of the Rubicon International Equity Interests.

(f) There are no outstanding or authorized options, warrants, convertible securities or other rights, agreements, arrangements or commitments of any character relating to the capital stock of Rubicon Germany or obligating any Seller, Rubicon International or Rubicon Germany to issue or sell any shares of capital stock of, or any other interest in, Rubicon Germany. Rubicon Germany does not have outstanding or authorized any stock appreciation, phantom stock, profit participation or similar rights. There are no voting trusts, stockholder agreements, proxies or other agreements or understandings in effect with respect to the voting or transfer of any of the Rubicon Germany Equity Interests.

(g) Other than Rubicon Germany, Rubicon International does not own, or have any interest in any shares or have an ownership interest in any other Person. Rubicon Germany does not or have any interest in any shares or have an ownership interest in any other Person.

5.3 Business. Rubicon International and Rubicon Germany do not have any, and have not had any, assets or liabilities other than assets and liabilities that are exclusively related to the Technology Business.

ARTICLE VI
REPRESENTATIONS AND WARRANTIES OF BUYER

Except as set forth in the Schedules referenced in this **Article VI** (collectively, the "***Buyer Disclosure Schedules***"), which shall qualify the corresponding representations and warranties of Buyer set forth in this **Article VI**, Buyer represents and warrants to and for the benefit of Sellers that the following statements are true as of the Closing Date:

6.1 Organization and Standing. Buyer is a corporation 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 conduct its business as presently conducted.

6.2 Authorization, Validity and Effect. Buyer has all requisite power and authority to (a) carry on its business and to own, lease and operate is properties and assets and (b) to enter into and perform its obligations under this Agreement and the other agreements contemplated hereby to which Buyer is a party (the "***Buyer Documents***") and to consummate the transactions contemplated hereby and thereby. The execution and delivery of this Agreement and the Buyer Documents, and the consummation of the transactions contemplated hereby and thereby, have been duly and validly authorized by all necessary action on the part of Buyer. This Agreement and the Buyer Documents have been duly and validly executed and delivered by Buyer and constitute the legal, valid and binding obligations of Buyer, enforceable against Buyer in accordance with their respective terms, except as limited by the General Enforceability Exceptions.

6.3 No Conflict; Required Filings and Consents.

(a) Neither the execution and delivery of this Agreement or the Buyer Documents by Buyer, nor the consummation by Buyer of the transactions contemplated hereby or thereby, nor compliance by Buyer with any of the provisions hereof or thereof, will (i) conflict with or result in a breach of any provisions of any Organizational Document of Buyer, (ii) constitute or result in the breach of any term, condition or provision of, or constitute a default under, or give rise to any right of termination, cancellation or acceleration with respect to, or result in the creation or imposition of any Lien upon, any property or assets of Buyer or, pursuant to any note, bond, mortgage, indenture, license, agreement, lease or other instrument or obligation to which it is a party or by which it or any of its properties or assets may be subject, and that would, in any such event, reasonably be expected to materially and adversely affect the ability of Buyer to consummate the transactions, and perform its obligations, contemplated by this Agreement or (iii) subject to receipt of the requisite approvals referred to on **Schedule 6.3(b)**, violate any Order or Law applicable to Buyer or any of its properties or assets.

(b) Other than as set forth on **Schedule 6.3(b)**, no Consent is required to be obtained by Buyer for the consummation by Buyer of the transactions contemplated by this Agreement.

6.4 Legal Proceedings. There are no Actions pending or, to Buyer's knowledge, threatened against Buyer, and there are no material Orders to which Buyer or any of its Affiliates is a party or by which Buyer or any of its Affiliates is bound, that would adversely affect Buyer's performance under this Agreement or the consummation of the transactions contemplated hereby.

6.5 Financial Capability. Together with the Guarantor, Buyer has sufficient immediately available funds to satisfy its obligation to pay (i) all amounts described in **Article II**, and (ii) all fees and expenses incurred by Buyer in connection with the transactions contemplated hereby. Buyer acknowledges and agrees that its obligations under this Agreement, including its obligations to consummate the Closing, are not contingent upon its receipt of financing of any kind.

6.6 No Brokers. Except as set forth on **Schedule 6.6**, no broker, finder or similar agent has been engaged by or on behalf of Buyer, and no Person is entitled to any brokerage commission, finder's fee or any similar compensation, in connection with this Agreement or the transactions contemplated hereby.

6.7 Independent Investigation; Acknowledgments; Non-Reliance. In connection with its investment decision, Buyer and/or its Representatives have inspected and conducted such reasonable independent review, investigation and analysis (financial and otherwise) of the Technology Business as desired by Buyer. The purchase of the Purchased Assets by Buyer and the consummation of the transactions contemplated hereby by Buyer are not done in reliance upon any representation or warranty or omission by, or information from, Sellers or any of their respective Affiliates, employees or Representatives, whether oral or written, express or implied, including any implied warranty of merchantability or of fitness for a particular purpose, except for the representations and warranties specifically and expressly set forth in **Article IV** and **Article V** (as modified by the Schedules) and the representations and warranties as may be provided in other agreements entered into in connection with the transactions contemplated by this Agreement, and Buyer acknowledges that Sellers expressly disclaim any other representations and warranties. Buyer further acknowledges that none of Sellers or any other Person has made any representation or warranty, express or implied, as to the accuracy or completeness of any information regarding the Technology Business or the transactions contemplated by this Agreement not specifically and expressly set forth in **Article IV** and **Article V** (as modified by the Schedules) or in the representations and warranties as may be provided in other agreements entered into in connection with the transactions contemplated by this Agreement, and none of Sellers or any other Person will have or be subject to any liability to Buyer or any other Person resulting from the distribution to Buyer or its Representatives or Buyer's use of any such information, including any data room (including any electronic or "virtual" data room) information provided or made available to Buyer or its Representatives, or any other document or information in any form provided or made available to Buyer or its Representatives, in connection with the purchase and sale of the Purchased Assets and the transactions contemplated hereby.

6.8 Solvency; No Fraudulent Conveyance. Immediately prior to the Closing and immediately after giving effect to the transactions contemplated by this Agreement and the Ancillary Agreements, Buyer will be solvent for all purposes including under federal bankruptcy and applicable state fraudulent transfer and fraudulent conveyance Laws, and the transactions contemplated hereby do not constitute fraudulent transfers or fraudulent conveyances under such Laws. For purposes hereof, the term "solvent" means that: (a) the fair, salable value of Buyer's tangible assets is in excess of the total amount of its liabilities (including, for purposes of this definition, all liabilities, whether or not reflected on a balance sheet prepared in accordance with generally accepted accounting principles, and whether direct or indirect, fixed or contingent, secured or unsecured, and disputed or undisputed); (b) Buyer is able to pay its debts or obligations in the ordinary course as they mature and does not intend to incur debts or obligations beyond its ability to pay in the ordinary course as they become due; and (c) Buyer has capital sufficient to carry on the operation of its business, and does not have unreasonably small capital with which to engage in its business. No transfer of property or assets is being made and no obligation is being incurred in connection with the transactions contemplated by this Agreement and the Ancillary Agreements with the intent to hinder, delay or defraud either present or future creditors of the Technology Business. As of the Closing Date, there are no threatened or pending bankruptcy or insolvency proceedings of Buyer or any of their Affiliates.

ARTICLE VII
REPRESENTATIONS AND WARRANTIES OF THE GUARANTOR

The Guarantor represents and warrants to and for the benefit of Sellers that the following statements are true as of the Closing Date:

7.1 Organization and Standing. The Guarantor is a sociedad anónima de capital variable duly organized, validly existing and in good standing under the Laws of Mexico and has the requisite power and authority, to conduct its business as presently conducted.

7.2 Authorization, Validity and Effect. The Guarantor has all requisite corporate power and authority to enter into and perform its obligations under this Agreement and the other agreements contemplated hereby to which the Guarantor is a party (the "***Guarantor Documents***") and to consummate the transactions contemplated hereby and thereby. The execution and delivery of this Agreement and the Guarantor Documents, and the consummation of the transactions contemplated hereby and thereby, have been duly and validly authorized by all necessary action on the part of the Guarantor. This Agreement and the Guarantor Documents have been, or (as applicable) will be as of the Closing, duly and validly executed and delivered by the Guarantor and constitute the legal, valid and binding obligations of the Guarantor, enforceable against the Guarantor in accordance with their respective terms, except as limited by the General Enforceability Exceptions.

7.3 No Conflict; Required Filings and Consents. Neither the execution and delivery of this Agreement or the Guarantor Documents by the Guarantor, nor the consummation by the Guarantor of the transactions contemplated hereby or thereby, nor compliance by the Guarantor with any of the provisions hereof or thereof, will (a) conflict with or result in a breach of any provisions of any Organizational Document of the Guarantor, (b) constitute or result in the breach of any term, condition or provision of, or constitute a default under, or give rise to any right of termination, cancellation or acceleration with respect to, or result in the creation or imposition of any Lien upon, any property or assets of the Guarantor or, pursuant to any note, bond, mortgage, indenture, license, agreement, lease or other instrument or obligation to which it is a party or by which it or any of its properties or assets may be subject, and that would, in any such event, reasonably be expected to materially and adversely affect the ability of the Guarantor to consummate the transactions, and perform its obligations, contemplated by this Agreement, or (c) violate any Order or Law applicable to the Guarantor or any of its properties or assets.

7.4 Legal Proceedings. There are no Actions pending or, to the Guarantor's knowledge, threatened against the Guarantor, and there are no material Orders to which the Guarantor or any of its Affiliates is a party or by which the Guarantor or any of its Affiliates is bound, that would adversely affect the Guarantor's performance under this Agreement or the consummation of the transactions contemplated hereby.

7.5 Financial Capability. The Guarantor has, and will have at the Closing, sufficient immediately available funds to satisfy the Obligations.

ARTICLE VIII
COVENANTS AND AGREEMENTS

8.1 Commercially Reasonable Efforts; Cooperation. Upon the terms and subject to the conditions set forth in this Agreement, each of the Parties agrees to use good faith commercially reasonable efforts to take, or cause to be taken, all actions, and to do, or cause to be done, and to assist and cooperate with the other Parties in doing, all things necessary, proper or advisable to consummate and make effective, in the most expeditious manner practicable, the transactions contemplated by this Agreement. For the purposes of this **Section 8.1** and **Section 8.2**, the "commercially reasonable efforts" of Sellers and Buyer shall not require Sellers, Buyer, or any of their Affiliates, to pay any amounts to third parties to obtain any Consent or to remedy any breach of any representation or warranty hereunder, to commence any litigation or arbitration proceeding, to offer or grant or otherwise provide any accommodation (financial or otherwise) to any Person or, with respect to Sellers, to provide financing to Buyer for the completion of the transactions contemplated hereunder.

8.2 Assignment, Novation and Subcontracting of Technology Business Contracts and New Technology Business Contracts.

(a) Notwithstanding anything to the contrary in this Agreement, this Agreement does not constitute an agreement to transfer (by novation, assignment, or delegation) any Technology Business Contract, or any claim, right, benefit, or obligation thereunder, if an attempted transfer thereof is not permitted or is not permitted without the Consent of a Governmental Authority or third party, as applicable (each an "***Unassignable Contract***"). This Agreement shall not be deemed to constitute an assignment of any such Unassignable Contract if such Consent is not given or if such assignment otherwise would constitute a breach of, or cause a loss of contractual benefits under, any such Unassignable Contract, and, except as contemplated by this **Section 8.2(a) and (b)**, Buyer shall assume no obligations or liabilities under any such Unassignable Contract. Sellers shall have advised Buyer in writing at least two Business Days prior to the Closing Date with respect to any Technology Business Contract not otherwise disclosed on **Schedule 4.4(a)** to the Seller Disclosure Schedules that, to the Sellers' Knowledge, will or may not be subject to assignment to Buyer hereunder at the Closing.

(b) Notwithstanding anything to the contrary contained in this Agreement, the following provisions will apply with respect to each Unassignable Contract:

(i) The Parties agree to use commercially reasonable efforts to cause each Unassignable Contract to be assigned or novated to Buyer in accordance with the terms thereof promptly following the Closing.

(ii) Each such Unassignable Contract for which the Parties receive Consent to novate or assign to Buyer shall thereafter be deemed to be an Assigned Contract hereunder. If, with respect to any such Unassignable Contract, such assignment or novation is not obtained, or if an attempted novation, assignment, or delegation thereof would be ineffective or would adversely affect the claims, benefits, rights, or obligations of Buyer or Sellers thereunder, to the extent permitted by applicable Law and the terms of such Unassignable Contract, (1) this Agreement will constitute a full and equitable assignment and delegation to Buyer of all of Sellers' benefits, Liabilities, obligations thereunder and right, title and interest thereto, and Buyer will be deemed Sellers' agent for the purpose of completing, fulfilling, and discharging all of Sellers' Liabilities and obligations thereunder; (2) Sellers shall take all necessary steps and actions to provide Buyer with the benefits of each Unassignable Contract and to relieve Sellers of the performance of all Liabilities and obligations thereunder; (3) if requested by Buyer, Sellers shall act as an agent on behalf of Buyer or as Buyer shall otherwise reasonably require; and (4) if requested by Buyer in Buyer's sole discretion, upon written notice to Sellers, Sellers and Buyer shall enter into a Subcontract Agreement, in the form attached hereto as **Exhibit G** (the "***Subcontract Agreement***"), for any such Unassignable Contract and any such Unassignable Contract shall be deemed to be a Contract for the purposes of the Subcontract Agreement.

(c) Notwithstanding anything to the contrary contained in this Agreement, if requested by Buyer, upon written notice to Sellers, the Sellers agree to use good faith commercially reasonable efforts to take, or cause to be taken, all actions, and to do, or cause to be done, and to assist and cooperate with Buyer to assign, novate or subcontract all Contracts related to the Technology Business that have not been executed by Sellers or any of their Subsidiaries as of the Closing Date (the "***New Technology Business Contracts***") to Buyer in the most expeditious manner practicable following the Closing Date. If, with respect to any New Technology Business Contract, to the extent permitted by applicable Law and the terms of such New Technology Business Contract, if requested by Buyer, upon written notice to Sellers, Sellers and Buyer shall enter into a Subcontract Agreement for such New Technology Business Contract and such New Technology Business Contract shall be deemed to be a Contract for the purposes of the Subcontract Agreement.

8.3 Restrictive Covenants.

(a) From the Closing until the two-year anniversary of the Closing Date (the "***Restricted Period***"), Sellers will not, and Sellers shall cause their respective Affiliates not to, solicit, recruit, encourage or induce or attempt to solicit, recruit, encourage or induce any of the Persons set forth on **Schedule 8.3(a)** (collectively, the "***Senior Individuals***") to leave the service of Buyer. During the Restricted Period, Sellers will not, and Sellers shall cause their respective Affiliates not to, hire, employ, engage or attempt to hire, employ or engage any of the Senior Individuals (whether as an employee, consultant, agent, independent contractor, Representative or otherwise).

(b) During the Restricted Period, Sellers will not, and Sellers shall cause their respective Affiliates not to, undertake, participate in or carry on or be engaged in, or in any other manner advise or knowingly assist any other Person in connection with the operation of, any Competing Business anywhere in Europe or North America. "***Competing Business***" means any business that provides fleet management, routing, telematics, service information, vehicle or other asset tracking, safety analytics, digital operations, third-party logistics, digital platforms or hardware or software-as-a-service offerings, including the software-as-a-service and other offerings set forth on **Schedule 8.3(b)**, for or related to waste or recycling collection, snow removal and street sweeping fleets or any other government fleet related transportation; *provided*, *however*, in no event shall "Competing Business" include any other activities or other business that Sellers or any of their respective Affiliates participates in or engages in as of the date hereof.

(c) Except as contemplated by this Agreement or any Seller Document, Sellers will not use any Business Confidential Information or Trade Secrets or disclose any Business Confidential Information or Trade Secrets to any Person, without the prior written consent of Buyer. With respect to the Business Confidential Information, the obligations of Sellers will continue until the end of the Restricted Period. With respect to Trade Secrets, the obligations of Sellers will continue for as long as the applicable information continues to constitute a Trade Secret as defined in this Agreement. Nothing in this Agreement will diminish the rights of Buyer or its Affiliates regarding the protection of Trade Secrets and other Intellectual Property pursuant to Law.

(d) Notwithstanding anything in this **Section 8.3**, Sellers and their respective Affiliates shall not be prohibited from or restricted in any way with respect to: (i) advertising job openings by use of third party recruiters, newspapers, magazines, the Internet, social media or any other media, so long as such efforts are not specifically directed at any Senior Individual, or result in the hiring of any such Senior Individual; (ii) hiring or soliciting any Senior Individual who has been terminated by, or has terminated employment with, Buyer or any Affiliate thereof for more than six (6) months, so long as there was no solicitation by such Seller or its Affiliates prior thereto; (iii) continuing to engage in any business that any Seller or any of their respective Affiliates engages in as of the date of this Agreement (other than the Technology Business); (iv) integrating any products, services or solutions of any Competing Business with or into any products, services or solutions of Sellers or their respective Affiliates and any remote hosting thereof, so long as the primary purpose of such integration is not to engage in the Competing Business; (v) holding, as a passive investment, not more than ten percent (10%) of the outstanding voting securities of any company (whether public or private) that is primarily engaged in a Competing Business; (vi) acquiring, and following such acquisition, actively engaging in any business that has a subsidiary, division, group, franchise or segment that is engaged in any Competing Business, so long as for the most recent fiscal year ending prior to the date of such acquisition, the revenues derived from the Competing Business were less than ten percent (10%) of the total consolidated revenues of the acquired business; or (vii) fulfilling their respective obligations under this Agreement or any other Seller Document.

(e) Sellers acknowledge that their obligations under this **Section 8.3** are reasonable in the context of the nature of the Technology Business and the competitive injuries likely to be sustained by Buyer if any Seller or any of its Affiliates were to violate such obligations. If the final judgment of a court of competent jurisdiction declares that any term or provision of this **Section 8.3** is invalid or unenforceable, the Parties agree that it is their intention that the court making the determination of invalidity or unenforceability will reduce the scope, duration or area of the term or provision, delete specific words or phrases or replace any invalid or unenforceable term or provision with a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision.

8.4 Intellectual Property Matters.

(a) Retained Names and Marks.

(i) Buyer agrees and acknowledges that, except as set forth in this **Section 8.4** or the TSA, nothing herein grants Buyer or its Affiliates any rights in any registered or unregistered Trademarks incorporating the word "Rubicon" or any of the Marks owned by Sellers and their respective Subsidiaries (except as included in the Purchased Assets) or any confusingly similar Marks (collectively, the "***Seller Marks***") or in any Internet Properties that include all or any portion of the Seller Marks. Except as set forth in **Section 8.4(b)** or the TSA, Buyer shall not, and shall cause its Affiliates not to, use the Seller Marks in connection with the Technology Business following the Closing. Within ninety (90) Business Days of the Closing Date, Buyer shall cause each Transferred Entity, to the extent it has a name that includes any Seller Mark, to make any legal filings necessary to change its name to a name that does not include any Seller Mark, and shall use commercially reasonable efforts to effectuate such change.

(ii) Until the date that is three (3) months following the Closing Date (the "***Marks Transition Period***"), Sellers and their respective Subsidiaries hereby grant to Buyer and its Affiliates (including, following the Closing, the Transferred Entities) a worldwide, non-exclusive, sublicensable (solely to existing sublicensees, and vendors, distributors, and other service providers in connection with the operation of the Technology Business, and not for independent use of such sublicensee) royalty-free license to use the Seller Marks in connection with the operation of the Technology Business, including on websites and materials such as signs, purchase orders, invoices, sales orders, labels, letterheads, shipping documents, business cards and product packaging and as used on any Technology Business products or related materials existing as of Closing and included in the Purchased Assets. Promptly following the Closing, Buyer shall use all reasonable efforts to effect the elimination of any use of the Seller Marks in the Technology Business, including by removing the Seller Marks from the Technology Business' respective signage, stationary, purchase orders, invoices, labels, packaging, business cards, equipment, machinery and advertising materials, and shall effect such elimination of use no later than the expiration of the Marks Transition Period (except as expressly permitted by the TSA). Notwithstanding the foregoing, nothing in this **Section 8.4(a)** is intended to prohibit any use (or require any destruction, removal, striking or covering over, or other elimination) by Buyer or its Affiliates (including, following the Closing, the Transferred Entities) of any Seller Marks (1) on existing internal materials or otherwise as reasonably necessary for internal business purposes that are not public facing, such as archived webpages, records or systems, (2) to the extent required or permitted by applicable Law or any Technology Business Contract, or (3) to factually refer to the historical relationship between Seller and its Subsidiaries and the Technology Business, including in historical, tax, regulatory and similar records.

(b) License to Retained IP.

(i) Sellers and their respective Subsidiaries hereby grant to Buyer and its Affiliates (including, following the Closing, the Transferred Entities) a non-exclusive, worldwide, perpetual, irrevocable, fully paid-up, royalty-free, non-transferable (except as set forth in this **Section 8.4(b)**) and non-sublicensable (except as set forth in this **Section 8.4(b)**) license under the Seller Licensed IP, solely for use in connection with the operation of the Technology Business and natural evolutions thereof, including to use, reproduce, display, and create derivative works of, modify, distribute, make, have made, sell, offer for sale, import or otherwise commercially exploit products and services of the Technology Business.

(ii) Buyer and its Affiliates (including, following the Closing, the Transferred Entities) hereby grant to Sellers and their respective Subsidiaries a non-exclusive, worldwide, perpetual (except as set forth in **Section 8.4(b)(v)**, irrevocable, fully paid-up, royalty-free, non-transferable (except as set forth in this **Section 8.4(b)**) and non-sublicensable license under the Buyer Licensed IP, solely for use in connection with the operation of the Retained Business and natural evolutions thereof, including to use, reproduce, display, and create derivative works of, modify, distribute, make, have made, sell, offer for sale, import or otherwise commercially exploit products and services of the Retained Business.

(iii) The licenses set forth in this **Section 8.4(b)** may not be sublicensed by the Licensee without the prior written consent of the Licensor, except that Buyer and its Affiliates (including, following the Closing, the Transferred Entities) may sublicense the license granted under **Section 8.4(b)(i)** to (A) existing licensees of the Seller Licensed IP on the terms and conditions in effect with respect to such Seller Licensed IP under Contracts to which any Seller or any of its Subsidiaries or any Transferred Entity was a party as of immediately prior to the Closing Date to the extent allocated to the Technology Business hereunder, and (B) Buyer's or any of its Affiliates' (including, following Closing, the Transferred Entities) respective vendors, service providers, distributors, customers and end-users, as applicable, in each case with respect to the operation of the Technology Business and natural evolutions thereof, but, not with respect to other products or services, or otherwise to the independent benefit, of such third parties. Any sublicenses granted pursuant to this **Section 8.4(b)(iii)** shall be subject to the terms and conditions of the applicable license set forth in this **Section 8.4(b)**.

(iv) The Parties intend and agree that, for purposes of Section 365(n) of the U.S. Bankruptcy Code (and any amendment thereto) and any equivalent Law in any foreign jurisdiction, each of the above licenses will be treated as a license to intellectual property (as defined in Section 101(35A) of the U.S. Bankruptcy Code).

(v) Licensee may transfer the license granted under this **Section 8.4(b)**, in whole or in relevant part, to (i) an Affiliate as part of an internal reorganization or (ii) the acquirer of one or more businesses or business lines (each a "***Divested Business***") within the scope of such license (or the entities owning the same); provided, that following any transfer in accordance with clause (ii), such licenses shall not extend to any business of such acquirer (other than the Divested Business and natural evolutions thereof); provided, further, however, that in the event that any Licensee or their respective Subsidiaries divests a business or business line as described in clause (ii) or undergoes any Change of Control, the license granted with respect to any Patents included in the Licensed IP to such Divested Business shall immediately terminate or, in the event of a Change of Control, shall terminate with respect to such Person undergoing such Change of Control.

(vi) Each Licensee acknowledges that the Intellectual Property licensed under this **Section 8.4(b)** is provided on an "as-is, where-is" basis, and, other than the representations and warranties expressly made elsewhere in this Agreement, each Licensor hereby disclaims any representations and warranties, express or implied, with respect thereto, including any warranties of merchantability, title, non-infringement, or fitness for a particular purpose. Subject to the transfer of the Business Intellectual Property and the licenses granted under this **Section 8.4**, each Party expressly reserves all right, title and interest in and to its Intellectual Property, and no license or other rights are granted hereunder, by implication, estoppel, or otherwise, other than those set forth expressly herein.

8.5 Wrong Pockets.

(a) From and after the Closing, if any Seller or any of their respective Affiliates receives or collects any funds relating to any Purchased Asset, including for the avoidance of doubt any Included Annual Contract Accounts pursuant to **Section 2.1(a)(x)**, or any Post-Closing Accounts Receivable, such Seller or such Affiliate shall remit such funds to Buyer within five (5) Business Days after its receipt thereof.

(b) From and after the Closing, if Buyer or any of its Affiliates receives or collects any funds that are not a Purchased Asset or any Pre-Closing Accounts Receivable and are otherwise due to Sellers or any of their Affiliates, Buyer or such Affiliate shall remit such funds to Rubicon Tech Holdings within five (5) Business Days after its receipt thereof.

(c) If, at any time within twelve (12) months after the Closing, any asset held by Buyer or its Affiliates is ultimately determined to be an Excluded Asset or Buyer or any of its Affiliates is found to be subject to a Excluded Liability, then, at Sellers' expense, (i) Buyer shall return or transfer and convey (without further consideration) to the appropriate Seller or the appropriate Affiliate of Sellers such Excluded Asset or Excluded Liability; (ii) the appropriate Seller or its appropriate Affiliate shall assume (without further consideration) such Excluded Liability; and (iii) Sellers and Buyer shall, and shall cause their appropriate Affiliates to, execute such documents or instruments of conveyance or assumption and take such further acts as are reasonably necessary or desirable to effect the transfer of such Excluded Asset or Excluded Liability back to the appropriate Seller or its appropriate Affiliate, in each case such that each Party is put into the same economic position as if such action had been taken on or prior to the Closing Date.

(d) If, at any time after the Closing, any asset held by a Seller or its Affiliates is ultimately determined to be a Purchased Asset or a Seller or any of its Affiliates is found to be subject to an Assumed Liability, then, at Buyer's expense, (i) such Seller shall return or transfer and convey (without further consideration) to Buyer or the appropriate Affiliate such Purchased Asset or Assumed Liability; (ii) Buyer or its appropriate Affiliate shall assume (without further consideration) such Assumed Liability; and (iii) Sellers and Buyer shall, and shall cause their appropriate Affiliates to, execute such documents or instruments of conveyance or assumption and take such further acts as are reasonably necessary or desirable to effect the transfer of such Purchased Asset or Assumed Liability back to Buyer or its appropriate Affiliate, in each case such that each Party is put into the same economic position as if such action had been taken on or prior to the Closing Date.

8.6 Post-Closing Access.

(a) From and after the Closing Date, Buyer shall afford promptly to Rubicon Tech Holdings and its designees and Representatives, reasonable access to the Business Records and the Transferring Employees to the extent necessary for legitimate and reasonable business purposes of Rubicon Tech Holdings and its Affiliates relating to any Seller Document or related

to any period ending on or before the Closing Date (at Rubicon Tech Holdings' sole cost and expense); *provided* that any such access by Rubicon Tech Holdings shall be during normal business hours on reasonable notice and shall not otherwise unreasonably interfere with the conduct of the Technology Business by Buyer. Unless otherwise consented to in writing by Rubicon Tech Holdings, Buyer shall not, for a period of seven (7) years after the Closing Date, destroy, alter or otherwise dispose of any of the Business Records without first offering to surrender to Rubicon Tech Holdings such Business Records or any portion thereof which Buyer may intend to destroy, alter or otherwise dispose of. Sellers will hold in confidence all Confidential Information obtained from Buyer or any of its Affiliates.

(b) From and after the Closing Date, Sellers shall afford promptly to Buyer and its designees and Representatives reasonable access to the books and records (including accountants' work papers) of Sellers to the extent necessary for legitimate and reasonable business purposes of Buyer and its Affiliates to the extent related to the Technology Business prior to the Closing Date (at Buyer's sole cost and expense) (the "***Retained Records***"); *provided* that any such access by Buyer shall be during normal business hours on reasonable notice and shall not otherwise unreasonably interfere with the conduct of the businesses of Sellers. Unless otherwise consented to in writing by Buyer, Sellers shall not, for a period of seven (7) years after the Closing Date, destroy, alter or otherwise dispose of any of the Retained Records without first offering to surrender to Buyer such Retained Records or any portion thereof which such Seller may intend to destroy, alter or otherwise dispose of. Buyer will not use any Confidential Information obtained from Sellers or any of their Affiliates pursuant to this **Section 8.6(b)** or disclose any of such Confidential Information to any Person, without the prior written consent of Sellers. The obligations of Buyer with respect to such Confidential Information will survive for two (2) years from the date of disclosure of such Confidential Information to Buyer pursuant to this **Section 8.6(b)**.

(c) Each Party may restrict the foregoing access to the extent that (i) applicable Law requires such Party or any of its Affiliates to restrict or prohibit such access or the provision of such information, (ii) providing such access or information would breach a confidentiality or other obligation to a third party, or (iii) providing such access or disclosure of any such information would reasonably be expected to result in the loss or waiver of the attorney-client or other applicable privilege or protection.

8.7 Employee Matters.

(a) Offers of Employment. Not later than fifteen (15) days following the Closing Date, Buyer shall have or shall have caused an Affiliate of Buyer to make an offer of employment to each Business Employee listed on **Schedule 8.7(a)**. Each such offer of employment shall be consistent with the requirements of this **Section 8.7**. Business Employees who accept such offer of employment from Buyer or any of its Affiliates shall collectively be referred to as the "***Transferring Employees***." Upon acceptance, such offers of employment for each Transferring Employee will supersede any prior agreements regarding the terms and conditions of employment as in effect prior to the Closing. The employment of each Business Employee listed on **Schedule 8.7(a)** shall be deemed to transfer from Seller to Buyer upon the Closing; provided, however, in the event any such Business Employee does not become a Transferring Employee within thirty (30) days following the Closing Date, the employment of such Business Employee shall be deemed to transfer back to Sellers.

(b) Transferring Employee Compensation. Buyer agrees to be responsible for and pay in accordance with the TSA all salary (including base, bonus, commission and other incentive compensation) and benefits of each Business Employee listed on **Schedule 8.7(a)** commencing from the Closing Date, including, for the avoidance of doubt, the Service Fees (as defined in the TSA) associated with Business Employees that provide services to Buyer following the Closing pursuant to the TSA; provided, however, upon the date any such Business Employee listed on **Schedule 8.7(a)** does not become a Transferring Employee (either pursuant to the proviso in the last sentence of **Section 8.7(a)** above or by written rejection of an offer of employment from Buyer), Buyer's obligations under this sentence shall cease. Notwithstanding anything to the contrary, for the avoidance of doubt, Seller shall retain and be responsible for all Liabilities that were accrued or became payable, prior to the Effective Time, that relate to each Business Employee (including, any Business Employee listed on **Schedule 8.7(a)**), including, but not limited to, base salary, bonus, commission and any other incentive compensation and benefits, and Buyer shall assume and be responsible for all Liabilities that accrue or became payable, following the Effective Time, that relate to each Business Employee listed on **Schedule 8.7(a)**, including, but not limited to, base salary, bonus, commission and any other incentive compensation and benefits; provided, however, upon the date any such Business Employee listed on **Schedule 8.7(a)** does not become a Transferring Employee (either pursuant to the proviso in the last sentence of **Section 8.7(a)** above or by written rejection of an offer of employment from Buyer), Buyer's obligations under this sentence shall cease. Buyer further agrees that, for a period of one year following the Closing (or, if earlier, until the date of termination of the relevant employee), each Transferring Employee shall be eligible to receive (i) base compensation (other than incentive compensation, equity or equity-based compensation) that is the same or greater than the base compensation (other than incentive compensation, equity or equity-based compensation) provided to the Transferring Employee immediately prior to the date hereof and (ii) employee benefits (other than incentive compensation, equity or equity-based compensation) that are substantially similar in the aggregate to the employee benefits (other than incentive compensation, equity or equity-based compensation) provided to similarly situated employees of Buyer. Buyer shall use commercially reasonable efforts to ensure that any employee benefit plans or programs it makes available to the Transferring Employees from and after the Closing Date credit employment with any Seller (or an Affiliate thereof) prior to the Closing date as employment with Buyer for purposes of eligibility and vesting (including the satisfaction of any waiting periods under any welfare benefit plans maintained by Buyer (the "***Buyer Welfare Plans***")) and, for purposes of any paid vacation plan or policy (other than credit for accrued paid time off) it adopts with respect to or makes available to the Transferring Employees, for purposes of accrual of paid vacation after the Closing Date, in each case to the same extent that such employment with any Seller (or an Affiliate thereof) prior to the Closing Date was recognized for such purpose under the corresponding Employee Plan. Buyer shall use commercially reasonable efforts to ensure that in the plan year in which the Closing occurs, no pre-existing condition limitations, exclusions or waiting periods applicable with respect to medical benefits under the Buyer Welfare Plans will apply to Transferring Employees to the extent that such limitations, exclusions or waiting periods did not apply to or had been satisfied by such Transferring Employee under the corresponding Employee Plan providing medical benefits as of the Closing Date. The Buyer Welfare Plans that are medical benefit plans in which a Transferring Employee participates after the Closing Date will use commercially reasonable efforts to recognize, for purposes of satisfying any deductible, co-pays and out-of-pocket maximums during the plan year in which the Closing Date occurs, any payment made by such Transferring Employee in such plan year prior to the Closing Date toward deductibles, co-pays and out-of-pocket maximums in any corresponding Employee Plan. Each Seller shall and shall cause its Affiliates to pay out all accrued but unused vacation with respect to the Transferring Employees as of the Closing Date.

(c) No Guaranteed Employment. Nothing in this **Section 8.7**, whether express or implied, shall: (i) confer upon any Transferring Employee or other Person any rights or remedies, including any right to employment or continued employment for any period or any terms or conditions of employment, or any third-party beneficiary rights hereunder; (ii) be interpreted to prevent or restrict Buyer or its Affiliates from modifying or terminating the employment or terms of employment of any Transferring Employee, including the amendment or termination of any benefit or compensation plan, program, policy, Contract, agreement or arrangement, after the Closing; or (iii) be treated as an establishment or an amendment or other modification of any Employee Plan or other compensation or benefit plan, program, policy, Contract, agreement or arrangement.

8.8 Intercompany Accounts. Each Seller shall take (or cause one or more of its Affiliates to take) such action as is necessary, advisable or desirable to settle, effective as of, or prior to, the Closing Date, all intercompany accounts with respect to the Technology Business or between a Transferred Entity, on one hand, and Seller or any of its Affiliates other than a Transferred Entity, on the other hand. Effective as of immediately prior to the Closing, all Related Party Agreements shall be terminated as of or prior to the Closing Date without any further Liability or obligation thereunder and without Liability to Buyer and shall be of no further force and effect after the Closing.

8.9 Shared Contracts.

(a) Within ten (10) days after the Closing Date, Rubicon Tech Holdings shall provide Buyer with a list indicating which of the Business Shared Contracts may be split and assigned in part to Buyer or replicated for the benefit of Buyer pursuant to its terms, without the consent of the counterparty thereto or other conditions, including the payment of a transfer or other fee (the "***Assignable Shared Contracts***"). Each Assignable Shared Contract shall thereafter be deemed (to the extent of the split or replication with respect to the portion of such Non-Assignable Shared Contract that relates to the Technology Business) to be an Assigned Contract hereunder and Sellers shall split and partially assign (or cause to be split and partially assigned) to Buyer, or have or cause to be replicated, for the benefit of Buyer such Contract in accordance with its terms.

(b) With respect to each Business Shared Contract that is not an Assignable Shared Contract (the "***Non-Assignable Shared Contracts***"), each Party shall use commercially reasonable efforts to cause the counterparty to each such Non-Assignable Shared Contract to consent to the split and partial assignment or replication of such Non-Assignable Shared Contract to Buyer (with respect to the portion of such Non-Assignable Shared Contract that relates to the Technology Business), or to otherwise enter into a new Contract with Buyer on substantially the same terms as exist under the applicable Business Shared Contract. Each such Non-Assignable Shared Contract for which the Parties have received consent to the split and partial assignment or

replication shall thereafter be deemed (to the extent of the split or replication with respect to the portion of such Non-Assignable Shared Contract that relates to the Technology Business) to be an Assigned Contract hereunder and the applicable Seller shall split and partially assign (or cause to be split and partially assigned) to Buyer, or have or cause to be replicated, as of the Closing Date such Contract in accordance with its terms. Notwithstanding the foregoing, Sellers and their Affiliates shall not be required to split and partially assign to Buyer or have replicated any of the Non-Assignable Shared Contracts for which Consent has not been obtained. To the extent any counterparty under a Non-Assignable Shared Contract requires the payment of a transfer or other fee for the split and partial assignment or replication of such Shared Contract, Rubicon Tech Holdings and Buyer shall each pay one half of any such fee that is reasonably required. With respect to any Non-Assignable Shared Contract, until the earlier of (i) the date that such Non-Assignable Shared Contract becomes an Assigned Contract pursuant to this **Section 8.9(b)** and (ii) the then-remaining term of such Non-Assignable Shared Contract, Buyer agrees to, or to cause its Affiliates to, perform under such Non-Assignable Shared Contract to the extent related to the Technology Business and to the extent required to be performed after the Closing, in each case in accordance with its terms.

(c) As to any Non-Assignable Shared Contract for which the Parties have not received consent, the Parties agree to cooperate in good faith to take such actions as are reasonably necessary to avoid any breach or violation by a Party as a result of any failure to obtain any required consent. Until any such consent or new Contract is obtained, such Non-Assignable Shared Contract shall be subject to **Section 8.2(b)**. If and when such consents or approvals are obtained or such other required actions have been taken, the split and partial assignment, or replication, of such Non-Assignable Shared Contract will be effected in accordance with **Section 8.9(b)**.

8.10 Transfer of Business Intellectual Property. Each Seller shall have used its commercially reasonable efforts prior to the Closing to have taken all actions necessary to properly record the registered and applied for Business Intellectual Property with the applicable intellectual property office to correct any and all chain-of-title errors and to formally identify the registered and applied for Business Intellectual Property in the name of the correct legal entity owner for such registered or applied for Business Intellectual Property; to the extent such action was not completed prior to the Closing, each Seller shall continue to use its commercially reasonable efforts to comply with its obligations pursuant to this **Section 8.10** until fully satisfied. Without limiting the foregoing, with respect to any Patents included in the Business Intellectual Property which Sellers have instructed its applicable Representatives to cease maintaining prior to the date hereof, Sellers shall promptly, and in any event within ten (10) Business Days of the Closing Date, instruct such Representatives to ascertain the current status of such Patents and shall report such results to Buyer immediately upon receiving the same. To the extent any Patents included in the Business Intellectual Property no longer remain in force but may be revived under applicable Law, Sellers shall, and shall cause their respective Subsidiaries to, provide all reasonable assistance to enable Buyer to revive such Patents at Buyer's request. For avoidance of doubt, all such Patents identified to be in force, or revived in accordance with the preceding sentence, shall be subject to the obligations in this **Section 8.10** (unless otherwise agreed in writing by Buyer). Subject to the Sellers' execution and delivery of the IP Assignment, Buyer shall be responsible for preparing and filing all instruments and documents necessary to effect the assignment of the Business Intellectual Property to Buyer and its Affiliates; provided, that Sellers shall, and shall cause their respective Subsidiaries to, provide all reasonable assistance, including executing such additional instruments and documents, as may be reasonably required to effect and record such assignment.

8.11 Insurance.

(a) With respect to any claim, occurrence or loss that occurred or existed prior to the Closing Date and may be covered under Insurance Policies, and Buyer requests, pursuant to written notice, that a Seller or its applicable Affiliate submit a claim under such Insurance Policy, such Seller shall, or shall cause its applicable Affiliate to, at Buyer's expense, submit such claim as so instructed, use commercially reasonable efforts to resolve any such claim or collect any claim amounts requested thereunder, and cause any proceeds payable under Insurance Policies to cover a Loss that exceeds the applicable insurance deductible to be collected and paid to Buyer or, if applicable, any third-party claimant.

(b) With respect to any insurance policy that, immediately prior to the Closing, by its terms provides coverage with respect to acts, omissions and events relating to the Purchased Assets and Assumed Liabilities, on the one hand, and Excluded Assets and/or Excluded Liabilities, on the other hand, (such insurance policies as listed on **Schedule 8.11(b)**, the "***Shared Insurance Policies***"), Sellers shall provide Buyer and any applicable Affiliate of Buyer with access to coverage as an additional insured party under such Shared Insurance Policies from and after the Closing for a period of twelve (12) months after the Closing Date for claims relating to acts, omissions, and events respecting any Purchased Assets and Assumed Liabilities (such claims, "***Excluded Insurance Claims***"). Buyer and Sellers agree that any Excluded Insurance Claims by Buyer and any applicable Affiliate of Buyer under any Shared Insurance Policy shall receive the same priority and be subject to any deductibles and retentions with all claims by Sellers under such Shared Insurance Policies (whether or not such Excluded Insurance Claims are made before or after any claims made by Sellers under the Shared Insurance Policies). Claims made by Buyer and any applicable Affiliate of Buyer and any Seller under the Shared Insurance Policies shall be treated on a *pari passu* basis.

(c) With respect to any Excluded Insurance Claims, and Buyer requests, pursuant to written notice, that a Seller or its applicable Affiliate submit a claim under such Shared Insurance Policy, such Seller shall, or shall cause its applicable Affiliate to, at Buyer's expense, submit such claim as so instructed, use commercially reasonable efforts to resolve any such claim or collect any claim amounts requested thereunder, and cause any proceeds payable under the Shared Insurance Policies to cover a Loss that exceeds the applicable insurance deductible to be collected and paid to Buyer or, if applicable, any third-party claimant.

(d) Without limiting the provisions in this **Section 8.11** and subject to **Article IX**, no Party shall be liable to any Person for claims, or portions of claims, not reimbursed by insurers under any insurance policy for any reason, including coinsurance provisions, deductibles, quota share deductibles, self-insured retentions, bankruptcy or insolvency of any insurance carrier(s), policy limitations or restrictions (including exhaustion of limits), any coverage disputes, any failure to timely file a claim, or any defect in such claim or its processing.

8.12 Pre-Closing Accounts Receivable. For the avoidance of doubt, following the Closing Date, Sellers shall have the right to collect any Pre-Closing Accounts Receivable then outstanding, if any, in the ordinary and usual course of normal day-to-day operations of the Sellers' businesses consistent with past custom and practice. Notwithstanding the foregoing, Buyer and its Affiliates shall not be obligated to institute any dispute or litigation with respect to Pre-Closing Accounts Receivable.

ARTICLE IX
REMEDIES

9.1 Survival.

(a) Except as set forth in **Section 9.1(b)**, the representations and warranties of Sellers set forth in this Agreement (including those in **Article IV** and **Article V**) shall survive the Closing solely for purposes of this **Article IX** and shall terminate and be of no further force or effect on the date that is twelve (12) months after the Closing Date, and, except as set forth in **Section 9.1(f)**, the indemnification obligations of Sellers with respect thereto shall terminate on such date.

(b) The Fundamental Reps shall survive the Closing solely for purposes of this **Article IX** and shall terminate and be of no further force or effect on the date that is six (6) years after the Closing Date, and, except as set forth in **Section 9.1(f)**, the indemnification obligations of Sellers with respect thereto shall terminate on such date.

(c) The representations and warranties of Buyer and Guarantor contained in this Agreement (including those in **Article VI** and **Article VII**) shall survive the Closing solely for purposes of this **Article IX** and shall terminate and be of no further force or effect on the date that is twelve (12) months after the Closing Date, and, except as set forth in **Section 9.1(f)**, the indemnification obligations of Buyer with respect thereto shall terminate on such date.

(d) All covenants and agreements contained in this Agreement, any Seller Document, or any Buyer Document that solely require performance prior to the Closing shall terminate on the Closing Date.

(e) All covenants and agreements contained in this Agreement, any Seller Document, or any Buyer Document that require performance on or after the Closing, shall survive the Closing and terminate in accordance with their respective terms or, with respect to any such covenant or agreement which does not specify a term, terminate on the fifth (5^{th}) anniversary of the Closing Date, and the indemnification obligations of the Parties with respect thereto shall terminate on such date.

(f) If any Indemnitee makes a claim for indemnification under this **Article IX** at any time prior to the applicable Limitation Date, then such claim (and only such claim) and the applicable representations, warranties, covenants and agreements, shall survive the applicable Limitation Date, solely for purposes of resolving such claim, until such time as such claim is fully and finally resolved. "***Limitation Date***" shall mean, with respect to any representation, warranty or covenant, the date on which such representation, warranty or covenant expires pursuant to this **Section 9.1**.

9.2 Indemnification.

(a) Subject to the provisions of this **Article IX**, from and after the Closing and through the applicable Limitation Date, Buyer (the "***Buyer Indemnifying Parties***") shall indemnify and hold harmless Sellers and their respective successors and permitted assigns, and the officers, employees, directors, managers, members, partners, equityholders and Affiliates of each Seller and each of their Representatives (collectively, the "***Seller Indemnitees***") from and against any and all losses, liabilities, claims, damages, penalties, fines, judgments, awards, settlements, and reasonable costs, fees and expenses (including reasonable attorneys' fees, whether involving a Third Party Claim or a dispute among the Parties) (collectively, "***Losses***") actually incurred by any of the Seller Indemnitees following the Closing based upon, relating to or arising from (i) any breach of or inaccuracy in the representations and warranties of Buyer or Guarantor contained in **Article VI** or **Article VII** of this Agreement or any Buyer Document, (ii) any breach of or failure to perform the covenants or agreements of Buyer or Guarantor contained in this Agreement or any Buyer Document, in each case, that contemplates performance after the Closing Date and (iii) any Assumed Liability.

(b) Subject to the provisions of this **Article IX**, from and after the Closing and through the applicable Limitation Date, Sellers (the "***Seller Indemnifying Parties***") shall, jointly and severally, indemnify and hold harmless Buyer and its successors and permitted assigns, and the officers, employees, directors, managers, members, partners, equityholders and Affiliates of Buyer and each of its Representatives (collectively, the "***Buyer Indemnitees***") from and against any and all Losses actually incurred by any of the Buyer Indemnitees following the Closing based upon, relating to or arising from (i) any breach of or inaccuracy in the representations and warranties of Sellers contained in **Article IV** or **Article V** of this Agreement or any Seller Document, (ii) any breach of or failure to perform the covenants or agreements of Sellers contained in this Agreement or in any Seller Document, in each case, that contemplates performance after the Closing Date, and (iii) any Excluded Liability or Excluded Asset; *provided*, *however*, the Seller Indemnifying Parties shall be required to indemnify and hold harmless the Buyer Indemnitees pursuant to **Section 9.2(b)(i)** only to the extent that:

(y) the aggregate amount of such Losses exceeds $500,000 (it being understood that such amount shall be a deductible for which the Seller Indemnifying Parties shall bear no indemnification responsibility); and

(z) the aggregate amount required to be paid by the Seller Indemnifying Parties does not exceed $3,500,000;

provided further, *however*, that the foregoing clauses (y) and (z) shall not apply with respect to Losses incurred by the Buyer Indemnitees in respect of a breach of the Fundamental Reps.

(c) Any amounts payable under this **Section 9.2** shall be treated as an adjustment to the Total Consideration for all Tax purposes, unless otherwise required by applicable Tax Law.

(d) For purposes of this **Article IX**, for purposes of determining the amount of Losses incurred in connection with any inaccuracy in or breach of any representation or warranty set forth in this Agreement, but not for purposes of determining whether such breach or inaccuracy has occurred, such representation or warranty shall be read without regard for or giving effect to materiality, Material Adverse Effect or other similar qualification.

9.3 Exclusive Remedy. Each Party acknowledges and agrees that, from and after the Closing, except for Fraud, actions seeking specific performance or similar equitable relief pursuant to **Section 11.14**, its sole and exclusive remedy (and the sole and exclusive remedy of the Buyer Indemnitees and the Seller Indemnitees) with respect to any and all rights, claims, proceedings and causes of action it may have against any other party (including any Affiliate of the Seller Indemnifying Parties or Buyer) resulting from or relating to the subject matter of this agreement or any Seller Document and the transactions contemplated hereby and thereby, whether arising under or based upon any Law (including Environmental Law) or otherwise (including any right, whether arising at law or in equity (including strict liability and tort), to seek indemnification, contribution, rescission, cost recovery, damages (including Losses), or any other recourse or remedy, including as may arise under common law) (each, a "***Transaction Matter***"), shall be pursuant to the indemnification provisions set forth in this **Article IX**. In furtherance of the foregoing, each Party (in the case of Buyer, on its own behalf and on behalf of the Buyer Indemnitees, and in the case of Sellers, on their own behalf and on behalf of the Seller Indemnitees) hereby (a) covenants and agrees that it will not, directly or indirectly, assert or otherwise bring, commence or institute, or cause to be brought, commenced or instituted, any Transaction Matter, other than a contract action to recover Losses pursuant to the indemnification provisions set forth in this **Article IX** or an action seeking specific performance or similar equitable relief pursuant to **Section 11.14**, and (y) waives, from and after the Closing, to the fullest extent permitted under applicable Law, any and all claims with respect to Transaction Matters other than a contract action to recover Losses pursuant to the indemnification provisions set forth in this **Article IX** or an action seeking specific performance or similar equitable relief pursuant to **Section 11.14**. Notwithstanding anything to the contrary herein, for purposes of this **Article IX** (and solely for purposes of this **Article IX**) "Buyer Documents" and "Seller Documents" shall not include the TSA, and the indemnification obligations of the Parties with respect to the TSA shall be set forth therein.

9.4 Limitations on Liability. Notwithstanding anything herein to the contrary, the indemnification rights and obligations provided for in **Section 9.2** are subject to the following limitations:

(a) Certain Limitations. In no event shall the Seller Indemnifying Parties' or the Buyer Indemnifying Parties' maximum aggregate liability with respect to Losses arising from **Section 9.2(b)**, including with respect to breaches of the Fundamental Reps, exceed one hundred percent (100.00%) of the Closing Date Consideration.

(b) Other Recovery. If any Losses sustained by an Indemnitee are covered by an insurance policy or an indemnification, contribution or similar obligation of another Person (other than an Affiliate of such Indemnitee), the Indemnitee shall use commercially reasonable efforts to collect such insurance proceeds or indemnity, contribution or similar payments. The amount of any Losses subject to indemnification under **Section 9.2** shall be reduced by the

amounts actually recovered by any Indemnitee, as applicable, under applicable insurance policies or an indemnification, contribution or similar obligation of another Person (other than an Affiliate of such Indemnitee) with respect to claims related to such Losses (net of any unrecovered amounts, costs or expenses incurred in connection with the recovery or receipt of such insurance proceeds, including any increases in insurance premiums or retroactive premiums resulting therefrom), and if any Indemnitee receives such insurance proceeds or indemnity, contribution or similar payments after the settlement of any indemnification claim under **Section 9.2**, as applicable, such Indemnitee shall refund to the Indemnitor that made such indemnification payment the amount of such insurance proceeds (net of any unrecovered amounts, costs or expenses incurred in connection with the recovery or receipt of such insurance proceeds, including any increases in insurance premiums or retroactive premiums resulting therefrom) or indemnity, contribution or similar payments, up to the amount received in connection with such indemnification claim. It is the intention of the Parties that no insurer or third party shall be entitled to any benefit or right it would not be entitled to receive in the absence of this paragraph.

(c) Damage Exclusions. Notwithstanding anything to the contrary contained in this Agreement or provided for under any applicable Law, no Party shall be liable to any other Person for, either in contract or in tort, and Losses shall not include, any speculative or punitive damages (other than any such damages payable to a third Person).

(d) Double Recovery. No Buyer Indemnitee or Seller Indemnitee shall be entitled to recover damages or obtain payment, reimbursement, restitution or indemnity more than once in respect of any one Loss.

(e) Mitigation. Each Indemnitee shall use commercially reasonable efforts (determined without regard to any indemnification rights of such Person hereunder (*i.e.*, as if such Person had no such rights hereunder)) to mitigate any Loss for which such Indemnitee seeks indemnification, in each case solely to the extent required by Law. Each Indemnitee shall, and shall cause its Affiliates to, use commercially reasonable efforts to pursue any and all rights or benefits (including rights to be indemnified and held harmless or rights to be reimbursed for, or to share, certain costs, or expenses) with respect to any matter that is indemnifiable pursuant to **Section 9.2**, in each case solely to the extent required by Law.

9.5 Notice and Determination of Claims. If any Indemnitee believes that it has sustained or incurred any Losses that are indemnifiable under this **Article IX** (a "***Claim***"), such Indemnitee shall so notify the Indemnitor promptly in writing specifying the basis hereunder upon which the Indemnitee's claim for indemnification is asserted and the facts and circumstances concerning such Claim, describing such Losses, the amount thereof, or a good faith estimate of the amount, and the method of computation of such Losses, all with reasonable particularity, in each case to the extent known (the "***Claim Notice***"). After the giving of any Claim Notice pursuant hereto, the amount of indemnification to which an Indemnitee shall be entitled under this **Article IX** shall be determined: (a) by the written agreement between the Parties; (b) by a final judgment or decree of any court of competent jurisdiction; or (c) by any other means to which the Parties shall agree in writing. The judgment or decree of a court shall be deemed final when the time for appeal, if any, shall have expired and no appeal shall have been taken or when all appeals taken shall have been finally determined. The Indemnitee shall have the burden of proof in establishing the amount of Losses suffered by such Indemnitee. A failure by an Indemnitee to give timely, complete or accurate notice as provided in this **Section 9.5** or in **Section 9.6** will not affect the rights or obligations of any Party except and only to the extent that the Party entitled to receive such notice was materially damaged or prejudiced as a result of such failure to give timely notice vis-à-vis its rights and obligations hereunder or otherwise.

9.6 Third Party Claims.

(a) Promptly following the receipt of notice of a Claim by a third party against a Buyer Indemnitee or Seller Indemnitee (a "***Third Party Claim***"), the Party receiving the notice of the Third Party Claim shall provide the other Parties with a Claim Notice with respect to such Third Party Claim. Subject to receiving a confidentiality undertaking from the Indemnitor and any redactions that the Indemnitee determines are advisable for purposes of maintaining privilege, such Claim Notice shall be accompanied by copies of all documents and information relevant to the Third Party Claim and in the Indemnitee's possession.

(b) Subject to **Section 9.6(c)**, the Indemnitor shall have the option to conduct and control, through counsel of its choosing, the defense, compromise and settlement of any Third Party Claim as to which indemnification is sought by any Indemnitee from any Indemnitor hereunder. The Indemnitor shall notify the Indemnitee in writing, as promptly as possible (but in any case before the earlier of (i) the due date for the answer or response to the Third Party Claim and (ii) thirty (30) days after receipt of the notice of Third Party Claim given by the Indemnitee to the Indemnitor under **Section 9.6(a)** of its election to assume the defense of such Third Party Claim). The Indemnitee may participate, through counsel chosen by it and at its own expense, in the defense of any such Third Party Claim as to which the Indemnitor has so elected to conduct and control the defense thereof. Should an Indemnitor assume the defense of a Third Party Claim in accordance with this **Section 9.6**, the Indemnitor shall not be liable to the Indemnitee for any legal expenses incurred by the Indemnitee in connection with the investigation or defense thereof; *provided* that in the event such Third Party Claim is decided adversely to the Indemnitee resulting in Losses for which the Indemnitor is required to indemnify the Indemnitee pursuant to this **Article IX**, the Indemnitor shall pay any such legal expenses incurred by the Indemnitee prior to the date the Indemnitor assumes control of the defense of the Third Party Claim. Should the Indemnitor not elect to conduct and control the defense of any Third Party Claim, the Indemnitor may participate, through counsel chosen by it and at its own expense, in the defense of any such Third Party Claim.

(c) Any Party controlling the defense of any Third Party Claim shall conduct the defense of such Third Party Claim with reasonable diligence and shall keep the other Parties reasonably informed of the status thereof. Whether or not the Indemnitor or Indemnitee shall control the defense of a Third Party Claim, neither the Indemnitor nor the Indemnitee shall consent to the entry of any judgment, or settle, compromise or discharge, any Third Party Claim without the prior written consent of the Indemnitee or Indemnitor, as applicable (such consent not to be unreasonably withheld, conditioned or delayed). The Indemnitee shall reasonably cooperate in connection with any Third Party Claim pursuant to this **Section 9.6** and shall furnish such records, information and testimony and attend such conferences, discovery proceedings, hearings, trials and appeals as may be reasonably requested by the Indemnitor in connection therewith; *provided* that, notwithstanding anything in this **Section 9.6** to the contrary, the Indemnitee shall not be required to take any action hereunder that would adversely affect, or require or constitute a waiver of, any attorney-client or other privilege.

ARTICLE X
TAX MATTERS

10.1 Allocation of Liability for Taxes. In the case of any Taxes that are attributable to a Straddle Period, the Parties shall use the following conventions for determining the portion of such Tax that relates to a Pre-Closing Tax Period and the portion that relates to a Post-Closing Tax Period: (a) in the case of real property or personal property Taxes and other similar Taxes attributable to the Purchased Assets imposed on a periodic basis, the amount of Taxes attributable to the Pre-Closing Tax Period shall be determined by multiplying the Taxes for the entire period by a fraction, the numerator of which is the number of calendar days in the portion of the period commencing before the Closing Date and ending on the Closing Date and the denominator of which is the number of calendar days in the entire period, and the remaining amount of such Taxes shall be attributable to the Post-Closing Tax Period; and (b) in the case of all other Taxes, the amount of Taxes attributable to the Pre-Closing Tax Period shall be determined as if a separate return was filed for the period ending as of the end of the day on the Closing Date using a "closing of the books methodology," and the remaining amount of the Taxes for such period shall be attributable to the Post-Closing Tax Period; *provided*, *however*, that for purposes of clause (b), exemptions, allowances, or deductions that are calculated on an annual basis (including depreciation and amortization deductions) shall be apportioned between the Pre-Closing Tax Period and the Post-Closing Tax Period in proportion to the number of days in each such period.

10.2 Cooperation; Tax Actions. Buyer and Sellers shall cooperate (i) in the preparation and timely filing of any Tax Return relating to the Technology Business, the Purchased Assets, or the Transferring Employees; and (ii) in any audit or other proceeding with respect to Taxes or Tax Returns relating to the Technology Business, the Purchased Assets, or the Transferring Employees. Such cooperation shall include making available any relevant information, records, or other documents relating to any Taxes or Tax Returns relating to the Technology Business, the Purchased Assets, or the Transferring Employees. Buyer and Sellers also agree to provide certificates or forms, and timely execute any Tax Return, that are necessary or appropriate to establish an exemption for (or reduction in) any Transfer Tax. Neither Buyer nor any of its Affiliates shall make or cause to be made any actual or deemed election under Sections 336(e) or 338 of the Code, or any corresponding provisions of state, local or non-U.S. Laws, with respect to the acquisition of the Rubicon International Equity Interests in connection with the transactions contemplated by this Agreement.

10.3 Transfer Taxes. All transfer, documentary, sales, use, stamp, registration and other similar Taxes and fees (including any penalties and interest) incurred in connection with the sale of the Purchased Assets to Buyer under this Agreement (collectively, "***Transfer Taxes***") shall be borne 50% by Buyer and 50% by Sellers up to a maximum aggregate amount of $200,000 and 100% by Sellers thereafter, and Sellers shall file all necessary Tax Returns and other documentation with respect to all such Taxes and fees, provided that Buyer shall join in the execution of such Tax Returns or other documentation to the extent required by applicable Law. At least fifteen (15) Business Days prior to the due date of any Tax Return for Transfer Taxes, Sellers shall deliver to Buyer a summary of Sellers' determination of the amount of Transfer

Taxes payable. Buyer and Sellers shall cooperate in good faith to make any changes to such summary as the parties may deem appropriate, and Buyer shall remit to Sellers by wire transfer to an account designed by Sellers its share of any such Transfer Taxes up to a maximum amount of $100,000 (the "***Buyer's Transfer Tax Cap***") at least one (1) Business Day prior to the applicable due date. Sellers shall promptly pay when due all such required amounts to the appropriate Governmental Authority. For the avoidance of doubt, (i) Sellers' share of Transfer Taxes shall constitute a Transaction Expense, (ii) Sellers shall be responsible for and promptly pay 100% of any Transfer Taxes in excess of $200,000, and (iii) Buyer's aggregate obligation in respect of Transfer Taxes shall not exceed Buyer's Transfer Tax Cap.

10.4 Allocation.

(a) Within sixty (60) days of the Closing Date, Buyer shall provide to Sellers a schedule, prepared in accordance with the applicable provisions of the Code and the methodologies set forth on **Exhibit I** attached hereto (the "***Purchase Price Allocation Schedule***"), allocating the purchase price (including the Assumed Liabilities) among the Purchased Assets.

(b) If within thirty (30) days of receiving the Purchase Price Allocation Schedule, Sellers have not objected, the Purchase Price Allocation Schedule shall be final and binding. If within thirty (30) days, Sellers object to the Purchase Price Allocation Schedule, Sellers and Buyer shall cooperate in good faith to resolve their differences. If Sellers and Buyer are unable to resolve any disputed items, then each Party may allocate the purchase price (including the Assumed Liabilities) among the Purchased Assets as such Party believes is appropriate.

(c) The Parties hereto shall make appropriate adjustments to the Purchase Price Allocation Schedule to reflect changes in the purchase price. The Parties hereto agree for all Tax reporting purposes to report the transactions in accordance with the agreements herein and the Purchase Price Allocation Schedule, as adjusted pursuant to the preceding sentence, (if agreed to by the Parties) and to not take any position during the course of any audit or other proceeding inconsistent with the agreements as to Tax treatment herein or with such schedule unless required by a determination of the applicable Governmental Authority that is final.

10.5 Bulk Sales. Buyer and Sellers hereby waive compliance with the provisions of any bulk sales, bulk transfer or similar Laws of any jurisdiction that may otherwise be applicable with respect to the sale of any or all of the Purchased Assets to Buyer hereunder, it being understood and agreed that any Liabilities arising out of any failure by Sellers to comply with the requirements and provisions of any such bulk sales, bulk transfer or similar Laws shall be treated as Excluded Liabilities.

ARTICLE XI
MISCELLANEOUS AND GENERAL

11.1 Disclaimer; No Additional Representations; No Reliance.

(a) BUYER ACKNOWLEDGES AND AGREES THAT, EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES MADE BY SELLERS THAT ARE EXPRESSLY SET FORTH IN **ARTICLE IV** OR **ARTICLE V** OF THIS AGREEMENT OR AS MAY BE PROVIDED IN OTHER AGREEMENTS ENTERED INTO IN CONNECTION WITH THE

TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, SELLERS AND THEIR AFFILIATES AND REPRESENTATIVES EXPRESSLY DISCLAIM AND MAKE NO, AND SHALL NOT BE DEEMED TO HAVE MADE ANY, REPRESENTATION OR WARRANTY OF ANY KIND (WHETHER EXPRESS OR IMPLIED) TO BUYER OR ANY OF ITS AFFILIATES OR REPRESENTATIVES. WITHOUT LIMITING THE FOREGOING AND FOR THE AVOIDANCE OF DOUBT, BUYER FURTHER ACKNOWLEDGES AND AGREES THAT NONE OF SELLERS OR ANY OF THEIR RESPECTIVE DIRECT OR INDIRECT AFFILIATES OR REPRESENTATIVES WILL HAVE OR BE SUBJECT TO ANY LIABILITY TO BUYER OR ANY OTHER PERSON RESULTING FROM THE DISTRIBUTION TO BUYER OR BUYER'S USE OF ANY CONFIDENTIAL INFORMATION MEMORANDUM OR SIMILAR DOCUMENTATION OR ANY INFORMATION, DOCUMENT OR MATERIAL MADE AVAILABLE TO BUYER OR ITS AFFILIATES OR REPRESENTATIVES IN CERTAIN "DATA ROOMS" AND ONLINE "DATA SITES," MANAGEMENT PRESENTATIONS OR ANY OTHER FORM IN EXPECTATION OF THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT (NOR HAS BUYER RELIED ON ANY SUCH INFORMATION IN DETERMINING TO ENTER INTO THIS AGREEMENT), IN EACH CASE, EXCEPT TO THE EXTENT SUBJECT TO ANY REPRESENTATION OR WARRANTY SET FORTH HEREIN OR THEREIN.

(b) EACH SELLER ACKNOWLEDGES AND AGREES THAT, EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES MADE BY BUYER OR GUARANTOR THAT ARE EXPRESSLY SET FORTH IN **ARTICLE VI** OR **ARTICLE VII** OF THIS AGREEMENT, BUYER, GUARANTOR AND THEIR RESPECTIVE AFFILIATES AND REPRESENTATIVES EXPRESSLY DISCLAIM AND HAVE NOT MADE AND SHALL NOT BE DEEMED TO HAVE MADE TO SELLERS OR ANY OF THEIR RESPECTIVE AFFILIATES OR REPRESENTATIVES, ANY REPRESENTATION OR WARRANTY OF ANY KIND (WHETHER EXPRESS OR IMPLIED).

(c) IN CONNECTION WITH BUYERS' REVIEW AND ANALYSIS OF THE TECHNOLOGY BUSINESS, BUYER (EITHER DIRECTLY OR THROUGH ITS REPRESENTATIVES) MAY HAVE RECEIVED FROM OR ON BEHALF OF SELLERS AND/OR REPRESENTATIVES THEREOF CERTAIN ESTIMATES, FORECASTS, BUDGETS, PLANS AND PROJECTIONS (EITHER FINANCIAL OR OTHERWISE). BUYER ACKNOWLEDGES AND AGREES THAT (I) THERE ARE UNCERTAINTIES INHERENT IN ATTEMPTING TO MAKE SUCH ESTIMATES, FORECASTS, BUDGETS, PLANS AND PROJECTIONS, (II) BUYER IS FAMILIAR WITH SUCH UNCERTAINTIES, (III) BUYER HAS NOT RELIED UPON THE ESTIMATES, FORECASTS, BUDGETS, PLANS OR PROJECTIONS FURNISHED TO IT, (IV) BUYER IS TAKING FULL RESPONSIBILITY FOR MAKING ITS OWN EVALUATION OF THE ADEQUACY AND ACCURACY OF ALL ESTIMATES, FORECASTS, BUDGETS, PLANS AND PROJECTIONS SO FURNISHED TO BUYER (INCLUDING THE REASONABLENESS OF THE ASSUMPTIONS UNDERLYING SUCH ESTIMATES, FORECASTS, BUDGETS, PLANS AND PROJECTIONS), AND (V) BUYER SHALL HAVE NO CLAIM, NOR SHALL IT OR ITS REPRESENTATIVES ASSERT ANY CLAIM, AGAINST SELLERS OR ANY OF THEIR RESPECTIVE AFFILIATES OR REPRESENTATIVES WITH RESPECT THERETO, IN EACH CASE, EXCEPT TO THE EXTENT SUBJECT TO ANY REPRESENTATION OR WARRANTY SET FORTH HEREIN.

11.2 Expenses. Whether or not the transactions contemplated by this Agreement are consummated, all costs and expenses (including all legal, accounting, broker, finder or investment banker fees) incurred in connection with this Agreement and the transactions contemplated hereby are to be paid by the Party incurring such expenses, except as expressly provided herein.

11.3 Successors and Assigns. This Agreement is binding upon and inures to the benefit of the Parties and their respective successors and permitted assigns, but is not assignable by any Party without the prior written consent of the other Parties.

11.4 Third Party Beneficiaries. Other than (x) **Article IX** (with respect to each Party's additional indemnitees) and (y) **Section 2.4(a)(i)** (with respect to the holders of record of the issued and outstanding Class A shares of Parent and issued and outstanding Class B units of Rubicon Tech Holdings as of the record date of the meeting at which the Requisite Stockholder Approval) of this Agreement, each Party intends that this Agreement does not benefit or create any right or cause of action in or on behalf of any Person other than the Parties (and their permitted successors and assigns).

11.5 Further Assurances. The Parties shall execute such further instruments and take such further actions as may reasonably be necessary to carry out the intent of this Agreement. Each Party shall cooperate affirmatively with the other Parties, to the extent reasonably requested by such other Parties, to enforce rights and obligations herein provided.

11.6 Notices. Any notice or other communication provided for herein or given hereunder to a Party must be in writing, and will be deemed given (a) on the date sent by email with portable document format (.pdf) (in each case, electronically confirmed), (b) on the date delivered when delivered in person, (c) four (4) Business Days following mailing if mailed by first class registered or certified mail, postage prepaid, or (d) on the date following sending if sent by Federal Express or other overnight courier of national reputation, addressed as follows:

If to Buyer or the Guarantor:

c/o Rodina Management US Inc.
595 Glenridge Rd
Key Biscayne, FL 33149
Attention: Jose Miguel Enrich Linero
Phone: (786) 710-2765
Email: josemiguel@rodinaus.com

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

Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York, NY 10019
Attention: Laura C. Turano
Phone: (212) 373-3659
Email: lturano@paulweiss.com

If to any Seller:

c/o Rubicon Technologies, Inc.
950 E Paces Ferry Rd NE Suite 810
Atlanta, GA
Attention: Philip Rodoni, Chief Executive Officer
Phone: (336) 870-2225
Email: phil.rodoni@rubicon.com

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

Winston & Strawn LLP
800 Capitol St., Suite 2400
Houston, TX 77002-2925
Attention: Michael Blankenship, Louis Savage
Phone: (713) 651-2678; (713) 651-2797
Email: Mblankenship@winston.com; Lsavage@winston.com

or to such other address with respect to a Party as such Party notifies the other in writing as above provided.

11.7 Complete Agreement. This Agreement and the Schedules and Exhibits hereto and the other documents delivered by the Parties in connection herewith, together with the Confidentiality Agreement entered into between Rubicon Global, LLC and Rodina Management Inc, dated February 22, 2024 (the "***Confidentiality Agreement***"), contain the complete agreement between the Parties with respect to the transactions contemplated hereby and thereby and supersede all prior agreements and understandings between the Parties with respect to the subject matter of this Agreement. The Parties agree that prior drafts of this Agreement and the other documents contemplated by this Agreement will be deemed not to provide any evidence as to the meaning of any provision hereof or thereof or the intent of the Parties with respect hereto or thereto.

11.8 Captions. The captions contained in this Agreement are for convenience of reference only and do not form a part of this Agreement.

11.9 Amendment. This Agreement may be amended or modified only by an instrument in writing specifically designated as an amendment hereto, duly executed by each Seller and Buyer.

11.10 Waiver. Sellers and Buyer may (a) extend the time for the performance of any of the obligations or other acts of the Parties, (b) waive any inaccuracies in the representations and warranties contained herein or in any document delivered pursuant hereto, or (c) waive compliance with any of the agreements or conditions contained herein, to the extent permitted by applicable Law. Any agreement to any such extension or waiver will be valid only if set forth in a writing signed by Sellers and Buyer. No failure of any Party to exercise any power given it under this Agreement, or to insist upon strict compliance with any provision of this Agreement, and no custom or practice at variance with the terms of this Agreement shall constitute a waiver of any such Party's right to demand strict compliance with the terms of this Agreement.

11.11 Governing Law; Jurisdiction; WAIVER OF JURY TRIAL. This Agreement shall be governed by, interpreted under, and construed and enforced in accordance with, the Laws of the State of Delaware, without giving effect to any choice or conflict of laws provision or rule (whether of the State of Delaware or of any other jurisdiction) that would cause the application of the Laws of any jurisdiction other than the State of Delaware. All Actions arising out of or relating to this Agreement shall be heard and determined exclusively in any state or federal court sitting in the state of Delaware. Consistent with the preceding sentence, each of the Parties hereby (a) submits to the exclusive jurisdiction of any federal or state court sitting in the state of Delaware for the purpose of any Action arising out of or relating to this Agreement brought by any Party and (b) irrevocably waives, and agrees not to assert by way of motion, defense, or otherwise, in any such Action, any claim that it is not subject personally to the jurisdiction of the above-named courts, that the Action is brought in an inconvenient forum, that the venue of the Action is improper, or that this Agreement or the transactions contemplated by this Agreement may not be enforced in or by any of the above-named courts. TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW WHICH CANNOT BE WAIVED, EACH OF THE PARTIES WAIVES AND COVENANTS THAT IT WILL NOT ASSERT (WHETHER AS PLAINTIFF, DEFENDANT OR OTHERWISE) ANY RIGHT TO TRIAL BY JURY IN ANY FORUM IN RESPECT OF ANY ISSUE, ACTION, CLAIM, CAUSE OF ACTION, SUIT (IN CONTRACT, TORT OR OTHERWISE), INQUIRY, PROCEEDING OR INVESTIGATION ARISING OUT OF OR BASED UPON THIS AGREEMENT OR THE SUBJECT MATTER HEREOF OR IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE TRANSACTIONS CONTEMPLATED HEREBY, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING. EACH PARTY ACKNOWLEDGES THAT IT HAS BEEN INFORMED BY THE OTHER PARTY THAT THIS **SECTION 11.11** CONSTITUTES A MATERIAL INDUCEMENT UPON WHICH THE PARTIES ARE RELYING AND WILL RELY IN ENTERING INTO THIS AGREEMENT AND ANY OTHER AGREEMENTS RELATING HERETO OR CONTEMPLATED HEREBY. ANY PARTY HERETO MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS **SECTION 11.11** WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF EACH SUCH PARTY TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY.

11.12 Severability. So long as the economic and legal substance of the transactions contemplated hereby are not affected in any manner materially adverse to any Party, any term or provision of this Agreement that is invalid or unenforceable in any jurisdiction will, as to that jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement or affecting the validity or enforceability of any of the terms or provisions of this Agreement in any other jurisdiction. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable, Buyer and Sellers shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the fullest extent possible.

11.13 Counterparts. This Agreement and all other documents related hereto may be executed in several counterparts, each of which shall be deemed an original, but such counterparts shall together constitute but one and the same Agreement. The execution of this Agreement and any agreement or instrument entered into in connection with this Agreement, and any amendment hereto or thereto, by any of the Parties may be evidenced by way of a facsimile, portable document format (.pdf) transmission, or other electronic transmission of such Party's signature, and such facsimile, portable document format (.pdf), or other electronically transmitted signature shall be deemed to constitute the original signature of such Party.

11.14 Enforcement of Agreement.

(a) The Parties agree that irreparable damage would occur if any provision of this Agreement was not performed in accordance with its specific terms or was otherwise breached. It is accordingly agreed that the Parties will be entitled to an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereof, this being in addition to (i) any other remedy to which they are entitled hereunder, at law or in equity, prior to the Closing Date, or (ii) any other remedy to which they are entitled hereunder after the Closing Date.

(b) Notwithstanding the foregoing or anything herein or in any document contemplated herein to the contrary, it is hereby acknowledged and agreed that Sellers shall be entitled to seek specific performance to cause the Guarantor to fund the Obligations in accordance with **Section 11.18**.

(c) Each of the Parties agrees that it will not oppose the granting of an injunction, specific performance and other equitable relief when expressly available pursuant to the terms of this Agreement on the basis that (i) there is adequate remedy at Law or (ii) an award of specific performance is not an appropriate remedy for any reason at Law or equity. Any Party seeking an injunction or injunctions to prevent breaches of this Agreement when expressly available pursuant to the terms of this Agreement and to enforce specifically the terms and provisions of this Agreement when expressly available pursuant to the terms of this Agreement shall not be required to provide any bond or other security in connection with any such order or injunction.

11.15 Other Definitional and Interpretive Matters.

(a) Unless otherwise expressly provided, for purposes of this Agreement, the following rules of interpretation shall apply:

(i) Calculation of Time Period. When calculating the period of time before which, within which or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded. If the last day of such period is a non-Business Day, the period in question shall end on the next succeeding Business Day. All references to a day or days shall be deemed to refer to a calendar day or calendar days, as applicable, unless otherwise specifically provided.

(ii) Dollars. Any reference in this Agreement to $ shall mean U.S. dollars.

(iii) Exhibits/Schedules. The Exhibits and Schedules to this Agreement are hereby incorporated and made a part hereof and are an integral part of this Agreement. All Exhibits and Schedules annexed hereto or referred to herein are hereby incorporated in and made a part of this Agreement as if set forth in full herein. Any capitalized terms used in any Schedule or Exhibit but not otherwise defined therein shall be defined as set forth in this Agreement.

(iv) Gender and Number. Any reference in this Agreement to gender shall include all genders, and words imparting the singular number only shall include the plural and vice versa.

(v) Headings. The provision of a Table of Contents, the division of this Agreement into Articles, Sections and other subdivisions and the insertion of headings are for convenience of reference only and shall not affect or be utilized in construing or interpreting this Agreement. All references in this Agreement to any "Section" are to the corresponding Section of this Agreement unless otherwise specified.

(vi) Herein. Words such as "herein," "hereinafter," "hereof," and "hereunder" refer to this Agreement as a whole and not merely to a subdivision in which such words appear unless the context otherwise requires.

(vii) Including. The word "including", or any variation thereof means "including, without limitation" and shall not be construed to limit any general statement that it follows to the specific or similar items or matters immediately following it.

(viii) Technology Business. Each representation or warranty of Sellers in this Agreement is made only with respect to such Seller's operation of the Technology Business prior to the Closing and, notwithstanding anything to the contrary herein, no Seller is making any representation or warranty with respect to any other business conducted by such Seller.

(ix) Other Rules of Interpretation. "Writing", "written" and comparable terms refer to printing, typing and other means of reproducing words (including electronic media) in a visible form. References to any Law will be deemed to refer to such Law as amended from time to time and to any rules or regulations promulgated thereunder. References to any Contract are to that Contract as amended, modified or supplemented from time to time in accordance with the terms of this Agreement and such Contract; *provided* that with respect to any Contract listed on any Schedule, all such amendments, modifications or supplements (other than such amendments, modifications or supplements that are immaterial) must also be listed in such Schedule. The word "extent" in the phrase "to the extent" will mean the degree to which a subject or other theory extends and such phrase will not mean "if". References to any Person include the predecessors, successors and permitted assigns of that Person. The term "made available" and words of similar import mean that the relevant documents, instruments or materials were posted and made available (and not removed) on the due diligence data site maintained by Sellers in connection with the transactions contemplated by this Agreement, in each case, prior to the date of this Agreement.

(b) The Parties have participated jointly in the negotiation and drafting of this Agreement and, in the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as jointly drafted by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provision of this Agreement.

11.16 Disclosure Schedules. The Schedules have been arranged, for purposes of convenience only, as separately titled Schedules corresponding to the Sections of this Agreement. Notwithstanding anything to the contrary contained in the Schedules or in this Agreement or the omission of any cross reference thereto, the information and disclosures contained in any Schedule shall be deemed to be disclosed and incorporated by reference in any other Schedule as though fully set forth in such Schedule for which applicability of such information and disclosure is reasonably apparent on its face. The fact that any item of information is disclosed in any Schedule: (a) shall not be construed to mean that such information is required to be disclosed by this Agreement; (b) shall not be construed as or constitute an admission, evidence or agreement that a violation, right of termination, default, non-compliance, Liability or other obligation of any kind exists with respect to any item; (c) with respect to the enforceability of Contracts with third parties, the existence or non-existence of third party rights, the absence of breaches or defaults by third parties, or similar matters or statements, is intended only to allocate rights and risks among the Parties and is not intended to be admissions against interests, give rise to any inference or proof of accuracy, be admissible against any Party by any Person who is not a Party, or give rise to any claim or benefit to any entity or person who is not a Party; (d) shall not be deemed or interpreted to broaden or to narrow the representations and warranties, obligations, covenants, conditions or agreements of Sellers contained in this Agreement; and (e) does not waive any attorney-client privilege associated with such item or information or any protection afforded by the work-product doctrine with respect to any of the matters disclosed or discussed herein. Unless the context otherwise requires (for example, a Schedule corresponds to a representation and warranty that requires disclosure of information that is "material" or that would reasonably be expected to constitute a "Material Adverse Effect"), such information and the dollar thresholds set forth herein shall not be used as a basis for interpreting the terms "material" or "Material Adverse Effect" or other similar terms in this Agreement. Neither the specifications of any dollar amount in any representation, warranty or covenant contained in this Agreement nor the inclusion of any specific item in the Seller Disclosure Schedules is intended to imply that such amount, or higher or lower amounts, or the item so included or other items, are or are not material, and no Person shall use the fact of the setting forth of any such amount or the inclusion of any such item in any dispute or controversy between the Parties as to whether any obligation, item or matter not described herein or included in the Seller Disclosure Schedules is or is not material for purposes of this Agreement.

11.17 Independent Legal Counsel; Continuing Representation. Each Party has had the benefit of independent legal counsel with respect to the preparation of this Agreement. This Agreement expresses the mutual intent of the Parties, and each Party has participated equally in its preparation. Accordingly, the rule on construction against the drafting party shall have no application to this Agreement. Each of the Parties hereby agrees, on its own behalf and on behalf of its directors, managers, members, partners, officers, employees and Affiliates, that Winston & Strawn LLP may serve as counsel to each and any of Seller, the members of its board of managers, and its Affiliates (individually and collectively, the "***Seller Group***") in connection with the negotiation, preparation, execution, delivery and performance of this Agreement, and the consummation of the transactions contemplated hereby, and that, following consummation of the transactions contemplated hereby, Winston & Strawn LLP (or any successor) may serve as counsel to the Seller Group or any director, manager, member, partner, officer, employee or Affiliate of any member of the Seller Group, in connection with any litigation, claim or obligation arising out of or relating to this Agreement or the transactions contemplated by this Agreement notwithstanding such representation.

11.18 Guarantee. To induce Sellers to enter into this Agreement, the Guarantor hereby irrevocably and unconditionally guarantees to Sellers, the full, complete and punctual payment, if and when due, of all Obligations and whenever Buyer does not pay or perform any of the Obligations in accordance with their respective terms, the Guarantor shall, immediately on demand by Parent, pay or perform such Obligations as if it were the primary obligor primarily liable for the performance thereof and not as a mere surety. The obligations of the Guarantor pursuant to this **Section 11.18** shall be continuing obligations and shall not be satisfied, discharged or affected by any intermediate payment or settlement of account or any change in the constitution or control of, or the insolvency of, or any bankruptcy, winding up or analogous proceedings relating to, Buyer or the Guarantor. The Guarantor hereby waives any right to require a proceeding first against Buyer following such time as Buyer does not pay or perform any Obligation.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the undersigned has duly executed this Agreement to be effective as of the day and year first above written.

BUYER:

WASTECH CORP.

By: /s/ Jose Miguel Enrich Linero
Name: Jose Miguel Enrich Linero
Title: President

GUARANTOR:

GAFAPA, S.A. DE C.V. (SOLELY FOR PURPOSES OF ARTICLE VI AND SECTION 11.18 HEREOF)

By: /s/ Fernando Gerardo Chico Pardo
Name: Fernando Gerardo Chico Pardo
Title: Sole Administrator

[*Signature Page to Asset Purchase Agreement*]

IN WITNESS WHEREOF, the undersigned have duly executed this Agreement to be effective as of the day and year first above written.

PARENT:

RUBICON TECHNOLOGIES, INC.

By: /s/ Philip Rodoni
Name: Philip Rodoni
Title: Chief Executive Officer

RUBICON TECH HOLDINGS:

RUBICON TECHNOLOGIES HOLDINGS, LLC

By: /s/ Philip Rodoni
Name: Philip Rodoni
Title: Chief Executive Officer

EXHIBIT A

DEFINITIONS

The definitions of terms capitalized and used throughout this Agreement are as follows:

"***Accounting Firm***" has the meaning set forth in **Section 2.4(b)(ii)**.

"***Accounts Receivable***" means any trade accounts receivable, amounts to be paid for work in process, notes receivable, other receivables and all other rights to payment owed to any Seller to the extent related to the Technology Business, including Aged A/R.

"***Action***" or "***Actions***" means any lawsuit, mediation, legal proceeding, administrative enforcement proceeding, arbitration proceeding or other similar proceeding or adjudicative matter by or before any Governmental Authority.

"***Affiliate***" means, with respect to any Person, any Person that directly or indirectly controls, is controlled by or is under common control with such Person.

"***Aged A/R***" means any accounts receivable of the Technology Business that are more than (90) days past due as of the Closing Date.

"***Agreement***" has the meaning set forth in the preamble.

"***Ancillary Agreements***" means the Bill of Sale, TSA, Workspace Assignment, IP Assignment, Equity Interest Assignment and Subcontract Agreement.

"***Annual Recurring Revenue***" means gross annual revenue of the Technology Business attributable to customer contracts of greater than one year duration, which is to be calculated in accordance with **Exhibit H**.

"***Assigned Contracts***" has the meaning set forth in **Section 2.1(a)(iii).**

"*Assignable Shared Contracts*" has the meaning set forth in **Section 8.9(a)**.

"***Assumed Liabilities***" has the meaning set forth in **Section 2.1(c)**.

"*Bill of Sale*" has the meaning set forth in **Section 3.2(a)**.

"***Business Confidential Information***" means Confidential Information to the extent included in the Purchased Assets.

"***Business Day***" means any day other than a Saturday, Sunday or a day on which the Federal Reserve Bank located in New York City, New York, is closed.

"***Business Employees***" means each individual who is employed by any Seller (or an Affiliate thereof) and whose services primarily or exclusively relate to the Technology Business (including each employee who is not actively at work on account of illness, disability or leave of absence).

"***Business Intellectual Property***" has the meaning set forth in **Section 2.1(a)(v)**.

"***Business Records***" has the meaning set forth in **Section 2.1(a)(ix)**.

"***Business Shared Contracts***" has the meaning set forth in **Section 4.7(d)**.

"***Buyer***" has the meaning set forth in the preamble.

"***Buyer Disclosure Schedules***" has the meaning set forth in the preamble of **Article VI**.

"***Buyer Documents***" has the meaning set forth in **Section 6.2**.

"***Buyer Indemnifying Parties***" has the meaning set forth in **Section 9.2(a)**.

"***Buyer Indemnitees***" has the meaning set forth in **Section 9.2(b)**.

"***Buyer Licensed IP***" means any and all Business Intellectual Property (other than Marks and Internet Properties) used in the conduct of the Retained Business as of the Closing Date; provided, that the Buyer Licensed IP shall exclude all Patents other than those set forth on **Schedule 8.4(b)(ii)**.

"***Buyer Officer Certificate***" has the meaning set forth in **Section 3.3(g)**.

"***Buyer Welfare Plans***" has the meaning set forth in **Section 8.7(b)**.

"***Buyer's Transfer Tax Cap***" has the meaning set forth in **Section 10.3**.

"***Cash and Cash Equivalents***" means the amount of cash and other cash equivalents (including marketable securities) convertible into cash and available for use within thirty (30) days of the Closing (plus deposits in transit and incoming wires, less outstanding checks and outgoing wires), in each case as of the Effective Time, and excludes restricted cash including any deposits to secure the Technology Business' or any Seller's obligations with respect to the Technology Business.

"***CERCLA***" means the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. § 9601 *et seq*.

"*Change of Control*" means any transaction or a series of transactions the result of which is: (i) the acquisition by any Person or "group" (as defined in the Securities Exchange Act of 1934, as amended) of direct or indirect beneficial ownership of securities representing fifty percent (50%) or more of the combined voting power of the then outstanding securities of an entity; (ii) a merger, consolidation, reorganization or other business combination, however effected, resulting in any Person or "group" (as defined in the Securities Exchange Act of 1934, as amended) acquiring at least fifty percent (50%) of the combined voting power of the then outstanding securities of an entity or the surviving Person outstanding immediately after such combination; or (iii) a sale of all or substantially all of the assets of an entity.

"***Claim***" has the meaning set forth in **Section 9.5**.

"***Claim Notice***" has the meaning set forth in **Section 9.5**.

"***Closing***" has the meaning set forth in **Section 3.1**.

"***Closing Date***" has the meaning set forth in **Section 3.1**.

"***Closing Date Consideration***" means an amount equal to $68,200,000.

"***COBRA***" has the meaning set forth in **Section 4.10(f)**.

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

"***Competing Business***" has the meaning set forth in **Section 8.3(b)**.

"***Confidential Data***" means all data for which Sellers are required by Law or Contract to safeguard and/or keep confidential or private with respect to the conduct of the Technology Business.

"***Confidential Information***" means all information of Sellers or any of their Affiliates on the one hand, or Buyer or any of its Affiliates on the other hand, in each case, of a confidential or proprietary nature (whether or not specifically labeled or identified as "confidential"), in any form or medium, that relates to the business, financial condition, services, products or research or development of such Person, or any of its suppliers, customers, independent contractors, or other business relations. Confidential Information includes the following: (a) internal business and financial information (including information relating to strategic and staffing plans and practices, business, finances, training, marketing, promotional and sales plans and practices, cost, rate, and pricing structures, and accounting and business methods); (b) identities of, individual requirements of, specific contractual arrangements with, and information about, such Person's suppliers, customers, independent contractors, or other business relations and their confidential information; (c) trade secrets, know-how, compilations of data and analyses, techniques, systems, research, records, reports, manuals, documentation, models, data, and data bases relating thereto; and (d) other Intellectual Property of such Person. Notwithstanding the foregoing, Confidential Information shall not include information that (i) is or becomes generally known or available to the public through no unauthorized action or omission, including a breach of any confidentiality obligations, or any other action or omission outside of the ordinary course of business at or prior to the time of disclosure; (ii) becomes known to the disclosing party (or one of its Affiliates) after the Closing Date without any restriction on disclosure, which has not been disclosed to the disclosing party in violation of any Contract; or (iii) is required to be disclosed by any Law, provided, however, that prompt notice of said requirement shall have been given to the non-disclosing party.

"***Confidentiality Agreement***" has the meaning set forth in **Section 11.7**.

"***Consent***" means any consent, approval, authorization, qualification, waiver, registration, license, permit, filing, franchise, certificate, action, nonaction or notification required to be obtained from, filed with or delivered to a third party (including a Governmental Authority) in connection with the consummation of the transactions provided for in this Agreement.

"***Contracts***" means all written contracts, leases, licenses, indentures, notes, bonds, mortgages, and other agreements (other than purchase orders and sale orders entered into in the Ordinary Course of Business), to which a Seller is a party that are in effect on the date of this Agreement.

"***COVID-19***" means a coronavirus disease.

"***Divested Business***" has the meaning set forth in **Section 8.4(b)(v)**.

"***Earn-Out Calculation***" has the meaning set forth in **Section 2.4(b)(i)**.

"***Earn-Out Calculation Delivery Date***" has the meaning set forth in **Section 2.4(b)(i)**.

"***Earn-Out Calculation Objection Notice***" has the meaning set forth in **Section 2.4(b)(ii)**.

"***Earn-Out Calculation Statement***" has the meaning set forth in **Section 2.4(b)(i)**.

"***Earn-Out Event***" has the meaning set forth in **Section 2.4(a)**.

"*Earn-Out Payment*" has the meaning set forth in **Section 2.4(a)**.

"***Effective Time***" has the meaning set forth in **Section 3.1**.

"***Employee Plan***" or "***Employee Plans***" has the meaning set forth in **Section 4.10(a)**.

"***Environment***" means the environment, including subsurface land, climate, soil, water, surface waters, groundwater, land, stream sediments, air and other environmental media.

"***Environmental Law***" means all Laws or Orders with respect to pollution or protection of the Environment or human health and safety, including CERCLA.

"***Equity Interest Assignment***" has the meaning set forth in **Section 3.2(e)**.

"***ERISA***" means the Employee Retirement Income Security Act of 1974, as amended, and the rules and regulations promulgated thereunder.

"***ERISA Affiliate***" means each trade or business, whether or not incorporated, that would be treated or would at any relevant time have been treated as a single employer with any Seller pursuant to Section 414(b), (c), (m) or (o) of the Code or Section 4001(b) of ERISA.

"***Exchange Act***" means the Securities Exchange Act of 1934, as amended.

"*Excluded Assets*" has the meaning set forth in **Section 2.1(b)**.

"***Excluded Insurance Claims***" has the meaning set forth in **Section 8.11(b)**.

"*Excluded Liabilities*" has the meaning set forth in **Section 2.1(d)**.

"***Excluded Tax***" means any Liability for the following Taxes: (a) Taxes imposed on or owed by any Seller (or any Affiliate thereof) for any Tax period; (b) Taxes of the Transferred Entities or Taxes that relate to the Purchased Assets, the Technology Business, or any Transferring Employee, in each case for any Pre-Closing Tax Period (or portion thereof); (c) Taxes of another Person payable pursuant to any Contract for any Pre-Closing Tax Period; and (d) Transfer Taxes borne by Sellers pursuant to **Section 10.3**.

"***Existing Credit Agreements***" shall mean (a) that certain Credit, Security and Guaranty Agreement, dated as of June 7, 2023, by and among, certain subsidiaries of Parent, as borrowers, Parent, as a guarantor, Acquiom Agency Services, LLC, as agent and the lenders from time to time party thereto, (b) that certain Credit, Security and Guaranty Agreement, dated as of June 7, 2023, by and among, certain subsidiaries of Parent, as borrowers, Parent, as a guarantor, Midcap Funding IV Trust, as agent and the lenders from time to time party thereto and (c) that certain Loan and Security Agreement, dated as of December 22, 2021, by and among certain subsidiaries of Parent, as borrowers and loan party obligors, Parent and certain subsidiaries of Parent as loan party obligors, Mizzen Capital, LP, as agent and the lenders from time to time party thereto, in each case of clauses (a), (b) and (c), as amended through the date hereof and as further amended from time to time.

"***Financial Statements***" has the meaning set forth in **Section 4.5(a)**.

"***Fraud***" means: (a) with respect to Sellers, as finally determined by a court of competent jurisdiction, a false representation made by any Seller in **Article IV** or **Article V** of fact, made with knowledge or belief or with reckless indifference as to its falsity, with an intent to induce Buyer to act or refrain from acting and upon which Buyer reasonably relied to its detriment; and (b) with respect to Buyer and Guarantor, as finally determined by a court of competent jurisdiction, a false representation made by Buyer or Guarantor in **Article VI** or **Article VII** of fact, made with knowledge or belief or with reckless indifference as to its falsity, with an intent to induce any Seller to act or refrain from acting and upon which such Seller reasonably relied to its detriment. For the avoidance of doubt, the definition of Fraud in this Agreement does not include, and no claim may be made by any Person in relation to this Agreement or the transactions contemplated by this Agreement for, (i) constructive fraud or other claims based on constructive knowledge, negligence, or similar theories, or (ii) equitable fraud, promissory fraud, unfair dealings fraud, or any other fraud based claim or theory.

"***Fundamental Reps***" means the representations and warranties set forth in **Section 4.1**, **Section 4.2**, **Section 4.3**, **Section 4.4(a)(i)**, **Section 5.1** and **Section 5.2**.

"***GAAP***" means United States generally accepted accounting principles.

"***General Enforceability Exceptions***" has the meaning set forth in **Section 4.3**.

"***Governing Body***" means, with respect to any Person, the board of directors, the board of managers, the managing member, the manager or such other governing body of such Person.

"***Governmental Authority***" means any government or political subdivision, whether federal, state, local or foreign, or any agency, commission, department or instrumentality of any such government or political subdivision, or any federal, state, local or foreign court, tribunal or any (public or private) arbitrator or arbitral body.

"***Governmental Official***" means any official or Representative of any Governmental Authority or public international organization, any political party or employee thereof or any candidate for political office.

"***Guarantor***" has the meaning set forth in the preamble.

"***Guarantor Documents***" has the meaning set forth in **Section 7.2**.

"***Guarantor Officer Certificate***" has the meaning set forth in **Section 3.3(i)**.

"***Hazardous Material***" means any material, substance or waste that is regulated under or pursuant to any Environmental Law, including "hazardous substance," as defined in Section 101 of CERCLA, and "hazardous waste" as defined in Section 1004 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901, *et seq*., "pollutant or contaminant," and "petroleum," as those terms are defined or used in Section 101 of CERCLA, or any other material, substance or waste for which liability or standards of conduct may be imposed under or pursuant to any Environmental Law.

"***Included Annual Contract Accounts***" means any cash, trade accounts received, amounts paid for work in process, notes received or any other payments received or collected by any Seller for the period between April 1, 2024 and the Closing Date to the extent related to any customer contract for the Technology Business with an initial term of greater than one year.

"***Indebtedness***" means, with respect to any Person, without duplication: (a) any indebtedness for borrowed money, (b) any indebtedness evidenced by a note, bond or debenture, or other similar instruments, (c) letters of credit, performance bonds, bid bonds or other sureties of any kind to the extent drawn, (d) all obligations under forward currency exchanges, interest rate protection agreements, swap agreements and hedging arrangements, (c) all obligations of such Person as lessee that are, or pursuant to GAAP, should be, recorded as finance leases, unless related to a Purchased Asset or Assumed Liability, (f) all obligations of such Person to pay the deferred purchase price of property, equipment or services, (g) all indebtedness created or arising under any conditional sale or other title retention Contract with respect to property acquired, (h) all outstanding severance and retention obligations (including the employer portion of any employment or payroll Taxes related thereto), (i) all obligations of the type referred to in the foregoing clauses of this definition of other Persons for the payment of which such Person is responsible or liable as guarantor, (j) any interest, principal, prepayment penalty, fees or expenses to the extent paid in respect of those items listed in clauses (a) through (i) of this definition; *provided*, *however*, that notwithstanding any other provision of this Agreement, Indebtedness shall not include any of the Liabilities of the Technology Business under, pursuant to or in connection with (i) any letters of credit, performance bonds, bid bonds or other sureties of any kind to the extent undrawn, and (ii) any trade payable or other accrued liability (excluding Pre-Paid Contract Costs).

"***Indemnitee***" means a Seller Indemnitee or a Buyer Indemnitee, as applicable.

"***Indemnitor***" means any of Buyer or Sellers, as applicable, providing indemnification under **Article IX**.

"***Information Systems***" means all computer hardware, databases and data storage systems, computer, data, database and communications networks (other than the Internet), architecture interfaces and firewalls (whether for data, voice, video or other media access, transmission or reception) and other apparatus used to create, store, transmit, exchange or receive information in any form, excluding, for avoidance of doubt, all Software.

"***Insurance Policies***" has the meaning set forth in **Section 4.14**.

"***Intellectual Property***" means all intellectual property rights in any jurisdiction, including the following: (i) patents and applications therefor (whether provisions or non-provisional, regional or international), including all divisionals, continuations, continuations-in-part, reissues, examinations, renewals, extensions and substitutions of any of the foregoing, (ii) trade secrets and other confidential information and know-how protectable under applicable Law, which may include technical, scientific and regulatory information, techniques, data, processes, methods, inventions (whether or not patentable), formulae, formulations, compositions, specifications, and marketing, pricing, distribution, cost and sales information ("***Know-How***"), (iii) Trademarks, trade dress, logos, brand and corporate names, and other similar indicia of source or origin, together with all of the goodwill associated therewith ("***Marks***") (iv) Internet domain names, IP addresses, online or other electronic identifiers, social media names, tags or handles, and all registrations and applications for registration thereof ("***Internet Properties***"), and (v) copyrights and registrations and applications therefor.

"***Interim Financial Data***" has the meaning set forth in **Section 4.5(a)**.

"***Interim Summary of Working Capital***" has the meaning set forth in **Section 4.5(a)**.

"***IP Assignment***" has the meaning set forth in **Section 3.2(d)**.

"***IRS***" has the meaning set forth in **Section 4.10(b)**.

"***Know-How***" has the meaning set forth in the definition of "***Intellectual Property***".

"***Law***" means any law, common law, statute, code, ordinance, regulation or rule of any Governmental Authority.

"***Liabilities***" means any obligation, liability or commitment of any nature (whether known or unknown, whether asserted or unasserted, whether determined, determinable or otherwise, whether absolute or contingent, whether accrued or unaccrued, whether liquidated or unliquidated, whether incurred or consequential and whether due or to become due), including any obligation or liability for Taxes, and whether or not required under GAAP to be accrued on the financial statements of such Person.

"***Licensee***" means (i) with respect to the Seller Licensed IP, Buyer and its Affiliates (including, following the Closing, the Transferred Entities) and (ii) with respect to the Buyer Licensed IP, Sellers and their respective Subsidiaries.

"***Licensed IP***" shall mean, as applicable, the Seller Licensed IP and the Buyer Licensed IP.

"***Licensor***" means (i) with respect to the Seller Licensed IP, each Seller and their respective Subsidiaries and (ii) with respect to the Buyer Licensed IP, Buyer and its Affiliates (including, following the Closing, the Transferred Entities).

"***Liens***" means any mortgage, pledge, lien, license, encumbrance, charge, or other security interest.

"***Limitation Date***" has the meaning set forth in **Section 9.1(f)**.

"***Lookback Date***" means August 15, 2022.

"***Losses***" has the meaning set forth in **Section 9.2(a)**.

"***Marks Transition Period***" has the meaning set forth in **Section 8.4(b)**.

"***Material Adverse Effect***" means any event, condition, state of facts, change, occurrence, circumstance or development that, individually or in the aggregate, (i) impairs, hinders, delays or adversely affects, or would reasonably be expected to impair, hinder, delay or adversely affect, in any material respect, the ability of any Seller or its Affiliates to perform their obligations under this Agreement or to consummate the transactions contemplated hereby or (ii) has a material adverse effect on the business, operations, results of operations, or financial condition of the Technology Business, but (solely for purposes of the foregoing clause (ii)) excluding any change, occurrence, circumstance or development (a) resulting from general economic conditions (including prevailing interest rates, exchange rates, commodity prices, and fuel costs) or political conditions, in each case, whether as a result of acts of terrorism, war (whether or not declared), armed conflicts, weather conditions or other acts of God (including storms, earthquakes, floods or other natural disasters) or otherwise, (b) resulting from any epidemic, pandemic, disease outbreak (including, for the avoidance of doubt, COVID-19) or other health crisis or public health event, including the worsening thereof, (c) affecting companies in the industry in which it conducts its business generally, (d) resulting from any action taken by Seller at the express written request of Buyer, (e) resulting from changes in GAAP or the adoption, implementation, promulgation, repeal, modification, amendment, reinterpretation or change to applicable Law after the date hereof, (f) any failure, in and of itself, of the Technology Business to meet any published or internally prepared projections, budgets, plans, or forecasts of revenues, earnings, or other financial performance measures or operating statistics (it being agreed that the underlying cause of any such failure described in this clause (f) may be considered in determining whether or not a Material Adverse Effect has occurred), (g) resulting from the announcement or performance of this Agreement or the transactions contemplated hereby, (h) resulting from any action or omission taken pursuant to the express written request or with the express written consent of Buyer or its Affiliates; *provided* that, in the case of clauses (a), (b), (c) and (e), any such event, condition, state of facts, change, occurrence, circumstance or development may be taken into account in determining whether or not there has been a Material Adverse Effect to the extent any such event, condition, state of facts, change, occurrence, circumstance or development is reasonably likely to have a disproportionate adverse effect on the Technology Business as compared to other participants in the industry in which such the Technology Business operates.

"***Material Contracts***" has the meaning set forth in **Section 4.11(a)**.

"***New Technology Business Contracts***" has the meaning set forth in **Section 8.2(c)**.

"*Non-Assignable Shared Contracts*" has the meaning set forth in **Section 8.9(b)**.

"***NYSE***" means The New York Stock Exchange or any successor thereto.

"***Obligations***" means all of Buyer's obligations to pay (a) all amounts described in **Article II** (including, for the avoidance of doubt, payment of any Earn-Out Payment that becomes due and payable pursuant to **Section 2.4**), and (b) all fees and expenses incurred by Buyer in connection with the transactions contemplated hereby.

"***Open Source Software***" shall mean any Software that is licensed pursuant to a license now or in the future approved by the Open Source Initiative and listed at http://www.opensource.org/licenses/alphabetical or that is considered "free" or "open source software" by the Free Software Foundation.

"***Order***" means any order, judgment, ruling, injunction, assessment, award, decree or writ of any Governmental Authority.

"***Ordinary Course of Business***" means the ordinary and usual course of normal day-to-day operations of the Technology Business through the date hereof consistent with past custom and practice.

"***Organizational Documents***" means (i) the certificate or articles of incorporation, organization or formation and the by-laws, the partnership agreement or operating or limited liability company agreement (as applicable), and (ii) any documents comparable to those described in clause (i) as may be applicable pursuant to any applicable Law.

"***Parent***" has the meaning set forth in the preamble.

"***Party***" and "***Parties***" have the meanings set forth in the preamble.

"***Permits***" has the meaning set forth in **Section 4.9**.

"***Permitted Liens***" means (a) Liens for Taxes of Governmental Authorities not yet due and payable or being contested in good faith by appropriate proceedings and for which adequate reserves have been established in the Financial Statements, (b) mechanics', workmens', repairmen's, warehousemen's, carriers' or other like Liens arising or incurred in the Ordinary Course of Business or by operation of Law if the underlying obligations are not delinquent, (c) Liens arising under worker's compensation, unemployment insurance, social security, retirement and similar legislation, (d) purchase money liens and liens securing rental payments under capital lease arrangements arising or incurred in the Ordinary Course of Business, (e) title and other rights of a lessor arising under or in connection with a capital or operating lease arising or incurred in the Ordinary Course of Business, (f) non-exclusive licenses of Business Intellectual Property granted in the Ordinary Course of Business, (g) Liens arising in the Ordinary Course of Business, the existence of which would not reasonably be expected to have more than a *de minimis* adverse effect on the Technology Business, (h) Liens that will be terminated in full in connection with the Closing; *provided*, *however*, that (x) none of the foregoing described in clauses (a) – (f) will individually or in the aggregate have more than a *de minimis* adverse effect on the continued use and operation of the property to which they relate in the Technology Business as presently conducted and (y) Liens securing Indebtedness incurred under the Existing Credit Agreements or arising from any document related thereto shall not be considered Permitted Liens.

"***Person***" means any individual, sole proprietorship, partnership, corporation, limited liability company, joint venture, unincorporated society or association, trust or other legal entity or any Governmental Authority.

"***Personal Information***" means information that is classified as personal data or personal information under applicable Law.

"***Post-Closing Accounts Receivable***" means any Accounts Receivable which accrue on or following the Closing Date.

"***Post-Closing Tax Period***" means any Tax period beginning on or after the Closing Date.

"***Pre-Closing Accounts Receivable***" means any Accounts Receivable which have accrued prior to the Closing Date but excluding Included Annual Contract Accounts pursuant to **Section 2.1(a)(x)**.

"***Pre-Closing Tax Period***" means any Tax period ending on or before the Closing Date.

"***Pre-Paid Contract Costs***" means the variable cost of goods sold required to service the remaining term of any pre-paid customer contracts outstanding as of the Closing Date.

"***Privacy and Security Requirements***" means, to the extent applicable to the Technology Business: (a) any Laws regulating the Processing of Personal Information or Confidential Data; (b) all provisions of Contracts between Sellers and any Person that impose requirements on the Technology Business related to its Processing of Personal Information or Confidential Data; (c) all of Sellers' internal written policies and procedures applicable to its Processing of Personal Information or Confidential Data; and (d) the Payment Card Industry Data Security Standard issued by the PCI Security Standards Council, as it may be amended from time to time.

"***Process***" or "***Processing***" or "***Processed***" means the creation, collection, use, storage, maintenance, processing, recording, distribution, transfer, transmission, receipt, import, export, protection, safeguarding, access, disposal or disclosure or other activity regarding data (whether electronically or in any other form or medium).

"***Purchase Price Allocation Schedule***" has the meaning set forth in **Section 10.4(a)**.

"***Purchased Assets***" has the meaning set forth in **Section 2.1(a)**.

"***Related Party Agreements***" has the meaning set forth in **Section 4.19**.

"***Representative***" means, with respect to any Person, such Person's directors, officers, employees, Affiliates, investment bankers, attorneys, accountants and other agents, advisors or representatives.

"***Requisite Stockholder Approval***" means the affirmative vote (in person or by proxy) of the stockholders of Parent in accordance with the Organizational Documents of Parent.

"***Restricted Period***" has the meaning set forth in **Section 8.3(a)**.

"***Retained Business***" means all businesses other than the Technology Business of Parent and its Subsidiaries.

"***Retained Records***" has the meaning set forth in **Section 8.6(b)**.

"***Review Period***" has the meaning set forth in **Section 2.4(b)(ii)**.

"***Rubicon Germany***" means Rubicon Technologies Germany UG, a German limited liability company.

"***Rubicon Germany Equity Interests***" means 100% of the equity interests of Rubicon Germany.

"***Rubicon International***" means Rubicon Technologies International, Inc., a Delaware corporation.

"***Rubicon International Equity Interests***" means 100% of the equity interests of Rubicon International.

"***Rubicon Tech Holdings***" has the meaning set forth in the preamble.

"***Schedules***" means, as the context requires, the Buyer Disclosure Schedules and/or the Seller Disclosure Schedules.

"***Security Breach***" means any (a) security breach or breach of Personal Information under applicable Law; or (b) material unauthorized access, acquisition, use, disclosure, modification, deletion, or destruction of Personal Information or Confidential Data; or (c) any material disruption to, or material interruption in, the conduct of their businesses attributable to a defect, bug, breakdown, unauthorized access, introduction of a virus or other malicious programming, or other failure or deficiency on the part of any software or technology Used by the Technology Business.

"***Seller***" or "***Sellers***" has the meaning set forth in the preamble.

"***Seller Disclosure Schedules***" has the meaning set forth in the preamble of **Article IV**.

"***Seller Documents***" has the meaning set forth in **Section 4.3**.

"***Seller Group***" has the meaning set forth in **Section 11.17**.

"***Seller Indemnifying Parties***" has the meaning set forth in **Section 9.2(b)**.

"***Seller Indemnitees***" has the meaning set forth in **Section 9.2(a)**.

"***Seller Licensed IP***" shall mean any and all Intellectual Property (other than Marks and Internet Properties) that (i) is owned by any Seller or any of its Subsidiaries as of immediately following the Closing and (ii) is used in the conduct of the Technology Business as of the Closing Date.

"***Seller Marks***" has the meaning set forth in **Section 8.4(a)**.

"***Seller Officer Certificate***" has the meaning set forth in **Section 3.2(f)**.

"***Seller W-9***" has the meaning set forth in **Section 3.2(h)**.

"***Sellers' Knowledge***" means the actual knowledge after undertaking a reasonable inquiry of each's direct reports of Philip Rodoni, Kevin Schubert and Chris Spooner.

"***Senior Individuals***" has the meaning set forth in **Section 8.3(a)**.

"***Shared Contract***" means any Contract entered into prior to the Closing that is between any Seller or any of its Subsidiaries, on the one hand, and one or more third parties, on the other hand, that inures to the benefit or burden of both the Technology Business and any business of any Seller that is not the Technology Business, other than any Employee Plan.

"***Shared Insurance Policies***" has the meaning set forth in **Section 8.11(b)**.

"***Significant Customer***" has the meaning set forth in **Section 4.18**.

"***Significant Vendor***" has the meaning set forth in **Section 4.18**.

"***Software***" means all computer software, computer programs, firmware and databases, including source code and object code, development tools, algorithms, comments, user interfaces, menus, buttons and icons, and all files, data, scripts, application programming interfaces, manuals, design notes, programmers' notes, and architecture related thereto.

"***Straddle Period***" means any Tax period beginning on or before and ending after the Closing Date.

"***Subcontract Agreement***" has the meaning set forth in **Section 8.2(b)(ii)**.

"***Subsidiary***" means any entity of which securities or other ownership interests having ordinary voting power to elect a majority of the board of directors or other persons performing similar functions are at the time directly or indirectly owned by any Seller.

"***Take-Private Transaction***" means the merger or other change of control transaction between (w) Buyer or its Affiliate and (x) Parent or its Affiliate intended to result in (y) the delisting of the common stock of Parent from the NYSE and (z) the deregistration of the common stock of Parent pursuant to the Exchange Act.

"***Tax***" or "***Taxes***" means any federal, state, local or foreign net income, alternative or add-on minimum tax, gross income, gross receipts, sales, use, service, ad valorem, value-added, transfer, franchise, capital, profits, license, withholding, payroll, employment, excise, severance, stamp, production, occupation, premium, property, disability, registration, escheat or unclaimed property, environmental or windfall profit tax, custom, duty or other imposition of any kind whatsoever in the nature of a tax imposed by any Governmental Authority, and including any interest, penalties and additions to tax imposed with respect thereto.

"***Tax Returns***" means all returns, statements and reports, including amendments and supporting schedules and attachments, required to be filed in respect of Taxes.

"***Technology Business***" has the meaning set forth in the recitals.

"*Technology Business Contracts*" has the meaning set forth in **Section 2.1(a)(iii)**.

"***Third Party Claim***" has the meaning set forth in **Section 9.6(a)**.

"***Total Consideration***" has the meaning set forth in **Section 2.2**.

"***Trade Secrets***" means, to the extent included in the Purchased Assets, anything that would constitute a "trade secret" under applicable Law, and includes all other inventions (whether patentable or not), industrial designs, discoveries, improvements, ideas, designs, models, formulae, specifications, technologies, processes, expertise (including expertise related to sourcing), algorithms, architectures, layouts, look-and-feel, methodologies, patterns, compilations, data collections, drawings, blueprints, mask works, devices, methods, techniques, know-how, confidential information, proprietary information, research and development, compositions, manufacturing and production processes and techniques, customer lists, supplier and vendor lists, pricing and cost information, business and marketing plans, and proposals, know-how, confidential information or proprietary information, technology and the moral and economic rights of authors and inventors in any of the foregoing.

"*Trademarks*" means registered United States federal, state and foreign trademarks, service marks and trade names, and pending applications to register the foregoing.

"*Transaction Expenses*" means any fees, costs and expenses incurred or subject to reimbursement by any Seller, in each case in connection with the transactions contemplated by this Agreement or any other similar strategic alternative process, including (a) any brokerage fees, commissions, finders' fees, or financial advisory fees, and, in each case, related costs and expenses; (b) any fees, costs and expenses of counsel, accountants or other advisors or service providers; and (c) any fees, costs and expenses or payments of any Seller related to any transaction bonus, discretionary bonus, change-of-control payment, retention or other compensatory payments (including any related Taxes, including the employer portion of any employment or payroll Taxes) made to any current or former Business Employee, in each case solely as a result of the execution of this Agreement or in connection with the transactions contemplated by this Agreement, whether payable prior to, on or following the Closing Date (excluding, for the avoidance of doubt, the payment of the Closing Date Consideration, Earn-Out Payment, if any, and any payment to the stockholders of Parent pursuant to **Section 2.4(a)(i)** to Sellers pursuant to this Agreement); (d) all Transfer Taxes borne by Sellers pursuant to **Section 10.3**; (e) accrued and unpaid bonuses and paid

time off as of the Closing Date (even if unrelated to the transactions contemplated by this Agreement); (f) amounts payable (including any related Taxes, including the employer portion of any employment or payroll Taxes) to any third party as a result of the transactions contemplated by this Agreement or any other similar strategic alternative process; (g) all obligations of the type referred to in the foregoing clauses of this definition of other Persons for the payment of which Sellers or any of their Subsidiaries is responsible or liable as guarantor; and (h) any accrued interest, premiums, penalties and other fees and expenses that are required to be paid by such Persons in respect of the foregoing; *provided*, *however*, that Transaction Expenses shall not include any fees, costs, payments, expenses or disbursements incurred by, on behalf of or for the account of Buyer and its Affiliates.

"***Transaction Matter***" has the meaning set forth in **Section 9.3**.

"***Transferred Entities***" means Rubicon International and Rubicon Germany.

"***Transferring Employees***" has the meaning set forth in **Section 8.7(a)**.

"***Transfer Taxes***" has the meaning set forth in **Section 10.3**.

"***TSA***" has the meaning set forth in **Section 3.2(b)**.

"***Unassignable Contract***" has the meaning set forth in **Section 8.2(a)**.

"***Use***" or "***Used***" means, with respect to any asset of any Seller or any of its Affiliates, that such asset is primarily or exclusively used in the operation or conduct of the Technology Business.

"***WARN Act***" has the meaning set forth in **Section 4.15(b)**.

"***Working Capital Adjustment***" means an amount equal to $6,500,000.00.

"***Working Capital Date***" has the meaning set forth in **Section 4.5(a)**.

"***Workspace***" means the resident membership types set forth on the Workspace Membership Agreement.

"***Workspace Assignment***" has the meaning set forth in **Section 3.2(c)**.

"***Workspace Membership Agreement***" means that certain Serendipity Labs Agreement by and between SLM-NY07, LLC DBA Serendipity Labs – New York, NY – Grand Central and Rubicon Tech Holdings, dated February 26, 2024.

EXHIBIT B

FORM OF BILL OF SALE, ASSIGNMENT AND ASSUMPTION AGREEMENT

EXHIBIT C

FORM OF TRANSITION SERVICES AGREEMENT

EXHIBIT D

FORM OF ASSIGNMENT WORKSPACE MEMBERSHIP AGREEMENT

EXHIBIT E

FORM OF INTELLECTUAL PROPERTY ASSIGNMENT AGREEMENT

EXHIBIT F

FORM OF EQUITY INTEREST ASSIGNMENT

EXHIBIT G

FORM OF SUBCONTRACT AGREEMENT

EXHIBIT H

CALCULATION OF ANNUAL RECURRING REVENUE

EXHIBIT H-1

EXHIBIT I

PURCHASE PRICE ALLOCATION SCHEDULE

Asset Class under Code Section 1060	Description	Methodology for Determining FMV
Class I	Cash and Cash Equivalents	Cash value.
Class II	CDs, Foreign Currency, etc.	The net book value in accordance with GAAP immediately prior to the Closing, as shown on the Financial Statements.
Class IV	Inventory	The net book value in accordance with GAAP immediately prior to the Closing, as shown on the Financial Statements.
Class V	Prepaids	The net book value in accordance with GAAP immediately prior to the Closing, as shown on the Financial Statements.
Class V	Other Current Assets included in Indebtedness	The net book value in accordance with GAAP immediately prior to the Closing, as shown on the Financial Statements.
Class V	Property and Equipment and Leasehold Interests and other Tangible and Intangible Assets (other than those included in Code Section 197)	The net book value in accordance with GAAP immediately prior to the Closing, as shown on the Financial Statements.
Class VI	All Code Section 197 Assets (other than Goodwill and Going Concern Value)	The net book value in accordance with GAAP immediately prior to the Closing, as shown on the Financial Statements.
Class VII	Goodwill and Going Concern Value	Remaining balance.

Exhibit 10.2

SECURITIES PURCHASE AGREEMENT

THIS SECURITIES PURCHASE AGREEMENT (the "Agreement"), dated as of May 7, 2024, is entered into by and between **RUBICON TECHNOLOGIES, INC.**, a Delaware corporation, with headquarters located at 950 E Paces Ferry Rd NE Suite 810, Atlanta, GA 30326 (the "Company"), and the buyer identified on the signature pages hereto (the "Buyer").

RECITALS

WHEREAS, the Company seeks to sell, issue and deliver to the Buyer, and the Buyer desires to purchase and acquire from the Company, an aggregate of 20,000 shares of the Company's Series A Convertible Perpetual Preferred Stock, par value $0.0001 per share (the "Preferred Stock"), having the designation, preferences, rights, privileges, powers and terms and conditions as specified in the Certificate of Designations, Preferences and Rights of Series A Convertible Perpetual Preferred Stock, a form of which is attached hereto as Exhibit A (the "Certificate of Designations"); and

WHEREAS, the Company and the Buyer are executing and delivering this Agreement in reliance upon the exemption from securities registration afforded by Section 4(a)(2) of the Securities Act of 1933, as amended (the "1933 Act"), Rule 506(b) of Regulation D ("Regulation D") and/or Regulation S ("Regulation S") as promulgated under by the United States Securities and Exchange Commission (the "SEC") under the 1933 Act.

NOW THEREFORE, in consideration of the foregoing and of the agreements and covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Company and the Buyer hereby agree as follows:

1. **Purchase and Sale of the Preferred Shares**.

(a) Purchase and Sale of the Preferred Shares. On the terms and subject to the conditions set forth herein, on the Closing Date (as defined below), the Company shall issue and sell to the Buyer, and the Buyer agrees to purchase from the Company, an aggregate of 20,000 shares of Preferred Stock (the "Preferred Shares") for an aggregate purchase price of $20,000,000 (the "Purchase Price").

(b) Form of Payment. On the terms and subject to the conditions set forth herein, on the Closing Date: (i) the Buyer shall deliver the Purchase Price by wire transfer of immediately available funds in exchange for the Preferred Shares, to be issued and sold to it at the Closing (as defined below), against delivery of the Preferred Shares, (ii) the Company shall deliver, or cause to be delivered, evidence reasonably satisfactory to Continental Stock & Transfer Trust Company, the duly appointed Transfer Agent (the "Transfer Agent"), of the issuance of the Preferred Shares, and (iii) the Transfer Agent, upon receipt of the satisfactory evidence described in clause (ii) above, shall deliver the Preferred Shares to the Buyer, credited to book-entry accounts maintained by the Transfer Agent of the Company, against delivery of the Purchase Price.

(c) Closing Date. Subject to the satisfaction (or written waiver) of the conditions thereto set forth in Section 6 and Section 7 below, the date and time of the issuance and sale of the Preferred Shares pursuant to this Agreement (the "Closing Date") shall be on the date that the Purchase Price for the Preferred Shares is paid by Buyer pursuant to terms of this Agreement.

(d) Closing. The closing of the transactions contemplated by this Agreement (the "Closing") shall occur on the Closing Date at such location as may be agreed to by the parties (including via exchange of electronic signatures).

2. **Buyer's Representations and Warranties**. The Buyer represents and warrants to the Company as of the Closing Date that:

(a) Investment Purpose. As of the Closing Date, the Buyer is purchasing the Preferred Shares (the Preferred Shares and shares of the Company's Class A Common Stock (the "Common Stock") issuable upon conversion of the Preferred Shares shall collectively be referred to herein as the "Securities") for its own account and not with a present view towards the public sale or distribution thereof, except pursuant to sales registered or exempted from registration under the 1933 Act; provided, however, that by making the representations herein, the Buyer does not agree to hold any of the Securities for any minimum or other specific term and reserves the right to dispose of the Securities at any time in accordance with or pursuant to a registration statement or an exemption under the 1933 Act.

(b) Accredited Investor Status. The Buyer is an "accredited investor" as that term is defined in Rule 501(a) of Regulation D (an "Accredited Investor").

(c) Reliance on Exemptions. The Buyer understands that the Securities are being offered and sold to it in reliance upon specific exemptions from the registration requirements of United States federal and state securities laws and that the Company is relying upon the truth and accuracy of, and the Buyer's compliance with, the representations, warranties, agreements, acknowledgments and understandings of the Buyer set forth herein in order to determine the availability of such exemptions and the eligibility of the Buyer to acquire the Securities.

(d) Information. The Buyer and its advisors, if any, have been furnished with all materials relating to the business, finances and operations of the Company and materials relating to the offer and sale of the Securities which have been requested by the Buyer or its advisors. Notwithstanding the foregoing, the Company has not disclosed to the Buyer any material nonpublic information regarding the Company or otherwise and will not disclose such information unless such information is disclosed to the public prior to or promptly following such disclosure to the Buyer. Neither such inquiries nor any other due diligence investigation conducted by Buyer or any of its advisors or representatives shall modify, amend or affect Buyer's right to rely on the Company's representations and warranties contained in Section 3 below.

(e) Governmental Review. The Buyer understands that no United States federal or state agency or any other government or governmental agency has passed upon or made any recommendation or endorsement of the Securities.

(f) Transfer or Re-sale. The Buyer understands that (i) the sale or resale of the Securities has not been and is not being registered under the 1933 Act or any applicable state securities laws, and the Securities may not be transferred unless (a) the Securities are sold pursuant to an effective registration statement under the 1933 Act, (b) the Buyer shall have delivered to the Company, at the cost of the Company, an opinion of counsel that shall be in form, substance and scope customary for opinions of counsel in comparable transactions to the effect that the Securities to be sold or transferred may be sold or transferred pursuant to an exemption from such registration, which opinion shall be accepted by the Company, (c) the Securities are sold or transferred to an "affiliate" (as defined in Rule 144 promulgated under the 1933 Act (or a successor rule) ("Rule 144")) of the Buyer who agrees to sell or otherwise transfer the Securities only in accordance with this Section 3(f) in a transaction exempt from the registration requirements of the 1933 Act, (d) the Securities are sold pursuant to Rule 144 or other applicable exemption, or (e) the Securities are sold pursuant to Regulation S under the 1933 Act (or a successor rule) ("Regulation S"), and the Buyer shall have delivered to the Company, at the cost of the Company, an opinion of counsel that shall be inform, substance and scope customary for opinions of counsel in corporate transactions, which opinion shall be accepted by the Company; and (ii) any sale of such Securities made in reliance on Rule 144 may be made only in accordance with the terms of said Rule and further, if said Rule is not applicable, any re-sale of such Securities under circumstances in which the seller (or the person through whom the sale is made) may be deemed to be an underwriter (as that term is defined in the 1933 Act) may require compliance with some other exemption under the 1933 Act or the rules and regulations of the SEC thereunder. Notwithstanding the foregoing or anything else contained herein to the contrary, the Securities may be pledged in connection with a bona fide margin account or other lending arrangement secured by the Securities, and such pledge of Securities shall not be deemed to be a transfer, sale or assignment of the Securities hereunder, and the Buyer in effecting such pledge of Securities shall be not required to provide the Company with any notice thereof or otherwise make any delivery to the Company pursuant to this Agreement or otherwise.

(g) Legend(s). The Buyer understands that until such time as the Preferred Shares and/or the shares of Common Stock issuable upon conversion of the Preferred Stock, have been registered under the 1933 Act or may be sold pursuant to Rule 144, Rule 144A under the 1933 Act, Regulation S, or other applicable exemption without any restriction as to the number of securities as of a particular date that can then be immediately sold, the Securities may bear restrictive legends in substantially the following forms (and a stop-transfer order may be placed against transfer of such Securities):

THE SECURITIES REPRESENTED HEREBY (INCLUDING THE SECURITIES INTO WHICH THESE SECURITIES ARE CONVERTIBLE) HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR ANY STATE SECURITIES LAWS AND NEITHER THE SECURITIES NOR ANY INTEREST THEREIN MAY BE OFFERED, SOLD, TRANSFERRED, PLEDGED, HYPOTHECATED OR OTHERWISE DISPOSED OF EXCEPT PURSUANT TO AN

EFFECTIVE REGISTRATION STATEMENT UNDER SUCH ACT OR SUCH LAWS OR AN EXEMPTION FROM REGISTRATION UNDER SUCH ACT AND SUCH LAWS WHICH, IN THE OPINION OF COUNSEL, IS AVAILABLE.

THESE SECURITIES ARE HELD BY A PERSON WHO IS CONSIDERED AN AFFILIATE FOR PURPOSES OF RULE 144 UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"). NO TRANSFER OF THESE SECURITIES OR ANY INTEREST THEREIN MAY BE MADE UNLESS THE ISSUER HAS RECEIVED AN OPINION OF COUNSEL SATISFACTORY TO IT THAT THESE SECURITIES MAY BE SOLD PURSUANT TO RULE 144 OR ANOTHER AVAILABLE EXEMPTION UNDER THE ACT AND THE RULES AND REGULATIONS THEREUNDER.

The legends set forth above shall be removed and the Company shall issue a certificate or book entry statement for the applicable Securities without such legends to the holder of any Security upon which it is stamped or (as requested by such holder) issue the applicable Securities to such holder by electronic delivery by crediting the account of such holder's broker with The Depository Trust Company ("DTC"), if, unless otherwise required by applicable state securities laws, (a) such Security is registered for sale under an effective registration statement filed under the 1933 Act or otherwise may be sold pursuant to Rule 144, Rule 144A, Regulation S, or other applicable exemption without any restriction as to the number of securities as of a particular date that can then be immediately sold, or (b) the Company or the Buyer provides a legal opinion (as contemplated by and in accordance with Section 5(m) hereof) to the effect that a public sale or transfer of such Security may be made without registration under the 1933 Act, which opinion shall be accepted by the Company so that the sale or transfer is effected. The Company shall be responsible for the fees of its transfer agent and all DTC fees associated with any such issuance. The Buyer agrees to sell all Securities, including those represented by a certificate(s) from which the legends have been removed, in compliance with applicable prospectus delivery requirements, if any.

(h) Authorization; Enforcement. This Agreement and the Registration Rights Agreement (as defined below) have been duly and validly authorized by the Buyer and have been duly executed and delivered on behalf of the Buyer, and this Agreement and the Registration Rights Agreement constitute valid and binding agreements of the Buyer enforceable in accordance with their terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally and except as may be limited by the exercise of judicial discretion in applying principles of equity.

3. **Representations and Warranties of the Company**. The Company represents and warrants to the Buyer as of the Closing Date that, except as set forth or described in any of the SEC Documents (as defined below):

(a) Organization and Qualification. The Company is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction in which it is incorporated, with full power and authority (corporate and other) to own, lease, use and operate its properties and to carry on its business as and where now owned, leased, used, operated, and conducted. The Company is duly qualified as a foreign corporation to do business and is in good standing in every jurisdiction in which its ownership or use of property or the nature of the

business conducted by it makes such qualification necessary except where the failure to be so qualified or in good standing would not have a Material Adverse Effect. "Material Adverse Effect" means any material adverse effect on the business, operations, assets, financial condition or prospects of the Company or its Subsidiaries, if any, taken as a whole, or on the transactions contemplated hereby or by the agreements or instruments to be entered into in connection herewith. "Subsidiaries" means any corporation or other organization, whether incorporated or unincorporated, in which the Company owns, directly or indirectly, any equity or other ownership interest, that are material to the Company.

(b) Authorization; Enforcement. (i) The Company has all requisite corporate power and authority to enter into and perform this Agreement, the Registration Rights Agreement, the Certificate of Designations and to consummate the transactions contemplated hereby and thereby and to issue the Securities, in accordance with the terms hereof and thereof, (ii) the execution and delivery of this Agreement and the Registration Rights Agreement, the filing with the Secretary of State of the State of Delaware of the Certificate of Designations and the consummation by the Company of the transactions contemplated hereby and thereby (including without limitation, the issuance of the Preferred Shares, as well as the issuance and reservation for issuance of the shares of Common Stock issuable upon conversion of the Preferred Shares) have been duly authorized by the Company's Board of Directors (the "Board") and a special committee of disinterested directors of the Board (the "Special Committee") and no further consent or authorization of the Company, the Board, the Special Committee, the Company's shareholders, or the Company's debt holders is required, (iii) this Agreement and the Registration Rights Agreement (together with any other instruments executed in connection herewith, including the Certificate of Designations to be filed with the Secretary of State of the State of Delaware) have been duly executed and delivered by the Company by its authorized representative, and such authorized representative is the true and official representative with authority to sign this Agreement and the other instruments documents executed in connection herewith and bind the Company accordingly, and (iv) this Agreement and the Registration Rights Agreement constitute a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with their terms.

(c) Capitalization. As of the date hereof, the authorized capital stock of the Company consists of 975,000,000 shares of common stock of the Company comprised of 690,000,000 shares of Class A common stock, 275,000,000 shares of Class V common stock, and 10,000,000 shares of preferred stock and the outstanding capital stock of the Company consists of 53,763,823 shares of Class A common stock and 1,051,627 shares of Class V common stock. All of such outstanding shares of capital stock of the Company and the Preferred Shares and the shares of Common Stock issuable upon conversion of the Preferred Shares, are, or upon issuance will be, duly authorized, validly issued, fully paid and non-assessable.

(d) Issuance of Preferred Shares. The issuance of the Preferred Shares and the issuance of the shares of Common Stock issuable upon conversion of the Preferred Shares has been duly authorized and, when issued, each will be validly issued, fully paid and non-assessable, and free from all taxes, liens, claims and encumbrances with respect to the issue thereof and such Securities will not be issued in violation of any purchase option, call option, preemptive right, resale right, subscription right, right of first refusal or similar right, and will not impose personal liability upon the holder thereof. The shares of Common Stock issuable upon

conversion of the Preferred Shares have been duly reserved for such issuance. If physical certificates representing the Preferred Shares are issued, the Transfer Agent, upon receipt of satisfactory evidence, shall deliver certificates representing the shares of Common Stock issuable upon conversion of such shares of Preferred Shares formerly evidenced by the physical certificate.

(e) Acknowledgment of Dilution. The Company understands and acknowledges the potentially dilutive effect to the Common Stock of the shares of Common Stock issuable upon conversion of the Preferred Shares. The Company further acknowledges that its obligation to issue, upon conversion of the Preferred Shares, shares of Common Stock, is absolute and unconditional regardless of the dilutive effect that such issuance may have on the ownership interests of other shareholders of the Company.

(f) No Conflicts. The execution, delivery and performance of this Agreement, the Registration Rights Agreement and the Certificate of Designations by the Company and the consummation by the Company of the transactions contemplated hereby and thereby (including, without limitation, the issuance and reservation for issuance of the shares of Common Stock issuable upon conversion of the Preferred Shares) will not (i) conflict with or result in a violation of any provision of the Certificate of Incorporation or By-laws, or (ii) violate or conflict with, or result in a breach of any provision of, or constitute a default (or an event which with notice or lapse of time or both could become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation of, any agreement, note, evidence of indebtedness, indenture, patent, patent license or instrument to which the Company or any of 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 and regulations of any self-regulatory organizations to which the Company or its securities is subject) applicable to the Company or any of its Subsidiaries or by which any property or asset of the Company or any of its Subsidiaries is bound or affected (except, in the case of this clause (iii), for such conflicts, defaults, terminations, amendments, accelerations, cancellations and violations as would not, individually or in the aggregate, have a Material Adverse Effect), or (iv) trigger any anti-dilution and/or ratchet provision contained in any other contract in which the Company is a party thereto or any security issued by the Company. Neither the Company nor any of its Subsidiaries is in violation of its Certificate of Incorporation, By-laws or other organizational documents and neither the Company nor any of its Subsidiaries is in default (and no event has occurred which with notice or lapse of time or both could put the Company or any of its Subsidiaries in default) under, and neither the Company nor any of its Subsidiaries has taken any action or failed to take any action that would give to others any rights of termination, amendment, acceleration or cancellation of, any agreement, indenture or instrument to which the Company or any of its Subsidiaries is a party or by which any property or assets of the Company or any of its Subsidiaries is bound or affected, except for possible defaults as would not, individually or in the aggregate, have a Material Adverse Effect. The businesses of the Company and its Subsidiaries, if any, are not being conducted, and shall not be conducted so long as the Buyer owns any of the Securities, in violation of any law, ordinance or regulation of any governmental entity. Except as specifically contemplated by this Agreement and as required under the 1933 Act and any applicable state securities laws, the Company is not required to obtain any consent, authorization or order of, or make any filing or registration with, any court, governmental agency, regulatory agency, self-regulatory organization or stock market or any third party in order for it to execute,

deliver or perform any of its obligations under this Agreement, the Registration Rights Agreement and the Certificate of Designations in accordance with the terms hereof or thereof or to issue and sell the Preferred Shares in accordance with the terms hereof and, upon Conversion of the Preferred Shares, issue shares of Common Stock as applicable. All consents, authorizations, orders, filings and registrations which the Company is required to obtain pursuant to the preceding sentence have been obtained or effected on or prior to the date hereof. Except as disclosed in the SEC Documents (as defined below), the Company is not in violation of the listing requirements of the New York Stock Exchange ("NYSE") and does not reasonably anticipate that the Common Stock will be delisted by the NYSE in the foreseeable future.

(g) SEC Documents; Financial Statements. The Company has filed all reports, schedules, forms, statements and other documents required to be filed by it with the SEC pursuant to the reporting requirements of the Securities Exchange Act of 1934, as amended (the "1934 Act") (all of the foregoing filed prior to the date hereof and all exhibits included therein and financial statements and schedules thereto and documents (other than exhibits to such documents) incorporated by reference therein, being hereinafter referred to herein as the "SEC Documents"). As of their respective dates, the SEC Documents complied in all material respects with the requirements of the 1934 Act and the rules and regulations of the SEC promulgated thereunder applicable to the SEC Documents, and none of the SEC Documents, at the time they were filed with the SEC, contained 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 light of the circumstances under which they were made, not misleading. None of the statements made in any such SEC Documents is, or has been, required to be amended or updated under applicable law (except for such statements as have been amended or updated in subsequent filings prior the date hereof). As of their respective dates, the financial statements of the Company included in the SEC Documents complied as to form in all material respects with applicable accounting requirements and the published rules and regulations of the SEC with respect thereto. Such financial statements have been prepared in accordance with United States generally accepted accounting principles, consistently applied, during the periods involved and fairly present in all material respects the consolidated financial position of the Company and its consolidated Subsidiaries as of the dates thereof and the consolidated results of their operations and cash flows for the periods then ended (subject, in the case of unaudited statements, to normal year-end audit adjustments). The Company is subject to the reporting requirements of the 1934 Act.

(h) Intellectual Property. The Company and each of its Subsidiaries owns or possesses the requisite licenses or rights to use all patents, patent applications, patent rights, inventions, know-how, trade secrets, trademarks, trademark applications, service marks, service names, trade names and copyrights ("Intellectual Property") necessary to enable it to conduct its business as now operated; there is no claim or action by any person pertaining to, or proceeding pending, or to the Company's knowledge threatened, which challenges the right of the Company or of a Subsidiary with respect to any Intellectual Property necessary to enable it to conduct its business as now operated; to the best of the Company's knowledge, the Company's or its Subsidiaries' current and intended products, services and processes do not infringe on any Intellectual Property or other rights held by any person; and the Company is unaware of any facts or circumstances which might give rise to any of the foregoing. The Company and each of its Subsidiaries have taken reasonable security measures to protect the secrecy, confidentiality and value of their Intellectual Property.

(i) Acknowledgment Regarding Buyer's Purchase of Securities. The Company acknowledges and agrees that the Buyer is acting solely in the capacity of arm's length purchaser with respect to this Agreement and the transactions contemplated hereby. The Company further acknowledges that the Buyer 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 hereby and any statement made by the Buyer or any of its respective representatives or agents in connection with this Agreement and the transactions contemplated hereby is not advice or a recommendation and is merely incidental to the Buyer's purchase of the Securities. The Company further represents to the Buyer that the Company's decision to enter into this Agreement has been based solely on the independent evaluation of the Company and its representatives.

(j) No Integrated Offering. Neither the Company, nor any of its affiliates, nor any person acting on its or their behalf, has directly or indirectly made any offers or sales in any security or solicited any offers to buy any security under circumstances that would require registration under the 1933 Act of the issuance of the Securities to the Buyer. The issuance of the Securities to the Buyer will not be integrated with any other issuance of the Company's securities (past, current or future) for purposes of any shareholder approval provisions applicable to the Company or its securities.

(k) No Brokers; No Solicitation. The Company has taken no action which would give rise to any claim by any person for brokerage commissions, transaction fees or similar payments relating to this Agreement or the transactions contemplated hereby. The Company acknowledges and agrees that neither the Buyer nor its employee(s), member(s), beneficial owner(s), or partner(s) solicited the Company to enter into this Agreement and consummate the transactions described in this Agreement.

(l) Permits; Compliance. The Company and each of its Subsidiaries is in possession of all franchises, grants, authorizations, licenses, permits, easements, variances, exemptions, consents, certificates, approvals and orders necessary to own, lease and operate its properties and to carry on its business as it is now being conducted (collectively, the "Company Permits"), and there is no action pending or, to the knowledge of the Company, threatened regarding suspension or cancellation of any of the Company Permits. Neither the Company nor any of its Subsidiaries is in conflict with, or in default or violation of, any of the Company Permits, except for any such conflicts, defaults or violations which, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

(m) Title to Property. The Company and its Subsidiaries have use rights to all real property and good and marketable title to all personal property owned by them which is material to the existing business of the Company and its Subsidiaries, in each case free and clear of all liens, encumbrances and defects except such as would not have a Material Adverse Effect. 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 would not have a Material Adverse Effect.

(n) 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. Neither the Company nor any such Subsidiary has any 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.

(o) Internal Accounting Controls. The Company and each of its Subsidiaries maintain a system of internal accounting controls sufficient, in the judgment of the Board, 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.

(p) Foreign Corrupt Practices. Neither the Company, nor any of its Subsidiaries, nor any director, officer, agent, employee or other person acting on behalf of the Company or any Subsidiary has, in the course of his actions for, or on behalf of, the Company, used any corporate funds for any unlawful contribution, gift, entertainment or other unlawful expenses relating to political activity; made any direct or indirect unlawful payment to any foreign or domestic government official or employee from corporate funds; violated or is in violation of any provision of the U.S. Foreign Corrupt Practices Act of 1977, as amended, or made any bribe, rebate, payoff, influence payment, kickback or other unlawful payment to any foreign or domestic government official or employee.

(q) No Off Balance Sheet Arrangements. There is no transaction, arrangement, or other relationship between the Company or any of its Subsidiaries and an unconsolidated or other off balance sheet entity that is required to be disclosed by the Company in its 1934 Act filings and is not so disclosed or that otherwise could be reasonably likely to have a Material Adverse Effect.

(r) NYSE Notification. The Company has provided the applicable listing of additional shares notification to the NYSE and received oral confirmation from NYSE that the listing of additional shares review process has been completed, and NYSE has not made any objection (not subsequently withdrawn) that the consummation of the transactions contemplated by this Agreement would violate NYSE listing rules applicable to the Company and that if not withdrawn would result in the delisting of the shares of Common Stock issuable upon the conversion of the Preferred Shares issued to the Buyer pursuant to this Agreement and pursuant to the Certificate of Designations.

(s) Tax Matters. Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect: (a) the Company and each of its Subsidiaries has prepared (or caused to be prepared) and timely filed (taking into account valid extensions of time within which to file) all Tax Returns required to be filed by any of them, and all such filed Tax

Returns (taking into account all amendments thereto) are true, complete and accurate, (b) all Taxes owed by the Company and each of its Subsidiaries that are due (whether or not shown on any Tax Return) have been timely paid except for Taxes which are being contested in good faith by appropriate proceedings which have been adequately reserved against in accordance with GAAP, (c) no examination or audit of any Tax Return relating to any Taxes of the Company or any of its Subsidiaries or with respect to any Taxes due from or with respect to the Company or any of its Subsidiaries by any governmental authority is currently in progress or threatened in writing, (d) none of the Company or any of its Subsidiaries has engaged in, or has any liability or obligation with respect to, any "listed transaction" within the meaning of Treasury Regulations Section 1.6011-4(b)(2) and (e) neither the Company nor any of its Subsidiaries has distributed stock of another Person, or has had its stock distributed by another Person, in a transaction that was or was purported or intended to be governed in whole or in part by Section 355 or 361 of the U.S. Internal Revenue Code of 1986, as amended (the "Code"). For purposes of this Agreement, (i) "Taxes" means any and all United States federal, state, local or non-United States taxes, and other similar charges in the nature of a tax (together with any and all interest, penalties and additions to tax) imposed by any governmental authority, including taxes or other charges on or with respect to income, franchises, windfall or other profits, gross receipts, property, sales, use, capital stock, payroll, employment, social security, workers' compensation, unemployment compensation or net worth; and (ii) "Tax Return" means returns, reports, claims for refund, declarations of estimated Taxes and information statements, including any schedule or attachment thereto or any amendment thereof, with respect to Taxes filed or required to be filed with any governmental authority, including consolidated, combined and unitary tax returns.

(t) U.S. Real Property Holding Corporation. The Company is not currently, has not been during the prior five (5) years, and does not expected to be after giving effect to the transactions contemplated by that certain Asset Purchase Agreement, dated as of the date hereof, by and among the Company, Rubicon Technologies Holdings, LLC and Washtech Corp, a United States real property holding corporation (a "USRPHC") within the meaning of Section 897 of the Code.

4. **Additional Covenants, Agreements and Acknowledgements**.

(a) Form D; Blue Sky Laws. The Company agrees to file a Form D with respect to the Securities if required under Regulation D and requested by the Buyer and to provide a copy thereof to the Buyer promptly after such filing. The Company shall, on or before the Closing Date, take such action as the Company shall reasonably determine is necessary to qualify the Securities for sale to the Buyer at the applicable closing pursuant to this Agreement under applicable securities or "blue sky" laws of the states of the United States (or to obtain an exemption from such qualification), and shall provide evidence of any such action so taken to the Buyer on or prior to the Closing Date.

(b) Information. For so long as the Preferred Shares remain outstanding, the Buyer and its advisors will be furnished with all materials relating to the business, finances and operations of the Company and materials relating to the offer and sale of the Securities which have been reasonably requested by the Buyer or its advisors. For so long as the Preferred Shares remain outstanding the Buyer and its advisors will be afforded the opportunity to ask questions of the Company regarding its business and affairs. Neither such inquiries nor any other due diligence investigation conducted by Buyer or any of its advisors or representatives shall modify, amend or affect Buyer's right to rely on the Company's representations and warranties contained in Section 3 above.

(c) Use of Proceeds. The Company shall use the proceeds for general corporate purposes.

(d) No Integration. The Company shall not make any offers or sales of any security (other than the Securities) under circumstances that would require registration of the Securities being offered or sold hereunder under the 1933 Act or cause the offering of the Securities to be integrated with any other offering of securities by the Company for the purpose of any stockholder approval provision applicable to the Company or its securities.

(e) Disclosure of Transactions and Other Material Information. Within four (4) business days following the date this Agreement has been fully executed, the Company shall file a Current Report on Form 8-K (if required) describing the terms of the transactions contemplated by this Agreement in the form required by the 1934 Act and attaching this Agreement, the Registration Rights Agreement and the Certificate of Designations (the "8-K Filing"). From and after the filing of the 8-K Filing with the SEC, the Company agrees that the Buyer shall not be in possession of any material, nonpublic information received from the Company, any of its Subsidiaries or any of their respective officers, directors, employees or agents. As used in this Agreement, the term "business day" shall mean any day other than a Saturday, Sunday, or a day on which commercial banks in the city of New York, New York are authorized or required by law or executive order to remain closed.

(f) Registration Rights. The Company hereby grants to the Buyer registration rights whereby it shall register for resale all of the Common Stock underlying the Preferred Shares, as set forth in the Registration Rights Agreement, the form of which is set forth on Exhibit B attached hereto (the "Registration Rights Agreement").

(g) Authorized Common Stock. At any time that the Preferred Shares are outstanding, the Company shall from time to time take all lawful action within its control to cause the authorized share capital of the Company to include a number of authorized but unissued shares of Common Stock equal to the number of shares of Common Stock issuable upon the conversion of all the Preferred Shares then issued and outstanding. All shares of Common Stock delivered upon conversion of the Preferred Shares shall be newly issued shares or shares held in treasury by the Company, shall have been duly authorized and validly issued and shall be fully paid and nonassessable, and free and clear of any liens. The Company will use its commercially reasonable efforts to maintain the listing of its Common Stock on NYSE.

5. **Conditions to the Company's Obligation to Sell**. The obligation of the Company hereunder to issue and sell the Preferred Shares to the Buyer at the Closing is subject to the satisfaction, at or before the Closing Date, of each of the following conditions thereto, provided that these conditions are for the Company's sole benefit and may be waived by the Company at any time in its sole discretion:

(a) The Buyer shall have executed this Agreement and the Registration Rights Agreement and delivered the same to the Company.

(b) The Buyer shall have delivered the Purchase Price in accordance with Section 1(b) above.

(c) The representations and warranties of the Buyer shall be true and correct in all material respects as of the date when made and as of the Closing Date, as though made at that time (except for representations and warranties that speak as of a specific date), and the Buyer shall have performed, satisfied and complied in all material respects with the covenants, agreements and conditions required by this Agreement to be performed, satisfied or complied with by the Buyer at or prior to the Closing Date.

(d) No litigation, statute, rule, regulation, executive order, decree, ruling or injunction shall have been enacted, entered, promulgated or endorsed by or in any court or governmental authority of competent jurisdiction or any self-regulatory organization having authority over the matters contemplated hereby which prohibits the consummation of any of the transactions contemplated by this Agreement.

6. **Conditions to The Buyer's Obligation to Purchase**. The obligation of the Buyer hereunder to purchase the Preferred Shares, on the Closing Date, is subject to the satisfaction, at or before the Closing Date, of each of the following conditions, provided that these conditions are for the Buyer's sole benefit and may be waived by the Buyer at any time in its sole discretion:

(a) The Company shall have executed this Agreement and delivered the same to the Buyer.

(b) The Company shall have delivered to the Buyer the Preferred Shares.

(c) The Company shall have filed with the Secretary of State of the State of Delaware the Certificate of Designations in the form attached hereto as Exhibit A, and shall have delivered to the Buyer a certified copy thereof.

(d) The Company shall have executed the Registration Rights Agreement and delivered the same to the Buyer.

(e) The Company shall have delivered to the Buyer an opinion of Winston & Strawn LLP in a form reasonably satisfactory to the Buyer.

(f) The Company shall have received a temporary waiver or modification of certain of the financial covenants in any agreement governing debt of the Company or its Subsidiaries in effect on the Closing Date (the "Existing Debt Agreements") on terms acceptable to the Buyer and the Company shall have delivered evidence of the same to the Buyer.

(g) The Company shall have received a waiver of any "Change of Control" (or any similar concept) under any Existing Debt Agreement that would result from the Buyer and/or its affiliates' acquisition of Common Stock (including the acquisition of the Preferred Shares or the shares of Common Stock issuable upon conversion of the Preferred Shares) on terms acceptable to the Buyer and the Company shall have delivered evidence of the same to the Buyer.

(h) The Company shall have received a waiver of any "Sale Event" or "Change in Control" (or any similar concept) under any employment agreement of an employee of the Company or its subsidiaries that would result from the Buyer and/or its affiliates' acquisition of Common Stock (including the acquisition of the Preferred Shares or the shares of Common Stock issuable upon conversion of the Preferred Shares) on terms acceptable to the Buyer and the Company shall have delivered evidence of the same to the Buyer.

(i) The Company shall have received a waiver of any "Change in Control" (or any similar concept) under the Rubicon Technologies, Inc. 2022 Equity Incentive Plan or any applicable award agreement thereunder (or any successor equity incentive plan or award agreements) that would result from the Buyer and/or its affiliates' acquisition of Common Stock (including the acquisition of the Preferred Shares or the shares of Common Stock issuable upon conversion of the Preferred Shares) on terms acceptable to Buyer and the Company shall have delivered evidence of the same to the Buyer.

(j) The Board shall have formed a committee with authority to control the Company's use of cash following the closing on terms acceptable to Buyer. Such committee shall review all the employment agreements in place and require changes to adjust them according to market benchmarks. The committee shall be chaired by a representative of Buyer and will include at least one additional independent member of the Board.

(k) The Company shall have received a waiver from each holder of the Common Stock Purchase Warrants issued by the Company on June 7, 2023 (the "June 2023 Term Loan Warrants") of the pre-emptive rights granted to such holder pursuant to the June 2023 Term Loan Warrants and the Company shall have delivered evidence of the same to the Buyer.

(l) The representations and warranties of the Company shall be true and correct in all material respects as of the date when made and as of Closing Date, as though made at such time (except for representations and warranties that speak as of a specific date) and the Company shall have performed, satisfied and complied in all material respects with the covenants, agreements and conditions required by this Agreement to be performed, satisfied or complied with by the Company at or prior to the Closing Date.

(m) No litigation, statute, rule, regulation, executive order, decree, ruling or injunction shall have been enacted, entered, promulgated or endorsed by or in any court or governmental authority of competent jurisdiction or any self-regulatory organization having authority over the matters contemplated hereby which prohibits the consummation of any of the transactions contemplated by this Agreement.

7. **Tax Matters**.

(a) The Company and its paying agent shall, subject to Section 7(c), be entitled to withhold Taxes on all payments to Buyer on the Preferred Stock or Common Stock or other securities issued upon conversion of the Preferred Stock in each case to the extent required by applicable Law; provided, that the Company shall use commercially reasonable best efforts to

provide the Buyer advance written notice of its intent to withhold at least five (5) days prior to the payment of the amount subject to withholding, and to give the Buyer a reasonable opportunity to provide any form or certificate available to reduce or eliminate such withholding. Within a reasonable amount of time after making such withholding payment, the Company shall furnish the Buyer with copies of any tax certificate, receipt or other documentation reasonably acceptable to the Buyer evidencing such payment.

(b) The Company shall pay any and all documentary, stamp and similar issue or transfer Tax due on (x) the issuance of the Preferred Stock and (y) the issuance of shares of Common Stock upon conversion of the Preferred Stock. However, in the case of conversion of Preferred Stock, the Company shall not be required to pay any Tax or duty that may be payable in respect of any transfer involved in the issuance and delivery of shares of Common Stock or Preferred Stock to a beneficial owner other than the beneficial owner of the Preferred Stock immediately prior to such conversion, and no such issue or delivery shall be made unless and until the person requesting such issue has paid to the Company the amount of any such Tax or duty, or has established to the satisfaction of the Company that such Tax or duty has been paid.

(c) Except to the extent otherwise required by a change in law or a "determination" within the meaning of Section 1313(a) of the Code, the parties agree, for U.S. federal (and applicable state and local) income tax purposes, (i) to treat the Preferred Stock as stock of the Company that is not "preferred stock" within the meaning of Section 305 of the Code; (ii) not to treat any dividend paid on the Company's Common Stock in which the Preferred Stock participates as giving rise to a "disproportionate distribution" within the meaning of Section 305(b)(2) of the Code; and (iii) to consider in good faith any and all reasonable steps to ameliorate the effect of any action that the Company reasonably expects to cause Buyer to recognize taxable income by reason of the operation of Section 305(b)(2) of the Code; provided, that for the avoidance of doubt, the Company shall not be required to breach any governing document, legal agreement or applicable Law, or be subject to any unreimbursed cost expense or any liability in respect of any action or inaction by the Company in respect of the foregoing and (iv) to treat any adjustment to the Conversion Price as being made pursuant to a "bona fide, reasonable, adjustment formula" within the meaning of Treasury Regulations Section 1.305-7(b); *provided* that if the Company determines (in consultation with the Company's Tax Return preparer) that an applicable change in law has occurred, the Company shall notify Buyer and shall cooperate reasonably and in good faith with Buyer to ameliorate the effects of such change in law. Neither party will, nor will permit their Affiliates or agents (including any paying agent) to, take a contrary position or action (including on any Tax Return, IRS Form 1099 or any other information return or by way of withholding) without the other party's prior written consent.

(d) The Company shall use commercially reasonable efforts to provide any information reasonably requested by Buyer, at Buyer's expense, necessary to enable Buyer to comply with their U.S. federal income Tax reporting obligations, including, but not limited to, a determination of the amount of the Company's current and accumulated earnings and profits in any taxable year where such determination is relevant to determining the amount (if any) of any distribution received by the holders of the Preferred Stock from the Company that is properly treated as a dividend within the meaning of Section 316 of the Code.

8. **Governing Law; Miscellaneous**.

(a) Governing Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of New York without regard to principles of conflicts of laws. Any action brought by either party against the other concerning the transactions contemplated by this Agreement or any other agreement, certificate, instrument or document contemplated hereby shall be brought only in the state or federal courts located in the county, city and state of New York. The parties to this Agreement hereby irrevocably waive any objection to jurisdiction and venue of any action instituted hereunder and shall not assert any defense based on lack of jurisdiction or venue or based upon *forum non conveniens*. **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 WITH OR ARISING OUT OF THIS AGREEMENT OR ANY TRANSACTIONS CONTEMPLATED HEREBY**. The prevailing party shall be entitled to recover from the other party its reasonable attorney's fees and costs. Each party hereby irrevocably waives personal service of process and consents to process being served in any suit, action or proceeding in connection with this Agreement or any other agreement, certificate, instrument or document contemplated hereby or thereby by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to such party at the address in effect for 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 other manner permitted by law.

(b) Counterparts. This Agreement may be executed in two or more counterparts, all of which when taken together shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to each other party, it being understood that the parties need not sign the same counterpart. In the event that any signature is delivered by e-mail delivery (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) or other transmission method, such signature shall be deemed to have been duly and validly delivered and shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such ".pdf" signature page were an original thereof

(c) Construction; Headings. This Agreement shall be deemed to be jointly drafted by the Company and the Buyer and shall not be construed against any person as the drafter hereof. The headings of this Agreement are for convenience of reference only and shall not form part of, or affect the interpretation of, this Agreement.

(d) Severability. In the event that any provision of this Agreement or any other agreement or instrument delivered in connection herewith is invalid or unenforceable under any applicable statute or rule of law, then such provision shall be deemed inoperative to the extent that it may conflict therewith and shall be deemed modified to conform with such statute or rule of law. Any such provision which may prove invalid or unenforceable under any law shall not affect the validity or enforceability of any other provision of this Agreement or any other agreement, certificate, instrument or document contemplated hereby or thereby.

(e) Entire Agreement; Amendments. This Agreement and the instruments referenced herein contain the entire understanding of the parties with respect to the matters covered herein and therein and, except as specifically set forth herein or therein, neither the Company nor the Buyer makes any representation, warranty, covenant or undertaking with respect to such matters. No provision of this Agreement or any agreement or instrument contemplated hereby may be waived or amended other than by an instrument in writing signed by the Buyer.

(f) Notices. All notices, demands, requests, consents, approvals, and other communications required or permitted hereunder shall be in writing and, unless otherwise specified herein, shall be (i) personally served, (ii) deposited in the mail, registered or certified, return receipt requested, postage prepaid, (iii) delivered by reputable air courier service with charges prepaid, or (iv) transmitted by hand delivery, telegram, e-mail or facsimile, addressed as set forth below or to such other address as such party shall have specified most recently by written notice. Any notice or other communication required or permitted to be given hereunder shall be deemed effective (a) upon hand delivery or delivery by e-mail or facsimile, with accurate confirmation generated by the transmitting facsimile machine, at the address or number designated below (if delivered on a business day during normal business hours where such notice is to be received), or the first business day following such delivery (if delivered other than on a business day during normal business hours where such notice is to be received) or (b) on the second business day following the date of mailing by express courier service, fully prepaid, addressed to such address, or upon actual receipt of such mailing, whichever shall first occur. The addresses for such communications shall be:

If to the Company, to:

Rubicon Technologies, Inc.
950 E Paces Ferry Rd NE Suite 810
Atlanta, GA 30326
Attention: Philip Rodoni

With a copy to:

Winston & Strawn LLP
800 Capitol Street, Suite 2400
Houston, TX 77002
Attention: Michael J. Blankenship

If to the Holder, to:

MBI Holdings, LP
365 Harbor Ct
Key Biscayne, FL 33149
Attention: Jose Miguel Enrich

(g) Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns. The Company shall not assign this Agreement or any rights or obligations hereunder without the prior written consent of the Buyer. The Buyer may assign its rights hereunder to any “accredited investor” (as defined in Rule 501(a) of the 1933 Act) in a private transaction from the Buyer or to any of its “affiliates,” as that term is defined under the 1934 Act, without the consent of the Company.

(h) Third Party Beneficiaries. 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.

(i) Transfer Agent. The duly appointed Transfer Agent for the Preferred Shares shall be Continental Stock & Transfer Trust Company. The Company may, in its sole discretion, appoint any other person to serve as Transfer Agent for the Preferred Shares and thereafter may remove or replace Continental Stock & Transfer Trust Company or such other person at any time. Upon any such appointment or removal, the Company shall send notice thereof to the holders of Preferred Shares.

(j) Survival. The representations and warranties of the Company and the agreements and covenants set forth in this Agreement shall survive the closing hereunder notwithstanding any due diligence investigation conducted by or on behalf of the Buyer. The Company agrees to indemnify and hold harmless the Buyer and all their officers, directors, employees and agents for loss or damage arising as a result of or related to any breach or alleged breach by the Company of any of its representations, warranties and covenants set forth in this Agreement or any of its covenants and obligations under this Agreement, including advancement of expenses as they are incurred.

(k) 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 Agreement and the consummation of the transactions contemplated hereby.

(l) No Strict Construction. 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.

(m) Indemnification. In consideration of the Buyer's execution and delivery of this Agreement and acquiring the Securities hereunder, and in addition to all of the Company's other obligations under this Agreement (and any other agreement or instrument contemplated hereby), the Company shall defend, protect, indemnify and hold harmless the Buyer and its stockholders, partners, members, officers, directors, employees and direct or indirect investors and any of the foregoing persons' agents or other representatives (including, without limitation, those retained in connection with the transactions contemplated by this Agreement) (collectively, the "Indemnitees") from and against any and all actions, causes of action, suits, claims, losses, costs, penalties, fees, liabilities and damages, and expenses in connection therewith (irrespective of whether any such 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 any Indemnitee as a result of, or arising out of, or relating to (a) any misrepresentation or breach of any representation or warranty made by the Company in this Agreement or any other agreement, certificate, instrument or document contemplated hereby or

thereby, (b) any breach of any covenant, agreement or obligation of the Company contained in this Agreement or any other agreement, certificate, instrument or document contemplated hereby or thereby or (c) any cause of action, suit or claim brought or made against such Indemnitee by a third party (including for these purposes a derivative action brought on behalf of the Company) and arising out of or resulting from (i) the execution, delivery, performance or enforcement of this Agreement or any other agreement, certificate, instrument or document contemplated hereby or thereby, (ii) any transaction financed or to be financed in whole or in part, directly or indirectly, with the proceeds of the issuance of the Securities, or (iii) the status of the Buyer or holder of the Securities as an investor in the Company pursuant to the transactions contemplated by this Agreement. To the extent that the foregoing undertaking by the Company may be unenforceable for any reason, the Company shall make the maximum contribution to the payment and satisfaction of each of the Indemnified Liabilities that is permissible under applicable law.

(n) Remedies. The Company acknowledges that a breach by it of its obligations hereunder will cause irreparable harm to the Buyer by vitiating the intent and purpose of the transaction contemplated hereby. Accordingly, the Company acknowledges that the remedy at law for a breach of its obligations under this Agreement or any other agreement, certificate, instrument or document contemplated hereby or thereby will be inadequate and agrees, in the event of a breach or threatened breach by the Company of the provisions of this Agreement or any other agreement, certificate, instrument or document contemplated hereby or thereby, that the Buyer shall be entitled, in addition to all other available remedies at law or in equity, and in addition to the penalties assessable herein, to an injunction or injunctions restraining, preventing or curing any breach of this Agreement or any other agreement, certificate, instrument or document contemplated hereby or thereby, and to enforce specifically the terms and provisions hereof and thereof, without the necessity of showing economic loss and without any bond or other security being required.

(o) Failure or Indulgence Not Waiver. No failure or delay on the part of the Buyer in the exercise of any power, right or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such power, right or privilege preclude other or further exercise thereof or of any other right, power or privileges. All rights and remedies of the Buyer existing hereunder are cumulative to, and not exclusive of, any rights or remedies otherwise available.

[*Signature Page Follows*]

IN WITNESS WHEREOF, the undersigned has executed this Agreement on this 7th day of May 2024.

COMPANY:

RUBICON TECHNOLOGIES, INC.

By: /s/ Philip Rodoni
Name: Philip Rodoni
Title: Chief Executive Officer

BUYER:

MBI HOLDINGS, LP

By: /s/ Jose Miguel Enrich Linero
Name: Jose Miguel Enrich Linero
Title: General Partner

Signature Page to Securities Purchase Agreement

Exhibit 10.3

Execution Version

REGISTRATION RIGHTS AGREEMENT

dated as of May 7, 2024

among

RUBICON TECHNOLOGIES, INC.

AND

THE STOCKHOLDERS PARTY HERETO

TABLE OF CONTENTS

REGISTRATION RIGHTS AGREEMENT (this "Agreement"), dated as of May 7, 2024 (the "Effective Date"), among (i) Rubicon Technologies, Inc., a Delaware corporation (the "Corporation"), and MBI Holdings, LP, an Ontario limited partnership ("Rodina" and, together with all other Persons (as defined herein) who become parties to this Agreement as "Stockholders" in accordance with the terms of this Agreement, the "Stockholders").

WHEREAS, the Stockholders and the Corporation desire to address herein certain registration rights with respect to the Registrable Securities (as defined herein).

NOW, **THEREFORE**, in consideration of the mutual covenants and undertakings contained herein and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1 Definitions. As used in this Agreement, the following terms have the following meanings:

"Affiliate" of any Person means any other Person that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such first Person. As used in this definition, the term "control," including the correlative terms "controlling," "controlled by" and "under common control with," means the possession, directly or indirectly, of the power to direct or cause the direction of management or policies (whether through ownership of securities or any partnership or other ownership interest, by contract or otherwise) of a Person.

"Agreement" has the meaning set forth in the preamble to this Agreement.

"Block Trade" means an Underwritten Offering not involving any "road show" or other substantial marketing efforts by the underwriters over a period of at least 48 hours, which is commonly known as a "block trade."

"Business Day" shall mean each Monday, Tuesday, Wednesday, Thursday and Friday that is not a day on which banking institutions in New York, New York are authorized or obligated by law or executive order to close.

"Common Shares" means the shares of Class A common stock, $0.0001 par value per share, of the Corporation and any equity securities issued or issuable in exchange for or with respect to such Common Shares (i) by way of a dividend, split or combination of shares or (ii) in connection with a reclassification, recapitalization, merger, consolidation, exchange or other reorganization.

"Corporation" has the meaning set forth in the preamble to this Agreement.

"Corporation Takedown Notice" has the meaning set forth in Section 2.3(a).

"Demand" has the meaning set forth in Section 2.1(a).

"Demand Registration" has the meaning set forth in Section 2.1(a).

"Disclosure Package" means, with respect to any offering of securities, (i) the preliminary prospectus, (ii) each Free Writing Prospectus and (iii) all other information conveyed to purchasers of securities at the time of sale of such securities (including a contract of sale) as determined in accordance with Rule 159 promulgated under the Securities Act.

"Effective Date" has the meaning set forth in the preamble to this Agreement.

"Exchange Act" means the Securities Exchange Act of 1934, as amended, supplemented or restated from time to time and any successor to such statute, and the rules and regulations promulgated thereunder. A reference to an "Exchange Act Rule" means such rule or regulation of the SEC under the Exchange Act, as in effect from time to time or as replaced by a successor rule thereto.

"FINRA" has the meaning set forth in Section 4.3.

"Form S-3" has the meaning set forth in Section 2.2.

"Free Writing Prospectus" has the meaning set forth in Section 4.3(a)(iii).

"Governmental Entity" means any federal, state, county, city, local or foreign governmental, administrative or regulatory authority, commission, committee, agency or body (including any court, tribunal or arbitral body), or any self-regulatory authority or stock exchange.

"Losses" has the meaning set forth in Section 5.1.

"Marketed Underwritten Offering" means an Underwritten Offering that involves substantial marketing effort by the underwriters or the Corporation over a period of at least forty-eight (48) hours.

"National Securities Exchange" means an exchange registered with the SEC under Section 6(a) of the Exchange Act or any successor to such provision.

"Other Piggyback Sellers" has the meaning set forth in Section 3.2.

"Other Proposed Sellers" has the meaning set forth in Section 3.2.

"Person" shall be construed broadly and includes any individual, corporation, firm, partnership, limited liability company, joint venture, estate, business, association, trust, Governmental Entity or other entity.

"Piggyback Notice" has the meaning set forth in Section 3.1.

"Piggyback Registration" has the meaning set forth in Section 3.1.

"Piggyback Seller" has the meaning set forth in Section 3.1.

"Proceeding" has the meaning set forth in Section 6.8.

"Records" has the meaning set forth in Section 4.3(a)(viii).

"Registrable Amount" means a number of Registrable Securities representing at least $10 million of aggregate anticipated gross proceeds (such value shall be determined based on the value of such Registrable Securities on the date immediately preceding the date upon which the Demand or Shelf Notice, as applicable, has been received by the Corporation).

"Registrable Securities" means any Common Shares and any Common Shares that any Stockholder may acquire upon the exercise of any option, warrant or right or the conversion or exchange of any convertible or exchangeable security, including the Series A Preferred Stock, held by such Stockholder, regardless of whether then exercisable, convertible or exchangeable, in each case currently held by any Stockholder or hereafter acquired by any Stockholder who (or whose Affiliates) at the time of such acquisition holds other Registrable Securities. As to any particular Registrable Securities, such securities shall cease to be Registrable Securities when (i) such securities have been sold or otherwise transferred by the holder thereof pursuant to an effective registration statement or (ii) such securities are sold in accordance with Rule 144 (or any successor provision) promulgated under the Securities Act.

"Registration Expenses" has the meaning set forth in Section 4.4.

"Requested Information" has the meaning set forth in Section 4.5(a).

"Requesting Stockholder" has the meaning set forth in Section 2.1(a).

"SEC" means the United States Securities and Exchange Commission or any similar agency then having jurisdiction to enforce the Securities Act.

"Securities Act" means the Securities Act of 1933, as amended, supplemented or restated from time to time and any successor to such statute, and the rules and regulations promulgated thereunder. A reference to a "Securities Act Rule" means such rule or regulation of the SEC under the Securities Act, as in effect from time to time or as replaced by a successor rule thereto.

"Selected Courts" has the meaning set forth in Section 6.8.

"Selling Stockholders" means the Persons named as selling stockholders in any registration statement under Article II hereof and who is the Beneficial Owner of Registrable Securities being offered thereunder.

"Series A Preferred Stock" means the Series A Convertible Perpetual Preferred Stock of the Corporation.

"Shelf Notice" has the meaning set forth in Section 2.2(a).

"Shelf Registration Statement" has the meaning set forth in Section 2.2(a).

"Shelf Takedown" has the meaning set forth in Section 2.3(a).

"Stockholder" has the meaning set forth in the preamble to this Agreement.

"Subsidiary" or "Subsidiaries" means, with respect to any Person, as of any date of determination, any other Person as to which such Person owns, directly or indirectly, or otherwise controls, more than 50% of the voting shares or other similar interests or the sole general partner interest or managing member or similar interest of such Person. For purposes of this definition, the term "controlled" means the possession, directly or indirectly, of the power to direct the management and policies of a Person, whether through the ownership of securities, by contract or otherwise.

"Suspension Period" has the meaning set forth in Section 2.2(d).

"Takedown Notice" has the meaning set forth in Section 2.3(a).

"Transfer" means any direct or indirect sale, transfer, assignment, offer, pledge, charge, mortgage, exchange, conversion, hypothecation, grant of participation interest in, grant of a security interest or other direct or indirect disposition or encumbrance of legal title to or any beneficial interest (in each case, whether with or without consideration, whether voluntarily or involuntarily or by operation of law). Terms such as "Transferrable", "Transferred" and "Transferee" shall each have a correlative meaning with the term "Transfer".

"Underwritten Offering" means a sale of securities of the Corporation to an underwriter or underwriters for reoffering to the public.

"Well-Known Seasoned Issuer" means a "well-known seasoned issuer" as defined in Rule 405 promulgated under the Securities Act and which is also eligible to register a primary offering of its securities relying on General Instruction I.B.1 of Form S-3 or Form F-3 under the Securities Act.

Section 1.2 Interpretation. In this Agreement, unless the context otherwise requires,

(a) words importing the singular include the plural and vice versa;

(b) pronouns of either gender or neuter shall include, as appropriate, the other pronoun forms;

(c) a reference to a clause, party, annex, exhibit or schedule is a reference to a clause of, and a party, annex, exhibit and schedule to this Agreement, and a reference to this Agreement includes any annex, exhibit and schedule hereto;

(d) a reference to a statute, regulations, proclamation, ordinance or by-law includes all statues, regulations, proclamations, ordinances or by-laws amending, consolidating or replacing it, whether passed by the same or another Governmental Entity with legal power to do so, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under the statute;

(e) a reference to a document includes all amendments or supplements to, or replacements or novations of that document;

(f) a reference to any party to a document includes that party's successors, permitted transferees and permitted assigns;

(g) a reference to a any person includes that person's successors, permitted transferees and permitted assigns;

(h) the use of the term "including" means "including, without limitation";

(i) the words "herein", "hereof", "hereunder" and other words of similar import refer to this Agreement as a whole, including the annexes, schedules and exhibits, as the same may from time to time be amended, modified, supplemented or restated, and not to any particular section, subsection, paragraph, subparagraph or clause contained in this Agreement;

(j) the title of and the section and paragraph headings used in this Agreement are for convenience of reference only and shall not govern or affect the interpretation of any of the terms or provisions in this Agreement;

(k) where specific language is used to clarify by example a general statement contained herein, such specific language shall not be deemed to modify, limit or restrict in any manner the construction of the general statement to which it relates;

(l) the language used in this Agreement has been chosen by the parties to express their mutual intent, and no rule of strict construction shall be applied against any party; and

(m) unless expressly provided otherwise, the measure of a period of one (1) month or year for purposes of this Agreement shall be that date of the following month or year corresponding to the starting date, provided that if no corresponding date exists, the measure shall be that date of the following month or year corresponding to the next day following the starting date (for example, one (1) month following February 18 is March 18, and one (1) month following March 31 is May 1 (or in the case of January 29, 30 or 31, the following month shall be March 1)).

ARTICLE II

DEMAND AND SHELF REGISTRATION RIGHTS

Section 2.1 Right to Demand Registration.

(a) At any time, one or more Stockholders (each, a "Requesting Stockholder") shall be entitled to make a written request of the Corporation (a "Demand") for registration under the Securities Act of an amount of Registrable Securities that, in the aggregate taking into account all of the Requesting Stockholders, equals or is greater than the Registrable

Amount (based on the number of Registrable Securities outstanding on the date such Demand is made) (a "Demand Registration") and thereupon the Corporation will, subject to the terms of this Agreement, use its commercially reasonable efforts to effect the registration, in each case as promptly as practicable under the Securities Act of:

(i) the Registrable Securities which the Corporation has been so requested to register by the Requesting Stockholders for disposition in accordance with the intended method of disposition stated in such Demand;

(ii) all other Registrable Securities which the Corporation has been requested to register pursuant to Section 2.1(b); and

(iii) all equity securities of the Corporation which the Corporation may elect to register in connection with any offering of Registrable Securities pursuant to this Section 2.1, but subject to Section 2.4(c);

all to the extent necessary to permit the disposition (in accordance with the intended methods thereof) of the Registrable Securities and the additional Common Shares, if any, to be so registered.

(b) Each Demand shall specify: (i) the aggregate number of Registrable Securities requested to be registered in such Demand Registration (which may include a range or be specified in an aggregate dollar amount rather than an aggregate number of shares), (ii) the intended method of disposition in connection with such Demand Registration, to the extent then known, and (iii) the identity of the Requesting Stockholder (or Requesting Stockholders). Within one (1) Business Day after receipt of a Demand, the Corporation shall give written notice of such Demand to all other Stockholders. Subject to Section 2.4(c), the Corporation shall include in the Demand Registration covered by such Demand all Registrable Securities with respect to which the Corporation has received a written request for inclusion therein within five (5) Business Days after the Corporation's notice required by this Section 2.1(b) has been given. Such written request shall comply with the requirements of a Demand as set forth in this Section 2.1(b). The Requesting Stockholder(s) and any Stockholder requesting inclusion in any Demand Registration pursuant to this Section 2.4(b) may change the number of their Registrable Securities proposed to be offered pursuant to such Demand Registration at any time prior to the pricing of such offering (in the case of an Underwritten Offering) or effectiveness of the registration statement (in the case of any other offering) so long as such change would not materially adversely affect the timing or success of the offering and such revised number of Registrable Securities in the aggregate, taking into account the Requesting Stockholder(s) and any Stockholder requesting inclusion in the Demand Registration pursuant to this Section 2.4(b), continues to equal or exceed the Registrable Amount.

(c) Demand Registrations shall be on (i) Form S-1 or any similar long-form registration, (ii) Form S-3 or any similar short form registration, if such short form registration is then available to the Corporation, or (iii) Form S-3ASR if the Corporation is, at the time a Demand is made, a Well-Known Seasoned Issuer, in each case, reasonably acceptable to the Requesting Stockholders holding a majority of the Registrable Securities included in the applicable Demand Registration.

(d) The Corporation shall not be obligated to (i) maintain the effectiveness of a registration statement under the Securities Act, filed pursuant to a Demand Registration, for a period longer than as is required pursuant to Section 4.3(a)(ii) or (ii) effect any Demand Registration (A) within six (6) months of the effective date of a registration statement with respect to a "firm commitment" Marketed Underwritten Offering in which all Stockholders were given "piggyback" rights pursuant to Section 3.1 (subject to Section 3.2) and at least 50% of the number of Registrable Securities requested by such Piggyback Sellers to be included in such Piggyback Registration were included, (B) within ninety (90) days of the effective date of a registration statement with respect to any other Demand Registration or (C) as provided in Section 2.5.

(e) Each Stockholder shall be entitled to an unlimited number of Demand Registrations.

Section 2.2 Shelf Registration.

(a) Subject to the availability to the Corporation of a Registration Statement on Form S-3 or on any other form which permits forward incorporation of substantial information by reference to other documents filed with the SEC ("Form S-3"), any of the Stockholders may by written notice delivered to the Corporation (the "Shelf Notice") require the Corporation to prepare and file as soon as practicable (but no later than sixty (60) days after the date the Shelf Notice is delivered), and to use its commercially reasonable efforts to cause to be declared effective by the SEC within ninety (90) days after such filing date, a Form S-3 providing for an offering to be made on a continuous basis pursuant to Rule 415 under the Securities Act relating to the offer and sale, from time to time, of a number of Registrable Securities that is equal to or greater than the Registrable Amount (the "Shelf Registration Statement"), which shall be on an automatic shelf registration statement (as defined in Rule 405 under the Securities Act) if at the time the Corporation is a Well-Known Seasoned Issuer. At the time the Shelf Registration Statement is declared effective, each Stockholder shall be named as a selling securityholder in the Shelf Registration Statement and the related prospectus in such a manner as to permit such Stockholder to deliver such prospectus to purchasers of Registrable Securities in accordance with applicable Law and the plan and method of distribution set forth in a Takedown Notice, which shall be set forth in the prospectus included in such Form S-3.

(b) Subject to Section 2.5, the Corporation will use its commercially reasonable efforts to keep a Shelf Registration Statement current and continuously in effect with respect to resales of all Registrable Securities following the required filing thereof, and shall file such supplements or amendments to such Shelf Registration Statement as may be necessary or appropriate in order to keep such Shelf Registration Statement continuously effective and useable for the resale of Registrable Securities under the Securities Act, in each case until the date on which all Registrable Securities covered by the Shelf Registration Statement have been sold thereunder in accordance with the plan and method of distribution disclosed in the prospectus included in the Shelf Registration Statement, or otherwise.

Section 2.3 Shelf Takedowns.

(a) Any Stockholder of Registrable Securities included on a Shelf Registration Statement shall have the right to require that the Corporation cooperate in a shelf takedown ("Shelf Takedown") at any time, including an Underwritten Offering, by delivering a written request thereof to the Corporation specifying the number of shares of Registrable Securities (which may include a range or be specified in an aggregate dollar amount rather than an aggregate number of shares) such Stockholder wishes to include in the Shelf Takedown and the intended method of disposition, to the extent then known (each, a "Takedown Notice"). The Corporation shall (i) within one (1) Business Day of the receipt of a Takedown Notice for an Underwritten Offering, give written notice of such Takedown Notice to all Stockholders of Registrable Securities included on such Shelf Registration Statement ("Corporation Takedown Notice"), and (ii) take all actions reasonably requested by such Stockholder, including the filing of a supplement or amendment to the Shelf Registration Statement or related prospectus and any actions described in Article IV or as may otherwise be necessary in order to enable such Registrable Securities to be distributed pursuant to such Shelf Takedown, in accordance with the intended method of distribution set forth in the Takedown Notice, as soon as reasonably practicable. If the Shelf Takedown is an Underwritten Offering, the Corporation shall use its commercially reasonable efforts to include in such Underwritten Offering all Registrable Securities that that the Stockholders request to be included within two (2) Business Days following their receipt of the Corporation Takedown Notice. If the Shelf Takedown is an Underwritten Offering, the Registrable Securities requested to be included in such Shelf Takedown must be either (i) taking into account all of the Stockholders electing to participate, equal to or greater than the Registrable Amount or (ii) represent all of the remaining Registrable Securities owned by the requesting Stockholder and its Affiliates. Notwithstanding anything else to the contrary in this Agreement, the requirement to deliver a Corporation Takedown Notice and the piggyback rights described in this Section 2.3 shall not apply to an Underwritten Offering that constitutes a Block Trade. A Stockholder may change the number of Registrable Securities proposed to be offered in any such Underwritten Offering at any time prior to the pricing of such offering so long as such change would not materially adversely affect the timing or success of such Underwritten Offering and such revised number of Registrable Securities in the aggregate, taking into account all of the Stockholders electing to participate, continues to equal or exceed the Registrable Amount.

(b) In no event shall the Corporation be required to effect, pursuant to this Section 2.3, during any 90-day period, more than (A) two Block Trades or (B) more than one Underwritten Offering that is not a Block Trade pursuant to a Takedown Notice.

(c) Each Stockholder shall be entitled to an unlimited number of Shelf Takedowns.

Section 2.4 Cutback; Selection of Underwriters.

(a) The Corporation shall not include any securities other than Registrable Securities in a Demand Registration, Shelf Registration or Shelf Takedown, except for (i) Common Shares the Corporation intends to sell for its own account, (ii) any securities held by any stockholders who acquire Common Shares after the date hereof and whom the Corporation gives *pari passu* rights, or (iii) subject to Section 4.5(b), with the written consent of Stockholders participating in such Demand Registration, Shelf Registration or Shelf Takedown,

as applicable, that hold a majority of the Registrable Securities included in such Demand Registration, Shelf Registration or Shelf Takedown. If, in connection with a Demand Registration, Shelf Registration or Shelf Takedown, the lead bookrunning underwriters (or, if such Demand Registration, Shelf Registration or Shelf Takedown is not an Underwritten Offering, a nationally recognized independent investment bank selected by the Corporation and reasonably acceptable to Stockholders holding a majority of the Registrable Securities requested to be included in such Demand Registration, Shelf Registration or Shelf Takedown, as applicable, and whose fees and expenses shall be borne solely by the Corporation) advise the Corporation, in writing, that, in their reasonable opinion, the inclusion of all of the securities, including securities of the Corporation that are not Registrable Securities, sought to be registered in connection with such Demand Registration, Shelf Registration or Shelf Takedown, as applicable, would adversely affect the marketability of the Registrable Securities sought to be sold pursuant thereto, then the Corporation shall include in such Demand Registration, Shelf Registration or Shelf Takedown only such securities as the Corporation is reasonably advised by such underwriters or investment bank can be sold without such adverse effect as follows and in the following order of priority: (i) *first*, up to the number of Common Shares requested to be included by the Requesting Stockholder or Stockholder who delivers the Shelf Notice or Takedown Notice, as applicable, together with all other Stockholders participating in response to the Corporation Takedown Notice or in response to a Demand Registration, *pro rata* among such Persons based upon the number of Common Shares requested to be included by them, (ii) *second*, up to the number of Common Shares requested to be included by any Other Proposed Sellers with a contractual right to include such Common Shares in such registration statement *pari passu* with any Stockholder, *pro rata* among such Persons based upon the number of Common Shares deemed to be owned by such Persons; (iii) *third*, securities the Corporation proposes to sell; and (iv) *fourth*, all other equity securities of the Corporation duly requested to be included, *pro rata* on the basis of the amount of such other securities requested to be included by them or such other method determined by the Corporation.

(b) Any time that a Demand Registration, Shelf Registration or Shelf Takedown involves an Underwritten Offering, (i) Stockholders holding a majority of the Registrable Securities requested to be included in the Demand Registration, Shelf Registration or Shelf Takedown, as applicable, shall select the investment banker or investment bankers and managers that will serve as lead and co-managing underwriters with respect to the offering of such Registrable Securities and (ii) the Corporation shall enter into an underwriting agreement that is reasonably acceptable to the Stockholders holding a majority of the Registrable Securities requested to be included in the Demand Registration and the Corporation, with such agreement containing representations, warranties, indemnities and agreements customarily included (but not inconsistent with the covenants and agreements of the Corporation contained herein) by an issuer of common stock in underwriting agreements with respect to offerings of common stock for the account of, or on behalf of, such issuers.

(c) In connection with any Underwritten Offering under this Article II, the Corporation shall not be required to include the Registrable Securities of a Stockholder in the Underwritten Offering unless such Stockholder accepts the terms of the underwriting as agreed upon between the Corporation and the underwriters of such Underwritten Offering, in accordance with the terms hereof.

Section 2.5 Suspension. Notwithstanding anything to the contrary contained in this Agreement, the Corporation shall be entitled to suspend the use of the prospectus included in a registration statement for any Demand Registration or any Shelf Registration for a reasonable period of time (a "Suspension Period") not to exceed sixty (60) days in succession or one-hundred twenty (120) days in the aggregate in any rolling twelve (12) month period if the board of directors of the Corporation shall determine in its reasonable and good faith judgment that (a) it is not feasible for the Stockholder to use the prospectus for the sale of Registrable Securities because of the unavailability of audited or other required financial statements, provided that the Corporation shall use its commercially reasonable efforts to obtain such financial statements as promptly as practicable, or (b) the filing or effectiveness of the prospectus relating to the registration statement would require the disclosure of material, non-public information, the premature disclosure of which would be materially detrimental to the Corporation and, in each case of clauses (a) and (b), subject to the delivery to the Stockholders of a certificate signed by the chief executive officer or the chief financial officer of the Corporation certifying as to the determination of the Corporation's board of directors described above; provided, however, that any Suspension Period shall terminate upon the earliest of (i) the date upon which the Corporation notifies the Stockholders in writing that suspension of such rights for the grounds set forth in this Section 2.5 is no longer necessary, (ii) in the case of clause (a) above, the date upon which the Corporation has filed such reports or obtained and filed the financial information required to be included or incorporated by reference in a registration statement and (iii) in the case of clause (b) above, the date upon which copies of any applicable supplemented prospectus is distributed to Stockholders or at such time as the public disclosure of such information is otherwise made. The Corporation will use commercially reasonable efforts to limit the length of any Suspension Period and shall notify the Stockholders promptly if the suspension for the grounds set forth in this Section 2.5 is no longer necessary. Notice of the commencement of a Suspension Period shall simply specify such commencement and shall not contain any facts or circumstances relating to such commencement or any material non-public information. The Corporation shall respond promptly to reasonable inquiry by a Stockholder as to such facts and circumstances. After the expiration of any Suspension Period and without any further request from a Stockholder, the Corporation shall, if necessary, as promptly as reasonably practicable prepare a post-effective amendment or supplement to the registration statement or the prospectus, or any document incorporated therein by reference, or file any other required document so that, as thereafter delivered to purchasers of the Registrable Securities included therein, the prospectus will not include an untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading. The Corporation shall not register or sell, or permit the registration or sale of, any securities for its own account or that of any other stockholder during any Suspension Period.

ARTICLE III

PIGGYBACK REGISTRATION

Section 3.1 Right to Piggyback. Subject to the terms and conditions hereof, whenever the Corporation proposes to register any of its Common Shares under the Securities Act or to consummate an Underwritten Offering with respect to its Common Shares (other than a registration (i) pursuant to Section 2.1, (ii) pursuant to a registration statement on Form S-8 or

Form S-4 or similar form that relates to a transaction subject to Rule 145 under the Securities Act, (iii) pursuant to any form that does not include substantially the same information as would be required to be included in a registration statement covering the sale of Registrable Securities, (iv) in connection with any dividend reinvestment or similar plan, (v) for the sole purpose of offering securities to another entity or its security holders in connection with the acquisition of assets or securities of such entity or any similar transaction or (vi) in which the only Common Shares being registered are Common Shares issuable upon conversion of debt securities that are also being registered) (a "Piggyback Registration"), whether for its own account or for the account of others, the Corporation shall give each Stockholder, prompt written notice thereof (but not less than ten (10) Business Days prior to the filing by the Corporation with the SEC of any registration statement with respect thereto). Such notice (a "Piggyback Notice") shall specify, at a minimum, the number of equity securities proposed to be registered or offered, the proposed date of filing of such registration statement with the SEC or pricing of such offering, the proposed means of distribution, the proposed managing underwriter or underwriters (if any and if known) and a reasonable estimate by the Corporation of the proposed minimum offering price of such equity securities. Upon the written request of any Person that on the date of the Piggyback Notice is a Stockholder (a "Piggyback Seller") (which written request shall specify the number of Registrable Securities then presently intended to be disposed of by such Piggyback Seller) given within ten (10) Business Days after such Piggyback Notice is received by such Piggyback Seller, the Corporation, subject to the terms and conditions of this Agreement, shall use its commercially reasonable efforts to cause all such Registrable Securities held by Piggyback Sellers with respect to which the Corporation has received such written requests for inclusion to be included in such Piggyback Registration on the same terms and conditions as the Corporation's equity securities being sold in such Piggyback Registration.

Section 3.2 Cutback. If, in connection with a Piggyback Registration, any managing underwriter (or, if such Piggyback Registration is not an Underwritten Offering, a nationally recognized independent investment bank selected by the Corporation and reasonably acceptable to the Stockholders holding a majority of the Registrable Securities included in such Piggyback Registration, and whose fees and expenses shall be borne solely by the Corporation) advises the Corporation in writing that, in its opinion, the inclusion of all the Common Shares sought to be included in such Piggyback Registration by (i) the Corporation, (ii) others who have sought to have Common Shares registered in such Piggyback Registration pursuant to rights to "piggyback" such registration (such Persons being "Other Piggyback Sellers"), (iii) the Piggyback Sellers that request to participate in such registration or offering pursuant to their piggyback registration rights, and (iv) any other proposed sellers of Common Shares (such Persons being "Other Proposed Sellers"), as the case may be, would adversely affect the marketability of the Common Shares sought to be sold pursuant thereto, then the Corporation shall include in the registration statement, or dispose in such offering, applicable to such Piggyback Registration only such Common Shares as the Corporation is so advised by such underwriter can be sold without such an adverse effect, as follows and in the following order of priority:

(a) if the Piggyback Registration relates to an offering for the Corporation's own account, then (A) *first*, such number of Common Shares to be sold by the Corporation for its own account, (B) *second*, Common Shares requested to be included in such Piggyback Registration by any Piggyback Sellers and any Other Piggyback Sellers who have

piggyback rights that are *pari passu* to the Piggyback Sellers[1], *pro rata* among such Piggyback Sellers and Other Piggyback Sellers based upon the number of Common Shares sought to be registered or disposed by such holders deemed to be owned by such Persons, and (C) *third*, other Common Shares proposed to be sold by any Other Proposed Sellers; or

(b) if the Piggyback Registration relates to an offering other than for the Corporation's own account, then (A) *first*, any Common Shares proposed to be sold by any Other Proposed Sellers with a contractual right to include such Common Shares in such registration statement prior to any Stockholder, (B) *second*, Common Shares requested to be included in such Piggyback Registration by any Piggyback Sellers and any Other Piggyback Sellers who have piggyback rights that are *pari passu* to the Piggyback Sellers, *pro rata* among such Piggyback Sellers and Other Piggyback Sellers based upon the number of Common Shares sought to be registered or disposed by such holders, and (C) *third*, the other Common Shares proposed to be sold by any Other Proposed Sellers or to be sold by the Corporation as determined by the Corporation.

Section 3.3 Underwriting Agreement. In connection with any Underwritten Offering under this Article III, the Corporation shall not be required to include the Registrable Securities of a Stockholder in the Underwritten Offering unless such Stockholder accepts the terms of the underwriting as agreed upon between the Corporation and the underwriters selected by the Corporation in accordance with the terms hereof; provided that if any Stockholder who has requested to participate in such Underwritten Offering reasonably and in good faith disapproves of the terms of the related underwriting agreement, such Stockholder shall not be required to enter into such underwriting agreement and shall withdraw from such Underwritten Offering by providing written notice to the Corporation and the underwriter(s) no later than the earlier of (x) the time at which the public offering price and underwriters' discount are determined with the underwriter(s) and (y) the effective date of the applicable registration statement or Shelf Takedown, as applicable.

Section 3.4 Company Control. If, at any time after giving written notice of its intention to register any of its equity securities as set forth in this Section 3.4 and prior to the time the registration statement filed in connection with such Piggyback Registration is declared effective, the Corporation shall determine, at its election, for any reason not to register such equity securities, the Corporation may give written notice of such determination to each Stockholder promptly upon such determination (any, in any event, within two (2) calendar days thereof) and thereupon shall be relieved of its obligation to register any Registrable Securities in connection with such particular withdrawn or abandoned Piggyback Registration (but not from its obligation to pay the Registration Expenses in connection therewith as provided herein); provided, that Stockholders may continue the registration as a Demand Registration pursuant to the terms of Section 2.1.

1 NTD: To confirm no registration rights agreements exist with senior rights that need to be addressed here.

ARTICLE IV

REGISTRATION PROCEDURES

Section 4.1 Withdrawal Rights. Any Stockholder having notified or directed the Corporation to include any or all of its Registrable Securities in a registration statement under the Securities Act shall have the right to withdraw any such notice or direction with respect to any or all of the Registrable Securities designated by it for registration by giving written notice to such effect to the Corporation prior to the effective date of such registration statement. In the event of any such withdrawal, the Corporation shall not include such Registrable Securities in the applicable registration and such Registrable Securities shall continue to be Registrable Securities for all purposes of this Agreement. No such withdrawal shall affect the obligations of the Corporation with respect to the Registrable Securities not so withdrawn; provided, however, that in the case of a Demand Registration, if such withdrawal shall reduce the number of Registrable Securities sought to be included in such registration below the Registrable Amount, then the Corporation shall as promptly as practicable give each Stockholder seeking to register Registrable Securities notice to such effect and, within ten (10) calendar days following the mailing of such notice, such Stockholders still seeking registration shall, by written notice to the Corporation, elect to register additional Registrable Securities to satisfy the Registrable Amount or elect that such registration statement not be filed or, if theretofore filed, be withdrawn. During such 10-calendar day period, the Corporation shall not file such registration statement if not theretofore filed or, if such registration statement has been theretofore filed, the Corporation shall not seek, and shall use commercially reasonable efforts to prevent, the effectiveness thereof. If a Stockholder withdraws its notification or direction to the Corporation to include Registrable Securities in a registration statement in accordance with this Section 4.1 with respect to a sufficient number of Common Shares so as to reduce the number of Registrable Securities requested to be included in such registration statement below the Registrable Amount, such Stockholder shall be required to promptly reimburse the Corporation for reasonable and documented out of pocket expenses incurred by the Corporation in connection with preparing for the registration of such Registrable Securities.

Section 4.2 Holdback Agreements. In the case of an Underwritten Offering with respect to any Demand Registration or any Piggyback Registration, in each case in which a Stockholder participates, each such Stockholder agrees not to effect any public sale or distribution (including sales pursuant to Rule 144) of equity securities of the Corporation, or any securities convertible into or exchangeable or exercisable for such equity securities, during the period commencing on the date on which the Corporation gives notice to the Stockholders that a preliminary prospectus has been circulated for such Underwritten Offering or the "pricing" of such offering and continuing to the date that is the lesser of (x) ninety (90) days following the date of the final prospectus and (y) such shorter period as agreed by the initiating selling Stockholder with the managing underwriters. Each person subject to the restrictions of the preceding sentence shall receive the benefit of any shorter "lock-up" period or permitted exceptions agreed to by the managing underwriter or underwriters for any Underwritten Offering and the terms of such lock-up agreements shall govern such person in lieu of the preceding sentence; provided that in no event shall the Stockholders be obligated to enter into such lock-up that are any more restrictive than such agreements agreed to by the Corporation, its directors and executive officers or the other stockholders of the Corporation participating in such offering;

provided, further, that the Corporation, its directors, executive officers or other stockholders shall not be released from any lock-up agreement unless the Stockholders are similarly released; and provided, further, that any lock-up shall contain customary exceptions.

Section 4.3 Registration Procedures.

(a) In connection with the registration of any Registrable Securities under the Securities Act pursuant to Article II and Article III, the Corporation shall as expeditiously as reasonably possible:

(i) prepare and file with the SEC a registration statement to effect such registration and thereafter use commercially reasonable efforts to cause such registration statement to become and remain effective pursuant to the terms of this Agreement and cause such registration statement to contain a "Plan of Distribution" that permits the distribution of securities pursuant to all legal means; provided, however, that the Corporation may discontinue any registration of its securities which are not Registrable Securities at any time prior to the effective date of the registration statement relating thereto; provided, further that no less than five (5) Business Days before filing such registration statement, prospectus or any amendments thereto, the Corporation will furnish to the counsel selected by the Stockholders which are including Registrable Securities in such registration copies of all such documents proposed to be filed, which documents will be subject to the review and comment of such counsel prior to filing, and such review to be conducted with reasonable promptness;

(ii) prepare and file with the SEC such amendments, post-effective amendments and supplements to such registration statement and the prospectus used in connection therewith as may be necessary to keep such registration statement effective and to comply with the provisions of the Securities Act with respect to the disposition of all securities covered by such registration statement until the earlier of such time as all of such securities have been disposed of in accordance with the intended methods of disposition by the seller or sellers thereof set forth in such registration statement (but not in any event before the expiration of any longer period required under the Securities Act or, if such registration statement relates to an Underwritten Offering, such longer period as in the opinion of counsel for the underwriters for such Underwritten Offering that a prospectus is required by law to be delivered in connection with sale of Registrable Securities by an underwriter or dealer) or (i) in the case of a Demand Registration pursuant to Section 2.1, the expiration of ninety (90) days after such registration statement becomes effective or (ii) in the case of a Piggyback Registration pursuant to Section 2.4, the expiration of ninety (90) days after such registration statement becomes effective or (iii) in the case of a shelf registration pursuant to Section 2.2, the expiration of two (2) years after such registration statement becomes effective;

(iii) furnish to each Selling Stockholder and each underwriter, if any, of the securities being sold by such Selling Stockholder such number of conformed copies of such registration statement and of each amendment and supplement thereto (in each case including all exhibits), such number of copies of the prospectus contained in such registration statement (including each preliminary prospectus and any summary prospectus) and each free writing prospectus (as defined in Rule 405 of the Securities Act) (a "Free Writing Prospectus") utilized in connection therewith and any other prospectus filed under Rule 424 under the

Securities Act, in conformity with the requirements of the Securities Act, and such other documents as such Selling Stockholder and underwriter, if any, may reasonably request in order to facilitate the public sale or other disposition of the Registrable Securities owned by such Selling Stockholder;

(iv) use commercially reasonable efforts to register or qualify such Registrable Securities covered by such registration statement under such other securities laws or blue sky laws of such jurisdictions as any Selling Stockholder and any underwriter of the securities being sold by such Selling Stockholder shall reasonably request, and take any other action which may be reasonably necessary or advisable to enable such Selling Stockholder and underwriter to consummate the disposition in such jurisdictions of the Registrable Securities owned by such Selling Stockholder, except that the Corporation shall not for any such purpose be required to (A) qualify generally to do business as a foreign corporation in any jurisdiction wherein it would not but for the requirements of this clause (iv) be obligated to be so qualified, (B) subject itself to taxation in any such jurisdiction where it is not then so subject or (C) file a general consent to service of process in any such jurisdiction where it is not then so subject;

(v) use commercially reasonable efforts to cause such Registrable Securities to be listed on each securities exchange on which similar securities issued by the Corporation are then listed and, if no such securities are so listed, use commercially reasonable efforts to cause such Registrable Securities to be listed on the National Securities Exchange on which the Common Shares are listed;

(vi) use commercially reasonable efforts to cause such Registrable Securities covered by such registration statement to be registered with or approved by such other Governmental Entities as may be necessary to enable each Selling Stockholder thereof to consummate the disposition of such Registrable Securities;

(vii) in connection with an Underwritten Offering, obtain for each Selling Stockholder and underwriter:

(A) an opinion of counsel for the Corporation, in customary form and covering the matters customarily covered in opinions requested in underwritten offerings and such other matters as may be reasonably requested by such Selling Stockholder and underwriters, and

(B) a "comfort" letter (or, in the case of any such Person which does not satisfy the conditions for receipt of a "comfort" letter specified in Statement on Auditing Standards No. 72, an "agreed upon procedures" letter) signed by the independent registered public accountants who have certified the Corporation's financial statements included in such registration statement and additional comfort letters from the independent registered public accounting firm for any company acquired by the Corporation whose financial statements are included or incorporated by reference in the registration statement) in customary form and covering such matters as are customarily covered by comfort letters as such underwriter and such Selling Stockholders may reasonably request; provided, however, that if the Corporation fails to obtain such legal opinion or comfort letter hereunder and the relevant offering is abandoned, then such

offering will not count as a Demand Registration or Shelf Takedown for purposes of determining when future Demand Registrations or Shelf Takedowns may be requested by Stockholders hereunder;

(viii) promptly make available for inspection by any Selling Stockholder, any underwriter participating in any disposition pursuant to any registration statement, and any attorney, accountant or other agent or representative retained by any such Selling Stockholder or underwriter (collectively, the "Inspectors"), all financial and other records, pertinent corporate documents and properties of the Corporation (collectively, the "Records"), as shall be reasonably necessary to enable them to exercise their due diligence responsibility in connection with such registration statement, and cause the Corporation's officers, directors and employees to supply all information requested by any such Inspector in connection with such registration statement; provided, however, that, unless the disclosure of such Records is necessary to avoid or correct a misstatement or omission in the registration statement or the release of such Records is ordered pursuant to a subpoena or other order from a court of competent jurisdiction, the Corporation shall not be required to provide any information under this subparagraph (viii) if (i) the Corporation reasonably believes, based on the opinion of counsel for the Corporation, that to do so would cause the Corporation to forfeit an attorney-client privilege that was applicable to such information (provided that the Corporation will use commercially reasonable efforts to provide any such information with redactions or other customary limitations to the extent feasible to do so in a manner that would avoid the effect set forth in this clause (i)) or (ii) if either (A) the Corporation has requested and been granted from the SEC confidential treatment of such information contained in any filing with the SEC or documents provided supplementally or otherwise or (B) the Corporation reasonably determines that such Records are confidential and so notifies the Inspectors in writing unless prior to furnishing any such information with respect to (i) or (ii) such Selling Stockholder requesting such information agrees, and causes each of its Inspectors, to abide by customary confidentiality obligations on terms reasonably acceptable to the Corporation; and provided, further, that each Selling Stockholder agrees that it will, upon learning that disclosure of such Records is sought in a court of competent jurisdiction, give notice to the Corporation and allow the Corporation, at its expense, to undertake appropriate action and to prevent disclosure of the Records deemed confidential;

(ix) promptly notify in writing each Selling Stockholder and the underwriters, if any, of the following events:

(A) the filing of the registration statement, the prospectus or any prospectus supplement related thereto or post-effective amendment to the registration statement or any Free Writing Prospectus utilized in connection therewith, and, with respect to the registration statement or any post-effective amendment thereto, when the same has become effective;

(B) any request by the SEC or any other Governmental Entity for amendments or supplements to the registration statement or the prospectus or for additional information;

(C) the issuance by the SEC or any other Governmental Entity of any stop order suspending the effectiveness of the registration statement or of the suspension by any state securities commission of the qualification of the Registrable Securities for offering or sale in any jurisdiction, or the initiation of any proceedings by any Person for the foregoing purposes; and

(D) the receipt by the Corporation of any notification with respect to the suspension of the qualification of any Registrable Securities for sale under the securities or blue sky laws of any jurisdiction or the initiation or threat of any proceeding for such purpose;

(x) promptly notify each Selling Stockholder, at any time when a prospectus relating thereto is required to be delivered under the Securities Act, upon discovery that, or upon the happening of any event as a result of which, the prospectus included in such registration statement, as then in effect, includes an untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading, and promptly prepare and furnish to such Selling Stockholder a reasonable number of copies of a supplement to or an amendment of such prospectus as may be necessary so that, as thereafter delivered to the purchasers of such Registrable Securities, such 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 not misleading;

(xi) use commercially reasonable efforts to prevent the issuance of and, if issued, obtain the withdrawal of any order suspending the effectiveness of such registration statement or any suspension of the qualification of any Registrable Securities for sale under the securities or blue sky laws of any jurisdiction;

(xii) otherwise use commercially reasonable efforts to comply with all applicable rules and regulations of the SEC, and make available to each Selling Stockholder, as soon as reasonably practicable, an earning statement of the Corporation covering the period of at least twelve (12) months, but not more than eighteen (18) months, beginning with the first day of the Corporation's first full quarter after the effective date of such registration statement, which earning statement shall satisfy the provisions of Section 11(a) of the Securities Act and Rule 158 thereunder;

(xiii) cooperate with the Selling Stockholders, the managing underwriter and any transfer agent to facilitate the timely preparation and delivery of certificates in a form eligible for deposit with The Depository Trust Company (which shall not subject to any stop transfer order with any transfer agent and will not bear any restrictive legends unless required under applicable law) representing securities sold under any registration statement, including by delivering to the transfer agent a letter of indemnity in lieu of a medallion guarantee, and enable such securities to be in such denominations and registered in such names as the managing underwriter or such Selling Stockholders may request and keep available and make available to the Corporation's transfer agent prior to the effectiveness of such registration statement a supply of such certificates, or, if requested by a Selling Stockholder or an underwriter, to facilitate the delivery of such securities in book-entry form;

(xiv) have appropriate officers of the Corporation prepare and make presentations at any "road shows" and before analysts and rating agencies, as the case may be, and other information meetings organized by the underwriters, take other actions to obtain ratings for any Registrable Securities (if they are eligible to be rated) and otherwise use its commercially reasonable efforts to cooperate as reasonably requested by the Selling Stockholders and the underwriters in the offering, marketing or selling of the Registrable Securities; provided, that such presentations, meetings, actions and efforts do not cause unreasonable disruption to the management of the Corporation's business;

(xv) with respect to each Free Writing Prospectus or other materials to be included in the Disclosure Package, ensure that no Registrable Securities be sold "by means of" (as defined in Rule 159A(b) promulgated under the Securities Act) such Free Writing Prospectus or other materials without the prior written consent of the Stockholders holding the Registrable Securities covered by such registration statement, which Free Writing Prospectuses or other materials shall be subject to the prior reasonable review of the Selling Stockholders and their counsel;

(xvi) (A) as expeditiously as possible and within the deadlines specified by the Securities Act, use commercially reasonable efforts to make all required filings of all prospectuses and Free Writing Prospectuses with the SEC and (B) within the deadlines specified by the Exchange Act, use commercially reasonable efforts to make all filings of periodic and current reports and other materials required by the Exchange Act;

(xvii) as expeditiously as possible and within the deadlines specified by the Securities Act, make all required filing fee payments in respect of any registration statement or prospectus used under this Agreement (and any offering covered thereby);

(xviii) as expeditiously as practicable, keep the Selling Stockholders and their counsel advised as to the initiation and progress of any registration hereunder;

(xix) use commercially reasonable efforts to cooperate with each Selling Stockholder and each underwriter participating in the disposition of such Registrable Securities and their respective counsel in connection with any filings required to be made with the Financial Industry Regulatory Authority ("FINRA");

(xx) furnish the Selling Stockholders, their counsel and the underwriters, as expeditiously as possible, copies of all correspondence with or from the SEC, the FINRA, any stock exchange or other self-regulatory organization relating to the registration statement or the transactions contemplated thereby and, a reasonable time prior to furnishing or filing any such correspondence to the SEC, the FINRA, stock exchange or self-regulatory organization, furnish drafts of such correspondence to the Selling Stockholders, their counsel, and the underwriters for their reasonable review and comment, such review and comment to be conducted promptly;

(xxi) not later than the effective date of the applicable registration statement, provide a CUSIP number for all Registrable Securities; and

(xxii) to take all other reasonable steps necessary or advisable to effect the registration and disposition of the Registrable Securities contemplated hereby.

(b) The Corporation may require each Selling Stockholder and each underwriter, if any, to furnish the Corporation in writing such information regarding each Selling Stockholder or underwriter and the distribution of such Registrable Securities as the Corporation may from time to time reasonably request and as shall be reasonably required to complete or amend the information required by such registration statement.

(c) Without limiting the terms of Section 2.1(a), in the event that the offering of Registrable Securities is to be made by or through an underwriter, the Corporation, if requested by the underwriter, shall enter into an underwriting agreement with a managing underwriter or underwriters in connection with such offering containing representations, warranties, indemnities and agreements customarily included (but not inconsistent with the covenants and agreements of the Corporation contained herein) by an issuer of common stock in underwriting agreements with respect to offerings of common stock for the account of, or on behalf of, such issuers. In the event an Underwritten Offering is not consummated because any condition to the obligations under any related written agreement with such underwriters is not met or waived, and such failure to be met or waived is not attributable to the fault of any Stockholder, such Underwritten Offering will not count for purposes of determining when future Demand Registrations of Shelf Takedowns may be requested by such Stockholder hereunder.

(d) Each Selling Stockholder agrees that upon receipt of any notice from the Corporation of the happening of any event of the kind described in Sections 4.3(a)(ix)(C), 4.3(a)(ix)(D)), or 4.3(a)(x), such Selling Stockholder shall forthwith discontinue (in the case of Section 4.3(a)(ix)(D), only in the relevant jurisdiction set forth in such notice) such Selling Stockholder's disposition of Registrable Securities pursuant to the applicable registration statement and prospectus relating thereto until such Selling Stockholder's receipt of the copies of the supplemented or amended prospectus contemplated by Section 4.3(a)(x) and, if so directed by the Corporation, deliver to the Corporation, at the Corporation's expense, all copies, other than permanent file copies, then in such Selling Stockholder's possession of the prospectus current at the time of receipt of such notice relating to such Registrable Securities. In the event the Corporation shall give such notice, any applicable ninety (90) day or two (2) year period during which such registration statement must remain effective pursuant to this Agreement shall be extended by the number of days during the period from the date of giving of a notice regarding the happening of an event of the kind described in Section 4.3(a)(ix) or (x) to the date when all such Selling Stockholders shall receive such a supplemented or amended prospectus and such prospectus shall have been filed with the SEC.

Section 4.4 Registration Expenses. All expenses incident to the Corporation's performance of, or compliance with, its obligations under Article II of this Agreement including, without limitation, all registration and filing fees, all fees and expenses of compliance with securities and "blue sky" laws, all fees and expenses associated with filings required to be made with the FINRA (including, if applicable, reasonable and customary fees and expenses of any

"qualified independent underwriter" as such term is defined in Rule 5121 of the FINRA), all fees and expenses of compliance with securities and "blue sky" laws, all printing (including, without limitation, expenses of printing certificates for the Registrable Securities in a form eligible for deposit with the Depository Trust Company and of printing prospectuses if the printing of prospectuses is requested by a holder of Registrable Securities) and copying expenses, all messenger and delivery expenses, all fees and expenses of the Corporation's independent certified public accountants and counsel (including with respect to "comfort" letters and opinions) and reasonable and customary fees and expenses of one firm of counsel for the Selling Stockholders (which counsel shall be chosen by the holders of a majority of the Registrable Securities included in the applicable offering) (collectively, the "Registration Expenses") shall be borne by the Corporation, regardless of whether a registration is effected. The Corporation will pay its internal expenses (including, without limitation, all salaries and expenses of its officers and employees performing legal or accounting duties, the expense of any annual audit and the expense of any liability insurance) and the expenses and fees for listing the securities to be registered on each securities exchange and included in each established over-the-counter market on which similar securities issued by the Corporation are then listed or traded. Each Selling Stockholder shall pay its portion of all underwriting discounts and commissions and transfer taxes, if any, relating to the sale of such Selling Stockholder's Registrable Securities pursuant to any registration.

Section 4.5 Request for Information; Certain Rights.

(a) Request for Information. Reasonably before the expected filing date of each registration statement pursuant to this Agreement, the Corporation shall notify each Stockholder who has timely provided the requisite notice hereunder entitling the Stockholder to register Registrable Securities in such registration statement of the information, documents and instruments from such Stockholder that the Corporation or any underwriter reasonably requests in connection with such registration statement, including, but not limited to a questionnaire, custody agreement, power of attorney, lock-up letter and underwriting agreement (the "Requested Information"). Such Stockholder shall promptly return the Requested Information to the Corporation. If the Corporation has not received the Requested Information (or a written assurance from such Stockholder that the Requested Information that cannot practicably be provided prior to filing of the registration statement will be provided in a timely fashion) from such Stockholder within a reasonable period of time (as determined by the Corporation in good faith) prior to the filing of the applicable Registration Statement, the Corporation may file such Registration Statement without including Registrable Securities of such Stockholder. The failure to so include in any registration statement the Registrable Securities of a Stockholder (with regard to that registration statement) shall not in and of itself result in any liability on the part of the Corporation to such Stockholder.

(b) No Grant of Future Registration Rights. Except pursuant to the proviso to Section 6.10, the Corporation shall not grant any shelf, demand, piggyback or incidental registration rights to any other Person without the prior written consent of Rodina.

Section 4.6 Exchange Act Compliance. So long as the Corporation (a) has registered a class of securities under Section 12 or Section 15 of the Exchange Act and (b) files reports under Section 13 of the Exchange Act, then the Corporation shall take all actions

reasonably necessary to enable Stockholders to sell Registrable Securities without registration under the Securities Act within the limitation of the exemptions provided by Rule 144 under the Securities Act, as such rule may be amended from time to time or any similar rules or regulations adopted by the SEC, including, without limiting the generality of the foregoing, (i) making and keeping public information available, as those terms are understood and defined in Rule 144 promulgated under the Securities Act, (ii) filing with the SEC in a timely manner all reports and other documents required of the Corporation under the Exchange Act, (iii) at the request of any Stockholder if such Stockholder proposes to sell securities in compliance with Rule 144, forthwith furnish to such Stockholder, as applicable, a written statement of compliance with the reporting requirements of the SEC as set forth in Rule 144 and make available to such Stockholder such information as will enable the Stockholder to make sales pursuant to Rule 144 and (iv) for securities that will be sold pursuant to Rule 144, reasonably cooperating with the Stockholders to cause the transfer agent to remove any restrictive legend on certificates evidencing Registrable Securities.

Section 4.7 Participating Stockholder. By written notice delivered to the Corporation, any Stockholder (an "Opting-Out Stockholder") may elect to waive its right to participate in Underwritten Offerings and to be a Piggyback Seller and participate in a Piggyback Registration (an "Opt-Out"), until such time as the written notice is rescinded in writing. During such time as an Opt-Out is in effect: (a) the Opting-Out Stockholder shall not receive notices of any proposed Demand Registration, Shelf Takedown or Piggyback Registration and (b) shall not be entitled to participate in any such registration or offering.

Section 4.8 Other Rights. If any Stockholder seeks to effectuate an in-kind distribution of all or part of its Registrable Securities to its direct or indirect equityholders, the Corporation will, subject to any applicable lock-ups, reasonably cooperate with and assist such Stockholder, such equityholders and the Company's transfer agent to facilitate such in-kind distribution in the manner reasonably requested by such Stockholder (including (i) the delivery of instruction letters by the Corporation or its counsel to the Corporation's transfer agent, the delivery of customary legal opinions by counsel to the Corporation and the delivery of Registrable Securities without restrictive legends, to the extent no longer applicable, and (ii) if requested by such Stockholders, entering into one or more joinders to this Agreement with the direct or indirect equityholders of such Stockholder that obtain Registrable Securities in such in-kind distributions (including in-kind distributions by such indirect equityholders).

(b) If requested by any Stockholder in connection with any transaction involving any Registrable Securities (including any sale or other transfer of such securities without registration under the Securities Act, any margin loan with respect to such securities and any pledge of such securities), the Corporation agrees to provide such Stockholder with customary and reasonable assistance to facilitate such transaction, including, without limitation, (i) such action as such Stockholder may reasonably request from time to time to enable such Stockholder to sell Registrable Securities without registration under the Securities Act and (ii) entering into an "issuer's agreement" in connection with any margin loan with respect to such securities in customary form.

ARTICLE V

INDEMNIFICATION

Section 5.1 By the Corporation. The Corporation agrees to indemnify, defend and hold harmless, to the fullest extent permitted by law, each Stockholder and each of their respective Affiliates and their respective officers, directors, employees, managers, partners, advisors, agents and representatives and each Person who controls (within the meaning of Section 15 of the Securities Act and Section 20 of the Exchange Act) such Stockholder or such other Person indemnified under this Section 5.1 from and against all losses, claims, damages, liabilities and expenses, whether joint or several (including reasonable expenses of investigation and reasonable attorneys' fees and expenses) (collectively, the "Losses"), to which they are or any of them may become subject under the Securities Act, the Exchange Act or other U.S. federal or state statutory law (including any applicable "blue sky" laws), rule or regulation, at common law or otherwise, insofar as such Losses arise out of, are based upon, are caused by or relate to any untrue statement (or alleged untrue statement) of a material fact contained or incorporated in any registration statement, prospectus or preliminary prospectus, offering circular, offering memorandum or Disclosure Package (including a Free Writing Prospectus) or any amendment or supplement thereto or any filing or document incidental to such registration or qualification of the securities as required by this Agreement, or any omission (or alleged omission) of a material fact required to be stated therein or necessary to make the statements therein not misleading, except that no Person indemnified shall be indemnified hereunder insofar as the same are made in conformity with and in reliance on information furnished in writing to the Corporation by such Person concerning such Person expressly for use therein. Such indemnification obligation shall be in addition to any liability that the Corporation may otherwise have to any such indemnified person. In connection with an Underwritten Offering and without limiting any of the Corporation's other obligations under this Agreement, the Corporation shall also indemnify such underwriters, their officers, directors, employees and agents and each Person who controls (within the meaning of Section 15 of the Securities Act and Section 20 of the Exchange Act) such underwriters or such other Person indemnified under this Section 5.1 to the same extent as provided above with respect to the indemnification (and exceptions thereto) of Selling Stockholders. Reimbursements payable pursuant to the indemnification contemplated by this Section 5.1 will be made by periodic payments during the course of any investigation or defense, as and when bills are received or expenses incurred.

Section 5.2 By the Selling Stockholders. In connection with any registration statement in which a Stockholder is participating, each such Selling Stockholder will furnish to the Corporation in writing information regarding such Selling Stockholder's ownership of Registrable Securities and its intended method of distribution thereof and, to the extent permitted by law, shall, severally and not jointly, indemnify the Corporation, its Affiliates and their respective directors, officers, employees and agents and each Person who controls (within the meaning of Section 15 of the Securities Act and Section 20 of the Exchange Act) the Corporation or such other Person indemnified under this Section 5.2 against all Losses to which they are or any of them may become subject under the Securities Act, the Exchange Act or other U.S. federal or state statutory law (including any applicable "blue sky" laws), rule or regulation, at common law or otherwise, insofar as such Losses arise out of, are based upon, are caused by or relate to any untrue statement of material fact contained or incorporated in any registration

statement, prospectus or preliminary prospectus, offering circular, offering memorandum or Disclosure Package (including a Free Writing Prospectus) or any amendment or supplement thereto or any filing or document incidental to such registration or qualification of the securities as required by this Agreement, or any omission of a material fact required to be stated therein or necessary to make the statements therein not misleading, but in each case only to the extent that such untrue statement or omission is made in conformity with and in reliance on information furnished in writing by such Person concerning such Person expressly for use therein; provided, however, that each Selling Stockholder's obligation to indemnify the Corporation hereunder shall, to the extent more than one Person is subject to the same indemnification obligation, be apportioned between each Person based upon the net amount received by each Person from the sale of such Registrable Securities, as compared to the total net amount received by all of the indemnifying Persons pursuant to such registration statement. Notwithstanding the foregoing, no Person shall be liable to the Corporation and the underwriters for aggregate amounts in excess of the lesser of (i) such apportionment and (ii) the net amount received by such holder (after deducting any discounts and commissions) from the disposition of Registrable Securities in the offering giving rise to such liability.

Section 5.3 Notice. Any Person entitled to indemnification hereunder shall give prompt written notice to the indemnifying party of any claim with respect to which it seeks indemnification; provided, however, the failure to give such notice shall not release the indemnifying party from its obligation, except to the extent that the indemnifying party has been materially prejudiced by such failure to provide such notice on a timely basis.

Section 5.4 Defense of Actions. In any case in which any claim, action or proceeding (including any governmental investigation) is brought against any Person in respect of which indemnification may be sought pursuant to this Article V (an "indemnified party"), and it notifies the Person against whom such indemnity may be sought (an "indemnifying party") of the commencement thereof (provided that that the failure or delay to give such notice shall not relieve the indemnifying party of its obligations pursuant to this Agreement except to the extent that it shall be determined by a court of competent jurisdiction that such indemnifying party has been materially prejudiced by such failure or delay), the indemnifying party will be entitled to participate therein, and, to the extent that it may wish, jointly with any other indemnifying party similarly notified, to assume the defense thereof, with counsel reasonably satisfactory to such indemnified party. After notice from the indemnifying party to such indemnified party of its election so to assume the defense thereof, the indemnified party shall have the right, but not the obligation, to participate in any such defense and to retain its own counsel, but the indemnifying party will not (so long as it shall continue to have the right to defend, contest, litigate and settle the matter in question in accordance with this paragraph) be liable to such indemnified party hereunder for any legal or other expense subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable costs of investigation, supervision and monitoring (unless (i) such indemnified party reasonably objects to such assumption on the grounds that there may be defenses available to it which are different from or in addition to the defenses available to such indemnifying party, (ii) counsel to the indemnifying party has informed the indemnifying party that the joint representation of the indemnifying party and one or more indemnified parties could be inappropriate under applicable standards of professional conduct, or (iii) the indemnifying party shall have failed within a reasonable period of time to assume such defense and the indemnified party is or is reasonably likely to be prejudiced by such

delay, in any such event the indemnified party shall be promptly reimbursed by the indemnifying party for the expenses incurred in connection with retaining separate legal counsel). An indemnifying party shall not be liable for any settlement of an action or claim effected without its consent (such consent not to be unreasonably withheld, conditioned or delayed). The indemnifying party shall lose its right to defend, contest, litigate and settle a matter if it shall fail to diligently contest such matter (except to the extent settled in accordance with the next following sentence). No matter shall be settled by an indemnifying party without the consent of the indemnified party (which consent shall not be unreasonably withheld, conditioned or delayed, it being understood that the indemnified party shall not be deemed to be unreasonable in withholding its consent if the proposed settlement imposes any obligation on the indemnified party).

Section 5.5 Survival. The indemnification provided for under this Agreement shall remain in full force and effect regardless of any investigation made by or on behalf of the indemnified Person and will survive the transfer of the Registrable Securities and the termination of this Agreement.

Section 5.6 Contribution. If recovery is not available or is insufficient under the foregoing indemnification provisions for any reason or reasons other than as specified therein, then the indemnifying party shall contribute to the amount paid or payable by such indemnified party with respect to any Losses (i) in such proportion as is appropriate to reflect the relative fault of the indemnifying party and indemnified party in connection with the actions that resulted in such Losses, as well as any other relevant equitable considerations, or (ii) if the allocation provided by clause (i) is not permitted by applicable Law, in such proportion as is appropriate to reflect not only the relative fault referred to in clause (i) but also the relative benefit of the Corporation, on the one hand, and such Stockholder, on the other, in connection with the statements or omissions that resulted in such Losses, as well as any other relevant equitable considerations. The relative fault of a Person will be determined by reference to, among other things, the Persons' relative knowledge and access to information concerning the matter with respect to which the claim was asserted, the opportunity to correct and prevent any statement or omission, and other equitable considerations appropriate under the circumstances. It is hereby agreed that it would not necessarily be equitable if the amount of such contribution were determined by *pro rata* or *per capita* allocation. Each Selling Stockholder's obligation to contribute pursuant to this Section 5.6 shall, to the extent more than one Person is subject to the same contribution obligation, be apportioned between each Person based upon the net amount received by each Person from the sale of such Registrable Securities, as compared to the total net amount received by all of the indemnifying Persons pursuant to such registration statement. No Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any Person who was not found guilty of such fraudulent misrepresentation. Notwithstanding the foregoing, no Selling Stockholder or transferee thereof shall be required to make a contribution in excess of the net amount received by such holder from its sale of Registrable Securities in connection with the offering that gave rise to the contribution obligation.

ARTICLE VI

MISCELLANEOUS

Section 6.1 Notices. All notices, requests, consents and other communications hereunder to any party shall be deemed to be sufficient if contained in a written instrument delivered in person or sent by electronic mail (delivery receipt requested) or nationally recognized overnight courier, addressed to such party at the address or electronic mail address set forth below or such other address or electronic mail address as may hereafter be designated in writing by such party to the other parties:

(a) if to the Corporation, to:

Rubicon Technologies, Inc.
950 E Paces Ferry Rd NE Suite 810
Atlanta, GA 30326
Attention: Philip Rodoni

with a copy to:

Winston & Strawn LLP
800 Capitol Street, Suite 2400
Houston, TX 77002
Attention: Michael J. Blankenship

(b) if to the Stockholders, to their respective addresses set forth on Schedule I.

Section 6.2 Severability. The provisions of this Agreement shall be deemed severable and the invalidity or unenforceability of any provision shall not affect the validity or enforceability of the other provisions hereof. If any provision of this Agreement, or the application thereof to any person or entity or any circumstance, is found to be invalid or unenforceable in any jurisdiction, (a) a suitable and equitable provision shall be substituted therefor in order to carry out, so far as may be valid and enforceable, the intent and purpose of such invalid or unenforceable provision and (b) the remainder of this Agreement and the application of such provision to other Persons or circumstances shall not be affected by such invalidity or unenforceability, nor shall such invalidity or unenforceability affect the validity or enforceability of such provision, or the application thereof, in any other jurisdiction.

Section 6.3 Counterparts. This Agreement may be executed in two or more counterparts, all of which when taken together shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to each other party, it being understood that the parties need not sign the same counterpart. In the event that any signature is delivered by e-mail delivery (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) or other transmission method, such signature shall be deemed to have been duly and validly delivered and shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such ".pdf" signature page were an original thereof.

Section 6.4 Entire Agreement; No Third Party Beneficiaries. This Agreement (a) constitutes the entire agreement and supersedes all other prior agreements, both written and oral, among the parties with respect to the subject matter hereof and (b) is not intended to confer upon any Person, other than the parties hereto (and their permitted successors and assigns), any rights or remedies hereunder, except as provided in Article V, in each case which Persons are intended to benefit from, and to be entitled to enforce, Article V, as applicable.

Section 6.5 Further Assurances. Each party hereto 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 any other party hereto reasonably may request in order to carry out the provisions of this Agreement and the consummation of the transactions contemplated hereby.

Section 6.6 Expenses. Except as provided herein, each party hereto shall be responsible for all fees and expenses incurred by such party in the negotiation, preparation and implementation of this Agreement and the transactions contemplated hereby.

Section 6.7 Governing Law; Equitable Remedies. **THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF DELAWARE (WITHOUT GIVING EFFECT TO CONFLICT OF LAWS PRINCIPLES THEREOF)**. The parties hereto agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with its specific terms or was otherwise breached. It is accordingly agreed that the parties hereto shall be entitled to an injunction or injunctions and other equitable remedies to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereof in the Selected Courts (as defined below), this being in addition to any other remedy to which they are entitled at law or in equity. Any requirements for the securing or posting of any bond with respect to such remedy are hereby waived by each of the parties hereto. Each party further agrees that, in the event of any action for an injunction or other equitable remedy in respect of such breach or enforcement of specific performance, it will not assert the defense that a remedy at law would be adequate.

Section 6.8 Consent To Jurisdiction. With respect to any suit, action or proceeding ("Proceeding") arising out of or relating to this Agreement or any transaction contemplated hereby each of the parties hereto hereby irrevocably (a) submits to the exclusive jurisdiction of (A) the Chancery Court of the State of Delaware or (B) if the Chancery Court of the State of Delaware denies jurisdiction, then the state courts or the federal courts of the United States of America located in the State of Delaware (the "Selected Courts") and waives any objection to venue being laid in the Selected Courts whether based on the grounds of *forum non conveniens* or otherwise and hereby agrees not to commence any such Proceeding other than before one of the Selected Courts; provided, however, that a party may commence any Proceeding in a court other than a Selected Court solely for the purpose of enforcing an order or judgment issued by one of the Selected Courts; (b) consents to service of process in any Proceeding by the mailing of copies thereof by registered or certified mail, postage prepaid, or

by recognized international express carrier or delivery service, to the Corporation or to the applicable party hereto at their respective addresses referred to in Section 6.1; provided, however, that nothing herein shall affect the right of any party hereto to serve process in any other manner permitted by law; and (c) **TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW THAT CANNOT BE WAIVED, WAIVES, AND COVENANTS THAT IT WILL NOT ASSERT (WHETHER AS PLAINTIFF, DEFENDANT OR OTHERWISE) ANY RIGHT TO TRIAL BY JURY IN ANY ACTION ARISING IN WHOLE OR IN PART UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY OF THE CONTEMPLATED TRANSACTIONS, WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE, AND AGREES THAT ANY OF THEM MAY FILE A COPY OF THIS PARAGRAPH WITH ANY COURT AS WRITTEN EVIDENCE OF THE KNOWING, VOLUNTARY AND BARGAINED-FOR AGREEMENT AMONG THE PARTIES IRREVOCABLY TO WAIVE ITS RIGHT TO TRIAL BY JURY IN ANY PROCEEDING WHATSOEVER BETWEEN THEM RELATING TO THIS AGREEMENT OR ANY OF THE CONTEMPLATED TRANSACTIONS WILL INSTEAD BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A JURY.**

Section 6.9 Amendments; Waivers.

(a) No provision of this Agreement may be amended or waived unless such amendment or waiver is in writing and signed by each of the Company and Stockholders holding a majority of the Registrable Securities.

(b) No failure or delay by any party in exercising any right, power or privilege hereunder shall operate as waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

Section 6.10 Assignment. Neither this Agreement nor any of the rights or obligations hereunder shall be assigned by any of the parties hereto without the prior written consent of the other parties; provided, however, that each Stockholder may, without the consent of the other parties, assign any of its rights and obligations hereunder as Stockholder (and not in any other capacity) upon any direct Transfer of Common Shares to a Transferee, so long as such Transferee, if not already a party to this Agreement, executes and delivers to the Corporation a joinder in the form attached hereto as Exhibit A, but no such assignment will relieve such Stockholder of its obligations hereunder. Subject to the preceding sentence, this Agreement will be binding upon, inure to the benefit of and be enforceable by the parties and their respective successors and assigns.

Section 6.11 Recapitalizations, Exchanges Affecting the Registrable Securities. The provisions of this Agreement shall apply, to the full extent set forth herein, with respect to the Registrable Securities, to any and all shares of the Corporation or any successor or assign of the Corporation (whether by merger, consolidation, sale of assets or otherwise) which may be issued in respect of, in exchange for, or in substitution of the Registrable Securities, by reason of a dividend of Common Shares, share subdivision or split, share issuance, reverse share split, combination, recapitalization, reclassification, merger, consolidation or otherwise.

[*Remainder of page intentionally left blank*]

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed and delivered, all as of the date first set forth above.

RUBICON TECHNOLOGIES, INC.

By: /s/ Philip Rodoni
Name: Philip Rodoni
Title: Chief Executive Officer

[*Signature Page to Registration Rights Agreement*]

MBI HOLDINGS, LP

By: /s/ Jose Miguel Enrich Linero
Name: Jose Miguel Enrich Linero
Title: General Partner

[*Signature Page to Registration Rights Agreement*]

SCHEDULE I

Notices

If to MBI Holdings, LP:	365 Harbor Ct, key Biscayne FL 33149 Attention to Jose Miguel Enrich

FORM OF JOINDER TO
REGISTRATION RIGHTS AGREEMENT

THIS JOINDER (this "Joinder") to that certain Registration Rights Agreement (the "Agreement") dated as of [ ], among (i) Rubicon Technologies, Inc., a Delaware corporation (the "Corporation), and (ii) MBI Holdings, LP, an Ontario limited partnership ("Rodina"), is made and entered into as of [●] [●], 20[●] by and between the Corporation and [*NAME OF STOCKHOLDER TRANSFEREE*] (the "Transferee"). Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Agreement.

WHEREAS, the Transferee has acquired Registrable Securities of the Corporation, and the Agreement requires the Transferee to become a party to the Agreement, and Transferee agrees to do so in accordance with the terms hereof.

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

1. Agreement to be Bound. The Transferee hereby agrees that upon execution of this Joinder, [he, she or it] shall become a party to the Agreement and shall be fully bound by, entitled to all the rights and benefits of, and subject to, all of the covenants, terms and conditions of the Agreement as though an original party thereto and Stockholder thereunder.

2. Successors and Assigns. Except as otherwise provided in the Agreement, this Joinder shall bind and inure to the benefit of and be enforceable by the Corporation and each other party to the Agreement and their respective successors and assigns so long as the Transferee holds any Registrable Securities.

3. Counterparts. This Joinder may be executed in separate counterparts, including by facsimile, each of which shall be an original and all of which taken together shall constitute one and the same agreement.

4. Notices. For purposes of Section 6.1 of the Agreement, all notices, demands or other communications to the Transferee shall be directed to:

[Name]
[Address]
[Attention]

5. Governing Law. THIS JOINDER SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF DELAWARE (WITHOUT GIVING EFFECT TO CONFLICT OF LAWS PRINCIPLES THEREOF).

6. Descriptive Headings. The descriptive headings of this Joinder are inserted for convenience only and do not constitute a part of this Joinder.

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

RUBICON TECHNOLOGIES, INC.

By: _____
Name:
Title:

[TRANSFEREE]

By: _____
Name:
Title:

Exhibit 10.4

AMENDMENT NO. 2 TO CREDIT, SECURITY AND GUARANTY AGREEMENT

This AMENDMENT NO. 2 TO CREDIT, SECURITY AND GUARANTY AGREEMENT (this "**Agreement**") is made as of May 7, 2024, by and among RUBICON TECHNOLOGIES HOLDINGS, LLC, a Delaware limited liability company ("**Holdings**"), RUBICON TECHNOLOGIES INTERNATIONAL, INC., a Delaware corporation, RUBICON GLOBAL, LLC, a Delaware limited liability company, CLEANCO LLC, a New Jersey limited liability company, CHARTER WASTE MANAGEMENT, INC., a Delaware corporation, RIVERROAD WASTE SOLUTIONS, INC., a New Jersey corporation (each individually as a "**Borrower**", and collectively as "**Borrowers**"), RUBICON TECHNOLOGIES, INC., a Delaware corporation ("**Parent**"), ACQUIOM AGENCY SERVICES LLC, as Agent (in such capacity, together with its successors and assigns, "**Agent**") and the other financial institutions or other entities from time to time parties to the Credit Agreement referenced below, each as a Lender, constituting the Required Lenders.

RECITALS

A. Agent, Lenders, Borrowers and Parent have entered into that certain Credit, Security and Guaranty Agreement, dated as of June 7, 2023 (as amended by that certain Limited Waiver and Amendment No. 1 to Credit, Security and Guaranty Agreement, dated as of September 17, 2023, the "**Existing Credit Agreement**" and as amended hereby and as it may be further amended, modified, supplemented and restated from time to time, the "**Credit Agreement**"), pursuant to which the Lenders have agreed to make certain advances of money and to extend certain financial accommodations to Borrowers in the amounts and manner set forth in the Credit Agreement.

B. Parent issued a Warrant to purchase common stock of Parent to each Lender, dated as of June 7, 2023 (collectively, the "**Existing Warrants**" and as amended hereby and as further amended, modified, supplemented and restated from time to time, the "**Warrants**").

C. Borrower Representative has advised the Lenders that pursuant to the Asset Purchase Agreement (the "**Purchase Agreement**"), attached hereto as Annex B, dated as of the date hereof, by and among Parent, Holdings and Wastech Corp., it intends to make an Asset Disposition of the Purchased Assets (as defined in the Purchase Agreement) (such disposition, the "**Purchased Assets Disposition**") and to make a Distribution to Parent in the amount of $3,178,813.50 to pay transaction expenses (the "**Purchase Agreement Distribution**"), which Asset Disposition is prohibited under Section 5.6 of the Credit Agreement unless such Asset Disposition constitutes a Permitted Asset Disposition and which Distribution is prohibited under Section 5.3 of the Credit Agreement unless such Distribution constitutes a Permitted Distribution.

D. Borrower Representative has further advised the Lenders that pursuant to that certain Securities Purchase Agreement (the "**Bridge Facility**") on terms substantially similar to those set forth on Annex C attached hereto, dated as of the date hereof, by and among Parent and MBI Holdings, LP, it intends to obtain not less than $20,000,000 in gross cash proceeds of preferred equity financing consisting of the purchase of preferred stock of the Borrower Representative not constituting Disqualified Equity Interests (the "**Bridge Preferred Equity**").

E. Borrower Representative has further advised the Lenders that in connection with the transactions contemplated hereby, Parent has agreed to amend each Existing Warrant as set forth herein.

F. Borrower Representative has further advised the lenders that it intends to amend and restate the SBIC Side Letter with that certain Amended and Restated SBIC Regulatory Side letter by and among Holdings, the Borrowers and EIP (the "**Amended and Restated SBIC Side Letter**"), which constitutes an amendment to a Financing Document requiring the consent of the Lenders constituting at least the Required Lenders.

G. Borrower Representative has requested, and Agent and the Lenders party hereto, which collectively constitute at least the Required Lenders, have agreed, to, inter alia, amend certain provisions of the Existing Credit Agreement, all in accordance with the terms and subject to the conditions set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, the terms and conditions set forth in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Agent, Lenders, Borrowers and Parent hereby agree as follows:

1. **Recitals.** This Agreement shall constitute a Financing Document and the Recitals and each reference to the Credit Agreement, unless otherwise expressly noted, will be deemed to reference the Credit Agreement as amended hereby. The Recitals set forth above shall be construed as part of this Agreement as if set forth fully in the body of this Agreement and capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Credit Agreement (including those capitalized terms used in the Recitals hereto).

2. **Amendments to Existing Credit Agreement.** Subject to the terms and conditions of this Agreement, including, without limitation, the conditions to effectiveness set forth in Section 7 below, the Existing Credit Agreement is hereby amended to delete the stricken text (indicated textually in the same manner as the following example: ~~stricken text~~) and to add the double-underlined text (indicated textually in the same manner as the following example: double underlined text) as set forth in the pages attached as Annex A hereto.

3. **Amendments to Existing Warrants.** Subject to the terms and conditions of this Agreement, including, without limitation, the conditions to effectiveness set forth in Section 7 below, each Existing Warrant is hereby amended as follows:

(a) Section (2)(a)(i) of each Existing Warrant shall be amended by replacing the number "18" with the number "30".

(b) Section (2)(a)(ii) of each Existing Warrant shall be amended by replacing the number "18" with the number "30".

4. **Limited Waiver to Existing Warrants.** Subject to the terms and conditions of this Agreement, including, without limitation, the conditions to effectiveness set forth in Section 7 below, the holders of each Existing Warrant agree to waive any and all pre-emptive rights granted under Section 5(h) (*Pre-emptive Rights*) of the Existing Warrants which may be triggered by the sale and issuance of Series A Convertible Perpetual Preferred Stock pursuant to the Bridge Facility. Attached hereto as Annex D is the Form of Waiver entered into by the holders of each Existing Warrant.

5. **Consent to Amended and Restated SBIC Side Letter.** The Lenders hereby consent to the Amended and Restated SBIC Side Letter.

6. **Representations and Warranties; Reaffirmation of Security Interest.** Borrower Representative hereby confirms that all of the representations and warranties set forth in the Credit Agreement are true and correct in all material respects (without duplication of any materiality qualifier in the text of such representation or warranty) with respect to Borrowers as of the date hereof except to the extent that any such representation or warranty relates to a specific date in which case such representation or warranty shall be true and correct as of such earlier date and except to the extent of the Subject Defaults. Nothing herein is intended to impair or limit the validity,

priority or extent of Agent's security interests in and Liens on the Collateral. Borrower Representative acknowledges and agrees that the Credit Agreement, the other Financing Documents and this Agreement constitute the legal, valid and binding obligation of the Borrowers, and are enforceable against Borrowers in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency or other similar laws relating to the enforcement of creditors' rights generally and by general equitable principles.

7. **Conditions to Effectiveness.** This Agreement shall become effective as of the date on which each of the following conditions have been satisfied, as determined by Agent directed by the Required Lenders:

(a) Borrowers and Parent shall have delivered to the Lenders and Agent this Agreement executed by an authorized officer of the Borrowers and Parent;

(b) All representations and warranties of the Borrowers contained herein shall be true and correct in all material respects (without duplication of any materiality qualifier in the text of such representation or warranty) as of the date hereof except to the extent that any such representation or warranty relates to a specific date in which case such representation or warranty shall be true and correct as of such earlier date (and such parties' delivery of their respective signatures hereto shall be deemed to be its certification thereof);

(c) Immediately prior to and immediately after giving effect to the agreements set forth herein, no Default or Event of Default shall exist under any of the Financing Documents;

(d) Concurrently or substantially concurrently with the effectiveness of this Agreement, the Bridge Facility shall have been funded in accordance with the terms thereof yielding gross cash proceeds of not less than $20,000,000 to the Borrower Representative;

(e) Concurrently or substantially concurrently with the effectiveness of this Agreement, the Purchased Assets Disposition shall have been consummated in accordance with the terms of the Purchase Agreement;

(f) Concurrently or substantially concurrently with the effectiveness of this Agreement, not less than $45,600,000.00 of the proceeds of the Purchased Assets Disposition shall have been applied to repay the Obligations under the Credit Agreement (the "**Amendment No. 2 Repayment**") and not less than $11,400,000.00 of such proceeds shall have been applied to repay the Obligations under the Revolving Loan Agreement (the "**Amendment No. 2 Revolver Payment**");

(g) Concurrently or substantially concurrently with the effectiveness of this Agreement and after giving pro forma effect to the Purchased Assets Disposition, the Purchase Agreement Distribution, the Bridge Facility, the payments described in clause (f) above, and all other transactions contemplated in connection with the foregoing, Liquidity of the Credit Parties shall be no less than $11,400,000;

(h) Paul, Weiss, Rifkind, Wharton & Garrison LLP shall have received from the Borrower payment of all reasonable fees and expenses incurred in connection with this Agreement documented by invoices delivered to the Borrower on or prior to the Amendment No. 2 Effective Date, to the extent required to be paid pursuant to Section 13.14 of the Credit Agreement;

(i) The Lenders and Agent shall have received this Agreement executed by each of the Lenders constituting at least the Required Lenders; and

(j) The Lenders and Agent shall have received executed counterparts of (i) an amendment to the Revolving Loan Credit Agreement and (ii) an amendment to the Third Lien Loan Agreement, in each case, which amendments are effective concurrently herewith and in form and substance satisfactory to the Required Lenders.

8. **Paydown of Accounts Payable.** No later than thirty (30) days from the date of the effectiveness of this Agreement (or such later date as the Required Lenders may agree), the Credit Parties shall pay down no less than $20,000,000.00 of outstanding and overdue (as of the date hereof; the aggregate amount of such outstanding and overdue trade payables as of the date hereof, the "**Amendment Date Overdue AP**") trade accounts payable incurred by the Credit Parties in the Ordinary Course of Business and provide Agent with reasonably satisfactory evidence that the aggregate outstanding and overdue trade accounts payable of the Credit Parties, as of any such date upon which $20,000,000 in payments have been made, is at least $20,000,000 less than the Amendment Date Overdue AP; *provided*, *however* that such required paydown amount may be reduced by the Credit Parties with the consent of the Required Lenders, which consent may be given or withheld by the Required Lenders in their sole and absolute discretion.

9. **Release and Terminations.** Agent and the Required Lenders hereby acknowledge and agree that, effective as of the date of this Agreement, without any further action, notice or consent required, that (i) all of the security interests, mortgages, liens and pledges over the Purchased Assets in favor of the Agent under the Credit Agreement or the other Financing Documents, shall be automatically terminated, released and discharged and be of no further force or effect (such security interests, mortgages, liens and pledges, the "**Released Security Interests**"), (ii) Borrower Representative (or its respective agents, attorneys or designees) are hereby authorized to file on behalf of the Agent all UCC-3 termination statements necessary to terminate all UCC-1 financing statements filed in connection with the Released Security Interests granted to the Agent to secure the Obligations, (iii) Borrower Representative (or its respective agents, attorneys or designees) shall be authorized, at Borrower Representative's sole cost and expense, to transmit or file, and the Lender shall promptly execute and deliver, such instruments, releases, recordings, terminations or other documents as are necessary to effect or evidence the release and discharge contemplated hereby of the Released Security Interests granted to the Agent to secure the Obligations, including, without limitation, other financing termination statements, releases of intellectual property security agreements and all other instruments, releases and documents, in each case as Borrower Representative (or its respective agents, attorneys or designees) may reasonably request in writing in order to evidence or otherwise give public notice of the release of the Agent's Released Security Interests, in each case in form and substance reasonably satisfactory to Borrower Representative and the Agent, (iv) the Agent will promptly (and in any event within three Business Days) deliver to Borrower Representative (or its respective agents, attorneys or designees) or to such other party as directed by Borrower Representative, any possessory collateral held by or for the benefit of the Agent under the Credit Agreement or the other Financing Documents evidencing the Released Security Interests, including any stock certificates, stock powers and notes and other instruments.

10. **Costs and Fees.** Borrower Representative agrees to promptly pay, or reimburse upon demand for, all reasonable and documented out-of-pocket costs and expenses of Agent (including, without limitation, the reasonable and documented fees, costs and expenses of counsel to Agent) in connection with the preparation, negotiation, execution and delivery of this Agreement and any other Financing Documents or other agreements prepared, negotiated, executed or delivered in connection with this Agreement, in each case, to the extent required by Section 13.14 of the Credit Agreement.

11. **No Waiver or Novation.** The execution, delivery and effectiveness of this Agreement shall not, except as expressly provided in this Agreement, operate as a waiver of any right, power or remedy of Agent, nor constitute a waiver of any provision of the Credit Agreement, the Financing Documents or any other documents, instruments and agreements executed or delivered in connection with any of the foregoing. Nothing herein is intended or shall be construed as a waiver of any existing Defaults or Events of Default under the Credit Agreement or the other Financing Documents or any of Agent's rights and remedies in respect of such Defaults or Events of Default. This Agreement (together with any other document executed in connection herewith) is not intended to be, nor shall it be construed as, a novation of the Credit Agreement.

12. **Affirmation.**

(a) Except as specifically amended pursuant to the terms hereof, Borrowers hereby acknowledge and agree that the Credit Agreement and all other Financing Documents (and all covenants, terms, conditions and agreements therein) shall remain in full force and effect, and are hereby ratified and confirmed in all respects by Borrowers. Borrowers covenant and agree to comply with all of the terms, covenants and conditions of the Credit Agreement and the Financing Documents, notwithstanding any prior course of conduct, waivers, releases or other actions or inactions on Agent's or any Lender's part which might otherwise constitute or be construed as a waiver of or amendment to such terms, covenants and conditions.

(b) For the avoidance of doubt, the parties hereto acknowledge and agree that prior to giving effect to this Agreement, the total amount of the outstanding Obligations is $80,114,953.64.

13. **Miscellaneous.**

(a) Reference to the Effect on the Credit Agreement. Upon the effectiveness of this Agreement, each reference in the Credit Agreement to "this Agreement," "hereunder," "hereof," "herein," or words of similar import shall mean and be a reference to the Credit Agreement, as amended by this Agreement. Except as specifically amended above, the Credit Agreement, and all other Financing Documents (and all covenants, terms, conditions and agreements therein), shall remain in full force and effect, and are hereby ratified and confirmed in all respects by Borrowers.

(b) Governing Law. THIS AGREEMENT AND ALL DISPUTES AND OTHER MATTERS RELATING HERETO OR ARISING THEREFROM (WHETHER SOUNDING IN CONTRACT LAW, TORT LAW OR OTHERWISE), SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES (OTHER THAN SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW).

(c) Incorporation of Credit Agreement Provisions. The provisions contained in Section 11.6 (Indemnification), Section 13.8(b) (Submission to Jurisdiction) and Section 13.9 (Waiver of Jury Trial) of the Credit Agreement are incorporated herein by reference to the same extent as if reproduced herein in their entirety.

(d) Headings. Section headings in this Agreement are included for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.

(e) Counterparts. This Agreement may be signed in any number of counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same instrument. Signatures by facsimile or by electronic mail delivery of an electronic version of any executed signature page shall bind the parties hereto.

(f) Entire Agreement. This Agreement constitutes the entire agreement and understanding among the parties hereto and supersedes any and all prior agreements and understandings, oral or written, relating to the subject matter hereof.

(g) Severability. In case any provision of or obligation under this Agreement shall be invalid, illegal or unenforceable in any applicable jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

(h) Successors/Assigns. This Agreement shall bind, and the rights hereunder shall inure to, the respective successors and assigns of the parties hereto, subject to the provisions of the Credit Agreement and the other Financing Documents.

14. **Releases and Indemnity.**

(a) In consideration of this Amendment and the agreements of the Agent and, in respect of the Credit Party Releasors, the Lenders contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, (x) each Credit Party, each on behalf of itself and its successors, assigns, and other legal representatives (collectively, the "**Credit Party Releasors**"), hereby absolutely, unconditionally and irrevocably releases, remises and forever discharges Agent, solely in its capacity as Agent, the Lenders, solely in their capacities as Lenders, and their respective successors and assigns, and their respective present and former shareholders, affiliates, subsidiaries, divisions, predecessors, directors, officers, attorneys, employees, agents and other representatives (the Agent and all such other Persons not affiliated with the Lenders being hereinafter referred to collectively as the "**Agent Releasees**" and individually as an "**Agent Releasee**" and each Lender and all other Persons affiliated with the Lenders being hereinafter referred to as the "**Lender Releasees**" and individually as a "**Lender Releasee**") of and from all demands, actions, causes of action, suits, covenants, contracts, controversies, agreements, promises, sums of money, accounts, bills, reckonings, damages and any and all other claims, counterclaims, defenses (other than a defense of indefeasible payment in full), rights of setoff, demands and liabilities whatsoever of every name and nature, known or unknown, suspected or unsuspected, both at law and in equity, which each Credit Party Releasor may now or hereafter own, hold, have or claim to have against the Agent Releasees, the Lender Releasees or any of them for, upon, or by reason of any circumstance, action, cause or thing whatsoever which arises at any time on or prior to the day and date of this Agreement, for or on account of, or in relation to, or in any way in connection with the Credit Agreement or any of the other Loan Documents or transactions thereunder and (y) each undersigned Lender, each on behalf of itself and its successors, assigns, and other legal representatives (collectively, the "**Lender Releasors**"), hereby absolutely, unconditionally and irrevocably releases, remises and forever discharges the Agent Releasees, of and from all demands, actions, causes of action, suits, covenants, contracts, controversies, agreements, promises, sums of money, accounts, bills, reckonings, damages and any and all other claims, counterclaims, defenses, rights of set-off, demands and liabilities whatsoever of every name and nature, known or unknown, suspected or unsuspected, both at law and in equity, which each Lender Releasor may now or hereafter own, hold, have or claim to have against the Agent Releasees or any of them for, upon, or by reason of any circumstance, action, cause or thing whatsoever (collectively, the "**Claims**") which arises at any time on or prior to the day and date of this Agreement, for or on account of, or in relation to, or in any way in connection with the Amended Credit Agreement or any of the other Loan Documents or transactions thereunder, in each case in the foregoing clauses (x) and (y), other than (i) any Claim arising from the gross negligence or willful misconduct of a Released Party as determined by a court of competent jurisdiction in a final non-appealable judgment or (ii) to enforce this Amendment or any transaction, contract, instrument, release, or other agreement or document created or entered into in connection herewith; provided that for the avoidance of doubt, nothing in this Section 9(a) shall affect continuing obligations of the Agent Releasees or the Lender Releasees under the Credit Agreement or any other Loan Document.

(b) Notwithstanding anything to the contrary in the Credit Agreement or any Loan Document and subject to the provisions set forth in Section 13.14(b) of the Credit Agreement, each Credit Party agrees to defend, indemnify, pay and hold harmless, each of the Agent (and each sub-agent thereof) and each of their respective Related Parties (each, a "**Protected Person**"), from and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, judgments, suits, out-of-pocket costs, expenses and disbursements of any kind or nature whatsoever (including the reasonable and documented fees, expenses and other charges of counsel and consultants in connection with any investigative, administrative or judicial proceeding or hearing commenced or threatened by any Person (including by any Credit Party or any Affiliate thereof), and any fees or expenses incurred by the Protected Persons in enforcing this indemnity), whether direct, indirect, special, consequential or otherwise and whether based on any federal, state or foreign laws, statutes, rules or regulations (including securities and commercial laws, statutes, rules or regulations and Environmental Laws), on common law or equitable causes of action or on contract or otherwise, that may be imposed on, incurred by or asserted against such Protected Person, in any manner relating to or arising out of this Agreement, the Credit Agreement or the transactions contemplated hereby or thereby, in each case, to the extent required pursuant to Section 13.14(b) of the Credit Agreement, except that Credit Parties shall have no obligation hereunder to a Protected Person with respect to any liability resulting from the gross negligence or willful misconduct of such Protected Person, as determined by a final non-appealable judgment of a court of competent jurisdiction.

[SIGNATURES APPEAR ON FOLLOWING PAGES]

IN WITNESS WHEREOF, intending to be legally bound, and intending that this document constitute an agreement executed under seal, the undersigned have executed this Agreement under seal as of the day and year first hereinabove set forth.

AGENT:

ACQUIOM AGENCY SERVICES LLC

By: /s/ Jennifer Anderson
Name: Jennifer Anderson
Title: Senior Director

Payment Account Designation
Citizens Bank
1 Citizens Dr ROP-480
Riverside, RI 02915

Routing #: 011500120
Account Name: Acquiom Agency Services LLC
Account #: 1403276533
Swift: CTZIUS33
Reference: Rubicon

[Signatures Continue on Following Page]

LENDER:

ENERGY IMPACT CREDIT FUND II LP

By: /s/ Harry Giovani
Name: Harry Giovani
Title: Authorized Signatory

LENDER:

TRANSAMERICA LIFE INSURANCE COMPANY

By: Aegon USA Investment Management, LLC
Its: Investment Manager

By: /s/ James K. Schaeffer
Name: James K. Schaeffer
Title: Executive Vice President

LENDER:

AVENUE SUSTAINABLE SOLUTIONS FUND, L.P.

By: Avenue Sustainable Solutions Partners, LLC,
its general partner

By: GL Sustainable Solutions Partners, LLC,
its managing partner

By: /s/ Sonia Gardner
Name: Sonia Gardner
Title: Member

[Signatures Continue on Following Page]

BORROWERS:

RUBICON TECHNOLOGIES HOLDINGS, LLC
RUBICON TECHNOLOGIES INTERNATIONAL, INC.
RUBICON GLOBAL, LLC
CLEANCO LLC
CHARTER WASTE MANAGEMENT, INC.
RIVERROAD WASTE SOLUTIONS, INC.

By: /s/ Kevin Schubert
Name: Kevin Schubert
Title: Chief Financial Officer, President and Secretary

GUARANTORS:

RUBICON TECHNOLOGIES, INC.

By: /s/ Kevin Schubert
Name: Kevin Schubert
Title: Chief Financial Officer, President and Secretary

[End of Signature Pages]

Annex A

Amended Credit Agreement

(see attached)

Annex B

Purchase Agreement

(see attached)

Annex C

Bridge Facility Term Sheet

(see attached)

Annex D

Form of Waiver

(see attached)

Exhibit 10.5

AMENDMENT NO. 4 TO CREDIT, SECURITY AND GUARANTY AGREEMENT

This AMENDMENT NO. 4 TO CREDIT, SECURITY AND GUARANTY AGREEMENT (this "**Agreement**") is made as of May 7, 2024, by and among RUBICON TECHNOLOGIES HOLDINGS, LLC, a Delaware limited liability company ("**Holdings**"), RUBICON TECHNOLOGIES INTERNATIONAL, INC., a Delaware corporation, RUBICON GLOBAL, LLC, a Delaware limited liability company, CLEANCO LLC, a New Jersey limited liability company, CHARTER WASTE MANAGEMENT, INC., a Delaware corporation, RIVERROAD WASTE SOLUTIONS, INC., a New Jersey corporation (each individually as a "**Borrower**", and collectively as "**Borrowers**"), RUBICON TECHNOLOGIES, INC., a Delaware corporation ("**Parent**"), MIDCAP FUNDING IV TRUST, a Delaware statutory trust, as Agent (in such capacity, together with its successors and assigns, "**Agent**") and the other financial institutions or other entities from time to time parties to the Credit Agreement referenced below, each as a Lender, constituting the Required Lenders.

RECITALS

A. Agent, Lenders, Borrowers and Parent have entered into that certain Credit, Security and Guaranty Agreement, dated as of June 7, 2023 as previously amended, restated, supplemented or otherwise modified prior to the date hereof, the "**Existing Credit Agreement**" and as amended hereby and as it may be further amended, modified, supplemented and restated from time to time, the "**Credit Agreement**"), pursuant to which the Lenders have agreed to make certain advances of money and to extend certain financial accommodations to Borrowers in the amounts and manner set forth in the Credit Agreement.

B. Borrower Representative has advised the Lenders that pursuant to the Asset Purchase Agreement (the "**Purchase Agreement**"), attached hereto as Annex B, dated as of the date hereof, by and among Parent, Holdings and Wastech Corp., it intends to make an Asset Disposition of the Purchased Assets (as defined in the Purchase Agreement) (such disposition, the "**Purchased Assets Disposition**") and to make a Distribution to Parent in the amount of $3,178,813.50 to pay transaction expenses (the "**Purchase Agreement Distribution**"), which Asset Disposition is prohibited under Section 5.6 of the Credit Agreement unless such Asset Disposition constitutes a Permitted Asset Disposition and which Distribution is prohibited under Section 5.3 of the Credit Agreement unless such Distribution constitutes a Permitted Distribution.

C. Borrower Representative has further advised the Lenders that pursuant to that certain Securities Purchase Agreement (the "**Bridge Facility**") on terms substantially similar to those set forth on Annex C attached hereto, dated as of the date hereof, by and among Parent and MBI Holdings, LP, it intends to obtain not less than $20,000,000 in gross cash proceeds of preferred equity financing consisting of the purchase of preferred stock of the Borrower Representative not constituting Disqualified Equity Interests (the "**Bridge Preferred Equity**").

D. Borrower Representative has requested, and Agent and the Lenders party hereto, which collectively constitute at least the Required Lenders, have agreed, to, inter alia, amend certain provisions of the Existing Credit Agreement, all in accordance with the terms and subject to the conditions set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, the terms and conditions set forth in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Agent, Lenders, Borrowers and Parent hereby agree as follows:

1. **Recitals.** This Agreement shall constitute a Financing Document and the Recitals and each reference to the Credit Agreement, unless otherwise expressly noted, will be deemed to reference the Credit Agreement as amended hereby. The Recitals set forth above shall be construed as part of this Agreement as if set forth fully in the body of this Agreement and capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Credit Agreement (including those capitalized terms used in the Recitals hereto).

2. **Amendments to Existing Credit Agreement.** Subject to the terms and conditions of this Agreement, including, without limitation, the conditions to effectiveness set forth in Section 4 below, the Existing Credit Agreement is hereby amended to delete the stricken text (indicated textually in the same manner as the following example: ~~stricken text~~) and to add the double-underlined text (indicated textually in the same manner as the following example: double underlined text) as set forth in the pages attached as Annex A hereto.

3. **Representations and Warranties; Reaffirmation of Security Interest.** Borrower Representative hereby confirms that all of the representations and warranties set forth in the Credit Agreement are true and correct in all material respects (without duplication of any materiality qualifier in the text of such representation or warranty) with respect to Borrowers as of the date hereof except to the extent that any such representation or warranty relates to a specific date in which case such representation or warranty shall be true and correct as of such earlier date and except to the extent of the Subject Defaults. Nothing herein is intended to impair or limit the validity, priority or extent of Agent's security interests in and Liens on the Collateral. Borrower Representative acknowledges and agrees that the Credit Agreement, the other Financing Documents and this Agreement constitute the legal, valid and binding obligation of the Borrowers, and are enforceable against Borrowers in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency or other similar laws relating to the enforcement of creditors' rights generally and by general equitable principles.

4. **Conditions to Effectiveness.** This Agreement shall become effective as of the date on which each of the following conditions have been satisfied, as determined by Agent directed by the Required Lenders:

(a) Borrowers and Parent shall have delivered to the Lenders and Agent this Agreement executed by an authorized officer of the Borrowers and Parent;

(b) All representations and warranties of the Borrowers contained herein shall be true and correct in all material respects (without duplication of any materiality qualifier in the text of such representation or warranty) as of the date hereof except to the extent that any such representation or warranty relates to a specific date in which case such representation or warranty shall be true and correct as of such earlier date (and such parties' delivery of their respective signatures hereto shall be deemed to be its certification thereof);

(c) Immediately prior to and immediately after giving effect to the agreements set forth herein, no Default or Event of Default shall exist under any of the Financing Documents;

(d) Concurrently or substantially concurrently with the effectiveness of this Agreement, the Bridge Facility shall have been funded in accordance with the terms thereof yielding gross cash proceeds of not less than $20,000,000 to the Borrower Representative;

(e) Concurrently or substantially concurrently with the effectiveness of this Agreement, the Purchased Assets Disposition shall have been consummated in accordance with the terms of the Purchase Agreement;

(f) Concurrently or substantially concurrently with the effectiveness of this Agreement, (i) not less than $11,400,000.00 of the proceeds of the Purchased Assets Disposition shall have been applied to repay the Obligations under the Credit Agreement (the "**Amendment No. 4 Repayment**") which Amendment No. 4 Repayment shall be accompanied by the Amendment No. 4 Reserve against the Borrowing Base, in the amount equal to such repayment and (ii) not less than $45,600,000.00 of such proceeds shall have been applied to repay the obligations under the Term Loan Credit Agreement;

(g) Concurrently or substantially concurrently with the effectiveness of this Agreement and after giving pro forma effect to the Purchased Assets Disposition, the Purchase Agreement Distribution, the Bridge Facility, the payments described in clause (f) above, and all other transactions contemplated in connection with the foregoing, Liquidity of the Credit Parties shall be no less than $11,400,000;

(h) The Lenders and Agent shall have received this Agreement executed by each of the Lenders constituting at least the Required Lenders; and

(i) The Lenders and Agent shall have received executed counterparts of (i) an amendment to the Term Loan Credit Agreement and (ii) an amendment to the Third Lien Loan Agreement, in each case, which amendments are effective concurrently herewith and in form and substance satisfactory to the Required Lenders.

5. **Paydown of Accounts Payable.** No later than thirty (30) days from the date of the effectiveness of this Agreement (or such later date as the Required Lenders may agree), the Credit Parties shall pay down no less than $20,000,000.00 of outstanding and overdue (as of the date hereof; the aggregate amount of such outstanding and overdue trade payables as of the date hereof, the "**Amendment Date Overdue AP**") trade accounts payable incurred by the Credit Parties in the Ordinary Course of Business and provide Agent with reasonably satisfactory evidence that the aggregate outstanding and overdue trade accounts payable of the Credit Parties, as of any such date upon which $20,000,000 in payments have been made, is at least $20,000,000 less than the Amendment Date Overdue AP; *provided*, *however* that such required paydown amount may be reduced by the Credit Parties with the consent of the Required Lenders, which consent may be given or withheld by the Required Lenders in their sole and absolute discretion.

6. **Release and Terminations.** Agent and the Required Lenders hereby acknowledge and agree that, effective as of the date of this Agreement, without any further action, notice or consent required, that (i) all of the security interests, mortgages, liens and pledges over the Purchased Assets in favor of the Agent under the Credit Agreement or the other Financing Documents, shall be automatically terminated, released and discharged and be of no further force or effect (such security interests, mortgages, liens and pledges, the "**Released Security Interests**"), (ii) Borrower Representative (or its respective agents, attorneys or designees) are hereby authorized to file on behalf of the Agent all UCC-3 termination statements necessary to terminate all UCC-1 financing statements filed in connection with the Released Security Interests granted to the Agent to secure the Obligations, (iii) Borrower Representative (or its respective agents, attorneys or designees) shall be authorized, at Borrower Representative's sole cost and expense, to transmit or file, and the Lender shall promptly execute and deliver, such instruments, releases, recordings, terminations or other documents as are necessary to effect or evidence the release and discharge contemplated hereby of the Released Security Interests granted to the Agent to secure the Obligations, including, without limitation, other financing termination statements, releases of intellectual property security agreements and all other instruments, releases and documents, in each case as Borrower Representative (or its respective agents, attorneys or designees) may reasonably request in writing in order to evidence or otherwise give public notice of the release of the Agent's Released Security Interests, in each case in form and substance reasonably satisfactory to Borrower Representative and the Agent, (iv) the Agent will promptly (and in any event within three Business Days) deliver to Borrower Representative (or its respective agents, attorneys or designees) or to such other party as directed by Borrower Representative, any possessory collateral held by or for the benefit of the Agent under the Credit Agreement or the other Financing Documents evidencing the Released Security Interests, including any stock certificates, stock powers and notes and other instruments.

7. **Costs and Fees.** Borrower Representative agrees to promptly pay, or reimburse upon demand for, all reasonable and documented out-of-pocket costs and expenses of Agent (including, without limitation, the reasonable and documented fees, costs and expenses of counsel to Agent) in connection with the preparation, negotiation, execution and delivery of this Agreement and any other Financing Documents or other agreements prepared, negotiated, executed or delivered in connection with this Agreement, in each case, to the extent required by Section 13.14 of the Credit Agreement.

8. **No Waiver or Novation.** The execution, delivery and effectiveness of this Agreement shall not, except as expressly provided in this Agreement, operate as a waiver of any right, power or remedy of Agent, nor constitute a waiver of any provision of the Credit Agreement, the Financing Documents or any other documents, instruments and agreements executed or delivered in connection with any of the foregoing. Nothing herein is intended or shall be construed as a waiver of any existing Defaults or Events of Default under the Credit Agreement or the other Financing Documents or any of Agent's rights and remedies in respect of such Defaults or Events of Default. This Agreement (together with any other document executed in connection herewith) is not intended to be, nor shall it be construed as, a novation of the Credit Agreement.

9. **Affirmation.** Except as specifically amended pursuant to the terms hereof, Borrowers hereby acknowledge and agree that the Credit Agreement and all other Financing Documents (and all covenants, terms, conditions and agreements therein) shall remain in full force and effect, and are hereby ratified and confirmed in all respects by Borrowers. Borrowers covenant and agree to comply with all of the terms, covenants and conditions of the Credit Agreement and the Financing Documents, notwithstanding any prior course of conduct, waivers, releases or other actions or inactions on Agent's or any Lender's part which might otherwise constitute or be construed as a waiver of or amendment to such terms, covenants and conditions.

10. **Miscellaneous.**

(a) Reference to the Effect on the Credit Agreement. Upon the effectiveness of this Agreement, each reference in the Credit Agreement to "this Agreement," "hereunder," "hereof," "herein," or words of similar import shall mean and be a reference to the Credit Agreement, as amended by this Agreement. Except as specifically amended above, the Credit Agreement, and all other Financing Documents (and all covenants, terms, conditions and agreements therein), shall remain in full force and effect, and are hereby ratified and confirmed in all respects by Borrowers.

(b) Governing Law. THIS AGREEMENT AND ALL DISPUTES AND OTHER MATTERS RELATING HERETO OR ARISING THEREFROM (WHETHER SOUNDING IN CONTRACT LAW, TORT LAW OR OTHERWISE), SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES (OTHER THAN SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW).

(c) Incorporation of Credit Agreement Provisions. The provisions contained in Section 11.6 (Indemnification), Section 13.8(b) (Submission to Jurisdiction) and Section 13.9 (Waiver of Jury Trial) of the Credit Agreement are incorporated herein by reference to the same extent as if reproduced herein in their entirety.

(d) Headings. Section headings in this Agreement are included for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.

(e) Counterparts. This Agreement may be signed in any number of counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same instrument. Signatures by facsimile or by electronic mail delivery of an electronic version of any executed signature page shall bind the parties hereto.

(f) Entire Agreement. This Agreement constitutes the entire agreement and understanding among the parties hereto and supersedes any and all prior agreements and understandings, oral or written, relating to the subject matter hereof.

(g) Severability. In case any provision of or obligation under this Agreement shall be invalid, illegal or unenforceable in any applicable jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

(h) Successors/Assigns. This Agreement shall bind, and the rights hereunder shall inure to, the respective successors and assigns of the parties hereto, subject to the provisions of the Credit Agreement and the other Financing Documents.

11. **Releases and Indemnity.**

(a) In consideration of this Amendment and the agreements of the Agent and, in respect of the Credit Party Releasors, the Lenders contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, (x) each Credit Party, each on behalf of itself and its successors, assigns, and other legal representatives (collectively, the "**Credit Party Releasors**"), hereby absolutely, unconditionally and irrevocably releases, remises and forever discharges Agent, solely in its capacity as Agent, the Lenders, solely in their capacities as Lenders, and their respective successors and assigns, and their respective present and former shareholders, affiliates, subsidiaries, divisions, predecessors, directors, officers, attorneys, employees, agents and other representatives (the Agent and all such other Persons not affiliated with the Lenders being hereinafter referred to collectively as the "**Agent Releasees**" and individually as an "**Agent Releasee**" and each Lender and all other Persons affiliated with the Lenders being hereinafter referred to as the "**Lender Releasees**" and individually as a "**Lender Releasee**") of and from all demands, actions, causes of action, suits, covenants, contracts, controversies, agreements, promises, sums of money, accounts, bills, reckonings, damages and any and all other claims, counterclaims, defenses (other than a defense of indefeasible payment in full), rights of setoff, demands and liabilities whatsoever of every name and nature, known or unknown, suspected or unsuspected, both at law and in equity, which each Credit Party Releasor may now or hereafter own, hold, have or claim to have against the Agent Releasees, the Lender Releasees or any of them for, upon, or by reason of any circumstance, action, cause or thing whatsoever which arises at any time on or prior to the day and date of this Agreement, for or on account of, or in relation to, or in any way in connection with the Credit Agreement or any of the other Loan Documents or transactions thereunder and (y) each undersigned Lender, each on behalf of itself and its successors, assigns, and other legal representatives (collectively, the "**Lender Releasors**"), hereby absolutely, unconditionally and irrevocably releases, remises and forever discharges the Agent Releasees, of and from all demands, actions, causes of action, suits, covenants, contracts, controversies, agreements, promises, sums of money, accounts, bills, reckonings, damages and any and all other claims, counterclaims, defenses, rights of set-off, demands and liabilities whatsoever of every name and nature, known or unknown, suspected or unsuspected, both at law and in equity, which each Lender Releasor may now or hereafter own, hold, have or claim to have against the Agent Releasees or any of them for, upon, or by reason of any circumstance, action, cause or thing whatsoever (collectively, the "**Claims**") which arises at any time on or prior to the day and date of this Agreement, for or on account of, or in relation to, or in any way in connection with the Amended Credit Agreement or any of the other Loan Documents or transactions thereunder, in each case in the foregoing clauses (x) and (y), other than (i) any Claim arising from the gross negligence or willful misconduct of a Released Party as determined by a court of competent jurisdiction in a final non-appealable judgment or (ii) to enforce this Amendment or any transaction, contract, instrument, release, or other agreement or document created or entered into in connection herewith; provided that for the avoidance of doubt, nothing in this Section 9(a) shall affect continuing obligations of the Agent Releasees or the Lender Releasees under the Credit Agreement or any other Loan Document.

(b) Notwithstanding anything to the contrary in the Credit Agreement or any Loan Document and subject to the provisions set forth in Section 13.14(b) of the Credit Agreement, each Credit Party agrees to defend, indemnify, pay and hold harmless, each of the Agent (and each sub-agent thereof) and each of their respective Related Parties (each, a "**Protected Person**"), from and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, judgments, suits, out-of-pocket costs, expenses and disbursements of any kind or nature whatsoever (including the reasonable and documented fees, expenses and other charges of counsel and consultants in connection with any investigative, administrative or judicial proceeding or hearing commenced or threatened by any Person (including by any Credit Party or any Affiliate thereof), and any fees or expenses incurred by the Protected Persons in enforcing this indemnity), whether direct, indirect, special, consequential or otherwise and whether based on any federal, state or foreign laws, statutes, rules or regulations (including securities and commercial laws, statutes, rules or regulations and Environmental Laws), on common law or equitable causes of action or on contract or otherwise, that may be imposed on, incurred by or asserted against such Protected Person, in any manner relating to or arising out of this Agreement, the Credit Agreement or the transactions contemplated hereby or thereby, in each case, to the extent required pursuant to Section 13.14(b) of the Credit Agreement, except that Credit Parties shall have no obligation hereunder to a Protected Person with respect to any liability resulting from the gross negligence or willful misconduct of such Protected Person, as determined by a final non-appealable judgment of a court of competent jurisdiction.

[SIGNATURES APPEAR ON FOLLOWING PAGES]

IN WITNESS WHEREOF, intending to be legally bound, the undersigned have executed this Agreement as of the day and year first hereinabove set forth.

AGENT:

MIDCAP FUNDING IV TRUST,
as Agent

By: Apollo Capital Management, L.P.,
its investment manager

By: Apollo Capital Management GP, LLC,
its general partner

By: /s/ Maurice Amsellem
Name: Maurice Amsellem
Title: Authorized Signatory

[Signatures Continue on Following Page]

[Signature Page to Amendment No. 4]

LENDER:

MIDCAP FUNDING IV TRUST

By: Apollo Capital Management, L.P.,
its investment manager

By: Apollo Capital Management GP, LLC,
its general partner

By: /s/ Maurice Amsellem
Name: Maurice Amsellem
Title: Authorized Signatory

[Signature Page to Amendment No. 4]

BORROWERS:

RUBICON TECHNOLOGIES HOLDINGS, LLC
RUBICON TECHNOLOGIES INTERNATIONAL, INC.
RUBICON GLOBAL, LLC
CLEANCO LLC
CHARTER WASTE MANAGEMENT, INC.
RIVERROAD WASTE SOLUTIONS, INC.

By: /s/ Kevin Schubert
Name: Kevin Schubert
Title: Chief Financial Officer, President and Secretary

GUARANTORS:

RUBICON TECHNOLOGIES, INC.

By: /s/ Kevin Schubert
Name: Kevin Schubert
Title: Chief Financial Officer, President and Secretary

[End of Signature Pages]

[Signature Page to Amendment No. 4]

Annex A

Amended Credit Agreement

(see attached)

Annex B

Purchase Agreement

(see attached)

Annex C

Bridge Facility Term Sheet

(see attached)

Exhibit 10.6

SIXTH AMENDMENT TO LOAN AND SECURITY AGREEMENT

This SIXTH AMENDMENT TO LOAN AND SECURITY AGREEMENT (this "**Agreement**") is made as of May 7, 2024, by and among RUBICON TECHNOLOGIES HOLDINGS, LLC, a Delaware limited liability company ("**Holdings**"), RUBICON TECHNOLOGIES INTERNATIONAL, INC., a Delaware corporation, RUBICON GLOBAL, LLC, a Delaware limited liability company, CLEANCO LLC, a New Jersey limited liability company, CHARTER WASTE MANAGEMENT, INC., a Delaware corporation, RIVERROAD WASTE SOLUTIONS, INC., a New Jersey corporation (each individually as a "**Borrower**", and collectively as "**Borrowers**"), RUBICON TECHNOLOGIES, INC., a Delaware corporation ("**Parent**"), MIZZEN CAPITAL, LP, as agent for the Lenders (in such capacity, together with its successors and assigns, "**Agent**") and the other financial institutions or other entities from time to time parties to the Credit Agreement referenced below, each as a Lender, constituting the Required Lenders.

RECITALS

A. Agent, Lenders, Borrowers and Parent have entered into that certain Loan and Security Agreement dated as of December 22, 2021 (as previously amended, restated, supplemented or otherwise modified prior to the date hereof, the "**Original Credit Agreement**" and as amended hereby and as it may be further amended, modified, supplemented and restated from time to time, the "**Credit Agreement**"), pursuant to which the Lenders have agreed to make certain advances of money and to extend certain financial accommodations to Borrowers in the amounts and manner set forth in the Credit Agreement.

B. Borrower Representative has advised the Lenders that pursuant to the Asset Purchase Agreement (the "**Purchase Agreement**"), attached hereto as Annex B, dated as of the date hereof, by and among Parent, Holdings and Wastech Corp., it intends to make an Asset Disposition of the Purchased Assets (as defined in the Purchase Agreement) (such disposition, the "**Purchased Assets Disposition**") and to make a Distribution to Parent in the amount of $3,178,813.50 to pay transaction expenses (the "**Purchase Agreement Distribution**"), which Asset Disposition is prohibited under Section 5.6 of the Credit Agreement unless such Asset Disposition constitutes a Permitted Asset Disposition and which Distribution is prohibited under Section 5.3 of the Credit Agreement unless such Distribution constitutes a Permitted Distribution.

C. Borrower Representative has further advised the Lenders that pursuant to that certain Securities Purchase Agreement (the "**Bridge Facility**") on terms substantially similar to those set forth on Annex C attached hereto, dated as of the date hereof, by and among Parent and MBI Holdings, LP, it intends to obtain not less than $20,000,000 in gross cash proceeds of preferred equity financing consisting of the purchase of preferred stock of the Borrower Representative not constituting Disqualified Equity Interests (the "**Bridge Preferred Equity**").

D. Borrower Representative has requested, and Agent and the Lenders party hereto, which collectively constitute at least the Required Lenders, have agreed, to, inter alia, amend certain provisions of the Existing Credit Agreement, all in accordance with the terms and subject to the conditions set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, the terms and conditions set forth in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Agent, Lenders, Borrowers and Parent hereby agree as follows:

1. **Recitals.** This Agreement shall constitute a Financing Document and the Recitals and each reference to the Credit Agreement, unless otherwise expressly noted, will be deemed to reference the Credit Agreement as amended hereby. The Recitals set forth above shall be construed as part of this Agreement as if set forth fully in the body of this Agreement and capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Credit Agreement (including those capitalized terms used in the Recitals hereto).

2. **Amendments to Existing Credit Agreement.** Subject to the terms and conditions of this Agreement, including, without limitation, the conditions to effectiveness set forth in Section 4 below, the Existing Credit Agreement is hereby amended to delete the stricken text (indicated textually in the same manner as the following example: ~~stricken text~~) and to add the double-underlined text (indicated textually in the same manner as the following example: double underlined text) as set forth in the pages attached as Annex A hereto.

3. **Representations and Warranties; Reaffirmation of Security Interest.** Borrower Representative hereby confirms that all of the representations and warranties set forth in the Credit Agreement are true and correct in all material respects (without duplication of any materiality qualifier in the text of such representation or warranty) with respect to Borrowers as of the date hereof except to the extent that any such representation or warranty relates to a specific date in which case such representation or warranty shall be true and correct as of such earlier date and except to the extent of the Subject Defaults. Nothing herein is intended to impair or limit the validity, priority or extent of Agent's security interests in and Liens on the Collateral. Borrower Representative acknowledges and agrees that the Credit Agreement, the other Financing Documents and this Agreement constitute the legal, valid and binding obligation of the Borrowers, and are enforceable against Borrowers in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency or other similar laws relating to the enforcement of creditors' rights generally and by general equitable principles.

4. **Conditions to Effectiveness.** This Agreement shall become effective as of the date on which each of the following conditions have been satisfied, as determined by Agent directed by the Required Lenders:

(a) Borrowers and Parent shall have delivered to the Lenders and Agent this Agreement executed by an authorized officer of the Borrowers and Parent;

(b) All representations and warranties of the Borrowers contained herein shall be true and correct in all material respects (without duplication of any materiality qualifier in the text of such representation or warranty) as of the date hereof except to the extent that any such representation or warranty relates to a specific date in which case such representation or warranty shall be true and correct as of such earlier date (and such parties' delivery of their respective signatures hereto shall be deemed to be its certification thereof);

(c) Immediately prior to and immediately after giving effect to the agreements set forth herein, no Default or Event of Default shall exist under any of the Financing Documents;

(d) Concurrently or substantially concurrently with the effectiveness of this Agreement, the Bridge Facility shall have been funded in accordance with the terms thereof yielding gross cash proceeds of not less than $20,000,000 to the Borrower Representative;

(e) Concurrently or substantially concurrently with the effectiveness of this Agreement, the Purchased Assets Disposition shall have been consummated in accordance with the terms of the Purchase Agreement;

(f) Concurrently or substantially concurrently with the effectiveness of this Agreement, not less than $11,400,000.00 of such proceeds shall have been applied to repay the Obligations under the Revolving Loan Agreement;

(g) Concurrently or substantially concurrently with the effectiveness of this Agreement and after giving pro forma effect to the Purchased Assets Disposition, the Purchase Agreement Distribution, the Bridge Facility, the payments described in clause (f) above, and all other transactions contemplated in connection with the foregoing, Liquidity of the Credit Parties shall be no less than $11,400,000;

(h) Greenberg Traurig, LLP shall have received from the Borrower payment of all reasonable fees and expenses incurred in connection with this Agreement documented by invoices delivered to the Borrower on or prior to the Sixth Amendment Effective Date, to the extent required to be paid pursuant to Section 13.14 of the Credit Agreement;

(i) The Lenders and Agent shall have received this Agreement executed by each of the Lenders constituting at least the Required Lenders; and

(j) The Lenders and Agent shall have received executed counterparts of (i) an amendment to the Revolving Loan Agreement and (ii) an amendment to the Avenue Term Loan Credit Agreement, in each case, which amendments are effective concurrently herewith and in form and substance satisfactory to the Required Lenders.

5. **Paydown of Accounts Payable.** N No later than thirty (30) days from the date of the effectiveness of this Agreement (or such later date as the Required Lenders may agree), the Credit Parties shall pay down no less than $20,000,000.00 of outstanding and overdue (as of the date hereof; the aggregate amount of such outstanding and overdue trade payables as of the date hereof, the "**Amendment Date Overdue AP**") trade accounts payable incurred by the Credit Parties in the Ordinary Course of Business and provide Agent with reasonably satisfactory evidence that the aggregate outstanding and overdue trade accounts payable of the Credit Parties, as of any such date upon which $20,000,000 in payments have been made, is at least $20,000,000 less than the Amendment Date Overdue AP; *provided*, *however* that such required paydown amount may be reduced by the Credit Parties with the consent of the Required Lenders, which consent may be given or withheld by the Required Lenders in their sole and absolute discretion.

6. **Release and Terminations.** Agent and the Required Lenders hereby acknowledge and agree that, effective as of the date of this Agreement, without any further action, notice or consent required, that (i) all of the security interests, mortgages, liens and pledges over the Purchased Assets in favor of the Agent under the Credit Agreement or the other Financing Documents, shall be automatically terminated, released and discharged and be of no further force or effect (such security interests, mortgages, liens and pledges, the "**Released Security Interests**"), (ii) Borrower Representative (or its respective agents, attorneys or designees) are hereby authorized to file on behalf of the Agent all UCC-3 termination statements necessary to terminate all UCC-1 financing statements filed in connection with the Released Security Interests granted to the Agent to secure the Obligations, (iii) Borrower Representative (or its respective agents, attorneys or designees) shall be authorized, at Borrower Representative's sole cost and expense, to transmit or file, and the Lender shall promptly execute and deliver, such instruments, releases, recordings, terminations or other documents as are necessary to effect or evidence the release and discharge contemplated hereby of the Released Security Interests granted to the Agent to secure the Obligations, including, without limitation, other financing termination statements, releases of intellectual property security agreements and all other instruments, releases and documents, in each case as Borrower Representative (or its respective agents, attorneys or designees) may reasonably request in writing in order to evidence or otherwise give public notice of the release of the Agent's Released Security Interests, in each case in form and substance reasonably satisfactory to Borrower Representative and the Agent, (iv) the Agent will promptly (and in any event within three Business Days) deliver to Borrower Representative (or its respective agents, attorneys or designees) or to such other party as directed by Borrower Representative, any possessory collateral held by or for the benefit of the Agent under the Credit Agreement or the other Financing Documents evidencing the Released Security Interests, including any stock certificates, stock powers and notes and other instruments.

7. **Costs and Fees.** Borrower Representative agrees to promptly pay, or reimburse upon demand for, all reasonable and documented out-of-pocket costs and expenses of Agent (including, without limitation, the reasonable and documented fees, costs and expenses of counsel to Agent) in connection with the preparation, negotiation, execution and delivery of this Agreement and any other Financing Documents or other agreements prepared, negotiated, executed or delivered in connection with this Agreement, in each case, to the extent required by Section 13.14 of the Credit Agreement.

8. **No Waiver or Novation.** The execution, delivery and effectiveness of this Agreement shall not, except as expressly provided in this Agreement, operate as a waiver of any right, power or remedy of Agent, nor constitute a waiver of any provision of the Credit Agreement, the Financing Documents or any other documents, instruments and agreements executed or delivered in connection with any of the foregoing. Nothing herein is intended or shall be construed as a waiver of any existing Defaults or Events of Default under the Credit Agreement or the other Financing Documents or any of Agent's rights and remedies in respect of such Defaults or Events of Default. This Agreement (together with any other document executed in connection herewith) is not intended to be, nor shall it be construed as, a novation of the Credit Agreement.

9. **Affirmation.**

(a) Except as specifically amended pursuant to the terms hereof, Borrowers hereby acknowledge and agree that the Credit Agreement and all other Financing Documents (and all covenants, terms, conditions and agreements therein) shall remain in full force and effect, and are hereby ratified and confirmed in all respects by Borrowers. Borrowers covenant and agree to comply with all of the terms, covenants and conditions of the Credit Agreement and the Financing Documents, notwithstanding any prior course of conduct, waivers, releases or other actions or inactions on Agent's or any Lender's part which might otherwise constitute or be construed as a waiver of or amendment to such terms, covenants and conditions.

(b) For the avoidance of doubt, the parties hereto acknowledge and agree that prior to giving effect to this Agreement, the total amount of the outstanding Obligations is $20,803,877.35.

10. **Miscellaneous.**

(a) Reference to the Effect on the Credit Agreement. Upon the effectiveness of this Agreement, each reference in the Credit Agreement to "this Agreement," "hereunder," "hereof," "herein," or words of similar import shall mean and be a reference to the Credit Agreement, as amended by this Agreement. Except as specifically amended above, the Credit Agreement, and all other Financing Documents (and all covenants, terms, conditions and agreements therein), shall remain in full force and effect, and are hereby ratified and confirmed in all respects by Borrowers.

(b) Governing Law. THIS AGREEMENT AND ALL DISPUTES AND OTHER MATTERS RELATING HERETO OR ARISING THEREFROM (WHETHER SOUNDING IN CONTRACT LAW, TORT LAW OR OTHERWISE), SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES (OTHER THAN SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW).

(c) Incorporation of Credit Agreement Provisions. The provisions contained in Section 11.6 (Indemnification), Section 13.8(b) (Submission to Jurisdiction) and Section 13.9 (Waiver of Jury Trial) of the Credit Agreement are incorporated herein by reference to the same extent as if reproduced herein in their entirety.

(d) Headings. Section headings in this Agreement are included for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.

(e) Counterparts. This Agreement may be signed in any number of counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same instrument. Signatures by facsimile or by electronic mail delivery of an electronic version of any executed signature page shall bind the parties hereto.

(f) Entire Agreement. This Agreement constitutes the entire agreement and understanding among the parties hereto and supersedes any and all prior agreements and understandings, oral or written, relating to the subject matter hereof.

(g) Severability. In case any provision of or obligation under this Agreement shall be invalid, illegal or unenforceable in any applicable jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

(h) Successors/Assigns. This Agreement shall bind, and the rights hereunder shall inure to, the respective successors and assigns of the parties hereto, subject to the provisions of the Credit Agreement and the other Financing Documents.

11. **Releases and Indemnity.**

(a) In consideration of this Amendment and the agreements of the Agent and, in respect of the Credit Party Releasors, the Lenders contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, (x) each Credit Party, each on behalf of itself and its successors, assigns, and other legal representatives (collectively, the "**Credit Party Releasors**"), hereby absolutely, unconditionally and irrevocably releases, remises and forever discharges Agent, solely in its capacity as Agent, the Lenders, solely in their capacities as Lenders, and their respective successors and assigns, and their respective present and former shareholders, affiliates, subsidiaries, divisions, predecessors, directors, officers, attorneys, employees, agents and other representatives (the Agent and all such other Persons not affiliated with the Lenders being hereinafter referred to collectively as the "**Agent Releasees**" and individually as an "**Agent Releasee**" and each Lender and all other Persons affiliated with the Lenders being hereinafter referred to as the "**Lender Releasees**" and individually as a "**Lender Releasee**") of and from all demands, actions, causes of action, suits, covenants, contracts, controversies, agreements, promises, sums of money, accounts, bills, reckonings, damages and any and all other claims, counterclaims, defenses (other than a defense of indefeasible payment in full), rights of setoff, demands and liabilities whatsoever of every name and nature, known or unknown, suspected or unsuspected, both at law and in equity, which each Credit Party Releasor may now or hereafter own, hold, have or claim to have against the Agent Releasees, the Lender Releasees or any of them for, upon, or by reason of any circumstance, action, cause or thing whatsoever which arises at any time on or prior to the day and date of this Agreement, for or on account of, or in relation to, or in any way in connection with the Credit Agreement or any of the other Loan Documents or transactions thereunder and (y) each undersigned Lender, each on behalf of itself and its successors, assigns, and other legal representatives (collectively, the "**Lender Releasors**"), hereby absolutely, unconditionally and irrevocably releases, remises and forever discharges the Agent Releasees, of and from all demands, actions, causes of action, suits, covenants, contracts, controversies, agreements, promises, sums of money, accounts, bills, reckonings, damages and any and all other claims, counterclaims, defenses, rights of set-off, demands and liabilities whatsoever of every name and nature,

known or unknown, suspected or unsuspected, both at law and in equity, which each Lender Releasor may now or hereafter own, hold, have or claim to have against the Agent Releasees or any of them for, upon, or by reason of any circumstance, action, cause or thing whatsoever (collectively, the "**Claims**") which arises at any time on or prior to the day and date of this Agreement, for or on account of, or in relation to, or in any way in connection with the Amended Credit Agreement or any of the other Loan Documents or transactions thereunder, in each case in the foregoing clauses (x) and (y), other than (i) any Claim arising from the gross negligence or willful misconduct of a Released Party as determined by a court of competent jurisdiction in a final non-appealable judgment or (ii) to enforce this Amendment or any transaction, contract, instrument, release, or other agreement or document created or entered into in connection herewith; provided that for the avoidance of doubt, nothing in this Section 9(a) shall affect continuing obligations of the Agent Releasees or the Lender Releasees under the Credit Agreement or any other Loan Document.

(b) Notwithstanding anything to the contrary in the Credit Agreement or any Loan Document and subject to the provisions set forth in Section 13.14(b) of the Credit Agreement, each Credit Party agrees to defend, indemnify, pay and hold harmless, each of the Agent (and each sub-agent thereof) and each of their respective Related Parties (each, a "**Protected Person**"), from and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, judgments, suits, out-of-pocket costs, expenses and disbursements of any kind or nature whatsoever (including the reasonable and documented fees, expenses and other charges of counsel and consultants in connection with any investigative, administrative or judicial proceeding or hearing commenced or threatened by any Person (including by any Credit Party or any Affiliate thereof), and any fees or expenses incurred by the Protected Persons in enforcing this indemnity), whether direct, indirect, special, consequential or otherwise and whether based on any federal, state or foreign laws, statutes, rules or regulations (including securities and commercial laws, statutes, rules or regulations and Environmental Laws), on common law or equitable causes of action or on contract or otherwise, that may be imposed on, incurred by or asserted against such Protected Person, in any manner relating to or arising out of this Agreement, the Credit Agreement or the transactions contemplated hereby or thereby, in each case, to the extent required pursuant to Section 13.14(b) of the Credit Agreement, except that Credit Parties shall have no obligation hereunder to a Protected Person with respect to any liability resulting from the gross negligence or willful misconduct of such Protected Person, as determined by a final non-appealable judgment of a court of competent jurisdiction.

[SIGNATURES APPEAR ON FOLLOWING PAGES]

IN WITNESS WHEREOF, intending to be legally bound, and intending that this document constitute an agreement executed under seal, the undersigned have executed this Agreement under seal as of the day and year first hereinabove set forth.

AGENT:

MIZZEN CAPITAL, LP

By: MIZZEN CAPITAL GP, LLC,
its General Partner

By: /s/ Elizabeth Karter
Name: Elizabeth Karter
Title: Managing Partner

LENDER:

MIZZEN CAPITAL, LP

By: MIZZEN CAPITAL GP, LLC,
its General Partner

By: /s/ Elizabeth Karter
Name: Elizabeth Karter
Title: Managing Partner

[Signature Page to Sixth Amendment]

LENDER:

STAR STRONG CAPITAL LLC

By: /s/ Spring Hollis
Name: Spring Hollis
Title: CEO

[Signature Page to Sixth Amendment]

BORROWERS:

RUBICON TECHNOLOGIES HOLDINGS, LLC
RUBICON TECHNOLOGIES INTERNATIONAL, INC.
RUBICON GLOBAL, LLC
CLEANCO LLC
CHARTER WASTE MANAGEMENT, INC.
RIVERROAD WASTE SOLUTIONS, INC.

By: /s/ Philip Rodoni
Name: Philip Rodini
Title: Chief Executive Officer

GUARANTORS:

RUBICON TECHNOLOGIES, INC.

By: /s/ Philip Rodoni
Name: Philip Rodini
Title: Chief Executive Officer

[End of Signature Pages]

[Signature Page to Sixth Amendment]

Annex A

Amended Credit Agreement

(see attached)

Annex B

Purchase Agreement

(see attached)

Annex C

Bridge Facility

(see attached)

Exhibit 10.7

WAIVER AGREEMENT

This WAIVER AGREEMENT (the "Waiver Agreement"), dated as of _____, 2024, is made and entered into by and between Rubicon Technologies Inc., a Delaware corporation (the "Company"), and _____ (the "Service Provider").

RECITALS

WHEREAS, MBI Holdings, LP, a Delaware corporation ("Buyer") and the Company, expect to enter into a Securities Purchase Agreement, to be dated on or about ____ 2024 (the "Securities Purchase Agreement", and the transactions contemplated thereby, the "Proposed Transaction");

WHEREAS, capitalized terms used but not defined herein shall have the meaning set forth in the Securities Purchase Agreement;

WHEREAS, the Service Provider previously entered into an employment agreement with the Company, dated as of _____ (the "Employment Agreement");

WHEREAS, pursuant to the Employment Agreement, upon (i) a "Sale Event" (as defined in the Employment Agreement), the Service Provider is eligible to receive certain compensation and benefits, including accelerated vesting of equity-based awards (the "Sale Event Payments") and (ii) a "Change in Control" (as defined in the Employment Agreement), the Service Provider is eligible to receive certain compensation and benefits, including accelerated vesting of equity-based awards (the "CIC Payments");

WHEREAS, the Service Provider is willing to waive any and all of the Service Provider's right or entitlement to receive or retain the Sale Event Payments or the CIC Payments, in each case, in connection with the Proposed Transaction (which shall include, for the avoidance of doubt, the conversion of the Preferred Shares into shares of Common Stock at any time following the date hereof).

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Service Provider hereby agrees as follows:

1. The Service Provider hereby waives any and all of the Service Provider's right or entitlement to receive or retain any Sale Event Payments or CIC Payments, in each case, in connection with the Proposed Transaction (which shall include, for the avoidance of doubt, the conversion of the Preferred Shares into shares of Common Stock at any time following the date hereof).

2. This Waiver Agreement may not be amended or otherwise modified without the prior written consent of the Company and the Service Provider.

3. The Service Provider hereby authorizes each of the Company and Buyer to deliver a copy of this Waiver Agreement to the other.

4. The Service Provider acknowledges and agrees that this Waiver Agreement will be binding upon and inure to the benefit of (a) the heirs, executors and legal representatives of the undersigned Service Provider upon the undersigned Service Provider's death and (b) any successor of the Company. Any such successor of the Company will be deemed substituted for the Company under the terms of this Waiver Agreement for purposes of enforcing the Company's rights hereunder.

5. If the Company does not enter into the Securities Purchase Agreement, this Waiver Agreement shall terminate concurrently therewith.

6. This Waiver Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement.

7. The choice of law and dispute resolution provisions of Sections 34 and 35 of the Employment Agreement shall govern this Waiver Agreement.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the Service Provider and the Company have executed this Waiver Agreement as of the first date written above.

By: _____

Print Name: _____

Agreed and Accepted:

Rubicon Technologies Inc.,

_____

Title:

[Signature Page to Waiver]

Exhibit 10.8

Rubicon Announces Sale of Fleet Technology Business Unit and Issuance of Preferred Equity

New York, NY – May 7, 2024 – Rubicon Technologies, Inc. ("Rubicon" or the "Company") (NYSE: RBT), a leading provider of technology solutions for waste, recycling, and fleet operations, today announced that it has sold its fleet technology business and issued convertible preferred stock in Rubicon to Rodina Capital, a private investment firm based in Florida, in a sale with a total transaction value of $94.2 million, which includes up-front cash and an earnout consideration of $74.2 million payable in 2024 and a $20 million issuance of convertible preferred stock. An independent special committee of Rubicon's Board of Directors and Rubicon's Board of Directors have approved the transactions.

These transactions are transformational for the Company, ensuring Rubicon's long-term viability, improving its balance sheet by reducing debts and providing additional liquidity to enable the Company to quickly achieve its business objectives, accelerate its journey to profitability in the short term, and continue its growth trajectory in the long term. Importantly, it marks a return to Rubicon's core principles, a business centered on a customer-focused approach that has been instrumental in the Company's growth from the outset. This strategic move underscores Rubicon's dedication to the RUBICONConnect™ product, which serves commercial waste generators from small to medium-sized businesses to Fortune 500 companies. Many of the Company's commercial customers are looking to Rubicon to help them achieve sustainability goals with tailored zero waste and circular economy solutions, including through the Company's recently launched Technical Advisory Services (TAS). This sale and the new capital will be dedicated to improving services and strengthening Rubicon's longstanding relationship with more than 8,000 vendor and hauler partners, 90 percent of which are small, independent businesses.

"Through these transactions, Rubicon has significantly strengthened its balance sheet, providing a substantial cash infusion into the business to allow us to achieve our ambitious goals," said Phil Rodoni, CEO of Rubicon. "This marks a transformative moment for Rubicon, aligning with our strategic vision to lead our industry by innovating and investing in sustainable practices that meet the evolving needs of both our hauler network and customer base. We are excited to leverage this newfound financial agility to drive growth, enhance our competitive edge, and deliver exceptional value to our shareholders and customers alike."

“This is a transformational sale for Rubicon,” said Osman Ahmed, the lead independent director on Rubicon’s Board of Directors. “It not only gives the Company the financial strength it requires to continue on its aggressive growth plan, it allows the management team to solely focus its time and efforts on Rubicon’s core business.”

Rubicon’s fleet technology unit is a fast-growing SaaS technology business that powers essential heavy-duty fleet operations in more than 100 cities, including the cities of Houston, Phoenix, Miami, Atlanta, and Kansas City. Six of the top ten cities by population use the RUBICONSmartCity product to improve the safety and effectiveness of core municipal operations and save taxpayer dollars.

The fleet technology business unit will now operate as a private software company under a new name, which will be announced soon.

“We are thrilled to begin operating as an independent software company,” said Conor Riffle, Senior Vice President of Smart Cities at Rubicon. “This transaction allows us to focus all of our energy on our rapid growth, our incredible customer base, and our innovations at the cutting edge of technology for the waste and recycling, snow removal, and street sweeping markets. We are proud to partner with a family office that has a long-term view for the business and the financial resources to pursue exponential growth.”

Advisors

Winston & Strawn LLP acted as legal advisor to Rubicon, and Cantor Fitzgerald & Co. served as the exclusive financial advisor to Rubicon during this transaction.

About Rubicon

Rubicon builds AI-enabled technology products and provides expert sustainability solutions to waste generators, fleet operators, and material processors to help them understand, manage, and reduce waste. As a mission-driven company, Rubicon helps its customers improve operational efficiency, unlock economic value, and deliver better environmental outcomes. To learn more, visit rubicon.com.

Forward-Looking Statements

This press release includes "forward-looking statements" within the meaning of the "safe harbor" provisions of the United States Private Securities Litigation Reform Act of 1995 and within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. All statements, other than statements of present or historical fact included in this press release, are forward-looking statements. When used in this press release, the words "could," "should," "will," "may," "believe," "anticipate," "intend," "estimate," "expect," "project," the negative of such terms and other similar expressions are intended to identify forward-looking statements, although not all forward-looking statements contain such identifying words. Such forward-looking statements are subject to risks, uncertainties, and other factors which could cause actual results to differ materially from those expressed or implied by such forward-looking statements. These forward-looking statements are based upon current expectations, estimates, projections, and assumptions that, while considered reasonable by Rubicon and its management, are inherently uncertain; factors that may cause actual results to differ materially from current expectations include, but are not limited to: 1) the outcome of any legal proceedings that may be instituted against Rubicon or others following the closing of the business combination; 2) Rubicon's ability to continue to meet the New York Stock Exchange's listing standards; 3) changes in applicable laws or regulations; 4) the possibility that Rubicon may be adversely affected by other economic, business and/or competitive factors; 5) Rubicon's execution of anticipated operational efficiency initiatives, cost reduction measures and financing arrangements; and 6) other risks and uncertainties set forth in the sections entitled "Risk Factors" and "Cautionary Note Regarding Forward-Looking Statements" in the Company's Annual Report on Form 10-K for the year ended December 31, 2023 (filed March 28, 2024 with the Securities and Exchange Commission (the "SEC")), Registration Statement on Form S-3, as amended, filed with the SEC, and other documents Rubicon has filed with the SEC. Although Rubicon believes the expectations reflected in the forward-looking statements are reasonable, nothing in this press release should be regarded as a representation by any person that the forward-looking statements set forth herein will be achieved or that any of the contemplated results of such forward looking statements will be achieved. There may be additional risks that Rubicon presently does not know of or that Rubicon currently believes are immaterial that could also cause actual results to differ from those contained in the forward-looking statements, many of which are beyond Rubicon's control. You should not place undue reliance on forward-looking statements, which speak only as of the date they are made. Rubicon does not undertake, and expressly disclaims, any duty to update these forward-looking statements, except as otherwise required by applicable law.

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