

INVESTORS' RIGHTS AGREEMENT
OF
BRAIDY INDUSTRIES, INC.

May 4, 2017

INVESTORS' RIGHTS AGREEMENT

This Investors' Rights Agreement (this "Agreement") is made as of the 4th day of May, 2017, by and among Braidy Industries, Inc., a Delaware corporation (the "Company") and the stockholders of the Company listed on Exhibit A hereto (each, a "Stockholder").

RECITALS

WHEREAS, the Company and certain of the Stockholders are parties to that certain Series A-1 Preferred Stock Purchase Agreement dated of even date herewith (the "Purchase Agreement").

WHEREAS, in order to induce such Stockholders to purchase Series A-1 Preferred Stock, par value \$0.0001 (the "Series A-1 Preferred Stock") and invest funds in the Company pursuant to the Purchase Agreement, the Company hereby agrees that this Agreement shall govern the rights of Stockholders to cause the Company to register shares of Common Stock, par value \$0.0001 (the "Common Stock") issued or issuable to them and certain other matters as set forth herein.

AGREEMENT

The parties hereby agree as follows:

Definitions. In addition to the terms defined elsewhere in the body of this Agreement, for purposes of this Agreement:

(a) "Affiliate" means, with respect to any specified Person, any other Person who or which, directly or indirectly, controls, is controlled by, or is under common control with such Person, including without limitation any general partner, managing member, officer or director of such Person or any venture capital fund now or hereafter existing that is controlled by one or more general partners or managing members of, or under common management with, such Person.

(b) "Company Covered Person" means those persons specified in Rule 506(d)(1) under the Securities Act, including the Company; any predecessor or affiliate of the Company; any director, executive officer, other officer participating in the offering, general partner or managing member of the Company; any beneficial owner of 20% or more of the Company's outstanding voting equity securities, calculated on the basis of voting power; any promoter (as defined in Rule 405 under the Securities Act) connected with the Company in any capacity at the time of the sale of the Shares; and any person that has been or will be paid (directly or indirectly) remuneration for solicitation of purchasers in connection with the sale of the Shares (a "***Solicitor***"), any general partner or managing member of any Solicitor, and any director, executive officer or other officer participating in the offering of any Solicitor or general partner or managing member of any Solicitor.

(c) “Exchange Act” means the Securities Exchange Act of 1934, as amended (and any successor thereto) and the rules and regulations promulgated thereunder.

(d) “Excluded Registration” means a registration statement relating solely to the sale of securities of participants in a Company stock plan, a registration relating to a corporate reorganization or transaction under Rule 145 of the Securities Act, or a registration in which the only common stock being registered is common stock issuable upon conversion of debt securities which are also being registered.

(e) “Form S-3” means such form under the Securities Act as in effect on the date hereof or any successor form under the Securities Act that permits significant incorporation by reference of the Company’s subsequent public filings under the Exchange Act.

(f) “Major Investor” means any Stockholder that holds at least **400,000** shares of Registrable Securities (subject to adjustment for stock splits, stock dividends, combinations, reclassifications or the like).

(g) “Qualified Offering” has the meaning given to such term in the Certificate.

(h) “Person” means an individual, firm, corporation, partnership, association, limited liability company, trust or any other entity.

(i) “Preferred Stock” means, collectively, (i) the Series A Preferred Stock of the Company, par value \$0.0001, and (ii) the Series A-1 Preferred Stock, par value \$0.0001.

(j) “Register,” “registered,” and “registration” refer to a registration effected by preparing and filing a registration statement or similar document in compliance with the Securities Act, and the declaration or ordering of effectiveness of such registration statement or document;

(k) “Registrable Securities” means shares of Common Stock that are either outstanding or issuable or issued upon conversion of the Preferred Stock held by a Stockholder; excluding, in all cases any Registrable Securities sold in a transaction in which the rights under this Agreement are not assigned in accordance with Section 2.11, or any shares for which registration rights have terminated pursuant to Section 2.14.

(l) The number of shares of “Registrable Securities then outstanding” shall be determined by the number of shares of Common Stock outstanding which are, and the number of shares of Common Stock issuable pursuant to then exercisable or convertible securities which are, Registrable Securities.

(m) “SEC” means the Securities and Exchange Commission.

(n) “Securities Act” means the Securities Act of 1933, as amended (and any successor thereto) and the rules and regulations promulgated thereunder.

2. **Registration Rights.** The Company and the Stockholders covenant and agree as follows:

2.1 **Request for Registration.**

(a) If the Company shall receive at any time from and after six months following the Conversion Trigger (as defined in the Company’s Certificate of Incorporation), a written request from Stockholders holding at least 33% of the Registrable Securities then outstanding (the “Initiating Holders”) that the Company file a registration statement under the Securities Act covering the registration of Registrable Securities with an anticipated aggregate offering price of at least \$30 million, then the Company shall give written notice of such request to all Stockholders and use its commercially reasonable efforts, subject to the limitations of Subsection 2.1(b), as soon as practicable (and in any event use its commercially reasonable efforts to file a registration statement within sixty (60) days of the receipt of such written request), to effect the registration under the Securities Act of all of the Registrable Securities that each such Stockholder has requested to be registered.

(b) If the Initiating Holders intend to distribute the Registrable Securities covered by their request by means of an underwriting, they shall so advise the Company as a part of their request and the Company shall include such information in the written notice referred to in Subsection 2.1(a). The underwriter will be selected by the Company, which underwriter shall be reasonably acceptable to a majority in interest of the Stockholders whose Registrable Securities are to be included in the underwriting. In such event, the right of any Stockholder to include its Registrable Securities in such registration shall be conditioned upon such Stockholder’s participation in such underwriting and the inclusion of such Stockholder’s Registrable Securities in the underwriting (unless otherwise mutually agreed by the Company, a majority in interest of the Initiating Holders and such Stockholder) to the extent provided herein. The Company and all Stockholders proposing to distribute their securities through such underwriting shall enter into an underwriting agreement in customary form with the underwriter or underwriters selected for such underwriting. Notwithstanding any other provision of this Subsection 2.1, if the underwriter advises the Company in good faith that marketing factors require a limitation of the number of shares to be underwritten, then the Company shall so advise all Stockholders which would otherwise be underwritten pursuant thereto, and the number of shares of Registrable Securities that may be included in the underwriting shall be allocated among all participating Stockholders, including the Initiating Holders, in proportion (as nearly as practicable) to the amount of Registrable Securities owned by each participating Stockholder. In no event shall any Registrable Securities be excluded from such underwriting unless all other securities are first excluded from such offering. Any Registrable Securities excluded from or withdrawn from such underwriting shall be withdrawn from registration.

(c) Notwithstanding the foregoing, if the Company shall furnish to the Initiating Holders a certificate signed by the Chief Executive Officer of the Company stating that in the good faith judgment of the Board of Directors of the Company it would be seriously detrimental to the Company and its stockholders for such registration statement to be filed, the Company shall have the right to defer such filing for a period of not more than 90 days after receipt of the request of the Initiating Holders; provided, however, that the Company may not utilize this right or the similar right set forth in Subsection 2.3(b)(iii) more than once in any 12-month period, and provided, further, that the Company shall not register any securities for the account of itself or any other Stockholder during such 90-day period (other than in a Qualified Offering or an Excluded Registration).

(d) In addition, the Company shall not be obligated to effect, or to take any action to effect, any registration pursuant to this Subsection 2.1:

(i) After the Company has effected two registrations pursuant to this Subsection 2.1, subject to such registrations having been declared or ordered effective and that either (A) the conditions of Subsection 2.4(a) having been satisfied or (B) the registration statements remaining effective and there being no stop orders in effect with respect to such registration statements for a period of one hundred twenty days;

(ii) During the period starting with the date 90 days prior to the Company's good faith estimate of the date of filing of (provided that the Company delivers notice in accordance with Section 4.5 within 30 days of receipt of the request of the Initiating Holders of its intent to file), and ending on a date 180 days after the effective date of, a registration subject to Subsection 2.2 for the initial public offering of the Company's securities; provided, that the Company is actively employing in good faith its commercially reasonable efforts to cause such registration statement to become effective; or

(iii) If the Initiating Holders propose to dispose of shares of Registrable Securities that may be immediately registered on Form S-3 pursuant to a request made pursuant to Subsection 2.3.

2.2 Company Registration.

(a) If (but without any obligation to do so) the Company proposes to register (including for this purpose a registration effected by the Company for stockholders other than the Stockholders) any of its stock under the Securities Act in connection with the public offering of such securities solely for cash (other than an Excluded Registration), the Company shall, at such time, promptly give each Stockholder written notice of such registration. Upon the written request of a Stockholder given within 20 days after mailing of such notice by the Company in accordance with Section 4.5, the Company shall, subject to the provisions of Subsection 2.7, use its commercially reasonable efforts to cause to be registered under the Securities Act all of

the Registrable Securities that each such Stockholder has requested to be registered, if any.

(b) The Company shall have the right to terminate or withdraw any registration initiated by it under this Subsection 2.2 prior to the effectiveness of such registration whether or not any Stockholder has elected to include securities in such registration. The expenses of such registration shall be borne by the Company, in accordance with Subsection 2.6.

2.3 Form S-3 Registration. In case the Company shall receive from any Stockholder(s) of not less than 33% of the Registrable Securities then outstanding a written request or requests that the Company effect a registration on Form S-3 and any related qualification or compliance with respect to all or a part of the Registrable Securities owned by such Stockholder(s), the Company will:

(a) promptly give written notice of the proposed registration, and any related qualification or compliance, to all other Stockholders; and

(b) use all commercially reasonable efforts to effect, as soon as practicable, such registration and all such qualifications and compliances as may be so requested and as would permit or facilitate the sale and distribution of all or such portion of such Stockholder's or Stockholders' Registrable Securities as are specified in such request, together with all or such portion of the Registrable Securities of any other Stockholder(s) joining in such request as are specified in a written request given within 15 days after receipt of such written notice from the Company; provided, however, that the Company shall not be obligated to effect any such registration, qualification or compliance, pursuant to this Subsection 2.3: (i) if Form S-3 is not available for such offering by the Stockholders; (ii) if the Stockholders, together with the holders of any other securities of the Company entitled to inclusion in such registration, propose to sell Registrable Securities and such other securities (if any) at an aggregate price to the public of less than \$10,000,000; (iii) if the Company shall furnish to the Stockholders a certificate signed by the Chief Executive Officer of the Company stating that in the good faith judgment of the Board of Directors of the Company, it would be seriously detrimental to the Company and its stockholders for such registration statement to be filed, the Company shall have the right to defer such filing for a period of not more than 90 days after receipt of the request of the Stockholder(s) under this Subsection 2.3; provided, however, that the Company shall not utilize this right or the similar right set forth in Subsection 2.1(c) more than once in any 12-month period; (iv) if the Company has, within the 12-month period preceding the date of such request, already effected two registrations on Form S-3 for the Stockholder(s) pursuant to this Subsection 2.3 or at any time already effected two registrations on Form S-3 for the Stockholder(s) pursuant to this Subsection 2.3; (v) in any jurisdiction in which the Company would be required to qualify to do business or to execute a general consent to service of process in effecting such registration, qualification or compliance unless the Company is already qualified to do business or subject to service of process in that jurisdiction; or (vi) during the period ending 180 days after the effective date of a registration statement subject to Subsection 2.2.

(c) Subject to the foregoing, the Company shall file a registration statement covering the Registrable Securities and other securities so requested to be registered as soon as practicable (but in any event within twenty (20) days) after receipt of the request or requests of the Stockholder(s). Registrations effected pursuant to this Subsection 2.3 shall not be counted as demands for registration or registrations effected pursuant to Subsections 2.1 or 2.2, respectively.

2.4 **Obligations of the Company.** Whenever required under this Section 2 to effect the registration of any Registrable Securities, the Company shall, as expeditiously as reasonably possible:

(a) Prepare and file with the SEC a registration statement with respect to such Registrable Securities and use all its commercially reasonable efforts to cause such registration statement to become effective, and, upon the request of the Stockholders of a majority of the Registrable Securities registered thereunder, keep such registration statement effective for up to 180 days, or until the distribution described in such registration statement is completed, if earlier.

(b) Prepare and file with the SEC such amendments and supplements to such registration statement and the prospectus used in connection with such registration statement as may be necessary to comply with the provisions of the Securities Act with respect to the disposition of all securities covered by such registration statement for up to 180 days, or until the distribution described in such registration statement is completed, if earlier.

(c) Promptly notify the Stockholders of the effectiveness of such registration statement, and furnish to the Stockholders such numbers of copies of a prospectus, including any supplement to the prospectus, in conformity with the requirements of the Securities Act, and such other documents as they may reasonably request in order to facilitate the disposition of Registrable Securities owned by them.

(d) Following the effective date of such registration statement, notify the Stockholders of any request by the SEC that the Company amend or supplement such registration statement or the associated prospectus.

(e) Use all commercially reasonable efforts to register and qualify the securities covered by such registration statement under such other securities or Blue Sky laws of such jurisdictions as shall be reasonably requested by the Stockholders, provided, that the Company shall not be required in connection therewith or as a condition thereto to qualify to do business or to file a general consent to service of process in any such states or jurisdictions unless the Company is already qualified to do business or subject to service of process in that jurisdiction.

(f) In the event of any underwritten public offering, enter into and perform its obligations under an underwriting agreement, in usual and customary form, with the managing underwriter of such offering. Each Stockholder and other security

holder participating in such underwriting shall also enter into and perform its obligations under such agreement.

(g) Notify each Stockholder of Registrable Securities covered by such registration statement at any time when a prospectus relating thereto is required to be delivered under the Securities Act of the happening of any event as a result of which the prospectus included in such registration statement, as then in effect, includes an untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading in the light of the circumstances then existing, such obligation to continue for 180 days or until the distribution described in such registration statement is completed, if earlier.

(h) Cause all such Registrable Securities registered pursuant to this Section 2 to be listed on each national securities exchange or trading system on which similar securities issued by the Company are then listed.

(i) Provide a transfer agent and registrar for all Registrable Securities registered pursuant hereunder and a CUSIP number for all such Registrable Securities, in each case not later than the effective date of such registration.

(j) Make generally available to its security holders, and to deliver to each Stockholder participating in the registration statement, an earnings statement of the Company that will satisfy the provisions of Section 11(a) of the Securities Act covering a period of 12 months beginning after the effective date of such registration statement as soon as reasonably practicable after the termination of such 12-month period.

(k) Furnish, at the request of any Stockholder requesting registration of Registrable Securities, on the date that such Registrable Securities are delivered to the underwriters for sale, if such securities are being sold through underwriters, or, if such securities are not being sold through underwriters, on the date that the registration statement with respect to such securities becomes effective, (i) an opinion, dated as of such date, of the counsel representing the Company for the purposes of such registration, in form and substance as is customarily given to underwriters in an underwritten public offering and reasonably satisfactory to a majority in interest of the Stockholders requesting registration, addressed to the underwriters, if any, and to the Stockholders requesting registration of Registrable Securities and (ii) a “comfort” letter dated as of such date, from the independent certified public accountants of the Company, in form and substance as is customarily given by independent certified public accountants to underwriters in an underwritten public offering and reasonably satisfactory to a majority in interest of the Stockholders requesting registration, addressed to the underwriters, if any, and to the Stockholders requesting registration of Registrable Securities.

(l) Use commercially reasonable efforts to take all other steps necessary to effect the registration of such Registrable Securities contemplated hereby and to expedite or facilitate the disposition of such Registrable Securities.

2.5 **Information From Stockholders.** It shall be a condition precedent to the obligations of the Company to take any action pursuant to this Section 2 with respect to the Registrable Securities of any selling Stockholder that such Stockholder shall furnish to the Company such information regarding such Stockholder, the Registrable Securities held by it, and the intended method of disposition of such securities as shall be required to effect the registration of such Stockholder's Registrable Securities. The Company shall have no obligation with respect to any registration requested pursuant to Subsection 2.1 or 2.3 if, as a result of the application of the preceding sentence, the anticipated aggregate offering price of the Registrable Securities to be included in the registration does not equal or exceed the anticipated aggregate offering price required to originally trigger the Company's obligation to initiate such registration as specified in Subsection 2.1(a) or 2.3(b)(ii), whichever is applicable.

2.6 **Expenses of Registration.** All expenses other than underwriting discounts and commissions incurred in connection with registrations, filings or qualifications pursuant to Subsections 2.1, 2.2 and 2.3 including (without limitation) all registration, filing and qualification fees, printers' and accounting fees, fees and disbursements of counsel for the Company and the reasonable fees and disbursements (up to a maximum of \$50,000) of one counsel for the selling Stockholders selected by them with the approval of the Company, which approval shall not be unreasonably withheld, shall be borne by the Company; provided, however, that the Company shall not be required to pay for any expenses of any registration proceeding begun pursuant to Subsection 2.1 or 2.3 if the registration request is subsequently withdrawn at the request of the Stockholders of a majority of the Registrable Securities to be registered (in which case all participating Stockholders shall bear such expenses), unless the Stockholders of a majority of the Registrable Securities to be registered agree to forfeit their right to one demand registration pursuant to Subsection 2.1 or one right to a Form S-3 registration under Subsection 2.3, as the case may be, provided, that if at the time of such withdrawal, the Stockholders requesting such registration have learned of a material adverse change in the condition, business or prospects of the Company not known to the Stockholders at the time of their request for registration or material adverse change in the public markets and have withdrawn their request for registration with reasonable promptness after learning of such material adverse change, then the Stockholders shall not be required to pay any of such expenses and shall retain their rights pursuant to this Section without any forfeiture of a demand right.

2.7 **Underwriting Requirements.** In connection with any offering involving an underwriting of shares of the Company's capital stock, the Company shall not be required under Subsection 2.2 to include any of the Stockholders' securities in such underwriting unless they accept the terms of the underwriting as agreed upon between the Company and the underwriters selected by the Company (or by other persons entitled to select the underwriters), and then only in such quantity as the underwriters determine in their sole discretion will not jeopardize the success of the offering by the Company. If the total amount of securities, including Registrable Securities, requested by Stockholders to be included in such offering exceeds the amount of securities sold other than by the Company that the underwriters determine in their sole discretion is compatible with the success of the offering, then the Company shall be required to include in the offering only that number of such securities, including Registrable Securities, which the underwriters determine in their sole discretion will not jeopardize the success of the offering (the securities so included to be apportioned pro rata among the selling Stockholders according to the total amount of securities entitled to be included therein owned by

each selling Stockholder or in such other proportions as shall mutually be agreed to by such selling Stockholders) but in no event shall the amount of securities of the selling Holders included in the offering be reduced below 30% of the total amount of securities requested to be included in such offering, unless such offering is the initial public offering of the Company's securities, in which case, the selling Stockholders may be excluded if the underwriters make the determination described above and no other Stockholder's securities are included. For purposes of the preceding parenthetical concerning apportionment, for any selling Stockholder which is a holder of Registrable Securities and which is a venture capital fund, or a partnership or corporation, the Affiliates, partners, retired partners and stockholders of such Stockholder, or the estates and family members of any such partners and retired partners and any trusts for the benefit of any of the foregoing persons shall be deemed to be a single "selling Stockholder," and any pro-rata reduction with respect to such "selling stockholder" shall be based upon the aggregate amount of shares carrying registration rights owned by all entities and individuals included in such "selling Stockholder," as defined in this sentence.

2.8 **Delay of Registration.** No Stockholder shall have any right to obtain or seek an injunction restraining or otherwise delaying any such registration as the result of any controversy that might arise with respect to the interpretation or implementation of this Section 2.

2.9 **Indemnification.** In the event any Registrable Securities are included in a registration statement under this Section 2:

(a) To the extent permitted by law, the Company will indemnify and hold harmless each Stockholder, its directors, officers, fiduciaries, employees and stockholders, members or general and limited partners (and the directors, officers, employees and stockholders, members or general and limited partners thereof), each person who participates as an underwriter, if any, in the offering or sale of such securities, each officer, director, employee, stockholder or partner of such underwriter, and each other person, if any, who controls such seller or any such underwriter within the meaning of the Securities Act or the Exchange Act, against any losses, claims, damages, or liabilities (joint or several) to which they may become subject under the Securities Act, the Exchange Act or other federal or state law, insofar as such losses, claims, damages, or liabilities (or actions in respect thereof) arise out of or are based upon any of the following statements, omissions or violations (collectively, a "Violation"): (i) any untrue statement or alleged untrue statement of a material fact contained in such registration statement, including any preliminary prospectus or final prospectus contained therein or any amendments or supplements thereto, (ii) the omission or alleged omission to state therein a material fact required to be stated therein, or necessary to make the statements therein not misleading, or (iii) any violation or alleged violation by the Company of the Securities Act, the Exchange Act, any state securities law or any rule or regulation promulgated under the Securities Act, the Exchange Act or any state securities law; and the Company will pay to each such Stockholder, underwriter or controlling person, as incurred, any legal or other expenses reasonably incurred by them in connection with investigating or defending any such loss, claim, damage, liability, or action; provided, however, that the indemnity agreement contained in this Subsection 2.9(a) shall not apply to amounts paid in settlement of any such loss, claim, damage, liability, or action if such

settlement is effected without the consent of the Company (which consent shall not be unreasonably withheld), nor shall the Company be liable to any Stockholder, underwriter or controlling person for any such loss, claim, damage, liability, or action to the extent that it arises out of or is based upon a Violation which occurs in reliance upon and in conformity with written information furnished expressly for use in connection with such registration by any such Stockholder, underwriter or controlling person.

(b) To the extent permitted by law, each selling Stockholder will, severally and not jointly, indemnify and hold harmless the Company, each of its directors, each of its officers who has signed the registration statement, each person, if any, who controls the Company within the meaning of the Securities Act, any underwriter, any other Stockholder selling securities in such registration statement and any controlling person of any such underwriter or other Stockholder, against any losses, claims, damages, or liabilities (joint or several) to which any of the foregoing persons may become subject, under the Securities Act, the Exchange Act or other federal or state law, insofar as such losses, claims, damages, or liabilities (or actions in respect thereto) arise out of or are based upon any Violation, in each case to the extent (and only to the extent) that such Violation occurs in reliance upon and in conformity with written information furnished by such Stockholder expressly for use in connection with such registration; and each such Stockholder will pay, as incurred, any legal or other expenses reasonably incurred by any person intended to be indemnified pursuant to this Subsection 2.9(b), in connection with investigating or defending any such loss, claim, damage, liability, or action; provided, however, that the indemnity agreement contained in this Subsection 2.9(b) shall not apply to amounts paid in settlement of any such loss, claim, damage, liability or action if such settlement is effected without the consent of the such Stockholder, which consent shall not be unreasonably withheld; provided, that in no event shall any indemnity under this Subsection 2.9(b) exceed the net proceeds from the offering received by such Stockholder.

(c) Promptly after receipt by an indemnified party under this Subsection 2.9 of notice of the commencement of any action (including any governmental action), such indemnified party will, if a claim in respect thereof is to be made against any indemnifying party under this Subsection 2.9, deliver to the indemnifying party a written notice of the commencement thereof and the indemnifying party shall have the right to participate in, and, to the extent the indemnifying party so desires, jointly with any other indemnifying party similarly noticed, to assume the defense thereof with counsel mutually satisfactory to the parties; provided, however, that an indemnified party (together with all other indemnified parties which may be represented without conflict by one counsel) shall have the right to retain one separate counsel, with the reasonable fees and expenses to be paid by the indemnifying party, if representation of such indemnified party by the counsel retained by the indemnifying party would be inappropriate due to actual or potential differing interests between such indemnified party and any other party represented by such counsel in such proceeding. The failure to deliver written notice to the indemnifying party within a reasonable time of the commencement of any such action, if materially prejudicial to its ability to defend such action, shall relieve such indemnifying party of liability to the indemnified party under this Subsection 2.9 to the extent it is so prejudiced, but the omission so to deliver

written notice to the indemnifying party will not otherwise relieve it of any liability that it may have to any indemnified party otherwise than under this Subsection 2.9.

(d) If the indemnification provided for in this Subsection 2.9 is held by a court of competent jurisdiction to be unavailable to an indemnified party with respect to any loss, liability, claim, damage or expense referred to therein, then the indemnifying party, in lieu of indemnifying such indemnified party hereunder, shall contribute to the amount paid or payable by such indemnified party as a result of such loss, liability, claim, damage, or expense in such proportion as is appropriate to reflect the relative fault of the indemnifying party on the one hand and of the indemnified party on the other in connection with the statements or omissions that resulted in such loss, liability, claim, damage or expense as well as any other relevant equitable considerations; provided, that in no event shall any contribution by a Stockholder under this Subsection 2.9(d) exceed the net proceeds from the offering received by such Stockholder. The relative fault of the indemnifying party and of the indemnified party shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the indemnifying party or by the indemnified party and the parties' relative intent, knowledge, access to information, and opportunity to correct or prevent such statement or omission.

(e) The indemnity agreements contained herein shall be in addition to any other rights and obligations of indemnification or contribution that any indemnifying or indemnified party may have pursuant to law or contract and shall remain in full force and effect regardless of any investigation made or omitted by or on behalf of any indemnified party.

(f) The obligations of the Company and Stockholders under this Subsection 2.9 shall survive the completion of any offering of Registrable Securities in a registration statement under this Section 2, and otherwise.

2.10 Reports Under the Exchange Act. With a view to making available to the Stockholders the benefits of Rule 144 promulgated under the Securities Act and any other rule or regulation of the SEC that may at any time permit a Stockholder to sell securities of the Company to the public without registration or pursuant to a registration on Form S-3, the Company agrees to:

(a) make and keep public information available, as those terms are understood and defined in SEC Rule 144, at all times after 90 days after the initial closing of the Qualified Offering so long as the Company remains subject to the periodic reporting requirements under Sections 13 or 15(d) of the Exchange Act;

(b) take such action, including the voluntary registration of its Common Stock under Section 12 of the Exchange Act, as is necessary to enable the Stockholders to utilize Form S-3 for the sale of their Registrable Securities, such action to be taken as soon as practicable after the end of the fiscal year in which the first

registration statement filed by the Company for the offering of its securities to the general public is declared effective;

(c) file with the SEC in a timely manner all reports and other documents required of the Company under the Securities Act and the Exchange Act; and

(d) furnish to any Stockholder upon request, so long as the Stockholder owns any Registrable Securities, (i) a written statement by the Company that it has complied with the reporting requirements of SEC Rule 144 (at any time after 90 days after the effective date of the Qualified Offering), the Securities Act and the Exchange Act (at any time after it has become subject to such reporting requirements), or that it qualifies as a registrant whose securities may be resold pursuant to Form S-3 (at any time after it so qualifies), (ii) a copy of the most recent annual or quarterly report of the Company and such other reports and documents so filed by the Company, and (iii) such other information as may be reasonably requested in availing any Stockholder of any rule or regulation of the SEC which permits the selling of any such securities without registration or pursuant to such form.

2.11 **Assignment of Registration Rights.** The rights to cause the Company to register Registrable Securities pursuant to this Section 2 may be assigned (but only with all related obligations) by a Stockholder to a transferee or assignee (i) of at least at least one-third of the Registrable Securities held by the Stockholder on the date hereof, (ii) that is another Stockholder or is a subsidiary, parent, partner, limited partner, retired partner, member, stockholder or other affiliate of a Stockholder, (iii) that is a current or former Affiliate, (iv) that is any investment vehicle or vehicles formed and managed by such Stockholder or its affiliates, including without limitation, any liquidating company trust or other liquidating vehicle or vehicles of such Stockholder or its affiliates, (v) who is a Stockholder's child, stepchild, grandchild, parent, stepparent, grandparent, spouse, former spouse, sibling, niece, nephew, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, or is a person sharing a Stockholder's household (other than a tenant or an employee) (each of such relations a Stockholder's "Immediate Family Member", which term shall include adoptive relationships), or (vi) that is a trust in which an individual Stockholder or such Stockholder's Immediate Family Member have more than fifty percent of the beneficial interest, a foundation in which an individual Stockholder or such Stockholder's Immediate Family Member controls the management of the assets, or is any other entity in which an individual Stockholder or such Stockholder's Immediate Family Member owns more than fifty percent of the voting interests, provided, the Company is, within a reasonable time after such transfer, furnished with written notice of the name and address of such transferee or assignee and the securities with respect to which such registration rights are being assigned; and provided, further, that such assignment shall be effective only if the transferee agrees in writing to be bound by this Agreement and immediately following such transfer the further disposition of such securities by the transferee or assignee is restricted under the Securities Act. Regardless of the foregoing, in the event a Stockholder makes a permitted transfer to a foundation or other entity pursuant to Subsection 2.11(vi), the requirements of this Subsection 2.11 shall apply if such Stockholder or such Stockholder's Immediate Family desires to transfer control of the assets of such foundation or transfer all or a portion of his, her or its voting interest in such entity so that such Stockholder or such Stockholder's Immediate Family is no longer the owner of at least fifty percent of such

voting interest; and to the extent that an exemption under this Subsection 2.11 is not otherwise available, then the original transfer of rights to such foundation or entity shall be void and ineffective for any purpose and shall not confer on any transferred or purported transferee any rights whatsoever and such rights shall revert back to the Stockholder. For the purposes of determining the number of shares of Registrable Securities held by a transferee or assignee, the holdings of transferees and assignees of (x) a partnership who are partners or retired partners of such partnership or (y) a limited liability company who are members or retired members of such limited liability company (including Immediate Family Members of such partners or members who acquire Registrable Securities by gift, will or intestate succession) shall be aggregated together and with the partnership or limited liability company; provided that all assignees and transferees who would not qualify individually for assignment of registration rights shall have a single attorney-in-fact for the purpose of exercising any rights, receiving notices or taking any action under Section 2.

2.12 **Limitations on Subsequent Registration Rights.** From and after the date of this Agreement, the Company shall not, without the prior approval of Stockholders holding at least a majority of the outstanding Registrable Securities, enter into any agreement with any holder or prospective holder that would provide to such holder the right to include securities in any registration on other than either a pro rata basis with respect to the Registrable Securities or on a subordinate basis after all Stockholders have had the opportunity to include in the registration and offering all shares of Registrable Securities that they wish to so include; provided, that this limitation shall not apply to any additional Stockholder who becomes a party to this Agreement in accordance with Subsection 4.11.

2.13 **Lock-Up Agreement.**

(a) **Lock-Up Period; Agreement.** In connection with the initial public offering of the Company's securities as well as upon request of the Company or the underwriters managing any offering of the Company's securities (the "Underwriters") within the first twenty-four months following the initial public offering of the Company's securities, each Stockholder agrees not to sell, make any short sale of, loan, grant any option for the purchase of, or otherwise dispose of any Registrable Securities or any other securities of the Company, however or whenever acquired (other than those included in the registration), without the prior written consent of the Company or such Underwriters, as the case may be, for such period of time (not to exceed 180 days but subject to such extension or extensions as may be required by the underwriters in order to publish research reports while complying with NASD Rule 2711 of the Financial Industry Regulatory Authority, Inc. and Rule 472(f)(4) of the New York Stock Exchange) or their respective successor regulations (the "Lock-Up Period"), from the effective date of such registration statement as may be requested by the Company or such managing Underwriters and to execute an agreement reflecting the foregoing as may be requested by the Company or such Underwriters at the time of the Company's initial public offering. For purposes of clarification, no more than one such extension of the Lock-Up Period may occur. In addition, such Stockholder agrees to be bound by similar restrictions, and to sign a similar agreement, in connection with no more than one additional registration statement filed within twelve (12) months after the closing date of the initial public offering, provided that the duration of the lock-up period with respect to

such additional registration shall not exceed ninety (90) days from the effective date of such additional registration statement.

(b) **Limitations.** The obligations described in Subsection 2.13(a) shall apply only if all officers, directors and holders of 1% or more of the then-outstanding Common Stock of the Company (assuming conversion or exercise of such Stockholder's common stock equivalents only) of the Company enter into similar agreements, and shall not apply to: (i) a registration relating solely to employee benefit plans, or to a registration relating solely to a transaction pursuant to Rule 145 under the Securities Act; (ii) shares of Common Stock acquired by a stockholder or Stockholder directly from the underwriters in a registered public offering of the Company's securities; or (iii) shares of Common Stock acquired by a stockholder or Stockholder in an established trading market from any party other than the Company.

(c) **Stop-Transfer Instructions.** In order to enforce the foregoing covenants, the Company may impose stop-transfer instructions with respect to the securities of each Stockholder (and the securities of every other person subject to the restrictions in Subsection 2.13(a)).

(d) **Transferees Bound.** Each Stockholder may transfer securities of the Company if: (i) the Stockholder is a partnership, to its affiliated partnerships or other entities, to its constituent partners or a retired partner of such partnership who retires after the date hereof, or to the estate of any such partner or retired partner or transfer by gift, will, or intestate succession to any such partner's spouse or lineal descendants or ancestors, (ii) the Stockholder is a limited liability company, to its members or former members in accordance with their interest in the limited liability company, or to the estate of any such member or retired member or transfer by gift, will, or intestate succession to any such member's spouse or lineal descendants without the necessity of registration or opinion of counsel if the transferee agrees in writing to be subject to the terms of this Agreement to the same extent if such transferee were a Stockholder, (iii) the Stockholder is transferring at least one-third of the Registrable Securities held by the Stockholder on the date hereof, or (iv) if Stockholder is transferring shares to, any investment vehicle or vehicles formed and managed by such Stockholder or its Affiliates, including without limitation, and liquidating company trust or other liquidating vehicle or vehicles of such Stockholder or its affiliates; provided, however, that each Stockholder hereby covenants not to effect such transfer if such transfer (i) would invalidate the securities laws exemptions pursuant to which the securities were originally offered and sold or (ii) would be a transfer to a competitor of the Company, as determined in good faith by the Board of Directors. Each Stockholder agrees that it will not transfer securities of the Company unless each transferee agrees in writing to be bound by all of the provisions of this Agreement, the Voting Agreement (as defined in the Purchase Agreement) and this Subsection 2.13, provided, that this Subsection 2.13(d) shall not apply to transfers pursuant to a registration statement or transfers after the 12-month anniversary of the effective date of the Company's initial public offering subject to this Subsection 2.13.

(e) Each Stockholder agrees that a legend reading substantially as follows shall be placed on all certificates representing all Registrable Securities of each

Stockholder (and the shares or securities of every other person subject to the restriction contained in this Subsection 2.13):

THE SECURITIES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO A LOCK-UP PERIOD AFTER THE EFFECTIVE DATE OF THE ISSUER'S REGISTRATION STATEMENT FILED UNDER THE ACT, AS AMENDED, AS SET FORTH IN AN AGREEMENT BETWEEN THE COMPANY AND THE ORIGINAL HOLDER OF THESE SECURITIES, A COPY OF WHICH MAY BE OBTAINED AT THE ISSUER'S PRINCIPAL OFFICE. SUCH LOCK-UP PERIOD IS BINDING ON TRANSFEREES OF THESE SHARES.

The Company shall reissue promptly certificates without the above legend at the request of any Stockholder thereof if the Company has completed its initial public offering of the Company's securities and the Lock Up Period, as it may be extended by Subsection 2.13(a), has expired.

2.14 **Termination of Registration Rights.** No Stockholder shall be entitled to exercise any right provided for in this Section 2 after the earlier of (i) the third anniversary of a Qualified Offering, (ii) with respect to any Stockholder, at such time after the Qualified Offering as Rule 144 or another similar exemption under the Securities Act is available for the sale of all of such Stockholder's shares during a single three-month period without registration, or (iii) upon termination of the Agreement, as provided in Subsection 4.1.

3. **Covenants.**

3.1 **Delivery of Financial Statements.** The Company shall deliver to each Major Investor, subject to such Major Investor not having been determined in good faith by the Board of Directors to be a competitor of the Company, deliver:

(a) as soon as practicable, but in any event within 120 days after the end of each fiscal year of the Company, an income statement for such fiscal year, a balance sheet of the Company and statement of stockholder's equity as of the end of such year, and a statement of cash flows for such year, such year-end financial reports to be in reasonable detail, prepared in accordance with U.S. generally accepted accounting principles ("GAAP"), and audited and certified by an independent public accounting firm of nationally recognized standing selected by the Company and approved by the Company's Board of Directors;

(b) as soon as practicable, but in any event within 45 days after the end of each of the first three quarters of each fiscal year of the Company, an unaudited profit or loss statement, a statement of cash flows for such fiscal quarter and an unaudited balance sheet as of the end of such fiscal quarter;

(c) within 30 days of the end of each month, an unaudited income statement and a statement of cash flows and balance sheet for and as of the end of such month, in reasonable detail;

(d) as soon as practicable, but in any event within 45 days prior to the end of each fiscal year, a budget and business plan for the next fiscal year, prepared on a monthly basis, and, as soon as prepared, any other updated or revised budgets for such fiscal year prepared by the Company; and

(e) with respect to the financial statements called for in subsections (b) and (c) of this Subsection 3.1, an instrument executed by the Chief Financial Officer or Chief Executive Officer of the Company and certifying on behalf of the Company that such financials were prepared in accordance with GAAP consistently applied with prior practice for earlier periods (with the exception of footnotes that may be required by GAAP) and fairly present the financial condition of the Company and its results of operation for the period specified, subject to year-end audit adjustment, provided, that the foregoing shall not restrict the right of the Company to change its accounting principles consistent with GAAP, if the Board of Directors or a committee thereof determines that it is in the best interest of the Company to do so.

3.2 **Inspection.** The Company shall permit each Major Investor (subject to such Major Investor not having been determined in good faith by the Board of Directors to be a competitor of the Company), at such Major Investor's expense, to visit and inspect the Company's properties, to examine its books of account and records and to discuss the Company's affairs, finances and accounts with its officers, all at such reasonable times as may be requested by the Major Investor; provided, however, that the Company shall not be obligated pursuant to this Subsection 3.2 to provide access to any information which it reasonably considers to be a trade secret or similar confidential information or which would result in a waiver of attorney-client or other legal privilege.

3.3 **Right of First Offer.** Subject to the terms and conditions specified in this Subsection 3.2, the Company hereby grants to each Major Investor (subject to such Major Investor not having been determined in good faith by the Board of Directors to be a competitor of the Company) a right of first offer with respect to future sales by the Company of its Shares (as hereinafter defined). A Major Investor who chooses to exercise the right of first offer may designate as purchasers under such right itself or its partners or Affiliates in such proportions as it deems appropriate (so long as each such partner or Affiliate has not been determined by the Board of Directors to be a competitor of the Company and also executes each purchase agreement, stockholders agreement or other document required of all purchasers of such Shares).

Each time the Company proposes to offer any shares of, or securities convertible into or exercisable for any shares of, any class of its capital stock ("Shares"), the Company shall first make an offering of such Shares to each Major Investor in accordance with the following provisions:

(a) The Company shall deliver a notice (the "RFO Notice") to the Major Investors stating (i) its bona fide intention to offer such Shares, (ii) the number of such Shares to be offered, and (iii) the price and terms, if any, upon which it proposes to offer such Shares.

(b) Within 15 days after delivery of the RFO Notice, each Major Investor may elect to purchase or obtain, at the price and on the terms specified in the RFO Notice, up to that portion of such Shares which equals the proportion that the number of shares of Common Stock issued and held, or issuable upon conversion and exercise of all convertible or exercisable securities then held, by such Major Investor bears to the sum of the total number of shares of Common Stock then outstanding (assuming full conversion and exercise of all convertible or exercisable securities) (the “Pro Rata Percentage”). Such purchase shall be completed at the same closing as that of any third party purchasers or at an additional closing. The Company shall promptly, in writing, inform each Major Investor that purchases all the shares available to it (each, a “Fully-Exercising Investor”) of any other Major Investor’s failure to do likewise. During the 15-day period commencing after receipt of such information, each Fully-Exercising Investor shall be entitled to obtain that portion of the Shares for which Major Investors were entitled to subscribe but which were not subscribed for by the Major Investors that is equal to the proportion that the number of shares of Common Stock issued and held, or issuable upon conversion and exercise of all convertible or exercisable securities then held, by such Fully-Exercising Investor bears to the total number of shares of Common Stock then outstanding (assuming full conversion and exercise of all convertible or exercisable securities).

(c) The Company may, during the 45-day period following the expiration of the period provided in Subsection 3.2(b) hereof, offer the remaining unsubscribed portion of the Shares to any person or persons at a price not less than, and upon terms no more favorable to the offeree than those specified in the RFO Notice. If the Company does not enter into an agreement for the sale of the Shares within such period, the right provided hereunder shall be deemed to be revived and such Shares shall not be offered unless first reoffered to the Major Investors in accordance herewith.

(d) The right of first offer in this Section 3.3 shall not be applicable to (i) the issuance of securities in connection with stock dividends, stock splits or similar transactions; (ii) the issuance or sale of Common Stock (or options therefor) to employees, consultants and directors of the Company, directly or pursuant to a stock option plan, restricted stock purchase plans or other restricted stock plans approved by the Board of Directors; (iii) the issuance of securities to financial institutions, equipment lessors, brokers or similar persons in connection with commercial credit arrangements, equipment financings, commercial property lease transactions or similar transactions approved by the Board of Directors; (iv) the issuance of securities pursuant to the conversion or exercise of convertible or exercisable securities outstanding as of the date of this Agreement, including without limitation, warrants, notes or options; (v) the issuance of securities in connection with a bona fide acquisition, merger or similar transaction, the terms of which are approved by the Board of Directors; (vi) the issuance or sale of the Series A Preferred Stock pursuant to the Purchase Agreement or the Common Stock issuable upon conversion of such Series A Preferred Stock; (vii) the issuance of stock in a public offering of the securities of the Company; or (viii) the issuance of securities to an entity as a component of any business relationship with such entity primarily for the purpose of (A) joint venture, technology licensing or development activities, (B) distribution, supply or manufacture of the Company’s products or services or (C) any other arrangements involving corporate partners that are primarily for purposes other than raising capital, the terms of which business relationship with such entity are approved by the Board of Directors; or (ix) the issuance of securities which, with the unanimous approval of the Board of Directors, are not issued to

existing stockholders.. In addition to the foregoing, the right of first offer in this Subsection 3.3 shall not be applicable with respect to any Major Investor and any subsequent securities issuance, if (i) at the time of such subsequent securities issuance, the Major Investor is not an “accredited investor,” as that term is then defined in Rule 501(a) under the Securities Act, and (ii) such subsequent securities issuance is otherwise being offered only to accredited investors.

3.4 **Proprietary Information Agreements.** Each officer, employee and consultant of the Company shall, as a condition to the commencement and continuation of their employment with the Company, execute a proprietary information agreement in a form satisfactory to the Company’s Board of Directors, which for the avoidance of doubt shall include confidentiality, proprietary information and invention assignment and non-solicitation provisions.

3.5 **Employee Stock.** With respect to any shares issued or options or rights granted after the date of this Agreement, unless otherwise approved by the Company’s Board of Directors, the Company shall cause each officer, director, employee or consultant of the Company to enter into an agreement (i) providing for vesting of such shares or options or rights over forty-eight (48) months, with no shares or options or rights being vested for twelve (12) months from the date of issuance or grant, as the case may be, at which time 12/48ths of the shares or options or rights shall be vested, and equal monthly vesting for thirty-six (36) months thereafter; (ii) providing for the repurchase price of unvested shares at cost in the event the holder’s employment with or service to the Company terminates; (iii) under which the holder agrees to a market standoff requested by the Company or the underwriters of any public offering of the Company’s securities, substantially as set forth in Subsection 2.13; and (iv) providing for a right of first refusal in favor of the Company with respect to both vested and unvested shares.

3.6 **Confidentiality.** Each party hereto agrees that such party will keep confidential and will not disclose, divulge, or use for any purpose (other than to monitor its investment in the Company) any confidential information obtained from the Company pursuant to the terms of this Agreement (including notice of the Company’s intention to file a registration statement), unless such confidential information (a) is known or becomes known to the public in general (other than as a result of a breach of this Subsection 3.6 by such party), (b) is or has been independently developed or conceived by such party without use of the Company’s confidential information, or (c) is or has been made known or disclosed to such party by a third party without a breach of any obligation of confidentiality such third party may have to the Company; provided, that such party may disclose confidential information (i) to its attorneys, accountants, consultants, and other professionals to the extent necessary to obtain their services in connection with monitoring its investment in the Company; (ii) to any prospective purchaser of any Registrable Securities from such Stockholder, if such prospective purchaser has been approved by the Company as a potential purchaser and agrees to be bound by the provisions of this Subsection 3.6; (iii) to any Affiliate, partner, member, stockholder, or wholly owned subsidiary of such party in the ordinary course of business, provided, that such party informs such Person that such information is confidential and causes such Person to maintain the confidentiality of such information; or (iv) as may otherwise be required by law, provided, that in the case of this clause (iv) such party promptly notifies the Company of such disclosure and takes reasonable steps to minimize the extent of any such required disclosure.

3.7 **Bad Actor Status.** The Company will notify the Major Stockholders promptly in writing in the event a “Bad Actor” disqualifying event described in Rule 506(d)(1)(i) to (viii) of the Securities Act (a “Disqualification Event”) becomes applicable to the Company, or to the Company’s knowledge, any Company Covered Person, except for a Disqualification Event as to which Rule 506(d)(2)(ii)-(iv) or (d)(3) is applicable. Each Stockholder will notify the Company promptly in writing if a Disqualification Event becomes applicable to such Stockholder, except for a Disqualification Event as to which Rule 506(d)(2)(ii)-(iv) or (d)(3) is applicable.

3.8 **Termination of Covenants.**

(a) The covenants set forth in Subsections 3.1 through 3.3 shall terminate as to each Stockholder and be of no further force or effect (i) immediately prior to the consummation of a Qualified Offering, or (ii) upon termination of the Agreement, as provided in Subsection 4.1.

(b) The covenants set forth in Subsections 3.1 and 3.2 shall terminate as to each Stockholder and be of no further force or effect when the Company first becomes subject to the periodic reporting requirements of Sections 13 or 15(d) of the Exchange Act, if this occurs earlier than the events described in Subsection 3.8(a) above.

(c) The covenants set forth in Subsections 3.4, 3.5 and 3.7 shall terminate and be of no further force and effect (i) immediately prior to the consummation of a Qualified Offering, or (ii) upon termination of the Agreement, as provided in Subsection 4.1.

4. **Miscellaneous.**

4.1 **Termination.** This Agreement shall terminate, and have no further force and effect, when the Company shall consummate a transaction or series of related transactions deemed to be a Liquidation Transaction pursuant to the Company’s Certificate of Incorporation (as such term is defined therein), as such Certificate of Incorporation may be amended from time to time.

4.2 **Entire Agreement.** This Agreement and the documents referred to herein constitute the entire agreement between the parties hereto pertaining to the subject matter hereof, and any and all other written or oral agreements relating to the subject matter hereof existing between the parties hereto are expressly canceled.

4.3 **Transfers; Successors and Assigns.** Except as otherwise provided in this Agreement, the terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective permitted successors and assigns of the parties (including transferees of any of the Preferred Stock or any Common Stock issued upon conversion thereof). Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and assigns any rights, remedies, obligations, or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement.

4.4 **Amendments and Waivers.** Any term of this Agreement may be amended or waived only with the written consent of the Company and the holders of seventy-five (75%) percent of the Registrable Securities then outstanding; provided, however, that if such amendment or waiver (i) has the effect of adversely affecting any class or series of stock in a manner different than other classes or series of stock, then such amendment shall require the consent of the holders of a majority of the adversely affected series of stock or the holders of 75% of the adversely affected class of stock; and (ii) treats any one or more holder(s) in an adverse manner that is different and disproportionate from other similarly situated holders, such amendment or termination will require the separate approval of adversely affected holder. Notwithstanding the foregoing, this Agreement may be amended with only the written consent of the Company for the sole purpose of including additional purchasers of Preferred Stock as “Stockholders.” Any amendment or waiver effected in accordance with this paragraph shall be binding upon each party to the Agreement, whether or not such party has signed such amendment or waiver, each future holder of all such Registrable Securities, and the Company.

4.5 **Notices.** Unless otherwise provided, any notice required or permitted by this Agreement shall be in writing and shall be deemed sufficient upon delivery, when delivered personally or by overnight courier or sent by facsimile, or 48 hours after being deposited in the U.S. mail, as certified or registered mail, with postage prepaid, and addressed to the party to be notified at such party’s address or facsimile number as set forth on Exhibit A hereto or as subsequently modified by written notice, and if to the Company, with a copy to Crowell & Moring, 3 Embarcadero Center, 26th Floor, San Francisco, CA 94111, Attn.: Jeffrey C. Selman.

4.6 **Severability.** If one or more provisions of this Agreement are held to be unenforceable under applicable law, such provision shall be excluded from this Agreement, and the balance of the Agreement shall be interpreted as if such provision were so excluded and shall be enforceable in accordance with its terms.

4.7 **Governing Law.** This Agreement and all acts and transactions pursuant hereto shall be governed, construed and interpreted in accordance with the laws of the State of Delaware, without giving effect to principles of conflicts of laws.

4.8 **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

4.9 **Titles and Subtitles.** The titles and subtitles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.

4.10 **Aggregation of Stock.** All shares of the Preferred Stock held or acquired by affiliated entities or persons shall be aggregated together for the purpose of determining the availability of any rights under this Agreement.

4.11 **Additional Stockholders.** Notwithstanding anything to the contrary contained herein, if the Company issues additional shares of the Company’s Series A-1 Preferred Stock after the date hereof, whether pursuant to the Purchase Agreement or otherwise, any

purchaser of such shares of Series A-1 Preferred Stock may become a party to this Agreement by executing and delivering an additional counterpart signature page to this Agreement, and thereafter shall be deemed a “Stockholder” for all purposes hereunder. No action or consent by the Stockholders shall be required for such joinder to this Agreement by such additional Stockholders, so long as such additional Stockholders have agreed in writing to be bound by all of the obligations as a “Stockholder” hereunder.

4.12 **Delays or Omissions.** It is agreed that no delay or omission to exercise any right, power or remedy accruing to any party, upon any breach, default or noncompliance by another party under this Agreement shall impair any such right, power or remedy, nor shall it be construed to be a waiver of any such breach, default or noncompliance, or any acquiescence therein, or of or in any similar breach, default or noncompliance thereafter occurring. It is further agreed that any waiver, permit, consent or approval of any kind or character on any party’s part of any breach, default or noncompliance under this Agreement or any waiver on such party’s part of any provisions or conditions of the Agreement must be in writing and shall be effective only to the extent specifically set forth in such writing. All remedies, either under this Agreement by law, or otherwise afforded to any party, shall be cumulative and not alternative.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties have executed this Investors' Rights Agreement
as of the date first above written.

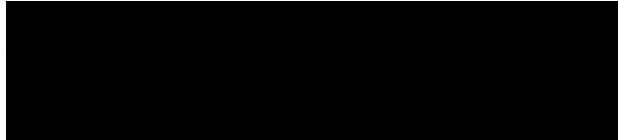
COMPANY:

BRAIDY INDUSTRIES, INC.

By: Craig T. Bouchard

Name: Craig T. Bouchard

Title: Chief Executive Officer



The parties have executed this Investors' Rights Agreement as of the date first above written.

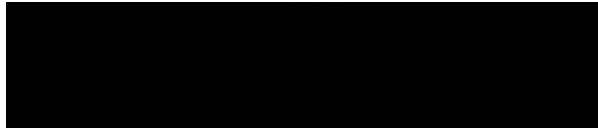
STOCKHOLDERS:

CRAIG BOUCHARD

By: Craig T Bouchard

Name: Craig Bouchard

Title: Chief Executive Officer



The parties have executed this Investors' Rights Agreement as of the date first above written.

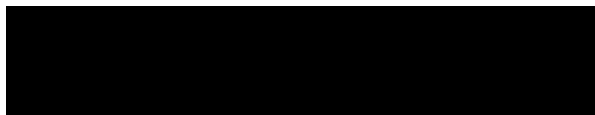
STOCKHOLDERS:

JOHN PRESTON

By:  _____

Name: John Preston

Title: _____



The parties have executed this Investors' Rights Agreement as of the date first above written.

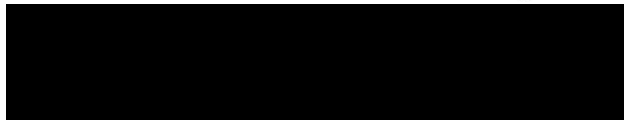
STOCKHOLDERS:

MICHAEL PORTER

By:  _____

Name: Michael Porter

Title: _____



The parties have executed this Investors' Rights Agreement as of the date first above written.

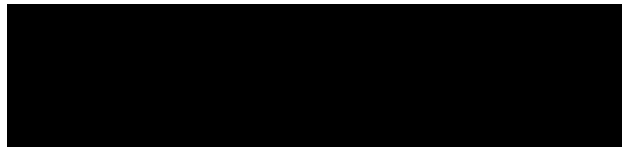
STOCKHOLDERS:

CHRISTOPHER SCHUH

By: CS

Name: Christopher Schuh

Title: _____



The parties have executed this Investors' Rights Agreement as of the date first above written.

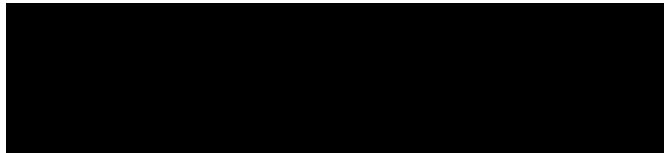
STOCKHOLDERS:

CHARLES PRICE

By Charles Price

Name: Charles Price

Title: _____



The parties have executed this Investors' Rights Agreement as of the date first above written.

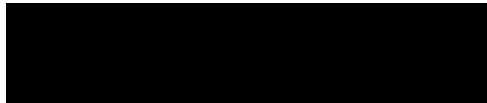
STOCKHOLDERS:

CHARLES PRICE

By: Charles Price

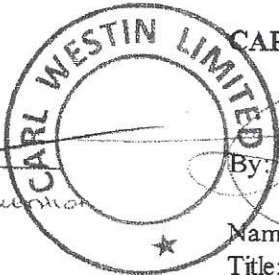
Name: Charles Price

Title: _____

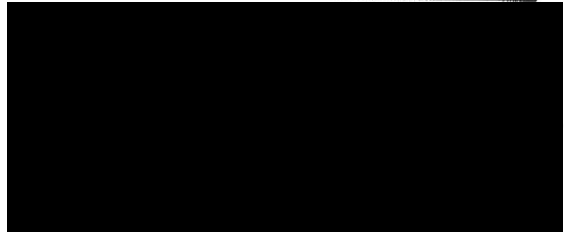


The parties have executed this Investors' Rights Agreement as of the date first above written.

STOCKHOLDERS:

By: [Signature]  **CARL WESTIN LIMITED**
Name: Vincent V. Venturi
Title: Director

By: [Signature]
Name: Angela Cristofari
Title: Director



The parties have executed this Investors' Rights Agreement as of the date first above written.

STOCKHOLDERS:

COMMONWEALTH SEED CAPITAL, LLC

By:  _____

Name: Benjamin E. Fuqua

Title: President

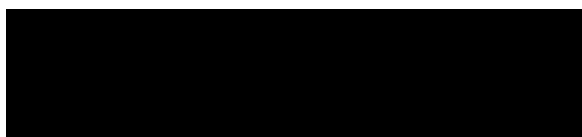


EXHIBIT A

STOCKHOLDERS

Name/Address/Fax No.

No. of Shares

| | |
|--|-----------|
| Craig Bouchard [REDACTED] | 4,500,000 |
| John Preston [REDACTED] | 200,000 |
| Michael Porter [REDACTED] | 100,000 |
| Charles Price [REDACTED] | 400,000 |
| Christopher Schuh [REDACTED] | 100,000 |
| Charles Westin Limited [REDACTED] | 500,000 |
| Commonwealth Seed Capital, LLC [REDACTED] | 3,000,000 |
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