

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): **December 22, 2020**

Transphorm, Inc.

(Exact name of registrant as specified in its charter)

Delaware
(State or Other Jurisdiction
of Incorporation)

000-55832
(Commission
File Number)

82-1858829
(I.R.S. Employer
Identification No.)

75 Castilian Drive
Goleta, CA 93117
(Address of principal executive offices, including zip code)

(805) 456-1300
(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 filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

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

Securities registered pursuant to Section 12(b) of the Act: **None**

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

Emerging growth company

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

Item 1.01 Entry into a Material Definitive Agreement.

Pricing of Private Placement of Common Stock

On December 22, 2020, Transphorm, Inc. (the “Company”) announced the pricing of a private placement to certain eligible investors of 5,000,000 shares of the Company’s common stock (the “Shares”) at a purchase price of \$3.00 per Share (the “Private Placement”).

On December 22, 2020, in connection with the pricing of the Private Placement, the Company entered into a Placement Agent Agreement with Loop Capital Markets LLC as representative of the placement agents listed on Schedule C thereto (the “Placement Agents”), pursuant to which the Placement Agents agreed to act as the Company’s placement agents for the Private Placement.

The Placement Agents did not purchase or sell any Shares, nor are they required to arrange the purchase or sale of any minimum number or dollar amount of Shares. The Placement Agents agreed to use their reasonable best efforts to arrange for the sale of all of the Shares being offered in the Private Placement. As compensation for their services, the Placement Agents will receive (a) a cash fee equal to 7% of the purchase price of the Shares sold in the Private Placement to investors that are not existing investors in the Company, subject to certain exclusions agreed between the Placement Agents and the Company, and (b) warrants to purchase that number of shares of the Company’s common stock equal to 3% of the aggregate number of Shares sold in the Private Placement, at an initial exercise price of \$3.30 per share, with an exercise period of five years. The Company has also agreed to reimburse certain expenses of the Placement Agents up to \$50,000.

The foregoing summary of the Placement Agent Agreement is qualified in its entirety by reference to the full text of the agreement, which is attached as Exhibit 1.1 hereto and incorporated herein by reference.

Item 7.01 Regulation FD Disclosure.

On December 22, 2020, the Company issued a press release announcing the pricing of the Private Placement. A copy of this press release is furnished herewith as Exhibit 99.1.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

| Exhibit No. | Description |
|--------------------|---|
| 1.1 | Placement Agent Agreement between the Company and Loop Capital Markets LLC, dated December 22, 2020 |
| 99.1 | Press release dated December 22, 2020 |
| 104 | Cover Page Interactive Data File (embedded within the Inline XBRL document) |

Signature

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

Transphorm, Inc.

Dated: December 22, 2020

By: /s/ Cameron McAulay

Cameron McAulay

Chief Financial Officer

PLACEMENT AGENT AGREEMENT

December 22, 2020

Loop Capital Markets LLC
As Representative of the Placement Agents
set forth on Schedule C hereto
111 W. Jackson Blvd.
Suite 1901
Chicago, IL 60604

Ladies and Gentlemen:

Subject to the terms and conditions herein (this "Agreement"), Transphorm, Inc., a Delaware corporation (the "Company"), hereby agrees to sell up to an aggregate of 5,000,000 shares of the Company's common stock, \$0.0001 par value per share (the "Common Stock") (such Common Stock sold in the Offering (as defined below), the "Securities") directly to various investors (each, an "Investor" and, collectively, the "Investors") through the placement agents set forth on Schedule C hereto (together, the "Placement Agents"). The documents executed and delivered by the Company and the Investors in connection with the Offering (as defined below), including, without limitation, a securities purchase agreement and registration rights agreement, shall be collectively referred to herein as the "Transaction Documents." The purchase price to the Investors for each Share is \$3.00. The Placement Agents may retain other brokers or dealers to act as sub-agents or selected-dealers on its behalf in connection with the Offering. Loop Capital Markets LLC is acting as the representative of the Placement Agents and in such capacity is hereinafter referred to as the "Representative."

The Company hereby confirms its agreement with the Placement Agents as follows:

Section 1. Agreement to Act as Placement Agents.

(a) On the basis of the representations, warranties and agreements of the Company herein contained, and subject to all the terms and conditions of this Agreement, the Placement Agents shall be the Placement Agents in connection with the offering and sale by the Company of the Securities in a transaction which is exempt from the registration requirements of the Securities Act of 1933, as amended (the "Securities Act"), with the terms of such offering (the "Offering") to be subject to market conditions and negotiations between the Company, the Placement Agents and the prospective Investors. The Placement Agents will act on a reasonable best efforts basis and the Company agrees and acknowledges that there is no guarantee of the successful placement of the Securities, or any portion thereof, in the prospective Offering. Under no circumstances will the Placement Agents or any of their "Affiliates" (as defined below) be obligated to underwrite or purchase any of the Securities for its own account or otherwise provide any financing. The Placement Agents shall act solely as the Company's agent and not as principal. The Placement Agents shall have no authority to bind the Company with respect to any prospective offer to purchase Securities and the Company shall have the sole right to accept offers to purchase Securities and may reject any such offer, in whole or in part. Subject to the terms and conditions hereof, payment of the purchase price for, and delivery of, the Securities shall be made at one or more closings (each a "Closing" and the date on which each Closing occurs, a "Closing Date"). As compensation for services rendered, on each Closing Date, the Company shall pay to the Placement Agents the fees and expenses set forth below, as agreed upon and as described in further detail in the Engagement Agreements (as defined below) previously entered into between each of the Placement Agents and the Company:

(i) A cash fee equal to 7.0% of the gross proceeds received by the Company from the sale of the Securities to the accounts not currently invested in the Company (such fee as apportioned between the Placement Agents as described in the Engagement Agreements), subject to certain exclusions agreed between the Placement Agents and the Company; provided, that the Representative will be entitled to a minimum fee of \$450,000;

(ii) Warrants issued to the Placement Agents equal to 3.0% of the aggregate number of Securities sold (such Warrants to be apportioned between the Placement Agents as described in the Engagement Agreements), at an initial exercise price of 110% of the price of Securities, with an exercise period of five years; provided, that, if the Offering includes warrants and such warrants are subject to an exercise period longer than five years, the warrants issued to each of the Placement Agents will be subject to the same exercise period as those warrants issued to investors in the Offering; and

(iii) Reasonable documented expenses of the Placement Agents up to a maximum of \$50,000.

(b) The term of the Placement Agents' engagement will be until the earlier of (i) May 21, 2021 and (ii) completion of the Offering; provided, however, that beginning on March 21, 2021, a party hereto may terminate this Agreement at any time upon 5 days written notice to the other parties. Notwithstanding anything to the contrary contained herein, the provisions concerning confidentiality, indemnification and contribution contained herein and the Company's obligations contained in the indemnification provisions will survive any expiration or termination of this Agreement, and the Company's obligation to pay fees actually earned and payable and to reimburse expenses actually incurred and reimbursable pursuant to Section 1 hereof and which are permitted to be reimbursed under FINRA Rule 5110(f)(2)(D), will survive any expiration or termination of this Agreement. Nothing in this Agreement shall be construed to limit the ability of the Placement Agents or their Affiliates to pursue, investigate, analyze, invest in, or engage in investment banking, financial advisory or any other business relationship with Persons (as defined below) other than the Company, notwithstanding that such Persons may be engaged in a business which is similar to or competitive with the business of the Company, and notwithstanding that such Persons may have actual or potential operations, products, services, plans, ideas, customers or supplies similar or identical to the Company's, or may have been identified by the Company as potential merger or acquisition targets or potential candidates for some other business combination, cooperation or relationship. As used herein (i) "Persons" means an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint stock company, government (or an agency or subdivision thereof) or other entity of any kind and (ii) "Affiliate" means any Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person as such terms are used in and construed under Rule 405 under the Securities Act.

Section 2. Representations, Warranties and Covenants of the Company. The Company hereby represents, warrants and covenants to the Placement Agents as of the date hereof, and as of each Closing Date, as follows, in each case, other than as set forth in the Exchange Act Documents (as defined below):

(a) Exchange Act Documents; Financial Statements. The Company has filed all reports, schedules, forms, statements and other documents required to be filed by the Company under the Securities Act and the Securities Exchange Act of 1934, as amended (the "Exchange Act"), including pursuant to Section 13(a) or 15(d) thereof, for the two years preceding the date hereof (or such shorter period as the Company was required by law or regulation to file such material) (the foregoing materials, including the exhibits thereto, being collectively referred to herein as the "Exchange Act Documents") on a timely basis or has received a valid extension of such time of filing and has filed any such Exchange Act Document prior to the expiration of any such extension. As of their respective dates, the

Exchange Act Documents complied in all material respects with the requirements of the Securities Act and the Exchange Act, as applicable, and the rules and regulations (the “Rules and Regulations”) of the Securities and Exchange Commission (the “Commission”) promulgated thereunder, and none of the Exchange Act Documents, when filed, 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 the light of the circumstances under which they were made, not misleading. The financial statements of the Company included in the Exchange Act Documents comply in all material respects with applicable accounting requirements and the rules and regulations of the Commission with respect thereto as in effect at the time of filing. Such financial statements have been prepared in accordance with United States generally accepted accounting principles applied on a consistent basis during the periods involved (“GAAP”), except as may be otherwise specified in such financial statements or the notes thereto and except that unaudited financial statements may not contain all footnotes required by GAAP, and fairly present in all material respects the financial position of the Company and its consolidated Subsidiaries as of and for the dates thereof and the results of operations and cash flows for the periods then ended, subject, in the case of unaudited statements, to normal, immaterial, year-end audit adjustments. Except for this Agreement, there are no documents required to be filed with the Commission in connection with the transaction contemplated hereby that (x) have not been filed as required pursuant to the Securities Act or (y) will not be filed within the requisite time period.

(b) Marketing and Roadshow Materials. The Company will be solely responsible for the contents of the marketing materials, any amendments or supplements thereto, any information incorporated by reference therein and any and all other written or oral communications (collectively, the “Marketing Materials”) that have been provided to any actual or potential Investor with the Company’s written approval. The Company represents and warrants that the Marketing Materials in the form approved in writing by the Company will not, as of the date of the offer or sale of the Securities or the Closing, contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. If at any time prior to the completion of the offer and sale of the Securities the Company becomes aware of the occurrence of an event as a result of which the Marketing Materials (as then amended or supplemented) would include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading, the Company will notify the Placement Agents promptly of such event and the Placement Agents will have the right to suspend solicitations of potential investors until such time as the Company shall prepare (and if requested to do so by the Placement Agents, the Company agrees to prepare promptly) a supplement or amendment to the Marketing Materials which corrects such statement or omission. The Company authorizes the Placement Agents to provide the approved Marketing Materials to Investors as contemplated herein. The Company agrees that during the Offering and the Resale Registration Period (as defined below), it will not distribute or otherwise transmit the Marketing Materials to any potential investors without the prior approval of the Placement Agents.

(c) Securities Law Filings. Following the determination of pricing among the Company and the prospective Investors introduced to the Company by the Placement Agents, the Company will, within 30 days of the final Closing, subject to any exceptions set forth in the Transaction Documents (such period from the date of the final Closing to the 30th day following the final Closing, the “Resale Filing Period”) in connection with the Offering prepare and file with the Commission a Registration Statement on Form S-1 under the Securities Act covering the resale of all of the Securities for an offering to be made on a continuous basis pursuant to Rule 415 (such registration statement, at any given time, including the exhibits thereto filed at such time, as amended at such time, is hereinafter called the “Resale Registration Statement”). The Company shall use commercially reasonable efforts to cause the Resale Registration Statement to be declared effective under the Securities Act as promptly as possible after the Resale Filing Period but in any event no later than 90 days following the filing of the

Resale Registration Statement (such period from the final Closing until 90 days following filing of the Resale Registration Statement, the “Resale Registration Period”) and shall use commercially reasonable efforts to keep such Resale Registration Statement continuously effective under the Securities Act for the time period specified in the Transaction Documents. Any reference in this Agreement to the Resale Registration Statement shall be deemed to refer to and include the Exchange Act Documents incorporated by reference therein, if any, which were or are filed under the Exchange Act, at any given time, as the case may be; and any reference in this Agreement to the terms “amend,” “amendment” or “supplement” with respect to the Resale Registration Statement shall be deemed to refer to and include the filing of any document under the Exchange Act after the date of this Agreement and deemed to be incorporated therein by reference. All references in this Agreement to financial statements and schedules and other information which is “contained,” “included,” “described,” “referenced,” “set forth” or “stated” in the Resale Registration Statement shall be deemed to mean and include all such financial statements and schedules and other information which is or is deemed to be incorporated by reference in the Resale Registration Statement. Except for this Agreement and the Transaction Documents, there are no contracts or other documents required to be described in the Resale Registration Statement, or to be filed as exhibits or schedules to the Resale Registration Statement, which have not been, or will not be, described or filed as required.

(d) Depository. The Common Stock is currently eligible for electronic transfer through the Depository Trust Company or another established clearing corporation and the Company is current in payment of the fees to the Depository Trust Company (or such other established clearing corporation) in connection with such electronic transfer.

(e) Offering Materials. Neither the Company nor any of its directors and officers has distributed and none of them will distribute, prior to each Closing Date, any offering material in connection with the Offering without the consent of the Representative.

(f) Organization and Qualification of the Company. The Company is a corporation in good standing under the laws of the State of Delaware, with the requisite power and authority to own and use its properties and assets and to carry on its business as currently conducted; and the Company is duly qualified to conduct business and is in good standing as a foreign corporation in each jurisdiction in which the nature of the business conducted or property owned by it makes such qualification necessary, except where the failure to be so qualified or in good standing, as the case may be, could not have or reasonably be expected to result in: (i) a material adverse effect on the legality, validity or enforceability of this Agreement or any other agreement entered into between the Company and the Investors in connection with the Offering, (ii) a material adverse effect on the results of operations, assets, business, prospects or condition (financial or otherwise) of the Company and the Subsidiaries (as defined below), taken as a whole, or (iii) a material adverse effect on the Company’s ability to perform in any material respect on a timely basis its obligations under this Agreement (any of (i), (ii) or (iii), a “Material Adverse Effect”) and no an action, claim, suit, investigation or proceeding (including, without limitation, an informal investigation or partial proceeding, such as a deposition), whether commenced or threatened (“Proceeding”) has been instituted in any such jurisdiction revoking, limiting or curtailing or seeking to revoke, limit or curtail such power and authority or qualification.

(g) Subsidiaries. All of the direct and indirect subsidiaries of the Company (the “Subsidiaries”) are listed on Exhibit 21.1 to the Company’s Registration Statement on Form S-1 filed with the Commission on June 2, 2020 (File No. 333-238864). The Company owns, directly or indirectly, all of the capital stock or other equity interests of each Subsidiary free and clear of any liens, charges, security interests, encumbrances, rights of first refusal, preemptive rights or other restrictions (collectively, “Liens”), and all of the issued and outstanding shares of capital stock of each Subsidiary are validly issued and are fully paid, non-assessable and free of preemptive and similar rights to subscribe for or purchase securities. Each of the Subsidiaries is an entity duly incorporated or otherwise

organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization, with the requisite corporate or similar power and authority to own and use its properties and assets and to carry on its business as currently conducted and is duly qualified to conduct business and is in good standing as a foreign corporation or other entity in each jurisdiction in which the nature of the business conducted or property owned by it makes such qualification necessary, except where the failure to be so qualified or in good standing, as the case may be, could not have or reasonably be expected to result in a Material Adverse Effect.

(h) Authorization; Enforcement. The Company has the requisite corporate power and authority to enter into and to consummate the transactions contemplated by this Agreement and otherwise to carry out its obligations hereunder. The execution and delivery of each of this Agreement by the Company and the consummation by it of the transactions contemplated hereby have been duly authorized by all necessary action on the part of the Company and no further action is required by the Company, the Company's Board of Directors (the "Board of Directors") or the Company's stockholders in connection therewith other than in connection with the Required Approvals (as defined below). This Agreement has been duly executed by the Company and, when delivered in accordance with the terms hereof, will constitute the valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except (i) as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies and (iii) insofar as indemnification and contribution provisions may be limited by applicable law.

(i) No Conflicts. The execution, delivery and performance by the Company of this Agreement, the issuance and sale of the Securities and the consummation by it of the transactions contemplated hereby to which it is a party do not and will not (i) conflict with or violate any provision of the Company's or any Subsidiary's certificate or articles of incorporation, bylaws or other organizational or charter documents, or (ii) conflict with, or constitute a default (or an event that with notice or lapse of time or both would become a default) under, result in the creation of any Lien upon any of the properties or assets of the Company or any Subsidiary, or give to others any rights of termination, amendment, acceleration or cancellation (with or without notice, lapse of time or both) of, any agreement, credit facility, debt or other instrument (evidencing a Company or Subsidiary debt or otherwise) or other understanding to which the Company or any Subsidiary is a party or by which any property or asset of the Company or any Subsidiary is bound, or (iii) subject to the Required Approvals, conflict with or result in a violation of any law, rule, regulation, order, judgment, injunction, decree or other restriction of any court or governmental authority to which the Company or a Subsidiary is subject (including federal and state securities laws and regulations), or by which any property or asset of the Company or a Subsidiary is bound; except in the case of each of clauses (ii) and (iii), such as could not have or reasonably be expected to result in a Material Adverse Effect. Except as set forth in the Transaction Documents (including any disclosure schedules thereof), neither the entering into of this Agreement nor the consummation of the transactions contemplated herein will trigger any payment by the Company to a third party (including, but not limited to, any "tail" payments).

(j) Filings, Consents and Approvals. The Company is not required to obtain any consent, waiver, authorization or order of, give any notice to, or make any filing or registration with, any court or other federal, state, local or other governmental authority or other Person in connection with the execution, delivery and performance by the Company of this Agreement and the transactions contemplated hereby, other than: (i) the filing with the Commission of the Resale Registration Statement and (ii) such filings as are required to be made under applicable federal and state securities laws (collectively, the "Required Approvals").

(k) Issuance of the Securities; Registration. The Securities are duly authorized and, when issued and paid for in accordance with the applicable Transaction Documents, will be duly and validly issued, fully paid and nonassessable, free and clear of all Liens imposed by the Company. The Company has reserved from its duly authorized capital stock the maximum number of shares of Common Stock issuable pursuant to the transactions contemplated hereby.

(l) Capitalization. The capitalization of the Company is as set forth in the Exchange Act Documents. The Company has not issued any capital stock since its most recently filed periodic report under the Exchange Act, other than pursuant to the exercise of employee stock options under the Company's stock option plans and pursuant to the conversion and/or exercise of securities of the Company or the Subsidiaries which would entitle the holder thereof to acquire at any time any Common Stock, including, without limitation, any debt, preferred stock, rights, options, warrants or other instrument that is at any time convertible into or exercisable or exchangeable for, or otherwise entitles the holder thereof to receive, Common Stock ("Common Stock Equivalents") outstanding as of the date of the most recently filed periodic report under the Exchange Act. No Person has any right of first refusal, preemptive right, right of participation, or any similar right to participate in the transactions contemplated by this Agreement and the transactions contemplated hereby. Except as a result of the purchase and sale of the Securities, there are no outstanding options, warrants, scrip rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities, rights or obligations convertible into or exercisable or exchangeable for, or giving any Person any right to subscribe for or acquire, any shares of Common Stock of the capital stock of any Subsidiary, or contracts, commitments, understandings or arrangements by which the Company or any Subsidiary is or may become bound to issue additional shares of Common Stock or Common Stock Equivalents or capital stock of any Subsidiary. The issuance and sale of the Securities will not obligate the Company or any Subsidiary to issue shares of Common Stock or other securities to any Person (other than the Investors) and will not result in a right of any holder of Company securities to adjust the exercise, conversion, exchange or reset price under any of such securities, except that the issuance and sale of the Securities will obligate the Company to issue up to 12,000 shares of Common Stock to certain consultants to the Company (the "Consultants"). There are no outstanding securities or instruments of the Company of any Subsidiary that contain any redemption of similar provisions, and there are no contracts, commitments, understandings or arrangements by which the Company or any Subsidiary is or may become bound to redeem a security of the Company or such Subsidiary. The Company does not have any stock appreciation rights of "phantom stock" plans or agreements or any similar plan or agreement. All of the outstanding shares of capital stock of the Company are duly authorized. All of the outstanding shares of capital stock of the Company are validly issued, fully paid and nonassessable, have been issued in compliance with all federal and state securities laws, and none of such outstanding shares was issued in violation of any preemptive rights or similar rights to subscribe for or purchase securities. No further approval or authorization of any stockholder, the Board of Directors or others is required for the issuance and sale of the Securities in the Offering. There are no stockholder agreements, voting agreements or other similar agreements with respect to the Company's capital stock to which the Company is a party or, to the knowledge of the Company, between or among any of the Company's stockholders.

(m) Material Changes; Undisclosed Events, Liabilities or Developments. Since the date of the latest audited financial statements included within the Exchange Act Documents, except as specifically disclosed in a subsequent Exchange Act Document filed prior to the date hereof, (i) there has been no event, occurrence or development that has had or that could reasonably be expected to result in a Material Adverse Effect, (ii) the Company has not incurred any liabilities (contingent or otherwise) other than (A) trade payables and accrued expenses incurred in the ordinary course of business consistent with past practice and (B) liabilities not required to be reflected in the Company's financial statements pursuant to GAAP or disclosed in filings made with the Commission, (iii) the Company has not altered its method of accounting except as required by GAAP, (iv) the Company has

not declared or made any dividend or distribution of cash or other property to its stockholders or purchased, redeemed or made any agreements to purchase or redeem any shares of its capital stock and (v) the Company has not issued any equity securities to any officer, director or Affiliate, except pursuant to existing Company stock option plans. The Company does not have pending before the Commission any request for confidential treatment of information. Except for the issuance of the Securities contemplated hereby, no event or development has occurred or is reasonably expected to occur with respect to the Company or its Subsidiaries or their respective businesses, properties, operations, assets or financial condition that would be required to be disclosed by the Company under applicable securities laws at the time this representation is made or deemed made that has not been publicly disclosed at least 1 Trading Day prior to the date that this representation is made.

(n) Litigation. There is no action, suit, inquiry, written notice of violation, proceeding or investigation pending or, to the knowledge of the Company, threatened against or affecting the Company, any Subsidiary or any of their respective properties before or by any court, arbitrator, governmental or administrative agency or regulatory authority (federal, state, county, local or foreign) (collectively, an “Action”) which (i) adversely affects or challenges the legality, validity or enforceability of any of this Agreement and the transactions contemplated hereby or the Securities or (ii) could, if there were an unfavorable decision, have or reasonably be expected to result in a Material Adverse Effect. Neither the Company nor any Subsidiary, nor, to the knowledge of the Company, any director or officer thereof, is or has been the subject of any Action involving a claim of violation of or liability under federal or state securities laws or a claim of breach of fiduciary duty. There has not been, and to the knowledge of the Company, there is not pending or contemplated, any investigation by the Commission involving the Company or any current or former director or officer of the Company. The Commission has not issued any stop order or other order suspending the effectiveness of any registration statement filed by the Company or any Subsidiary under the Exchange Act or the Securities Act.

(o) Disqualification Event. With respect to the Securities to be offered and sold hereunder, none of the Company, any of its predecessors, any affiliated issuer, any director, general partner, managing member, executive officer, other officer of the Company participating in the offering hereunder, any beneficial owner of 20% or more of the Company’s outstanding voting equity securities, calculated on the basis of voting power, nor any promoter (as that term is defined in Rule 405 under the Securities Act) connected with the Company in any capacity at the time of sale (each, an “Issuer Covered Person” and, together, “Issuer Covered Persons”) is subject to any of the “Bad Actor” disqualifications described in Rule 506(d)(1)(i) to (viii) under the Securities Act (a “Disqualification Event”), except for a Disqualification Event covered by Rule 506(d)(2) or (d)(3). The Company has exercised reasonable care to determine whether any Issuer Covered Person is subject to a Disqualification Event. The Company has complied, to the extent applicable, with its disclosure obligations under Rule 506(e), and has furnished to the Placement Agents and the Investors a copy of any disclosures provided thereunder. The Company will notify the Placement Agents and the Investors in writing of any Disqualification Event relating to any Issuer Covered Person of which it becomes aware that was not previously disclosed to the Placement Agents or the Investors in accordance with this Section 2(o).

(p) Labor Relations. No material labor dispute exists or, to the knowledge of the Company, is imminent with respect to any of the employees of the Company, which could reasonably be expected to result in a Material Adverse Effect. None of the Company’s or its Subsidiaries’ employees is a member of a union that relates to such employee’s relationship with the Company or such Subsidiary, and neither the Company nor any of its Subsidiaries is a party to a collective bargaining agreement, and the Company and its Subsidiaries believe that their relationships with their employees are good. No executive officer of the Company or any Subsidiary, to the knowledge of the Company, is, or is now expected to be, in violation of any material term of any employment contract, confidentiality, disclosure

or proprietary information agreement or non-competition agreement, or any other contract or agreement or any restrictive covenant in favor of any third party, and the continued employment of each such executive officer does not subject the Company or any of its Subsidiaries to any liability with respect to any of the foregoing matters. The Company and its Subsidiaries are in compliance with all U.S. federal, state, local and foreign laws and regulations relating to employment and employment practices, terms and conditions of employment and wages and hours, except where the failure to be in compliance could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(q) Compliance. Neither the Company nor any Subsidiary: (i) is in violation of any of the provisions of its respective certificate or articles of incorporation, bylaws or other organizational or charter documents, (ii) is in default under or in violation of (and no event has occurred that has not been waived that, with notice or lapse of time or both, would result in a default by the Company or any Subsidiary under), nor has the Company or any Subsidiary received notice of a claim that it is in default under or that it is in violation of, any indenture, loan or credit agreement or any other agreement or instrument to which it is a party or by which it or any of its properties is bound (whether or not such default or violation has been waived), (iii) is in violation of any judgment, decree or order of any court, arbitrator or governmental authority, or (iv) is or has been in violation of any statute, rule, ordinance or regulation of any governmental authority, including without limitation all foreign, federal, state and local laws relating to taxes, environmental protection, occupational health and safety, product quality and safety and employment and labor matters, except in the case of clauses (ii), (iii) and (iv) as could not have or reasonably be expected to result in a Material Adverse Effect.

(r) Environmental Laws. The Company and its Subsidiaries (i) are in compliance with all federal, state, local and foreign laws relating to pollution or protection of human health or the environment (including ambient air, surface water, groundwater, land surface or subsurface strata), including laws relating to emissions, discharges, releases or threatened releases of chemicals, pollutants, contaminants, or toxic or hazardous substances or wastes (collectively, "Hazardous Materials") into the environment, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials, as well as all authorizations, codes, decrees, demands, or demand letters, injunctions, judgments, licenses, notices or notice letters, orders, permits, plans or regulations, issued, entered, promulgated or approved thereunder ("Environmental Laws"); (ii) have received all permits licenses or other approvals required of them under applicable Environmental Laws to conduct their respective businesses; and (iii) are in compliance with all terms and conditions of any such permit, license or approval where in each clause (i), (ii) and (iii), the failure to so comply could be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect.

(s) Regulatory Permits. The Company and the Subsidiaries possess all certificates, authorizations and permits issued by the appropriate federal, state, local or foreign regulatory authorities necessary to conduct their respective businesses as described in the Exchange Act Documents, except where the failure to possess such permits could not reasonably be expected to result in a Material Adverse Effect ("Material Permits"), and neither the Company nor any Subsidiary has received any written notice of proceedings relating to the revocation or modification of any Material Permit.

(t) Title to Assets. The Company and the Subsidiaries have good and marketable title in fee simple to all real property owned by them and good and marketable title in all personal property owned by them that is material to the business of the Company and the Subsidiaries, in each case free and clear of all Liens, except for Liens as do not materially affect the value of such property and do not materially interfere with the use made and proposed to be made of such property by the Company and the Subsidiaries and Liens for the payment of federal, state or other taxes, for which appropriate reserves have been made therefor in accordance with GAAP and, the payment of which is neither delinquent nor subject to penalties. Any real property and facilities held under lease by the Company

and the Subsidiaries are held by them under valid, subsisting and enforceable leases with which the Company and the Subsidiaries are in compliance.

(u) Patents and Trademarks. The Company and the Subsidiaries have, have rights to use, or can acquire on reasonable terms, all patents, patent applications, trademarks, trademark applications, service marks, trade names, trade secrets, inventions, copyrights, licenses and other intellectual property rights and similar rights necessary or material for use in connection with their respective businesses as described in the Exchange Act Documents and which the failure to so have could have a Material Adverse Effect (collectively, the “Intellectual Property Rights”). None of, and neither the Company nor any Subsidiary has received written notice that any of, the Intellectual Property Rights has expired, terminated or been abandoned, or is expected to expire or terminate or be abandoned, within two (2) years from the date of this Agreement. Neither the Company nor any Subsidiary has received, since the date of the latest audited financial statements included within the Exchange Act Documents, a notice (written or otherwise) of a claim or otherwise has any knowledge that the Intellectual Property Rights violate or infringe upon the rights of any Person, except as would not have a Material Adverse Effect. The Company and its Subsidiaries have taken reasonable security measures to protect the confidentiality of all of their proprietary information, except where failure to do so could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(v) Insurance. The Company and the Subsidiaries are insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as are prudent and customary in the businesses in which the Company and the Subsidiaries are engaged, including, but not limited to, directors and officers insurance coverage. Neither the Company nor any 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.

(w) Transactions with Affiliates and Employees. Except as set forth in the Exchange Act Documents, none of the officers or directors of the Company or any Subsidiary and, to the knowledge of the Company, none of the employees of the Company or any Subsidiary is presently a party to any transaction with the Company or any Subsidiary (other than for services as employees, officers and directors), including any contract, agreement or other arrangement providing for the furnishing of services to or by, providing for rental of real or personal property to or from, providing for the borrowing of money from or lending of money to or otherwise requiring payments to or from any officer, director or such employee or, to the knowledge of the Company, any entity in which any officer, director, or any such employee has a substantial interest or is an officer, director, trustee, stockholder, member or partner, in each case in excess of \$120,000 other than for: (i) payment of salary or consulting fees for services rendered, (ii) reimbursement for expenses incurred on behalf of the Company and (iii) other employee benefits, including equity compensation agreements under any equity compensation plan of the Company.

(x) Sarbanes-Oxley; Internal Accounting Controls. The Company and the Subsidiaries are in compliance with any and all applicable requirements of the Sarbanes-Oxley Act of 2002 that are effective as of the date hereof, and any and all applicable rules and regulations promulgated by the Commission thereunder that are effective as of the date hereof and as of the Closing Date. The Company’s certifying officers have evaluated the effectiveness of the Company’s disclosure controls and procedures of the Company and the Subsidiaries as of the end of the period covered by the Company’s most recently filed periodic report under the Exchange Act (such date, the “Evaluation Date”). The Company presented in its most recently filed periodic report under the Exchange Act the conclusions of the certifying officers about the effectiveness of the disclosure controls and procedures based on their evaluations as of the Evaluation Date. Since the Evaluation Date, there have been no changes in the internal control over financial reporting (as such term is defined in the Exchange Act) of

the Company and its Subsidiaries that have materially affected, or is reasonably likely to materially affect, the internal control over financial reporting of the Company and its Subsidiaries.

(y) Certain Fees. Except as contemplated herein and except as disclosed to Investors in the Offering, no brokerage or finder's fees or commissions are or will be payable by the Company to any broker, financial advisor or consultant, finder, placement agent, investment banker, bank or other Person with respect to the transactions contemplated by this Agreement. The Investors shall have no obligation with respect to any fees or with respect to any claims made by or on behalf of other Persons for fees of a type contemplated in this Section that may be due in connection with the transactions contemplated by this Agreement.

(z) Investment Company. The Company is not, and is not an Affiliate of, and immediately after receipt of payment for the Securities, will not be or be an Affiliate of, an "investment company" within the meaning of the Investment Company Act of 1940, as amended. The Company shall conduct its business in a manner so that it will not become an "investment company" subject to registration under the Investment Company Act of 1940, as amended.

(aa) Registration Rights. Other than each of the Investors and the Consultants, no Person has any right to cause the Company or any Subsidiary to effect the registration under the Securities Act of any securities of the Company or any Subsidiary.

(bb) Application of Takeover Protections. The Company and the Board of Directors have taken all necessary action, if any, in order to render inapplicable any control share acquisition, business combination, poison pill (including any distribution under a rights agreement) or other similar anti-takeover provision under the Company's certificate of incorporation (or similar charter documents) or the laws of its state of incorporation that is or could become applicable to the Investors as a result of the Investors and the Company fulfilling their obligations or exercising their rights under this Agreement and the transactions contemplated hereby, including without limitation as a result of the Company's issuance of the Securities and the Investors' ownership of the Securities.

(cc) Disclosure. Except with respect to the material terms and conditions of the transactions contemplated by this Agreement, the Company confirms that neither it nor any other Person acting on its behalf has provided any of the Investors or their agents or counsel with any information that it believes constitutes or might constitute material, non-public information which is not otherwise disclosed in the Exchange Act Documents. The Company understands and confirms that the Investors will rely on the foregoing representation in effecting transactions in securities of the Company. All of the disclosure furnished by or on behalf of the Company to the Investors regarding the Company and, its Subsidiaries, their respective businesses and the transactions contemplated hereby, is true and correct and does not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading. The press releases disseminated by the Company during the twelve months preceding the date of this Agreement taken as a whole do not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made and when made, not misleading.

(dd) 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 of any security or solicited any offers to buy any security, under circumstances that would cause this offering of the Securities to be integrated with prior offerings by the Company for purposes of any applicable shareholder approval provisions of the OTCQB (the "Current Trading Market"). The Company has no intention of making an offer or sale of the Securities for a period of six months after completion of the Offering contemplated herein under circumstances that would cause the Offering to be integrated with

such future offerings by the Company for purposes of any applicable shareholder approval provisions of the Current Trading Market.

(ee) Solvency. Based on the consolidated financial condition of the Company as of each Closing Date, after giving effect to the receipt by the Company of the proceeds from the sale of the Securities hereunder, (i) the fair saleable value of the Company's assets exceeds the amount that will be required to be paid on or in respect of the Company's existing debts and other liabilities (including known contingent liabilities) as they mature, (ii) the Company's assets do not constitute unreasonably small capital to carry on its business as now conducted and as proposed to be conducted including its capital needs taking into account the particular capital requirements of the business conducted by the Company, consolidated and projected capital requirements and capital availability thereof, and (iii) the current cash flow of the Company, together with the proceeds the Company would receive, were it to liquidate all of its assets, after taking into account all anticipated uses of the cash, would be sufficient to pay all amounts on or in respect of its liabilities when such amounts are required to be paid. The Company does not intend to incur debts beyond its ability to pay such debts as they mature (taking into account the timing and amounts of cash to be payable on or in respect of its debt). The Company has no knowledge of any facts or circumstances which lead it to believe that it will file for reorganization or liquidation under the bankruptcy or reorganization laws of any jurisdiction within one year from each Closing Date. The Exchange Act Documents incorporate as of the date hereof all outstanding secured and unsecured Indebtedness of the Company or any Subsidiary, or for which the Company or any Subsidiary has commitments. For the purposes of this Agreement, "Indebtedness" means (x) any liabilities for borrowed money or amounts owed in excess of \$50,000 (other than trade accounts payable incurred in the ordinary course of business), (y) all guaranties, endorsements and other contingent obligations in respect of indebtedness of others, whether or not the same are or should be reflected in the Company's consolidated balance sheet (or the notes thereto), except guaranties by endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of business; and (z) the present value of any lease payments in excess of \$50,000 due under leases required to be capitalized in accordance with GAAP. Neither the Company nor any Subsidiary is in material default with respect to any Indebtedness.

(ff) Tax Status. Except for matters that would not, individually or in the aggregate, have or reasonably be expected to result in a Material Adverse Effect, the Company and its Subsidiaries (i) has made or filed all United States federal, state and local income and all foreign income and franchise tax returns, reports and declarations required by any jurisdiction to which it is subject, (ii) has paid all taxes and other governmental assessments and charges that are material in amount, shown or determined to be due on such returns, reports and declarations and (iii) has set aside on its books provision reasonably adequate for the payment of all material taxes for periods subsequent to the periods to which such returns, reports or declarations apply. There are no unpaid taxes in any material amount claimed to be due by the taxing authority of any jurisdiction, and the officers of the Company or of any Subsidiary know of no reasonable basis for any such claim.

(gg) Foreign Corrupt Practices. Neither the Company nor any Subsidiary, nor to the knowledge of the Company or any Subsidiary, any agent or other person acting on behalf of the Company or any Subsidiary, has (i) directly or indirectly, used any funds for unlawful contributions, gifts, entertainment or other unlawful expenses related to foreign or domestic political activity, (ii) made any unlawful payment to foreign or domestic government officials or employees or to any foreign or domestic political parties or campaigns from corporate funds, (iii) failed to disclose fully any contribution made by the Company or any Subsidiary (or made by any person acting on its behalf of which the Company is aware) which is in violation of law, or (iv) violated in any material respect any provision of the Foreign Corrupt Practices Act of 1977, as amended.

(hh) Independent Accountants. Marcum LLP, who have expressed their opinion with respect to the financial statements and supporting schedules included or incorporated by reference in the Exchange Act Documents are independent registered public accountants as required by the 1933 Act, the 1933 Act Regulations, the 1934 Act, the 1934 Act Regulations and the Public Company Accounting Oversight Board, and any non-audit services provided by Marcum LLP to the Company or any of its subsidiaries have been approved by the Audit Committee of the Board of Directors of the Company.

(ii) Regulation M Compliance. The Company has not, and to its knowledge no one acting on its behalf has, (i) taken, directly or indirectly, any action designed to cause or to result in the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of any of the Securities, (ii) sold, bid for, purchased, or paid any compensation for soliciting purchases of, any of the Securities, or (iii) paid or agreed to pay to any Person any compensation for soliciting another to purchase any other securities of the Company, other than, in the case of clauses (ii) and (iii), compensation paid to the Placement Agents in connection with the placement of the Securities.

(jj) Office of Foreign Assets Control. Neither the Company nor any Subsidiary, to the Company's knowledge, any director, officer, or employee of the Company or any Subsidiary is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department ("OFAC").

(kk) U.S. Real Property Holding Corporation. The Company is not and has never been a U.S. real property holding corporation within the meaning of Section 897 of the Internal Revenue Code of 1986, as amended.

(ll) Bank Holding Company Act. Neither the Company nor any of its Subsidiaries or Affiliates is subject to the Bank Holding Company Act of 1956, as amended (the "BHCA") and to regulation by the Board of Governors of the Federal Reserve System (the "Federal Reserve"). Neither the Company nor any of its Subsidiaries owns or controls, directly or indirectly, five percent (5%) or more of the outstanding shares of any class of voting securities or twenty-five percent or more of the total equity of a bank or any entity that is subject to the BHCA and to regulation by the Federal Reserve. Neither the Company nor any of its Subsidiaries exercises a controlling influence over the management or policies of a bank or any entity that is subject to the BHCA and to regulation by the Federal Reserve.

(mm) Money Laundering. The operations of the Company and its Subsidiaries are and have been conducted at all times in compliance in all material respects with applicable financial record-keeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, applicable money laundering statutes and applicable rules and regulations thereunder (collectively, the "Money Laundering Laws"), and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company with respect to the Money Laundering Laws is pending or, to the knowledge of the Company, threatened.

(nn) Certificates. Any certificate signed by an officer of the Company and delivered to the Placement Agents or to counsel for the Placement Agents shall be deemed to be a representation and warranty by the Company to the Placement Agents as to the matters set forth therein.

(oo) Reliance. The Company acknowledges that the Placement Agents will rely upon the accuracy and truthfulness of the foregoing representations and warranties and hereby consents to such reliance.

(pp) Statistical or Market-Related Data. Any statistical, industry-related and market-related data included or incorporated by reference in the Exchange Act Documents, are based on or derived

from sources that the Company reasonably and in good faith believes to be reliable and accurate, and such data agree in all material respects with the sources from which they are derived.

(qq) FINRA Affiliations. There are no affiliations with any FINRA member firm among the Company's officers, directors or, to the knowledge of the Company, any five percent (5%) or greater stockholder of the Company.

Section 3. Delivery and Payment. Each Closing shall occur virtually or at the offices of The NBD Group, Inc. ("Placement Agent Counsel") (or at such other place as shall be agreed upon by the Placement Agents and the Company). Subject to the terms and conditions hereof, at each Closing payment of the purchase price for the Securities sold on such Closing Date shall be made by Federal Funds wire transfer, against delivery of such Securities, and such Securities shall be registered in such name or names and shall be in such denominations, as the Placement Agents may request at least one business day before the time of purchase (as defined below).

Deliveries of the documents with respect to the purchase of the Securities, if any, shall be made at the offices of Placement Agent Counsel. All actions taken at a Closing shall be deemed to have occurred simultaneously.

Section 4. Covenants and Agreements of the Company. The Company further covenants and agrees with the Placement Agents as follows:

(a) Registration Statement Matters. The Company will advise the Placement Agents promptly after it files the Resale Registration Statement and promptly after it receives notice of the time when any amendment to the Resale Registration Statement has been filed or becomes effective or any supplement has been filed and will furnish the Placement Agents with copies thereof (other than prospectus supplements or post-effective amendments filed by the Company pursuant to Rule 424(b)(3) solely for purposes of updating and supplementing the prospectus forming a part of the Resale Registration Statement with the information contained in the Company's periodic Exchange Act filings, with respect to which there shall be no requirement to notify the Placement Agents or provide copies thereof). The Company will file promptly all reports and any definitive proxy or information statements required to be filed by the Company with the Commission pursuant to Section 13(a), 14 or 15(d) of the Exchange Act subsequent to the date hereof and until completion of the Resale Registration Period. The Company will advise the Placement Agents, promptly after it receives notice thereof (i) of any request by the Commission to amend the Resale Registration Statement or for additional information, and (ii) of the issuance by the Commission of any stop order suspending the effectiveness of the Resale Registration Statement or any order directed at any Exchange Act Document, if any, or any amendment or supplement thereto or any post-effective amendment to the Resale Registration Statement, of the suspension of the qualification of the Securities for offering or sale in any jurisdiction, of the institution or threatened institution of any proceeding for any such purpose, or of any request by the Commission for the amending or supplementing of the Resale Registration Statement or for additional information. The Company shall use its best efforts to prevent the issuance of any such stop order or prevention or suspension of such use. If the Commission shall enter any such stop order or order or notice of prevention or suspension at any time, the Company will use its best efforts to obtain the lifting of such order at the earliest possible moment or will file a new registration statement and use its best efforts to have such new registration statement declared effective as soon as practicable. Additionally, the Company agrees that it shall comply with the provisions of Rules 424(b), 430A, 430B and 430C, as applicable, under the Securities Act, including with respect to the timely filing of documents thereunder, and will use its reasonable efforts to confirm that any filings made by the Company under such Rule 424(b) are received in a timely manner by the Commission.

(b) Amendments and Supplements and Other Matters. The Company will comply with the Securities Act and the Exchange Act, and the rules and regulations of the Commission thereunder, so as to permit the completion of the distribution of the Securities as contemplated in this Agreement, the Exchange Act Documents and the Resale Registration Statement. If during the Resale Registration Period, any event shall occur as a result of which, in the judgment of the Company or in the reasonable opinion of the Placement Agents or counsel for the Placement Agents, it becomes necessary to amend or supplement the Exchange Act Documents in order to make the statements therein, in the light of the circumstances under which they were made, as the case may be, not misleading, or if it is necessary at any time to amend or supplement the Exchange Act Documents or to file under the Exchange Act any Exchange Act Document to comply with any law, the Company will promptly prepare and file with the Commission, and furnish at its own expense to the Placement Agents and to dealers, an appropriate amendment to the Resale Registration Statement or the Exchange Act Documents that is necessary in order to make the statements in the Resale Registration Statement or the Exchange Act Documents as so amended or supplemented, in the light of the circumstances under which they were made, as the case may be, not misleading, or so that the Resale Registration Statement or the Exchange Act Documents, as so amended or supplemented, will comply with law. Before amending the Resale Registration Statement or supplementing the Exchange Act Documents in connection with the Offering, the Company will furnish the Placement Agents with a copy of such proposed amendment or supplement and will not file any such amendment or supplement to which the Placement Agents reasonably objects. For the avoidance of doubt, the Company shall not be required to furnish the Placement Agents with copies of, or notify the Placement Agents with regard to, prospectus supplements or post-effective amendments filed by the Company pursuant to Rule 424(b)(3) solely for purposes of updating and supplementing the prospectus forming a part of the Resale Registration Statement with the information contained in the Company's periodic Exchange Act filings.

(c) Transfer Agent. The Company will maintain, at its expense, a registrar and transfer agent for the Common Stock.

(d) Earnings Statement. As soon as practicable and in accordance with applicable requirements under the Securities Act, but in any event not later than 18 months after the last Closing Date, the Company will make generally available to its security holders and to the Placement Agents an earnings statement, covering a period of at least 12 consecutive months beginning after the last Closing Date, that satisfies the provisions of Section 11(a) and Rule 158 under the Securities Act.

(e) Periodic Reporting Obligations. The Company will duly file, on a timely basis, with the Commission and the Current Trading Market all reports and documents required to be filed within the time periods and in the manner required by the Commission or the Current Trading Market.

(f) Additional Documents. The Company will enter into any subscription, purchase or other customary agreements as the Placement Agents or the Investors deem necessary or appropriate to consummate the Offering, all of which will be in form and substance reasonably acceptable to the Company, the Placement Agents and the Investors.

(g) No Manipulation of Price. The Company will not take, directly or indirectly, any action designed to cause or result in the stabilization or manipulation of the price of any securities of the Company in violation of any applicable law.

(h) Acknowledgment. The Company acknowledges that any advice (written or oral) given by the Placement Agents to the Company is solely for the benefit and use of the Company. Other than to the extent required to be reflected in Board of Directors and committee meeting minutes, no advice (written or oral) of the Placement Agents hereunder shall be used, reproduced, disseminated, quoted or referred to at any time, in any manner, or for any purpose, nor shall any public references to the

Placement Agents be made by the Company (or such persons), without the Placement Agents' prior written consent.

(i) Announcement of Offering. The Company acknowledges and agrees that the Placement Agent may, subsequent to the Closing, make public its involvement with the Offering.

(j) Reliance on Others. The Company confirms that it will rely on its own counsel and accountants for legal and accounting advice.

(k) Research Matters. By entering into this Agreement, the Placement Agents do not provide any promise, either explicitly or implicitly, of favorable or continued research coverage of the Company and the Company hereby acknowledges and agrees that the selection of the Placement Agents for the Offering was in no way conditioned, explicitly or implicitly, on the Placement Agents providing favorable or any research coverage of the Company. In accordance with FINRA Rule 2241, the parties acknowledge and agree that the Placement Agents have not directly or indirectly offered favorable research, a specific rating or a specific price target, or threatened to change research, a rating or a price target, to the Company or inducement for the receipt of business or compensation.

Section 5. Conditions of the Obligations of the Placement Agents. The obligations of the Placement Agents hereunder shall be subject to the accuracy of the representations and warranties on the part of the Company set forth in Section 2 hereof, in each case as of the date hereof and as of each Closing Date as though then made, to the timely performance by each of the Company of its covenants and other obligations hereunder on and as of such dates, and to each of the following additional conditions:

(a) No Order. No order having the effect of ceasing or suspending the distribution of the Securities or any other securities of the Company shall have been issued by any securities commission, securities regulatory authority or stock exchange and no proceedings for that purpose shall have been instituted or shall be pending or, to the knowledge of the Company, contemplated by any securities commission, securities regulatory authority or stock exchange and all requests for additional information on the part of the Commission shall have been complied with.

(b) Corporate Proceedings. All corporate proceedings and other legal matters in connection with this Agreement, the Resale Registration Statement, and the registration, sale and delivery of the Securities, shall have been completed or resolved in a manner reasonably satisfactory to the Placement Agents' counsel, and such counsel shall have been furnished with such papers and information as it may reasonably have requested to enable such counsel to pass upon the matters referred to in this Section 5.

(c) No Material Adverse Effect. Subsequent to the execution and delivery of this Agreement and prior to each Closing Date, there shall not have occurred any Material Adverse Effect.

(d) Opinion of Counsel for the Company. The Placement Agents shall have received on the initial Closing Date the favorable opinion of Wilson Sonsini Goodrich & Rosati, P.C., US legal counsel to the Company, dated as of such Closing Date, in form and substance satisfactory to the Representative.

(e) Lock-Up Agreements. On the date hereof, the Placement Agents shall have received, and the Company shall have caused to be delivered to the Placement Agents, agreements from the persons set forth on Exhibit A hereto, addressed to the Placement Agents, dated as of the date hereof, in the form set forth on Exhibit B hereto.

(f) Officers' Certificate. The Placement Agents shall have received on each Closing Date a certificate of the Company, dated as of such Closing Date, signed by the Chief Executive Officer of the Company, to the effect that:

(i) The representations and warranties of the Company in this Agreement are true and correct, as if made on and as of such Closing Date, and the Company has complied with all the agreements and satisfied all the conditions on its part to be performed or satisfied at or prior to such Closing Date;

(ii) No order having the effect of ceasing or suspending the distribution of the Securities or any other securities of the Company has been issued by any securities commission, securities regulatory authority or stock exchange in the United States and, to the knowledge of the Company, no proceedings for that purpose have been instituted or are pending or contemplated by any securities commission, securities regulatory authority or stock exchange in the United States;

(iii) At the time of sale, and at all times subsequent thereto up to the delivery of such certificate, the Exchange Act Documents, if any, when such documents became effective or were filed with the Commission, contained all material information required to be included therein by the Securities Act and the Exchange Act and the applicable rules and regulations of the Commission thereunder, as the case may be, and in all material respects conformed to the requirements of the Securities Act and the Exchange Act and the applicable rules and regulations of the Commission thereunder, as the case may be, and the Exchange Act Documents, did not and do not include any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading and, there has occurred no event required by the Securities Act and the rules and regulations of the Commission thereunder to be set forth in the Exchange Act Documents which has not been so set forth; and

(iv) Subsequent to the respective dates as of which information is given in the Exchange Act Documents, there has not been any Material Adverse Effect.

(g) CFO Certificate. On each Closing Date, there shall be furnished to the Placement Agents a certificate, dated the date of its delivery, signed by the Chief Financial Officer of the Company with respect to certain financial data contained in the Exchange Act Documents, providing “management comfort” with respect to such information, in form and substance reasonably satisfactory to the Representative.

(h) Payment of Fees. On each Closing Date, all fees payable to the Placement Agents and Placement Agent Counsel pursuant to Section 1(a) herein, shall have been paid prior to delivery of the Securities.

(i) Additional Documents. On or before each Closing Date, the Placement Agents and counsel for the Placement Agents shall have received such information and documents as they may reasonably require for the purposes of enabling them to pass upon the issuance and sale of the Securities as contemplated herein, or in order to evidence the accuracy of any of the representations and warranties, or the satisfaction of any of the conditions or agreements, herein contained.

If any condition specified in this Section 5 is not satisfied when and as required to be satisfied, this Agreement may be terminated by the Placement Agents by notice to the Company at any time on or prior to a Closing Date, which termination shall be without liability on the part of any party to any other party, except that Section 6 (Payment of Expenses), Section 7 (Indemnification and Contribution) and Section 8 (Representations and Indemnities to Survive Delivery) shall at all times be effective and shall survive such termination.

Section 6. Payment of Expenses. Subject in all cases to the limitations set forth in Section 1(a) herein, the Company agrees to pay all costs, fees and expenses incurred by the Company in connection with the performance of its obligations hereunder and in connection with the transactions contemplated hereby, including, without limitation: (i) all expenses incident to the issuance, delivery and qualification of the Securities (including all printing and engraving costs); (ii) all fees and expenses of the registrar and transfer agent of the Common Stock; (iii) all necessary issue, transfer and other stamp taxes in connection with the issuance and sale of the Securities; (iv) all fees and expenses of the Company's counsel, independent public or certified public accountants and other advisors; (v) all costs and expenses incurred in connection with the preparation, printing, filing, shipping and distribution of the Resale Registration Statement (including financial statements, exhibits, schedules, consents and certificates of experts), and all amendments and supplements thereto, and this Agreement; (vi) all filing fees, reasonable attorneys' fees and expenses incurred by the Company or the Placement Agents in connection with qualifying or registering (or obtaining exemptions from the qualification or registration of) all or any part of the Securities for offer and sale under the state securities or blue sky laws or the securities laws of any other country, and, if requested by the Placement Agents, preparing and printing a Blue Sky Survey or other memorandum, and any supplements thereto, advising the Placement Agents of such qualifications, registrations and exemptions; (vii) if applicable, the filing fees incident to the review and approval by FINRA of the Placement Agents' participation in the offering and distribution of the Securities; (viii) all costs and expenses incident to the roadshow (including travel and accommodation of the Company's and the Placement Agents' employees); (ix) all costs and expenses set forth in Section 1(a) herein; (x) all costs of background investigations; and (xi) all other fees, costs and expenses referred to in Part II of the Resale Registration Statement.

Section 7. Indemnification and Contribution.

(a) The Company agrees to indemnify and hold harmless the Placement Agents, its affiliates and each person controlling the Placement Agents (within the meaning of Section 15 of the Securities Act), and the directors, officers, agents and employees of the Placement Agents, its affiliates and each such controlling person (the Placement Agents, and each such entity or person, an "Indemnified Person") from and against any losses, claims, damages, judgments, assessments, costs and other liabilities (or actions, including shareholder actions, in respect thereof) (collectively, the "Liabilities"), joint or several, to which such Indemnified Person may become subject under any applicable federal or state law, or otherwise, which are related to or result from the performance by the Placement Agents of the services contemplated by or the engagement of the Placement Agents pursuant to, this Agreement and shall promptly reimburse each Indemnified Person for all reasonable fees and expenses (including the reasonable fees and expenses of counsel for all Indemnified Persons, except as otherwise expressly provided herein) (collectively, the "Expenses") as they are incurred by an Indemnified Person in investigating, preparing, pursuing or defending any Actions, whether or not any Indemnified Person is a party thereto and whether or not such claim, action or proceeding is initiated or brought by the Company; provided, however, that, the Company shall not be responsible for any Liabilities or Expenses of any Indemnified Person that are found in a final, non-appealable judgment by a court of competent jurisdiction to have resulted primarily from such Indemnified Person's fraud, willful misconduct or gross negligence. The Company also agrees that no Indemnified Person shall have any liability (whether direct or indirect, in contract or tort or otherwise) to the Company or its security holders or creditors related to or arising out of the engagement of the Placement Agents pursuant to, or the performance by the Placement Agents of the services contemplated by, this Agreement except to the extent that any liability is found in a final, non-appealable judgment by a court of competent jurisdiction to have resulted primarily from fraud, willful misconduct or gross negligence of the Placement Agents.

(b) Promptly after receipt by an Indemnified Person of notice of any intention or threat to commence an action, suit or proceeding or notice of the commencement of any action, suit or proceeding, such Indemnified Person will, if a claim in respect thereof is to be made against the Company pursuant hereto, promptly notify the Company in writing of the same. In case any such action

is brought against any Indemnified Person and such Indemnified Person notifies the Company of the commencement thereof, the Company may elect to assume the defense thereof, with counsel reasonably satisfactory to such Indemnified Person, and an Indemnified Party may employ counsel to participate in the defense of any such action provided, that the employment of such counsel shall be at the Indemnified Person's own expense, unless (i) the employment of such counsel has been authorized in writing by the Company, (ii) the Indemnified Person has reasonably concluded (based upon advice of counsel to the Indemnified Person) that there may be legal defenses available to it or other Indemnified Persons that are different from or in addition to those available to the Company, or that a conflict or potential conflict exists (based upon advice of counsel to the Indemnified Person) between the Indemnified Person and the Company that makes it impossible or inadvisable for counsel to the Indemnifying Person to conduct the defense of both the Company and the Indemnified Person (in which case the Company will not have the right to direct the defense of such action on behalf of the Indemnified Person), or (iii) the Company has not in fact employed counsel reasonably satisfactory to the Indemnified Person to assume the defense of such action within a reasonable time after receiving notice of the action, suit or proceeding, in each of which cases the reasonable fees, disbursements and other charges of such counsel will be at the expense of the Company; provided, further, that in no event shall the Company be required to pay fees and expenses for more than one firm of attorneys (in addition to local counsel) representing Indemnified Persons unless the defense of one Indemnified Person is unique or separate from that of another Indemnified Person subject to the same claim or action. Any failure or delay by an Indemnified Person to give the notice referred to in this paragraph shall not affect such Indemnified Person's right to be indemnified hereunder, except to the extent that such failure or delay causes actual harm to the Company, or prejudices its ability to defend such action, suit or proceeding on behalf of such Indemnified Person.

(c) In the event that the foregoing indemnity is unavailable to an Indemnified Person other than in accordance with this Agreement, the Company shall contribute to the Liabilities and Expenses paid or payable by such Indemnified Person in such proportion as is appropriate to reflect (i) the relative benefits to the Company, on the one hand, and to the Placement Agents and any other Indemnified Person, on the other hand, of the matters contemplated by this Agreement whether or not the Offering is consummated or (ii) if the allocation provided by the immediately preceding clause is not permitted by applicable law or for any reason unenforceable or unavailable, not only such relative benefits but also the relative fault of the Company, on the one hand, and the Placement Agents and any other Indemnified Person, on the other hand, in connection with the matters as to which such Liabilities or Expenses relate, as well as any other relevant equitable considerations; provided that in no event shall the Company contribute less than the amount necessary to ensure that all Indemnified Persons, in the aggregate, are not liable for any Liabilities and Expenses in excess of the amount of fees actually received by the Placement Agents pursuant to this Agreement. For purposes of this paragraph, the relative benefits to the Company, on the one hand, and to the Placement Agents on the other hand, of the matters contemplated by this Agreement shall be deemed to be in the same proportion as (a) the total value paid or contemplated to be paid to or received or contemplated to be received by the Company in the transaction or transactions that are within the scope of this Agreement, whether or not any such transaction is consummated, bears to (b) the fees paid to the Placement Agents under this Agreement. Notwithstanding the above, no person guilty of fraudulent misrepresentation within the meaning of Section 11(f) of the Securities Act, as amended, shall be entitled to contribution from a party who was not guilty of fraudulent misrepresentation. Notwithstanding the foregoing, the Company expressly agrees that the Placement Agents shall not be required to contribute any amount in excess of the amount by which fees paid the Placement Agents hereunder (excluding reimbursable expenses), exceeds the amount of any damages which the Placement Agents has otherwise been required to pay.

(d) The Company also agrees that no Indemnified Person shall have any liability (whether direct or indirect, in contract or tort or otherwise) to the Company for or in connection with advice or services rendered or to be rendered by any Indemnified Person pursuant to this Agreement, the

transactions contemplated thereby or any Indemnified Person's actions or inactions in connection with any such advice, services or transactions except for Liabilities (and related Expenses) of the Company that are finally judicially determined to have resulted from such Indemnified Person's fraud, gross negligence or willful misconduct in connection with any such advice, actions, inactions or services.

(e) The Company agrees that without the Representative's prior written consent, which shall not be unreasonably withheld, it will not settle, compromise or consent to the entry of any judgment in any pending or threatened claim, action or proceeding in respect of which indemnification or contribution could be sought under the provisions of this Agreement, unless such settlement, compromise or consent includes an unconditional release of each Indemnified Person from all liability arising out of such claim, action or proceeding.

(f) In the event that an Indemnified Person is requested or required to appear as a witness in any action brought by or on behalf of or against the Company in which such Indemnified Person is not named as a defendant, the Company agrees to promptly reimburse the Placement Agents on a monthly basis for all reasonable, documented, out-of-pocket expenses incurred by it in connection with such Indemnified Person's appearing and preparing to appear as such a witness, including, without limitation, the reasonable fees and disbursements of its legal counsel. If multiple claims are brought with respect to at least one of which indemnification is permitted under applicable law and provided for under this Agreement, the Company agrees that any judgment or arbitration award shall be conclusively deemed to be based on claims as to which indemnification is permitted and provided for, except to the extent the judgment or arbitration award expressly states that it, or any portion thereof, is based solely on a claim as to which indemnification is not available.

(g) The reimbursement, indemnity and contribution obligations of the Company set forth herein shall apply to any modification of this Agreement and shall remain in full force and effect regardless of any termination of, or the completion of any Indemnified Person's services under or in connection with, this Agreement.

Section 8. Representations and Indemnities to Survive Delivery. The respective indemnities, agreements, representations, warranties and other statements of the Company or any person controlling the Company, of its officers, and of the Placement Agents set forth in or made pursuant to this Agreement will remain in full force and effect, regardless of any investigation made by or on behalf of the Placement Agents, the Company, or any of its or their partners, officers or directors or any controlling person, as the case may be, and will survive delivery of and payment for the Securities sold hereunder and any termination of this Agreement. A successor to a Placement Agent, or to the Company, its directors or officers or any person controlling the Company, shall be entitled to the benefits of the indemnity, contribution and reimbursement agreements contained in this Agreement.

Section 9. Notices. All communications hereunder shall be in writing and shall be mailed, hand delivered or telecopied and confirmed to the parties hereto as follows:

If to the Placement Agents to the address set forth above, attention: Cecil Brown email: Cecil.Brown@loopcapital.com.

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

The NBD Group, Inc.
350 N. Glendale Avenue, Suite B522
Glendale, California 91206
Email: st@nbdpro.com
Attention: Sara Terheggen

If to the Company:

Transphorm, Inc.
975 Castilian Drive
Goleta, California 93117
Email: cmcaulay@transphormusa.com
Attention: Cameron McAulay

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

Wilson Sonsini Goodrich & Rosati, P.C.
650 Page Mill Road
Palo Alto, California 94304
Email: jreigel@wsgr.com and emuhl@wsgr.com
Attention: Julia Reigel and Erika Muhl

Any party hereto may change the address for receipt of communications by giving written notice to the others.

Section 10. Successors. This Agreement will inure to the benefit of and be binding upon the parties hereto, and to the benefit of the employees, officers and directors and controlling persons referred to in Section 7 hereof, and to their respective successors, and personal representative, and no other person will have any right or obligation hereunder.

Section 11. Partial Unenforceability. The invalidity or unenforceability of any section, paragraph or provision of this Agreement shall not affect the validity or enforceability of any other section, paragraph or provision hereof. If any Section, paragraph or provision of this Agreement is for any reason determined to be invalid or unenforceable, there shall be deemed to be made such minor changes (and only such minor changes) as are necessary to make it valid and enforceable.

Section 12. Governing Law Provisions. This Agreement shall be deemed to have been made and delivered in New York City and both this Agreement and the transactions contemplated hereby shall be governed as to validity, interpretation, construction, effect and in all other respects by the internal laws of the State of New York, without regard to the conflict of laws principles thereof. Each of the Placement Agents and the Company: (i) agrees that any legal suit, action or proceeding arising out of or relating to this Agreement and/or the transactions contemplated hereby shall be instituted exclusively in New York Supreme Court, County of New York, or in the United States District Court for the Southern District of New York, (ii) waives any objection which it may have or hereafter to the venue of any such suit, action or proceeding, and (iii) irrevocably consents to the jurisdiction of the New York Supreme Court, County of New York, and the United States District Court for the Southern District of New York in any such suit, action or proceeding. Each of the Placement Agents and the Company further agrees to accept and acknowledge service of any and all process which may be served in any such suit, action or proceeding in the New York Supreme Court, County of New York, or in the United States District Court for the Southern District of New York and agrees that service of process upon the Company mailed by certified mail to the Company's address shall be deemed in every respect effective service of process upon the Company, in any such suit, action or proceeding, and service of process upon the Placement Agents mailed by certified mail to the Placement Agents' address shall be deemed in every respect effective service process upon the Placement Agents, in any such suit, action or proceeding. Notwithstanding any provision of this Agreement to the contrary, the Company agrees that neither the Placement Agents nor their affiliates, and the respective officers, directors, employees, agents and representatives of the Placement Agents, its affiliates and each other person, if any, controlling the Placement Agents or any of its affiliates, shall have any liability (whether direct or indirect, in contract or tort or otherwise)

to the Company for or in connection with the engagement and transaction described herein except for any such liability for losses, claims, damages or liabilities incurred by us that are finally judicially determined to have resulted from the fraud, willful misconduct or gross negligence of such individuals or entities. If either party shall commence an action or proceeding to enforce any provision of this Agreement, then the prevailing party in such action or proceeding shall be reimbursed by the other party for its reasonable attorney's fees and other costs and expenses incurred with the investigation, preparation and prosecution of such action or proceeding.

Section 13. General Provisions.

(a) This Agreement constitutes the entire agreement of the parties to this Agreement and supersedes all prior written or oral and all contemporaneous oral agreements, understandings and negotiations with respect to the subject matter hereof. Notwithstanding anything herein to the contrary, the (i) Engagement Agreement, dated November 22, 2020, between the Company and the Representative and (ii) Engagement Agreement, dated November 30, 2020, between the Company and Spartan Capital Securities, LLC (together, the "Engagement Agreements"), each shall continue to be effective and the terms therein shall continue to survive and be enforceable by the respective Placement Agent in accordance with its terms, provided that, in the event of a conflict between the terms of an Engagement Agreement and this Agreement, the terms of this Agreement shall prevail. This Agreement may be executed in two or more counterparts, each one of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. This Agreement may not be amended or modified unless in writing by all of the parties hereto, and no condition herein (express or implied) may be waived unless waived in writing by each party whom the condition is meant to benefit. Section headings herein are for the convenience of the parties only and shall not affect the construction or interpretation of this Agreement.

(b) The Company acknowledges that in connection with the offering of the Securities: (i) the Placement Agents have acted at arms length, are not agents of, and owe no fiduciary duties to the Company or any other person, (ii) the Placement Agents owe the Company only those duties and obligations set forth in this Agreement and (iii) the Placement Agents may have interests that differ from those of the Company. The Company waives to the full extent permitted by applicable law any claims it may have against the Placement Agents arising from an alleged breach of fiduciary duty in connection with the offering of the Securities.

[The remainder of this page has been intentionally left blank.]

If the foregoing is in accordance with your understanding of our agreement, please sign below whereupon this instrument, along with all counterparts hereof, shall become a binding agreement in accordance with its terms.

Very truly yours,
TRANSPHORM, INC.

By: /s/ Mario Rivas
Name: Mario Rivas
Title: Chief Executive Officer

The foregoing Agreement is hereby confirmed and accepted as of the date first above written.
LOOP CAPITAL MARKETS LLC

By: /s/ Cecil Brown
Name: Cecil Brown
Title: SVP

SCHEDULE C

Loop Capital Markets LLC
Spartan Capital Securities, LLC

EXHIBIT A

1. Mario Rivas
2. Cameron McAulay
3. Umesh Mishra
4. Primit Parikh
5. Brittany Bagley
6. David Kerko
7. Eiji Yatagawa
8. Julian Humphreys
9. KKR Phorm Investors L.P.
10. Nexperia B.V.
11. Yaskawa Electric Corporation

EXHIBIT B
FORM OF LOCK-UP AGREEMENT

[____], 2020
Loop Capital Markets LLC
As Representative of the Placement Agents
set forth on Schedule C hereto
111 W. Jackson Blvd.
Suite 1901
Chicago, IL 60604

Re: Transphorm, Inc. – Restriction on Sales of Securities

Dear Ladies & Gentleman:

The undersigned, a holder of common stock, par value \$0.0001 (“Common Stock”), or rights to acquire Common Stock, of Transphorm, Inc., a Delaware corporation (the “Company”), understands that Loop Capital Markets LLC is the lead placement agent (the “Placement Agent”) that is party to that certain placement agent agreement (the “Placement Agent Agreement”) by and between the placement agents and the Company, providing for the offering (the “Offering”) of Common Stock. Capitalized terms used herein and not otherwise defined shall have the meanings set forth for them in the Placement Agent Agreement.

The undersigned recognizes that it is in the best financial interests of the undersigned, as an officer or director, or an owner of Common Stock, options, warrants, performance units or other securities convertible into or exchangeable for Common Stock of the Company (the “Company Securities”), that the undersigned not sell Company Securities in the public market for a reasonable period following the Offering.

The undersigned further recognizes that the Company Securities held by the undersigned are, or may be, subject to certain restrictions on transferability, including those imposed by United States federal securities laws. Notwithstanding these restrictions, the undersigned has agreed to enter into this letter agreement to further assure the Placement Agent that the Company Securities of the undersigned, now held or hereafter acquired, will not enter the public market at a time that might impair the underwriting effort.

Therefore, as an inducement to the Placement Agent to execute the Placement Agent Agreement, the undersigned hereby acknowledges and agrees that the undersigned will not, without the prior written consent of the Placement Agent, (1) offer, sell, contract to sell, pledge, grant any option to purchase or otherwise dispose of (collectively, a “Disposition”) any Company Securities or any securities convertible into or exercisable or exchangeable for, or any rights to purchase or otherwise acquire, any Company Securities held by the undersigned or acquired by the undersigned after the date hereof, or that may be deemed to be beneficially owned by the undersigned (collectively, the “Lock-Up Shares”), pursuant to the Rules and Regulations promulgated under the Securities Act of 1933, as amended (the “Act”), and the Securities Exchange Act of 1934, as amended (the “Exchange Act”), for a period commencing on the date hereof and ending 180 days after the date of the Placement Agent Agreement, inclusive (the “Lock-Up Period”), (2) during the Lock-Up Period, exercise or seek to exercise or effectuate in any manner any rights of any nature that the undersigned has or may have hereafter to require the Company to register under the Act the undersigned’s Disposition of any of the Lock-Up Shares held by the undersigned, or (3) engage in any hedging, collar (whether or not for any consideration) or other transaction that is designed

to or reasonably expected to lead to or result in a Disposition of Lock-Up Shares during the Lock-Up Period, even if such Lock-Up Shares would be disposed of by someone other than such holder, and such prohibited hedging or other transactions would include any short sale or any purchase, sale or grant of any right (including any put or call option or reversal or cancellation thereof) with respect to any Lock-Up Shares or with respect to any security (other than a broad-based market basket or index) that includes, relates to or derives any significant part of its value from Lock-Up Shares.

Notwithstanding the agreement not to make any Disposition during the Lock-Up Period, the Placement Agent has agreed that the foregoing restrictions shall not apply to:

- (1) any Disposition or transfer of Lock-Up Shares to a family member, trust, or entity in which more than fifty percent of the voting interests are owned by the undersigned or the undersigned's immediate family members (as defined in General Instruction A.1(a)(5) to Form S-8 under the Act);
- (2) any bona fide gift;
- (3) any Disposition or transfer of Lock-Up Shares by will, intestate succession or by operation of law pursuant to a qualified domestic order or in connection with a divorce settlement;
- (4) any transfer of Lock-Up Shares solely to cover applicable withholding taxes due upon the vesting of stock-based awards under the Company's equity compensation plans;
- (5) the conversion or exchange of convertible or exchangeable Company Securities outstanding as of the date of this letter agreement;
- (6) the forfeiture or surrender to the Company of Lock-Up Shares for failure to achieve vesting requirements associated with such Lock-Up Shares;
- (7) Dispositions or forfeiture of Lock-Up Shares of the undersigned or the retention of Lock-Up Shares by the Company (A) to satisfy tax withholding obligations in connection with the exercise of options to purchase Shares, the vesting of restricted stock units or performance shares or the settlement of deferred stock units of the Company or (B) in payment of the exercise or purchase price with respect to the exercise of options to purchase Shares, the vesting of restricted stock units or performance shares or the settlement of deferred stock units of the Company;
- (8) the establishment of a trading plan pursuant to Rule 10b5-1 under the Exchange Act for the transfer of Lock-Up Shares;
- (9) the Disposition or transfer of Lock-Up Shares pursuant to a trading plan established pursuant to Rule 10b5-1 under the Exchange Act prior to the date of this letter agreement;
- (10) any Disposition or transfer of Lock-Up Shares pursuant to a bona fide third-party tender offer, merger, consolidation or other similar transaction that is approved by the board of directors of the Company, made to all holders of the Company Securities involving a Change of Control (as defined below) (including any support or voting agreement entered into in connection therewith), *provided* that in the event that the tender offer, merger, consolidation or other such transaction is not completed, the Lock-up Shares of the undersigned shall remain subject to the restrictions contained in this letter agreement; or

- (11) distributions, transfers or dispositions of Lock-up Shares (i) to another corporation, partnership, limited liability company, trust or other business entity that is an affiliate (as defined in Rule 405 promulgated under the Securities Act of 1933, as amended) of the undersigned, or to any investment fund or other entity controlled or managed by the undersigned or affiliates of the undersigned (collectively, "Affiliates"), or (ii) as part of a distribution, transfer or disposition without consideration by the undersigned to its stockholders, current or former partners (general or limited), members, beneficiaries, or other equity holders, or to the estates of such stockholders, partners, members, beneficiaries or other equity holders;

provided that in the case of any transfer, gift or other disposition pursuant to the immediately preceding clauses (1) or (2), except in the case of a bona fide gift to a charitable organization, the transferee, trust, donee or other recipient agrees to be bound in writing by the terms of this letter agreement prior to such transfer and no filing by any party (donor, donee, transferor or transferee) under the Exchange Act shall be required or shall be voluntarily made in connection with such transfer (other than required filings under Section 16(a) and Section 13(d) or 13(g) of the Exchange Act and any filings made after the expiration of the Lock-Up Period). For purposes of clause (10) above, "Change of Control" shall mean any bona fide third-party tender offer, merger, amalgamation, consolidation or other similar transaction the result of which would be that any "person" (as defined in Section 13(d)(3) of the Exchange Act), or group of persons, other than the Company, becomes the beneficial owner (as defined in Rules 13d-3 and 13d-5 of the Exchange Act) of more than 50% of the total voting power of the voting stock of the Company.

Furthermore, the undersigned may, during the Lock-Up Period, sell shares of Common Stock purchased by the undersigned on the open market following the closing of the Offering if and only if (i) such sales are not required to be reported in any public report or filing under the Exchange Act and (ii) the undersigned does not otherwise voluntarily effect any public report or filing regarding such sales.

The undersigned understands that, if the Placement Agent Agreement does not become effective prior to December 31, 2020, or if the Placement Agent Agreement (other than the provisions thereof which survive termination) shall terminate or be terminated prior to payment for and delivery of the Securities to be sold thereunder, the undersigned shall be released from all obligations under this Lock-Up Agreement.

The undersigned, whether or not participating in the Offering, understands that the Placement Agent is entering into the Placement Agent Agreement and proceeding with the Offering in reliance upon this Lock-Up Agreement.

This Lock-Up Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to the conflict of laws principles thereof. Delivery of a signed copy of this Lock-Up Agreement by facsimile or e-mail/.pdf transmission shall be effective as the delivery of the original hereof.

Very truly yours,

By: _____
Print Name:

Transphorm Announces Pricing of \$15 Million Private Placement of Common Stock

GOLETA, Calif.—December 22, 2020—Transphorm, Inc. (OTCQB: TGAN)—a pioneer in and global supplier of high reliability, high performance gallium nitride (GaN) power conversion products—today announced the pricing of a private placement of 5,000,000 shares of its common stock at a price of \$3.00 per share, for expected gross proceeds to Transphorm of \$15.0 million, before deducting placement agent commissions, financial advisor fees and other offering expenses.

The closing of the private placement is expected to occur on or about December 22, 2020, subject to the satisfaction of customary closing conditions. Transphorm intends to utilize the net proceeds to scale the continued ramp of new design-ins and volume shipments of GaN products for the fast charging power adapter, server, power supply and other markets, expanded sampling and qualification of products for EV automotive applications, growth of its epi wafer business as well as working capital to support general operations.

The securities to be sold in the private placement have not been registered under the Securities Act of 1933, as amended (the "Securities Act") or any state or other jurisdiction's securities laws, and may not be resold absent registration under, or exemption from registration under, the Securities Act. Transphorm has agreed to file a registration statement with the Securities and Exchange Commission registering the resale of the shares of common stock to be issued and sold in the private placement within 30 days of the closing of the private placement.

This press release shall not constitute an offer to sell or the solicitation of an offer to buy these securities, nor shall there be any sale of these securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to the registration or qualification under the securities laws of any such jurisdiction.

Loop Capital Markets LLC and Spartan Capital Securities, LLC acted as placement agents for the private placement. B. Riley Securities, Inc. and Craig-Hallum Capital Group LLC acted as financial advisors for the private placement.

About Transphorm

Transphorm, Inc., a global leader in the GaN revolution, designs and manufactures high performance and high reliability GaN semiconductors for high voltage power conversion applications. Having one of the largest Power GaN IP portfolios of more than 1,000 owned or licensed patents, Transphorm produces the industry's first JEDEC and AEC-Q101 qualified high voltage GaN semiconductor devices. The Company's vertically integrated device business model allows for innovation at every development stage: design, fabrication, device, and application support. Transphorm's innovations are moving power electronics beyond the limitations of silicon to achieve over 99% efficiency, 40% more power density and 20% lower system cost. Transphorm is headquartered in Goleta, California and has manufacturing operations in Goleta and Aizu, Japan. For more information, please visit www.transphormusa.com. Follow us on Twitter @transphormusa.

Forward-Looking Statements

All statements in this press release that are not historical are forward-looking statements, including, among other things, statements relating to the Company's expectations regarding the expected gross proceeds from, and the timing of the expected closing of, the private placement. These statements are not historical facts but rather are based on the Company's current expectations, estimates, and projections regarding its business, operations and other similar or related factors. Words such as "may,"

“will,” “could,” “would,” “should,” “anticipate,” “predict,” “potential,” “continue,” “expect,” “intend,” “plan,” “project,” “believe,” “estimate,” and other similar or related expressions are used to identify these forward-looking statements, although not all forward-looking statements contain these words. You should not place undue reliance on forward-looking statements because they involve known and unknown risks, uncertainties, and assumptions that are difficult or impossible to predict and, in some cases, beyond the Company’s control. Actual results may differ materially from those in the forward-looking statements as a result of a number of factors, including those described in the Company’s filings with the Securities and Exchange Commission. The Company undertakes no obligation to revise or update information in this release to reflect events or circumstances in the future, even if new information becomes available.

Investor Contacts:

Shelton Group

Brett Perry | Leanne Sievers

1-214-272-0070 | 1-949-224-3874

sheltonir@sheltongroup.com**Company Contact:**

Cameron McAulay

Chief Financial Officer

1-805-456-1300 ext. 140

cmcaulay@transphormusa.com