

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 7, 2021**

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.

Private Placement of Common Stock and Warrants

On December 7, 2021, Transphorm, Inc. (the “Company”) entered into securities purchase agreements (each, a “Purchase Agreement”) with two accredited investors (the “Purchasers”), pursuant to which the Company issued and sold to the Purchasers, between December 7, 2021 and December 10, 2021, (i) an aggregate of 1,673,152 shares (the “Shares”) of the Company’s common stock, par value \$0.0001 per share (the “Common Stock”), at a purchase price of \$7.71 per share and (ii) warrants to purchase an aggregate of 348,649 shares of Common Stock (the “Warrants”), for aggregate gross proceeds of \$12.9 million (the “Private Placement”). The Warrants have an exercise price of \$9.25 per share, provide for a cashless exercise feature, and are exercisable until the third anniversary of the date of issuance. After payment of a finder’s fee and expenses of the Private Placement, the Company received net proceeds of approximately \$12.7 million.

Registration Rights Agreement

On December 7, 2021, the Company entered into a registration rights agreement (the “Registration Rights Agreement”) with the Purchasers, pursuant to which the Company agreed to register the Shares and the shares of Common Stock issuable upon exercise of the Warrants (collectively, the “Registrable Securities”) for resale. Under the terms of the Registration Rights Agreement, the Company is obligated, subject to certain exceptions, to (i) no later than 30 days after the closing of the Private Placement, file a registration statement with the Securities and Exchange Commission (the “SEC”) covering the resale or other disposition of the Registrable Securities, (ii) use its commercially reasonable efforts to cause such registration statement to become effective no later than 60 days after such registration statement is first filed with the SEC, and (iii) use its commercially reasonable efforts to keep such registration statement effective for up to three years after the date on which such registration statement is declared effective by the SEC.

In the event that the Company fails to timely file and obtain and maintain effectiveness of the registration statement, or if certain events occur with respect to the listing or trading of the Registrable Securities (such events, the “Registration Events”), the Company, subject to certain exceptions, is required to make payments to each holder of Registrable Securities, as liquidated damages, a cash sum calculated at a rate equal to 12% per annum of the aggregate purchase price paid by such holder pursuant to the Purchase Agreements with respect to such holder’s Registrable Securities that are affected by such Registration Event for the period during which such Registration Event continues to affect such Registrable Securities, provided that the maximum amount of liquidated damages that may be paid by the Company to a holder pursuant to such liquidated damages provisions will not exceed 5% of the aggregate purchase price paid by such holder pursuant to the Purchase Agreements with respect to such holder’s Registrable Securities that are affected by all such Registration Events.

The foregoing summaries of the Purchase Agreements, Warrants and Registration Rights Agreement are qualified in their entirety by reference to the forms of Purchase Agreement, Warrant, and Registration Rights Agreement, which are filed as Exhibits 10.1, 4.1 and 10.2, respectively, to this Current Report on Form 8-K and are incorporated herein by reference.

Item 3.02 Unregistered Sales of Equity Securities

The information set forth in Item 1.01 above is incorporated herein by reference.

The Shares, the Warrants and the Common Stock issuable upon exercise of the Warrants have not been registered under the Securities Act of 1933, as amended (the “Securities Act”), or any state securities laws and may not be offered or sold in the United States absent registration or an applicable exemption from the registration requirements. The securities were issued in reliance upon the exemptions from registration under the Securities Act provided by Section 4(a)(2) and/or Rule 506 of Regulation D promulgated thereunder as transactions not involving a public offering. The Purchasers are “accredited investors” as that term is defined in Rule 501 of Regulation D and represented their intentions to acquire the securities for investment only and not with a view to or for sale in connection with any distribution thereof. The offer and sale of the securities were made without any general solicitation or advertising.

Item 9.01 Financial Statements and Exhibits

(d) Exhibits

Exhibit Number	Description
4.1	Form of Warrant to Purchase Shares of Common Stock, issued December 7 and December 10, 2021
10.1	Form of Securities Purchase Agreement, dated December 7, 2021
10.2	Form of Registration Rights Agreement, dated December 7, 2021
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 10, 2021

By: /s/ Cameron McAulay
Cameron McAulay
Chief Financial Officer

THIS WARRANT AND THE SECURITIES ISSUABLE UPON THE EXERCISE HEREOF HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR ANY U.S. STATE SECURITIES LAWS. THEY MAY NOT BE SOLD, OFFERED FOR SALE, PLEDGED, HYPOTHECATED OR OTHERWISE TRANSFERRED EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN EACH CASE ONLY IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS.

WARRANT NO. CS2021-[●]
 DATE OF ISSUANCE : December [●], 2021
 EXPIRATION DATE: December [●], 2024

NUMBER OF SHARES: [●]
 (subject to adjustment hereunder)

WARRANT TO PURCHASE SHARES
 OF COMMON STOCK OF

TRANSPHORM, INC.

This Warrant is issued to [●], or its registered assigns (including any successors or assigns, the “**Warrantholder**”), in connection with that certain Securities Purchase Agreement, dated as of December [●], 2021, by and among Transphorm, Inc., a Delaware corporation (the “**Company**”), and the Warrantholder (the “**Purchase Agreement**”).

1. EXERCISE OF WARRANT.

- (a) Number and Exercise Price of Warrant Shares; Expiration Date. Subject to the terms and conditions set forth herein, the Warrantholder is entitled to purchase from the Company up to [●] shares of the Company’s common stock, \$0.0001 par value per share (the “**Common Stock**”) (as adjusted from time to time pursuant to the provisions of this Warrant) (the “**Warrant Shares**”), at a purchase price of \$9.25 per share (the “**Exercise Price**”), on or before 5:00 p.m. New York City time on December [●], 2024 (the “**Expiration Date**”) (subject to earlier termination of this Warrant as set forth herein).
- (b) Method of Exercise. While this Warrant remains outstanding and exercisable in accordance with Section 1(a) above, the Warrantholder may exercise this Warrant in accordance with Section 6 herein, by either:
- (i) wire transfer to the Company or cashier’s check drawn on a United States bank made payable to the order of the Company, or
 - (ii) exercising of the right to credit the Exercise Price against the Fair Market Value (as defined below) of the Warrant Shares on the date of exercise (the “**Net Exercise**”) pursuant to Section 1(c).

Notwithstanding anything herein to the contrary, the Warrantholder shall not be required to physically surrender this Warrant to the Company until the Warrantholder has purchased all of the Warrant Shares available hereunder and the Warrant has been exercised in full, in which case, the Warrantholder shall surrender this Warrant to the Company for cancellation within three trading days of the date the final Notice of Exercise is delivered to the Company. Partial exercises of this Warrant resulting in purchases of a portion of the total number of Warrant Shares available hereunder shall have the effect of lowering the outstanding number of Warrant Shares purchasable hereunder in an amount equal to the applicable number of Warrant Shares purchased. The Warrantholder and the Company shall maintain records showing the number of Warrant Shares purchased and the date of such purchases.

- (c) Net Exercise. If the Company shall receive written notice from the Warrantholder at the time of exercise of this Warrant that the holder elects to Net Exercise the Warrant, the Company shall deliver to such Warrantholder (without payment by the Warrantholder of any exercise price in cash) that number of Warrant Shares computed using the following formula:

$$X = \frac{Y (A-B)}{A}$$

Where

- X = The number of Warrant Shares to be issued to the Warrantholder.
- Y = The number of Warrant Shares purchasable under this Warrant or, if only a portion of the Warrant is being exercised, the portion of the Warrant being cancelled (at the date of such calculation).
- A = The Fair Market Value of one share of Common Stock (at the date of such calculation).
- B = The Exercise Price (as adjusted hereunder to the date of such calculations).

The “**Fair Market Value**” of one share of Common Stock as of a particular date shall be determined as follows: (i) if traded on a securities exchange, the value shall be deemed to be the average of the closing prices of the Common Stock on such exchange over the thirty (30) day period ending two business days prior to the date of Net Exercise; (ii) if traded over-the-counter, the value shall be deemed to be the average of the closing bid or sale prices (whichever is applicable) of the Common Stock over the thirty (30) day period ending two business days prior to the date of Net Exercise; or (iii) if fair market value cannot be calculated as of such date on either of the foregoing bases, the price determined in good faith by the Company’s Board of Directors. For the avoidance of doubt, “**the date of Net Exercise**” shall be the date the Warrantholder’s written notice has been given to the Company pursuant to Section 11 hereof.

- (d) Deemed Exercise. In the event that immediately prior to the close of business on the Expiration Date, the Fair Market Value of one share of Common Stock (as determined in accordance with Section 1(c) above) is greater than the then applicable Exercise Price, this Warrant shall be deemed to be automatically exercised on a Net Exercise issue basis pursuant to Section 1(c) above, and the Company shall deliver the applicable number of Warrant Shares to the Warrantholder pursuant to the provisions of Section 1(c) above and this Section 1(d); provided that if Warrantholder provides prior written notice to the Company that it does not want this Warrant to be exercised pursuant to this Section 1(d), the terms of this Section 1(d) shall not apply and the Warrant shall not be deemed to be automatically exercised.

2. CERTAIN ADJUSTMENTS.

- (a) Adjustment of Number of Warrant Shares and Exercise Price. The number and kind of Warrant Shares purchasable upon exercise of this Warrant and the Exercise Price shall be subject to adjustment from time to time as follows:
- (i) Subdivisions, Combinations and Other Issuances. If the Company shall at any time after the Date of Issuance (as first above written) but prior to the Expiration Date subdivide its shares of capital stock of the same class as the Warrant Shares, by split-up or otherwise, or combine such shares of capital stock, or issue additional shares of capital stock as a dividend with respect to any shares of such capital stock, the number of Warrant Shares issuable on the exercise of this Warrant shall forthwith be proportionately increased in the case of a subdivision or stock dividend, or proportionately decreased in the case of a combination. Appropriate adjustments shall also be made to the Exercise Price payable per share, but the aggregate Exercise Price payable for the total number of Warrant Shares purchasable under this Warrant (as adjusted) shall remain the same. Any adjustment under this Section 2(a)(i) shall become effective at the close of business on the date the subdivision or combination becomes effective, or as of the record date of such dividend, or in the event that no record date is fixed, upon the making of such dividend.
- (ii) Reclassification, Reorganizations and Consolidation. In case of any reclassification, capital reorganization or change in the capital stock of the Company (other than as a result of a subdivision, combination or stock dividend provided for in Section 2(a)(i) above) that occurs after the Date of Issuance, then, as a condition of such reclassification, reorganization or change, lawful provision shall be made, and duly executed documents evidencing the same from the Company or its successor shall be delivered to the Warrantholder, so that the Warrantholder shall thereafter have the right at any time prior to the expiration of this Warrant to purchase, at a total price equal to that payable upon the exercise of this Warrant, the kind and amount of shares of stock and/or other securities or property (including, if applicable, cash) receivable in connection with such reclassification, reorganization or change by a holder of the same number and type of securities as were purchasable as Warrant Shares

by the Warrantholder immediately prior to such reclassification, reorganization or change. In any such case appropriate provisions shall be made with respect to the rights and interest of the Warrantholder so that the provisions hereof shall thereafter be applicable with respect to any shares of stock or other securities or property deliverable upon exercise hereof, and appropriate adjustments shall be made to the Exercise Price payable hereunder, provided the aggregate Exercise Price shall remain the same (and, for the avoidance of doubt, this Warrant shall be exclusively exercisable for such shares of stock and/or other securities or property from and after the consummation of such reclassification or other change in the capital stock of the Company).

- (b) Statement of Adjustment. Whenever the Exercise Price or number or type of securities issuable upon exercise of this Warrant is adjusted, as herein provided, the Company shall, at its expense, promptly deliver to the Warrantholder a certificate of an officer of the Company setting forth the nature of such adjustment and showing in reasonable detail the facts upon which such adjustment is based.
3. **NO FRACTIONAL SHARES.** No fractional Warrant Shares or scrip representing fractional shares will be issued upon exercise of this Warrant. In lieu of any fractional shares which would otherwise be issuable, the Company shall pay cash equal to the product of such fraction multiplied by the Fair Market Value of one Warrant Share.
4. **NO STOCKHOLDER RIGHTS.** Until the exercise of this Warrant or any portion of this Warrant, the Warrantholder shall not have, nor exercise, any rights as a stockholder of the Company with respect to the Warrant Shares or this Warrant (including without limitation the right to notification of stockholder meetings or the right to receive any notice or other communication concerning the business and affairs of the Company).
5. **RESERVATION OF STOCK.** The Company covenants that during the period this Warrant is exercisable, the Company will reserve from its authorized and unissued Common Stock a sufficient number of shares of Common Stock (or other securities, if applicable) to provide for the issuance of Warrant Shares (or other securities) upon the exercise of this Warrant.
6. **MECHANICS OF EXERCISE.** This Warrant may be exercised by the holder hereof, in whole or in part, by delivering to the Company (or such other office or agency of the Company as it may designate by notice in writing to the registered Warrantholder at the address of the Warrantholder appearing on the books of the Company) a completed and duly executed copy of the Notice of Exercise in the form attached hereto as Exhibit A by mail or email attachment together with payment in full of the Exercise Price (unless the Warrantholder has elected to Net Exercise) then in effect with respect to the number of Warrant Shares as to which the Warrant is being exercised. This Warrant shall be deemed to have been exercised immediately prior to the close of business on the date of the delivery to the Company of the Notice of Exercise, as provided above, and the person entitled to receive the Warrant Shares issuable upon such exercise shall be treated for all purposes as the holder of such shares of record as of the close of business on such date. Warrant Shares purchased hereunder shall be transmitted by the Company's transfer agent to the holder by crediting the account of the holder's prime broker with The Depository Trust Company through its Deposit or Withdrawal at Custodian system ("**DWAC**") if the Company is then a participant in such system and either (A) there is an effective registration statement permitting the issuance of the Warrant Shares to or resale of the Warrant Shares by the holder or (B) the shares are eligible for resale by the holder without volume or manner-of-sale limitations pursuant to Rule 144, and otherwise by physical delivery to the address specified by the holder in the Notice of Exercise by the end of the day on the date that is three trading days from the delivery to the Company of the Notice of Exercise and payment of the aggregate Exercise Price (unless exercised by means of a cashless exercise pursuant to Section 1(c)). The Warrant Shares shall be deemed to have been issued, and the holder or any other person so designated to be named therein shall be deemed to have become a holder of record of such shares for all purposes, as of the date the Warrant has been exercised, with payment to the Company of the Exercise Price (or by Net Exercise) and all taxes required to be paid by the holder, if any, prior to the issuance of such shares, having been paid.
7. **COMPLIANCE WITH SECURITIES LAWS; RESTRICTIVE LEGEND.**
- (a) The Warrantholder hereby represents: (a) that this Warrant and any securities to be acquired by the Warrantholder on exercise of the Warrant will be acquired for investment for the Warrantholder's own account and not with a view to the resale or distribution of any part thereof, and (b) that the Warrantholder is an accredited investor as defined in Rule 501(a) of Regulation D promulgated under the Securities Act of 1933, as amended (the "**Securities Act**"). In addition, as a condition of its delivery of certificates for the

Common Stock, the Company will require the Warrantholder to deliver to the Company representations regarding the Warrantholder's sophistication, investor status, investment intent, acquisition for its own account and such other matters as are reasonable and customary for purchasers of securities in an unregistered private offering as set forth in the form of Notice of Exercise attached hereto as Exhibit A.

- (b) The Warrantholder understands that this Warrant and the Warrant Shares are characterized as "restricted securities" under the federal securities laws inasmuch as they are being acquired from the Company in a transaction not involving a public offering and that under such laws and applicable regulations this Warrant and the Warrant Shares may be resold without registration under the Securities Act only in certain limited circumstances. In this connection, the Warrantholder represents that it is familiar with Rule 144 under the Securities Act, as presently in effect, and understands the resale limitations imposed thereby and by the Securities Act.
 - (c) Prior and as a condition to the sale or transfer of the Warrant Shares issuable upon exercise of this Warrant, the Warrantholder shall furnish to the Company such certificates, representations, agreements and other information as the Company, the Company's counsel or the Company's transfer agent reasonably may require to confirm that such sale or transfer is being made pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act, unless such Warrant Shares are being sold or transferred pursuant to an effective registration statement (provided that the Warrantholder agrees to only sell such Warrant Shares during such time that such registration statement is effective and such Warrantholder is not aware or has not been notified by the Company that such registration statement has been withdrawn or suspended, and only as permitted by such registration statement). In connection with the sale or transfer of Warrant Shares, the Company shall provide to the transfer agent at the Company's cost and expense such opinions of Company's counsel, or other counsel reasonably acceptable to the Company, as the transfer agent may request to effect the sale or transfer of the Warrant Shares.
 - (d) The Warrantholder acknowledges that the Company may place a restrictive legend, in substantially the form set forth in the Purchase Agreement, on the Warrant Shares issuable upon exercise of this Warrant in order to comply with applicable securities laws, and the Company may issue stop transfer instructions to its transfer agent in connection with such restrictions.
8. REPLACEMENT OF WARRANT. Upon receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant and, in the case of any such loss, theft or destruction of this Warrant, on delivery of an indemnity agreement reasonably satisfactory in form and amount to the Company or, in the case of any such mutilation, on surrender and cancellation of such Warrant, the Company at its expense will execute and deliver, in lieu thereof, a new Warrant of like tenor.

9. TRANSFERS; EXCHANGES.

- (a) Subject to compliance with applicable federal and state securities laws and Section 7 hereof, this Warrant may be transferred by the Warrantholder with respect to any or all of the Warrant Shares purchasable hereunder. For a transfer of this Warrant as an entirety by the Warrantholder, upon surrender of this Warrant to the Company, together with the Notice of Assignment in the form attached hereto as Exhibit B duly completed and executed on behalf of the Warrantholder, the Company shall issue a new Warrant of the same denomination to the assignee. For a transfer of this Warrant with respect to a portion of the Warrant Shares purchasable hereunder, upon surrender of this Warrant to the Company, together with the Notice of Assignment in the form attached hereto as Exhibit B duly completed and executed on behalf of the Warrantholder, the Company shall issue a new Warrant to the assignee, in such denomination as shall be requested by the Warrantholder, and shall issue to the Warrantholder a new Warrant covering the number of shares in respect of which this Warrant shall not have been transferred.
- (b) This Warrant is exchangeable, without expense, at the option of the Warrantholder, upon presentation and surrender hereof to the Company for other warrants of different denominations entitling the holder thereof to purchase in the aggregate the same number of shares of Common Stock purchasable hereunder. This Warrant may be divided or combined with other warrants that carry the same rights upon presentation hereof at the principal office of the Company together with a written notice specifying the denominations in which new warrants are to be issued to the Warrantholder and signed by the Warrantholder hereof. The term "Warrants" as used herein includes any warrants into which this Warrant may be divided or exchanged.

10. APPLICABLE LAW. This Warrant shall be governed by and construed in accordance with the internal laws of the State of New York, without the application of principles of conflicts of laws that would result in any law other than the laws of the State of New York.
11. NOTICE. Any notices required or permitted to be given hereunder will be in writing and may be served personally or by mail, including by email; and if served will be addressed as follows:

If to the Company:

Transphorm, Inc.
75 Castilian Drive
Goleta, CA 93117
Attn: Primit Parikh and Cameron McAulay
Email: pparikh@transphormusa.com and cmcaulay@transphormusa.com

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

Wilson Sonsini Goodrich & Rosati P.C.
650 Page Mill Road
Palo Alto, CA 94304
Attn: Erika Muhl
Email: emuhl@wsgr.com

If to the Warrantholder:

[●]
[Address]
[Address]
Attn: [●]
Email: [●]

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

[●]
[Address]
[Address]
Attn: [●]
Email: [●]

Any notice so given by mail will be deemed effectively given 48 hours after mailing when deposited in the United States mail, registered or certified mail, return receipt requested, postage prepaid and addressed as specified above. Any notice given by messenger or courier service, will be deemed effectively given when delivered (or if sent via a nationally-recognized overnight courier service, freight prepaid, specifying next-business-day delivery, one business day after deposit with the courier). Any notice given by email must be accompanied by confirmation of receipt, and will be deemed effectively given upon confirmation of such receipt. Any party may by written notice to the other specify a different address for notice purposes.

IN WITNESS WHEREOF, this Warrant is issued effective as of the date first set forth above.

TRANSPHORM, INC.

By: _____
Name: Cameron McAulay
Title: Chief Financial Officer

AGREED AND ACKNOWLEDGED,

[•]

By: _____
Name:
Title:

EXHIBIT A

NOTICE OF EXERCISE
(To be signed only upon exercise of Warrant)

To: Transphorm, Inc.

1. The undersigned, the Warrantholder of the attached Warrant No. CS2021-[●], hereby irrevocably elects to exercise the purchase right represented by such Warrant for, and to purchase thereunder, shares of Common Stock of Transphorm, Inc. as follows (choose one):
 - Exercise for Cash. Pursuant to Section 1(b)(i) of the Warrant, the Warrantholder hereby elects to exercise the Warrant for cash and tenders payment herewith (or has made a wire transfer) to the order of Transphorm, Inc. in the amount of \$_____.
 - Net Exercise. Pursuant to Section 1(b)(ii) of the Warrant, the Warrantholder hereby elects to Net Exercise the Warrant.

2. The undersigned requests that the certificates or book entry position evidencing the shares to be acquired pursuant to such exercise be issued in the name of, and delivered to, the following:
 - Name: _____
 - Address: _____

 - Email: _____
 - SSN: _____

3. The undersigned understands, agrees and recognizes that: No federal or state agency has made any finding or determination as to the fairness of the investment or any recommendation or endorsement of the securities. All certificates or book entry positions evidencing the shares of Common Stock may bear a legend substantially similar to the legend set forth in Section 7 of the Warrant regarding resale restrictions. By its signature below the undersigned hereby represents and warrants that it is an “accredited investor” as defined in Rule 501(a) of Regulation D promulgated under the Securities Act of 1933, as amended, and agrees to be bound by the terms and conditions of the attached Warrant as of the date hereof.

Dated: _____

(Signature must conform in all respects to name of the Warrantholder as specified on the face of the Warrant)

Signature: _____
By: _____
Its: _____

EXHIBIT B

NOTICE OF ASSIGNMENT FORM

FOR VALUE RECEIVED, [_____] (the “**Assignor**”) hereby sells, assigns and transfers all of the rights of the undersigned Assignor under the attached Warrant with respect to the number of shares of Common Stock of Transphorm, Inc. (the “**Company**”) covered thereby set forth below, to the following “**Assignee**” and, in connection with such transfer, represents and warrants to the Company that the transfer is in compliance with Section 7 of the Warrant and applicable federal and state securities laws:

	NAME OF ASSIGNEE	ADDRESS/FAX NUMBER
Number of shares:	_____	
Dated:	_____	Signatures: _____
		Witness: _____

ASSIGNEE ACKNOWLEDGMENT

The undersigned Assignee acknowledges that it has reviewed the attached Warrant and by its signature below it hereby represents and warrants that it is an “accredited investor” as defined in Rule 501(a) of Regulation D promulgated under the Securities Act of 1933, as amended, and agrees to be bound by the terms and conditions of the Warrant as of the date hereof, including Section 7 thereof.

	Signatures: _____
	By: _____
	Its: _____
Address:	

THIS AGREEMENT IS EXECUTED IN RELIANCE UPON THE EXEMPTION PROVIDED BY SECTION 4(A)(2) AND/OR REGULATION D, RULE 506 FOR TRANSACTIONS NOT INVOLVING A PUBLIC OFFERING UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"). NONE OF THE SECURITIES TO WHICH THIS AGREEMENT RELATES HAVE BEEN REGISTERED UNDER THE SECURITIES ACT, OR ANY U.S. STATE SECURITIES LAWS, AND, UNLESS SO REGISTERED, NONE MAY BE OFFERED OR SOLD, DIRECTLY OR INDIRECTLY, EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN EACH CASE ONLY IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS. IN ADDITION, HEDGING TRANSACTIONS INVOLVING THE SECURITIES MAY NOT BE CONDUCTED UNLESS IN ACCORDANCE WITH THE SECURITIES ACT.

SECURITIES PURCHASE AGREEMENT

This Securities Purchase Agreement (this "**Agreement**"), dated as of December 7, 2021, is by and between [●] (the "**Purchaser**") and Transphorm, Inc., a Delaware corporation (the "**Company**" or "**Transphorm**").

RECITALS

A. Pursuant to the terms and conditions set forth in this Agreement, the Purchaser desires to purchase from the Company, and the Company desires to issue and sell to the Purchaser shares of the Company's common stock, par value \$0.0001 per share ("**Common Stock**"), and warrants to purchase shares of Common Stock, in the form attached as **Exhibit A** hereto.

B. The shares of Common Stock and the Warrants to be purchased pursuant to this Agreement (collectively, the "**Securities**") have not been registered under the Securities Act of 1933, as amended (the "**Securities Act**"). The offering is being made to "accredited investors" as defined in Regulation D under the Securities Act in reliance upon the exemption from securities registration afforded by Section 4(a)(2) of the Securities Act and/or Rule 506 of Regulation D.

NOW, THEREFORE, in consideration of the mutual representations, warranties, covenants and agreements contained in this Agreement, the receipt and sufficiency of which are hereby acknowledged, the parties to this Agreement hereby agree as follows:

AGREEMENT

1. **Purchase and Sale of the Securities.**

(a) **Purchase and Sale.** Subject to the terms and conditions of this Agreement, at the Closing (as defined below), the Company shall issue and sell to the Purchaser, and the Purchaser shall purchase and acquire from the Company, for an aggregate purchase price equal to \$[●] (the "**Aggregate Purchase Price**"): (i) [●] shares of Common Stock (the "**Shares**") at a purchase price equal to \$7.71 per share (the "**Purchase Price**"), and (ii) a warrant to purchase up to an aggregate of [●] shares of Common Stock, at an exercise price of \$9.25 per share (the "**Warrant**" and together with the Shares, the "**Securities**").

(b) **Closing.** Subject to the terms and conditions of this Agreement (including Sections 4 and 5), the purchase and sale of the Securities shall take place remotely via the exchange of documents and signatures (the "**Closing**") within 3 business days of the date hereof. The date on which the Closing actually occurs is referred to herein as the "**Closing Date**". At the Closing, the Company will deliver to the Purchaser (i) a statement of book entry position in the Purchaser's name representing the Shares (or other evidence of share ownership) and (ii) the Warrant, against payment by the Purchaser of the Aggregate Purchase Price by wire transfer in accordance with the Company's instructions.

2. **Representations and Warranties of the Company.** Except (i) as set forth in the disclosure schedule delivered to the Purchaser concurrently with the execution of this Agreement (the "**Disclosure Schedules**") or (ii) as expressly disclosed in the SEC Reports (as defined below) (but excluding any disclosures contained under the heading "Risk Factors" and any disclosure of risks included in any "forward-looking statements" disclaimer or in any other section of the SEC Reports to the extent they are risk factors, forward-looking statements or cautionary,

predictive or forward-looking in nature), the Company hereby represents and warrants to the Purchaser, as of the Closing, the following:

(a) **Organization and Qualification.** The Company and each of its subsidiaries is a corporation or other business entity duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, and has the requisite corporate power to own its properties and to carry on its business as now being conducted. The Company and each of its subsidiaries is duly qualified as a foreign corporation to do business and is in good standing in every jurisdiction in which the nature of the business conducted by it makes such qualification necessary, except to the extent that the failure to be so qualified or be in good standing would not have, or reasonably be expected to have, any material adverse effect on (i) the business, properties, assets, liabilities, operations or financial condition of the Company and its subsidiaries taken as a whole, (ii) the transactions and agreements, including this Agreement, the Registration Rights Agreement (as defined below), and the Warrant, contemplated by this Agreement or the Registration Rights Agreement (collectively, the “**Transaction Documents**”) or (iii) the authority or ability of the Company to perform its obligations under the Transaction Documents (in each case, a “**Material Adverse Effect**”). For purposes of this Agreement, none of the following, either alone or in combination, will constitute, or be considered in determining whether there has been, a Material Adverse Effect for purposes of clause (i) of the definition thereof: any event, change, circumstance, effect or other matter resulting from or related to (1) any outbreak or escalation of war or major hostilities or any act of terrorism, (2) changes in laws, U.S. Generally Accepted Accounting Principles (“**GAAP**”) or enforcement or interpretation thereof, (3) changes that generally affect the industries and markets in which the Company operates, or (4) changes in financial markets, general economic conditions (including prevailing interest rates, exchange rates, commodity prices and fuel costs) or political conditions, except, in each case, to the extent such event, change, circumstance, effect or other matter has had, or would be reasonably expected to have, a disproportionate effect on the business, properties, assets, liabilities, operations or financial condition of the Company and its subsidiaries, taken as a whole, compared to other participants in the industries in which the Company operates.

(b) **Authorization, Enforcement, Compliance with Other Instruments.** (i) The Company has the requisite corporate power and authority to enter into and perform its obligations under the Transaction Documents and to issue the Securities, in accordance with the terms hereof and thereof; (ii) the execution and delivery by the Company of each Transaction Document and the consummation by it of the transactions contemplated by the Transaction Documents, including the issuance of the Securities, have been duly authorized by the Company’s Board of Directors, and no further consent or authorization is required by the Company, its Board of Directors or its stockholders; (iii) each Transaction Document has been duly executed and delivered by the Company; and (iv) each Transaction Document, when executed, will constitute the valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except as such enforceability may be limited by general principles of equity or applicable bankruptcy, insolvency, reorganization, moratorium, liquidation or similar laws relating to, or affecting generally, the enforcement of creditors’ rights and remedies and, with respect to any rights to indemnity or contribution contained in the Transaction Documents, as such rights may be limited by state or federal laws or public policy underlying such laws.

(c) **Capitalization; Anti-Dilution.** The authorized capital stock of the Company consists of 750,000,000 shares of Common Stock and 5,000,000 shares of preferred stock, par value \$0.0001 per share (the “**Preferred Stock**”). As of November 30, 2021, the Company had 51,393,770 shares of Common Stock and no shares of Preferred Stock issued and outstanding. All of the outstanding shares of Common Stock and of the capital stock of each of the Company’s subsidiaries have been duly authorized, validly issued and are fully paid and nonassessable. No shares of capital stock of the Company or any of its subsidiaries are subject to preemptive rights or any other similar rights or any liens or encumbrances suffered or permitted by the Company. There are no outstanding options, warrants, scrip, rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities or rights convertible into, any shares of capital stock of the Company or any of its subsidiaries, or contracts, commitments, understandings or arrangements by which the Company or any of its subsidiaries is or may become bound to issue additional shares of capital stock of the Company or any of its subsidiaries. There are no outstanding debt securities of the Company or any of its subsidiaries. Other than pursuant to the Registration Rights Agreement or as set forth in Section 2(c) of the Disclosure Schedules, there are no agreements or arrangements under which the Company or any of its subsidiaries is obligated to register the sale of any of their securities under the Securities Act. There are no registration statements that have been filed with the SEC but are not yet effective relating to securities of the Company, and there are no outstanding comment letters from the SEC or any other regulatory agency. There are no securities or instruments of the Company or any of its subsidiaries containing anti-dilution or similar provisions, including the right to adjust the exercise, exchange or reset price under such securities, that will be triggered by the issuance of the Securities as described in this

Agreement that have not been or will not be validly waived on or prior to the Closing. No co-sale right, right of first refusal or other similar right exists with respect to the Securities or the issuance and sale thereof.

(d) Issuance of Shares. The Shares that are being issued to the Purchaser hereunder, when issued, sold and delivered in accordance with the terms and for the consideration set forth in this Agreement, will be duly and validly issued, fully paid and nonassessable, and free of restrictions on transfer other than restrictions on transfer under the Transaction Documents, applicable state and federal securities laws and liens or encumbrances created by or imposed by the Purchaser.

(e) No Conflicts. The execution, delivery and performance of each Transaction Document by the Company, and the consummation by the Company of the transactions contemplated by the Transaction Documents, including the issuance and sale of the Securities in accordance with this Agreement, will not (i) result in a violation of the Certificate of Incorporation or the Bylaws of the Company, (ii) violate or conflict with, or result in a breach of any provision of, or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation of, any agreement, indenture, credit agreement or instrument to which the Company or any subsidiary is a party, except for those which would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, or (iii) result in a violation of any law, rule, regulation, order, judgment or decree (including U.S. federal and state securities laws and regulations) applicable to the Company or any subsidiary or by which any property or asset of the Company or any subsidiary is bound or affected, except for those which would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect. Neither the Company nor any subsidiary is in violation of or in default under, any provision of its constitutive documents. Neither the Company nor any subsidiary is in violation of any term of or in default under any contract, agreement, mortgage, indebtedness, indenture, instrument, judgment, decree or order or any statute, rule or regulation applicable to the Company or any subsidiary, except for any such violation or default that has not had or would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect. Except as specifically contemplated by this Agreement and as required under the Securities Act and any applicable state securities laws, the Company is not required to obtain any consent, authorization or order of, or make any filing or registration with, any court or governmental agency in order for it to execute, deliver or perform any of its obligations under or contemplated by the Transaction Documents in accordance with the terms thereof other than (i) the filing of the registration statement contemplated by the Registration Rights Agreement, and (ii) the filing of a Notice of Exempt Offering of Securities on Form D with the SEC under Regulation D. Neither the execution and delivery by the Company of the Transaction Documents, nor the consummation by the Company of the transactions contemplated hereby or thereby, will require any notice, consent or waiver under any contract or instrument to which the Company is a party or by which the Company is bound or to which its assets are subject, except for any notice, consent or waiver the absence of which would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect. All consents, authorizations, orders, filings and registrations which the Company is required to obtain pursuant to the preceding two sentences have been or will be obtained or effected on or prior to the Closing.

(f) Absence of Litigation. There is no action, suit, claim, inquiry, notice of violation, proceeding (including any partial proceeding such as a deposition) or investigation before or by any court, public board, governmental or administrative agency, self-regulatory organization, arbitrator, regulatory authority, stock market, stock exchange or trading facility (an "Action") now pending or, to the knowledge of the Company, threatened against or affecting the Company or any of its subsidiaries or any of their respective officers or directors, which would be reasonably likely to have, individually or in the aggregate, a Material Adverse Effect. For the purpose of this Agreement, the knowledge of the Company means the knowledge of the executive officers of the Company (both actual or knowledge that they would have had upon reasonable inquiry of their direct reports responsible for the applicable subject matter). Neither the Company nor any of its subsidiaries is subject to any judgment, decree, or order which has had, or would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(g) Acknowledgment Regarding Purchaser's Purchase of the Securities. The Company acknowledges and agrees that the Purchaser is acting solely in the capacity of an arm's length purchaser with respect to the Transaction Documents and the transactions contemplated thereby. The Company further acknowledges that the Purchaser is not acting as a financial advisor or fiduciary of the Company (or in any similar capacity) with respect to the Transaction Documents and the transactions contemplated thereby and any advice given by the Purchaser or any of their respective representatives or agents in connection with the Transaction Documents and the transactions contemplated thereby is merely incidental to the Purchaser's purchase of the Securities.

(h) No General Solicitation. Neither the Company, nor any of its Affiliates (as defined below), nor, to the knowledge of the Company, any person acting on its or their behalf, has engaged in any form of general solicitation or general advertising (within the meaning of Regulation D) in connection with the offer or sale of the Securities. “Affiliate” means, with respect to any person, any other person that, directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with such person, as such terms are used in and construed under Rule 144 under the Securities Act (“Rule 144”). Any investment fund or managed account that is managed on a discretionary basis by the same investment manager as the Purchaser will be deemed to be an Affiliate of the Purchaser.

(i) No Integrated Offering. Neither the Company, nor any of its Affiliates, nor to the knowledge of the Company, 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, other than the transactions contemplated hereby, under circumstances that would require registration of the Securities under the Securities Act or cause the offering of the Securities to be integrated with prior offerings by the Company for purposes of the Securities Act.

(j) Employee Relations. Neither the Company nor any subsidiary is involved in any labor dispute nor, to the knowledge of the Company, is any such dispute threatened. Neither the Company nor any subsidiary is party to any collective bargaining agreement. The Company’s and/or its subsidiaries’ employees are not members of any union, and the Company believes that its and its subsidiaries’ relationship with their respective employees is good.

(k) Intellectual Property Rights. The Company and each of its subsidiaries owns, possesses, or has rights to use, all Intellectual Property (as defined below) necessary for the conduct of the Company’s and its subsidiaries’ business as now conducted and disclosed to be owned, possessed or used by the Company or its subsidiaries in the SEC Reports, except for such failure to own, possess or have such rights that would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, and, there are no unreleased liens or security interests which have been filed, or which the Company has received notice of, against any of the patents owned by the Company. Furthermore, (A) there is no infringement, misappropriation or violation by third parties of any such Intellectual Property, except as such infringement, misappropriation or violation would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect; (B) there is no pending or, to the Company’s knowledge, threatened, Action by others challenging the Company’s or any of its subsidiaries’ rights in or to any such Intellectual Property, except for such failure to own, possess or have such rights that would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect; (C) the Intellectual Property owned by the Company and its subsidiaries, and to the Company’s knowledge, the Intellectual Property licensed to the Company and its subsidiaries, has not been adjudged invalid or unenforceable, in whole or in part, and there is no pending or, to the Company’s knowledge, threatened Action by others challenging the validity, enforceability or scope of any such Intellectual Property; (D) there is no pending or, to the Company’s knowledge, threatened Action by others that the Company or any of its subsidiaries infringes, misappropriates or otherwise violates any Intellectual Property or other proprietary rights of others, neither the Company nor any of its subsidiaries has received any written notice of such Action; and (E) to the Company’s knowledge, no employee of the Company or any of its subsidiaries is in violation of any term of any employment contract, patent disclosure agreement, invention assignment agreement, non-competition agreement, non-solicitation agreement, nondisclosure agreement or any restrictive covenant to or with a former employer where the basis of such violation relates to such employee’s employment with the Company or any of its subsidiaries or actions undertaken by the employee while employed with the Company or any of its subsidiaries, except such violation as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect. Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, (1) the Company and its subsidiaries have disclosed to the U.S. Patent and Trademark Office (“USPTO”) all information known to the Company to be relevant to the patentability of its inventions in accordance with 37 C.F.R. Section 1.56, and (2) neither the Company nor any of its subsidiaries made any misrepresentation or concealed any information from the USPTO in any of the patents or patent applications owned or licensed to the Company, or in connection with the prosecution thereof, in violation of 37 C.F.R. Section 1.56. Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, (x) there are no facts that are reasonably likely to provide a basis for a finding that the Company or any of its subsidiaries does not have clear title to the patents or patent applications purportedly owned or licensed to the Company or other proprietary information rights as purportedly owned by the Company or any of its subsidiaries and (y) no valid issued U.S. patent would be infringed by the activities of the Company or any of its subsidiaries relating to products currently or proposed to be manufactured, used or sold by the Company or any of its subsidiaries. “Intellectual Property” shall mean all patents, patent applications, trade and service marks, trade and service mark registrations, trade names, copyrights, licenses, inventions, trade secrets, domain names, technology and know-how.

(l) Environmental Laws. The Company and each subsidiary have complied with all applicable Environmental Laws (as defined below), except for violations of Environmental Laws that, individually or in the aggregate, have not had and would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect. There is no pending or, to the knowledge of the Company, threatened civil or criminal litigation, written notice of violation, formal administrative proceeding, or investigation, inquiry or information request, relating to any Environmental Law involving the Company or any subsidiary, except for litigation, notices of violations, formal administrative proceedings or investigations, inquiries or information requests that, individually or in the aggregate, have not had and would not reasonably be expected individually or in the aggregate, to have a Material Adverse Effect. For purposes of this Agreement, “**Environmental Law**” means any national, state, provincial or local law, statute, rule or regulation or the common law relating to the environment or occupational health and safety, including any statute, regulation, administrative decision or order pertaining to (i) treatment, storage, disposal, generation and transportation of industrial, toxic or hazardous materials or substances or solid or hazardous waste; (ii) air, water and noise pollution; (iii) groundwater and soil contamination; (iv) the release or threatened release into the environment of industrial, toxic or hazardous materials or substances, or solid or hazardous waste, including emissions, discharges, injections, spills, escapes or dumping of pollutants, contaminants or chemicals; (v) the protection of wild life, marine life and wetlands, including all endangered and threatened species; (vi) storage tanks, vessels, containers, abandoned or discarded barrels, and other closed receptacles; (vii) health and safety of employees and other persons; and (viii) manufacturing, processing, using, distributing, treating, storing, disposing, transporting or handling of materials regulated under any law as pollutants, contaminants, toxic or hazardous materials or substances or oil or petroleum products or solid or hazardous waste. As used above, the terms “release” and “environment” shall have the meaning set forth in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended. To the knowledge of the Company, there is no material environmental liability with respect to any solid or hazardous waste transporter or treatment, storage or disposal facility that has been used by the Company or any subsidiary.

(m) Authorizations; Regulatory Compliance. The Company and each of its subsidiaries holds, and is operating in compliance with, all material authorizations, licenses, permits, approvals, clearances, registrations, exemptions, consents, certificates and orders of any federal, state, local or foreign governmental or regulatory authority (each, a “**Governmental Authority**”) and supplements and amendments thereto (collectively, “**Authorizations**”) required for the conduct of its business as currently conducted in all applicable jurisdictions and all such Authorizations are valid and in full force and effect. Neither the Company nor any of its subsidiaries is in material violation of any terms of any such Authorizations. Neither the Company nor any of its subsidiaries has received written notice of any revocation or modification of any such Authorization, or written notice that such revocation or modification is being considered. Neither the Company nor any of its subsidiaries has received written notice of any ongoing claim, action, suit, proceeding, hearing, enforcement, investigation, arbitration or other action from any Governmental Authority or third party alleging that any product operation or activity is in material violation of any Authorizations. Neither the Company nor any of its subsidiaries is a party to any corporate integrity agreement, deferred prosecution agreement, monitoring agreement, consent decree, settlement order, or similar agreements, or has any reporting obligations pursuant to any such agreement, plan or correction or other remedial measure entered into with any Governmental Authority.

(n) Title. Neither the Company nor any of its subsidiaries owns any real property. Each of the Company and its subsidiaries has good and marketable title to all of its personal property and assets (i) purportedly owned or used by them as reflected in the SEC Reports, as of their respective dates, or (ii) necessary for the conduct of their business as currently conducted, free and clear of any restriction, mortgage, deed of trust, pledge, lien, security interest or other charge, claim or encumbrance, except for such restriction, mortgage, deed of trust, pledge, lien, security interest or other charge, claim or encumbrance that would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect. With respect to properties and assets it leases, each of the Company and its subsidiaries is in compliance with such leases and holds a valid leasehold interest free of any liens, claims or encumbrances, except for such liens, claims or encumbrances which would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

(o) Tax Status. The Company and each subsidiary has (i) made and filed (taking into account any valid extensions) all federal and state and other jurisdictions income and other material tax returns, reports and declarations required to be filed, (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, except those being contested in good faith and (iii) has set aside on its books provision reasonably adequate for the payment of all taxes that are material in amount for periods subsequent to the periods to which such returns, reports or declarations apply. To the knowledge of the Company, there are no unpaid taxes in any material amount claimed to be due from the

Company or any subsidiary by the taxing authority of any jurisdiction, and the officers of the Company know of no basis for any such claim.

(p) Certain Transactions. None of the officers, directors and, to the Company's knowledge, 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, or otherwise requiring payments to or from any officer, director or such employee or, to the knowledge of the Company, any corporation, partnership, trust or other entity in which any officer, director, or any such employee has a substantial interest or is an officer, director, trustee 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 stock option and restricted stock agreements under any equity compensation plan of the Company.

(q) Rights of First Refusal. The Company is not obligated to offer the Securities offered hereunder on a right of first refusal basis or otherwise to any third parties including, but not limited to, current or former stockholders of the Company, underwriters, brokers, agents, customers, partners or other third parties.

(r) Insurance. The Company and its subsidiaries have insurance policies of the type and in amounts customarily carried by organizations conducting businesses or owning assets similar to those of the Company and its subsidiaries. There is no material claim pending under any such policy as to which coverage has been questioned, denied or disputed by the underwriter of such policy.

(s) SEC Reports. The Company has filed or furnished, as applicable, all reports, proxy statements, schedules, forms, statements, certifications and other documents (including exhibits and all other information incorporated by reference therein) required to be filed by the Company under the Securities Exchange Act of 1934, as amended (the "Exchange Act," and such reports, proxy statements, schedules, forms, statements, certifications and other documents, the "SEC Reports"), for the two (2) years preceding the date hereof (or such shorter period since the Company was first required by law or regulation to file such material).

(t) Material Changes. Except for the transactions contemplated hereby, since the date of the latest balance sheet of the Company included in the financial statements contained within the SEC Reports, (i) there have been no events, changes, occurrences or developments that have had or would reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect with respect to the Company, (ii) neither the Company nor any subsidiary has incurred any material liabilities (contingent or otherwise) other than (A) trade payables, accrued expenses and other liabilities incurred in the ordinary course of business consistent with past practice and (B) liabilities not required to be reflected in the financial statements of the Company pursuant to GAAP or to be disclosed in the SEC Reports, (iii) neither the Company nor any subsidiary has materially altered its method of accounting or the manner in which it keeps its accounting books and records, and (iv) neither the Company nor any subsidiary has 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 (other than in connection with repurchases of unvested stock issued to employees of the Company).

(u) Foreign Corrupt Practices. Neither the Company and its subsidiaries, nor to the Company's knowledge, any agent or other person acting on behalf of the Company or its subsidiaries, 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 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, or any other anti-corruption or similar law of any non-U.S. country or jurisdiction.

(v) Office of Foreign Assets Control. Neither the Company nor any subsidiary nor, to the Company's knowledge, any director, officer, agent, employee or affiliate 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.

(w) Money Laundering. The operations of the Company and its subsidiaries are and have been conducted at all times in compliance 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 by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any subsidiary with respect to the Money Laundering Laws is pending or, to the knowledge of the Company or any subsidiary, threatened.

(x) **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 the Common Stock, (ii) sold, bid for, purchased, or paid any compensation for soliciting purchases of, the Common Stock, 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), as set forth in Section 2(x) of the Disclosure Schedules.

(y) **Brokers’ Fees.** Except as set forth in Section 2(y) of the Disclosure Schedules, neither the Company nor any of its subsidiaries has any liability or obligation to pay any fees or commissions to any broker, finder or agent with respect to the transactions contemplated by this Agreement.

(z) **Disclosure Materials.** The SEC Reports and any other information document delivered to the Purchaser prior to the Purchaser’s execution of this Agreement taken as a whole do not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein (in the case of the SEC Reports) or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(aa) **Private Placement.** Assuming the accuracy of the Purchaser’s representations and warranties set forth in Section 3, no registration under the Securities Act is required for the offer and sale of the Securities by the Company to the Purchaser as contemplated hereby.

(bb) **Reliance.** The Company acknowledges that the Purchaser is relying on the representations and warranties (as modified by the Disclosure Schedules or the SEC Reports (but excluding any disclosures contained under the heading “Risk Factors” and any disclosure of risks included in any “forward looking statements” or in any other section of the SEC Reports to the extent they are risk factors, forward-looking statements or cautionary, predictive or forward-looking in nature)) made by the Company hereunder and that such representations and warranties (as modified by the Disclosure Schedules or the SEC Reports (but excluding any disclosures contained under the heading “Risk Factors” and any disclosure of risks included in any “forward looking statements” or in any other section of the SEC Reports to the extent they are risk factors, forward-looking statements or cautionary, predictive or forward-looking in nature)) are a material inducement to the Purchaser purchasing the Securities. The Company further acknowledges that without such representations and warranties of the Company made hereunder, the Purchaser would not enter into this Agreement with the Company.

(cc) **Bad Actor Disqualification.** No “bad actor” disqualifying event described in Rule 506(d)(1)(i)-(viii) of the Securities Act (a “**Disqualification Event**”) is applicable to the Company or, to the Company’s knowledge, any Company Covered Person, except for a Disqualification Event as to which Rule 506(d)(2)(ii-iv) or (d)(3), is applicable. “**Company Covered Person**” means, with respect to the Company as an “issuer” for purposes of Rule 506 promulgated under the Securities Act, any person listed in the first paragraph of Rule 506(d)(1).

3. Representations, Warranties and Agreements of the Purchaser. The Purchaser represents and warrants to, and agrees with, the Company, as of the Closing, the following:

(a) The Purchaser has the knowledge and experience in financial and business matters necessary to evaluate the merits and risks of its prospective investment in the Company, and has carefully reviewed and understands the risks of, and other considerations relating to, the purchase of the Securities and the tax consequences of the investment. The Purchaser has adequate means of providing for its current and anticipated financial needs and contingencies, and is able to bear the economic risks of the investment for an indefinite period of time and has no need for liquidity of the investment in the Securities. The Purchaser can afford the loss of its entire investment.

(b) The Purchaser is acquiring the Securities for investment for its own account and not with the view to, or for resale in connection with, any distribution thereof. The Purchaser understands and acknowledges that the offering and sale of the Securities have not been registered under the Securities Act or any state securities laws, by reason of a specific exemption from the registration provisions of the Securities Act and applicable state securities laws, which depends upon, among other things, the bona fide nature of the investment intent as expressed herein. The Purchaser further represents that it does not have any contract, undertaking, agreement or arrangement with any

person to sell, transfer or grant participation to any third person with respect to any of the Securities, other than with respect to an Affiliate of the Purchaser. The Purchaser is an “accredited investor” as defined in Rule 501 of Regulation D as promulgated by the SEC under the Securities Act, and the Purchaser shall submit to the Company such further assurances of such status as may be reasonably requested by the Company. The Purchaser has not taken any of the actions set forth in, and is not subject to, the disqualification provisions of Rule 506(d)(1) of the Securities Act.

(c) The Purchaser represents that (i) it was not formed for the specific purpose of acquiring the Securities, (ii) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, (iii) the consummation of the transactions contemplated hereby is authorized by, and will not result in a violation of applicable law or its charter or other organizational documents, (iv) it has full power and authority to execute and deliver each Transaction Document and to carry out the provisions thereof and to purchase and hold the Securities, (v) the execution and delivery of each Transaction Document by the Purchaser has been duly authorized by all necessary action, and (vi) each Transaction Document has been duly executed and delivered on behalf of the Purchaser and is a legal, valid and binding obligation of the Purchaser. The execution and delivery of each Transaction Document by the Purchaser does not violate or conflict with any order, judgment, injunction, agreement or controlling document to which the Purchaser is a party or by which it is bound.

(d) The Purchaser understands that the Securities are being offered and sold to it in reliance on specific exemptions from the registration requirements of United States federal and state securities laws and that the Company is relying in part upon the truth and accuracy of, and the Purchaser’s compliance with, the representations, warranties, agreements, acknowledgments and understandings of the Purchaser set forth herein in order to determine the availability of such exemptions and the eligibility of the Purchaser to acquire such securities. The Purchaser further acknowledges and understands that the Company is relying on the representations and warranties made by the Purchaser hereunder and that such representations and warranties are a material inducement to the Company to sell the Securities to the Purchaser. The Purchaser further acknowledges that without such representations and warranties of the Purchaser made hereunder, the Company would not enter into the Transaction Documents with the Purchaser.

(e) The Purchaser understands that, other than as provided in the Registration Rights Agreement, the Company does not currently intend to register the Securities under the Securities Act at any time in the future; and the undersigned will not immediately be entitled to the benefits of Rule 144 with respect to the Securities. The Purchaser understands that there can be no assurance that any public market for the Common Stock will exist or continue to exist. The Company makes no representation or warranty with respect to the continued quotation of the Common Stock on the OTC Markets QX tier or listing on any other market or exchange.

(f) The Purchaser has received, reviewed and understood the information about the Company provided to it by the Company and has had an opportunity to discuss the Company’s business, management and financial affairs with the Company’s management. The Purchaser understands that such discussions, as well as any information provided by the Company, were intended to describe the aspects of the Company’s business and prospects which the Company believes to be material, but were not necessarily a thorough or exhaustive description, and except as expressly set forth in this Agreement, the Company makes no representation or warranty with respect to the completeness of such information and makes no representation or warranty of any kind with respect to any information provided by anyone other than the Company. Some of such information may include projections as to the future performance of the Company, which projections may not be realized, may be based on assumptions which may not be correct and may be subject to numerous factors beyond the Company’s control. The Purchaser acknowledges that it is not relying upon any person or entity, other than the Company and its officers and directors, in making its investment or decision to invest in the Company. Additionally, the Purchaser understands and represents that he, she or it is purchasing the Securities notwithstanding the fact that the Company may disclose in the future certain material information the Purchaser has not received, including financial statements of the Company for the current or prior fiscal periods, and any subsequent period financial statements that will be filed with the SEC, that it is not relying on any such information in connection with its purchase of the Securities and that it waives any right of action with respect to the nondisclosure to it prior to its purchase of the Securities of any such information, in each case, without waiving or otherwise limiting any right or claim the Purchaser may have hereunder. The Purchaser has sought such accounting, legal and tax advice as the Purchaser has considered necessary to make an informed investment decision with respect to its acquisition of the Securities.

(g) The Purchaser acknowledges that the Company is not acting as a financial advisor or fiduciary of the Purchaser (or in any similar capacity) with respect to the Transaction Documents and the transactions contemplated thereby, and no investment advice has been given by the Company or any of its representatives or

agents in connection with the Transaction Documents and the transactions contemplated thereby. The Purchaser further represents to the Company that the Purchaser's decision to enter into each Transaction Document has been based solely on the independent evaluation by the Purchaser and the Purchaser's representatives and the representations and warranties made by the Company in Section 2 hereof.

(h) As of the Closing, all actions on the part of Purchaser, and its officers, directors and partners, if applicable, necessary for the authorization, execution and delivery of each Transaction Document and the performance of all obligations of the Purchaser thereunder shall have been taken, and each Transaction Document, assuming due execution by the parties thereto, constitutes a valid and legally binding obligation of the Purchaser, enforceable in accordance with its terms, subject to: (i) judicial principles limiting the availability of specific performance, injunctive relief, and other equitable remedies and (ii) bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect generally relating to or affecting creditors' rights.

(i) Neither the Purchaser nor, to its knowledge, any person or entity controlled by the Purchaser: (i) is a person listed in the Annex to Executive Order No. 13224 (2001) issued by the President of the United States (Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism); (ii) is named on the List of Specially Designated Nationals and Blocked Persons maintained by the U.S. Office of Foreign Assets Control; (iii) is a non-U.S. shell bank or is providing banking services indirectly to a non-U.S. shell bank; (iv) is a senior non-U.S. political figure or an immediate family member or close associate of such figure; or (v) is otherwise prohibited from investing in the Company pursuant to applicable U.S. anti-money laundering, anti-terrorist and asset control laws, regulations, rules or orders (categories (i) through (v), each a "**Prohibited Purchaser**"). The Purchaser (i) agrees to provide the Company, promptly upon request, all information that the Company reasonably deems necessary or appropriate to comply with applicable U.S. anti-money laundering, anti-terrorist and asset control laws, regulations, rules and orders and (ii) consents to the disclosure to U.S. regulators and law enforcement authorities by the Company and its Affiliates and agents of such information about the Purchaser as the Company reasonably deems necessary or appropriate to comply with applicable U.S. anti-money laundering, anti-terrorist and asset control laws, regulations, rules and orders. If the Purchaser is a financial institution that is subject to the USA Patriot Act, the Purchaser represents that it has met all of its obligations under the USA Patriot Act. The Purchaser acknowledges that if, following its investment in the Company, the Company reasonably determines that the Purchaser is a Prohibited Purchaser, the Company has the right or may be obligated to prohibit additional investments and segregate the assets constituting the investment in accordance with applicable regulations. The Purchaser further acknowledges that neither the Purchaser nor any of the Purchaser's Affiliates or agents will have any claim against the Company for any form of damages as a result of any of the foregoing actions.

(j) If the Purchaser is an Affiliate of a non-U.S. banking institution (a "**Foreign Bank**"), or if the Purchaser receives deposits from, makes payments on behalf of, or handles other financial transactions related to a Foreign Bank, the Purchaser represents and warrants to the Company that: (1) the Foreign Bank has a fixed address, other than solely an electronic address, in a country in which the Foreign Bank is authorized to conduct banking activities; (2) the Foreign Bank maintains operating records related to its banking activities; (3) the Foreign Bank is subject to inspection by the banking authority that licensed the Foreign Bank to conduct banking activities; and (4) the Foreign Bank does not provide banking services to any other Foreign Bank that does not have a physical presence in any country and that is not a regulated Affiliate.

(k) The Purchaser or its duly authorized representative realizes that because of the inherently speculative nature of businesses of the kind conducted and contemplated by the Company, the Company's future financial results may be expected to fluctuate from month to month and from period to period and will, generally, involve a high degree of financial and market risk that could result in substantial or, at times, even total losses for investors in securities of the Company. The Purchaser has carefully read the risk factors and other information (including the financial statements of the Company) included in the SEC Reports. The Purchaser has carefully considered such risk factors before deciding to invest in the Securities.

(l) The Purchaser is not subscribing for the Securities as a result of or subsequent to any advertisement, article, notice or other communication, published in any newspaper, magazine or similar media or broadcast over television, radio, or the internet, or presented at any seminar or meeting, or any solicitation of a subscription by a person not previously known to the Purchaser in connection with investments in securities generally.

(m) The Purchaser acknowledges that no U.S. federal or state agency or any other government or governmental agency has passed upon the Securities or made any finding or determination as to the fairness, suitability or wisdom of any investments therein.

(n) Other than consummating the transactions contemplated hereunder, the Purchaser has not directly or indirectly, nor has any individual or entity acting on behalf of or pursuant to any understanding with the Purchaser, executed any purchases or sales, including Short Sales (as defined below), of the securities of the Company during the period commencing at the time Purchaser was first contacted by the Company or any other individual or entity representing the Company regarding the transactions contemplated hereunder. Notwithstanding the foregoing, in the case of a Purchaser that is a multi-managed investment vehicle whereby separate portfolio managers manage separate portions of such Purchaser's assets and the portfolio managers do not communicate or share information with, and have no direct knowledge of the investment decisions made by, the portfolio managers managing other portions of such Purchaser's assets, the representation set forth above shall only apply with respect to the portion of assets managed by, the portfolio manager that made the investment decision to purchase the Securities covered by this Agreement. The Purchaser has maintained the confidentiality of all disclosures made to it in connection with this transaction (including the existence and terms of this transaction). Notwithstanding the foregoing, for avoidance of doubt, nothing contained herein shall constitute a representation or warranty, or preclude any actions, with respect to the identification of the availability of, or securing of, available shares to borrow in order to effect Short Sales or similar transactions in the future. For purposes of this Agreement, "**Short Sales**" means all "short sales" as defined in Rule 200 of Regulation SHO under the Exchange Act (but shall not be deemed to include the location and/or reservation of borrowable shares of Common Stock).

(o) The Purchaser is aware that the anti-manipulation rules of Regulation M under the Exchange Act may apply to sales of the Shares and other activities with respect to the Shares by the Purchaser, and will comply with such anti-manipulation rules of Regulation M.

(p) All of the information concerning the Purchaser set forth herein, and any other information furnished by the Purchaser in writing to the Company for use in connection with the transactions contemplated by this Agreement, is true, correct and complete in all material respects as of the date of this Agreement, and, if there should be any material change in such information prior to the Purchaser's purchase of the Securities, the Purchaser will promptly furnish revised or corrected information to the Company.

(q) The Purchaser has reviewed with its own tax advisors the U.S. federal, state, local and foreign tax consequences of this investment and the transactions contemplated by the Transaction Documents. With respect to such matters, the Purchaser relies solely on such advisors and not on any statements or representations of the Company or any of its agents, written or oral. The Purchaser understands that it (and not the Company) shall be responsible for its own tax liability that may arise as a result of this investment or the transactions contemplated by the Transaction Documents.

(r) If the Purchaser is not a United States person (as defined by Section 7701(a)(30) of the Internal Revenue Code of 1986, as amended), the Purchaser hereby represents that it has satisfied itself as to the full observance of the laws of its jurisdiction in connection with any invitation to subscribe for the Securities or any use of this Agreement, including (i) the legal requirements within its jurisdiction for the purchase of the Securities; (ii) any foreign exchange restrictions applicable to such purchase; (iii) any governmental or other consents that may need to be obtained; and (iv) the income tax and other tax consequences, if any, that may be relevant to the purchase, holding, redemption, sale or transfer of the Securities. The Purchaser's subscription and payment for and continued beneficial ownership of the Securities will not violate any applicable securities or other laws of the Purchaser's jurisdiction.

(s) The Purchaser is not and is not controlled by a "foreign person" for purposes of Section 721 of the Defense Production Act of 1950 (as amended) or the rules or regulations promulgated thereunder (including 31 C.F.R. Part 800 and 31 C.F.R. part 801); provided, however, that if the Purchaser is a "foreign person" for such purposes, the Purchaser agrees that it will not (i) obtain any control rights over the Company, including the ability to determine, direct, or decide important matters affecting the Company; (ii) have access to any material nonpublic technical information in the possession of the company; (iii) obtain membership or observer rights on the Company's Board of Directors or the right to nominate an individual to a position on the Company's Board of Directors; or (iv) have any involvement, other than through voting of shares, in substantive decision making of the Company regarding the use, development, acquisition or release of the Company's technology.

(t) Neither the Purchaser nor, to the knowledge of the Purchaser, any of its directors, executive officers, other officers that may serve as a director or officer of any company in which it invests, general partners or managing members is subject to any Disqualification Events, except for Disqualification Events covered by Rule 506(d)(2)(ii) or (iii) under the Securities Act, and disclosed reasonably in advance of the Closing in writing in reasonable detail to the Company.

(u) The Purchaser understands that there are substantial restrictions on the transferability of the Securities and that the certificates or book-entry positions representing the Securities shall bear a restrictive legend in substantially the following form (and a stop-transfer order may be placed against transfer of such certificates or other instruments):

THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR ANY STATE SECURITIES LAWS, AND NEITHER SUCH SECURITIES NOR ANY INTEREST THEREIN MAY BE OFFERED, SOLD, PLEDGED, ASSIGNED OR OTHERWISE TRANSFERRED UNLESS (1) A REGISTRATION STATEMENT WITH RESPECT THERETO IS EFFECTIVE UNDER THE SECURITIES ACT AND ANY APPLICABLE STATE SECURITIES LAWS, OR (2) AN EXEMPTION FROM SUCH REGISTRATION EXISTS AND THE COMPANY RECEIVES AN OPINION OF COUNSEL, WHICH COUNSEL AND OPINION ARE REASONABLY SATISFACTORY TO THE COMPANY, THAT SUCH SECURITIES MAY BE OFFERED, SOLD, PLEDGED, ASSIGNED OR TRANSFERRED IN THE MANNER CONTEMPLATED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR APPLICABLE STATE SECURITIES LAWS OR (3) SOLD PURSUANT TO RULE 144 UNDER THE SECURITIES ACT.

In addition, if the Purchaser is an Affiliate of the Company, certificates or book-entry positions evidencing the Securities issued to the Purchaser may bear a customary "Affiliates" legend.

The Company shall be obligated to promptly reissue unlegended certificates upon the request of any holder thereof (x) at such time as the holding period under Rule 144 or another applicable exemption from the registration requirements of the Securities Act has been satisfied or (y) at such time as a registration statement is available for the transfer of the Securities (provided that the Purchaser agrees to only sell such Securities during such time that such registration statement is effective and such Purchaser is not aware or has not been notified by the Company that such registration statement has been withdrawn or suspended, and only as permitted by such registration statement). In connection with a request from any holder requesting unlegended certificates under clause (x) of the foregoing sentence, the Company will at its cost and expense provide an opinion of its counsel or accept the opinion of other counsel reasonably acceptable to the Company to the effect that the securities proposed to be disposed of may lawfully be so disposed of without registration, qualification or legend.

(v) **The Purchaser understands that until February 12, 2020, the Company was a "shell company" as defined in Rule 12b-2 under the Exchange Act. Pursuant to Rule 144(i), securities issued by a current or former shell company that otherwise meet the holding period and other requirements of Rule 144 nevertheless cannot be sold in reliance on Rule 144 until one year after the Company (a) is no longer a shell company; and (b) has filed current "Form 10 information" (as defined in Rule 144(i)) with the SEC reflecting that it is no longer a shell company, and provided that at the time of a proposed sale pursuant to Rule 144, the Company is subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act and has filed all reports and other materials required to be filed by Section 13 or 15(d) of the Exchange Act, as applicable, during the preceding 12 months (or for such shorter period that the issuer was required to file such reports and materials), other than Form 8-K reports. As a result, the restrictive legends on certificates or book-entry positions for the Shares cannot be removed except in connection with an actual sale meeting the foregoing requirements or pursuant to an effective registration statement.**

4. **Conditions to Company's Obligations at the Closing.** The Company's obligation to complete the sale and issuance of the Securities and deliver the Securities to the Purchaser at the Closing shall be subject to the following conditions to the extent not waived by the Company:

(a) **Receipt of Payment.** The Company shall have received payment, in accordance with Section 1(b), of the Aggregate Purchase Price.

(b) Representations and Warranties. The representations and warranties made by the Purchaser in Section 3 hereof, shall be true and correct in all respects when made, and shall be true and correct in all respects on the Closing Date with the same force and effect as if they had been made on and as of said date.

(c) Performance. The Purchaser shall have performed in all material respects all obligations and covenants herein required to be performed by it on or prior to the Closing.

(d) Registration Rights Agreement. The Purchaser shall have delivered to the Company that certain Registration Rights Agreement by and between the Company and the Purchaser, to be dated as of the Closing, in substantially the form attached hereto as Exhibit B (the "Registration Rights Agreement"), duly executed by the Purchaser.

(e) Warrant. The Purchaser shall have delivered to the Company the Warrant, duly executed by the Purchaser.

5. Conditions to the Purchaser's Obligations at the Closing. The Purchaser's obligation to accept delivery of the Securities and to pay for the Securities at the Closing shall be subject to the following conditions to the extent not waived by the Purchaser at the Closing:

(a) Representations and Warranties. The representations and warranties made by the Company in Section 2 hereof (as modified by the Disclosure Schedules delivered in connection with the Closing or the SEC Reports (but excluding any disclosures contained under the heading "Risk Factors" and any disclosure of risks included in any "forward looking statements" or in any other section of the SEC Reports to the extent they are risk factors, forward-looking statements or cautionary, predictive or forward-looking in nature)) shall be true and correct in all respects as of, and as if made on, the date of this Agreement and as of the Closing Date (except to the extent any such representation or warranty expressly speaks as of an earlier date, in which case such representation or warranty shall be true and correct in all respects as of such earlier date) except where the failure of such representations and warranties to be so true and correct (without giving effect to any limitations as to "materiality" or "Material Adverse Effect" set forth therein) does not have, and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(b) Performance. The Company shall have performed in all material respects all obligations and covenants herein required to be performed by it on or prior to the Closing.

(c) Registration Rights Agreement. The Company shall have delivered to the Purchaser the Registration Rights Agreement, duly executed by the Company.

(d) Warrant. The Company shall have delivered to the Purchaser the Warrant, duly executed by the Company.

6. Indemnification.

(a) The Company agrees to indemnify and hold harmless the Purchaser, and its directors, officers, stockholders, members, partners, employees and agents (and any other persons with a functionally equivalent role of a person holding such titles notwithstanding a lack of such title or any other title), each person who controls the Purchaser (within the meaning of Section 15 of the Securities Act and Section 20 of the Exchange Act), and the directors, officers, stockholders, agents, members, partners or employees (and any other persons with a functionally equivalent role of a person holding such titles notwithstanding a lack of such title or any other title) of such controlling person (collectively, the "Purchaser Indemnitees"), from and against all losses, liabilities, claims, damages, costs, fees and expenses whatsoever (including any and all expenses incurred in investigating, preparing or defending against any litigation commenced or threatened) based upon or arising out of the Company's breach of any representation, warranty or covenant contained herein; provided, however, that the Company will not be liable in any such case to the extent and only to the extent that any such loss, liability, claim, damage, cost, fee or expense arises out of or is based upon the inaccuracy of any representations made by such indemnified party in this Agreement, or the failure of such indemnified party to comply with the covenants and agreements contained herein. The liability of the Company under this paragraph shall not exceed the total Purchase Price paid by the Purchaser for the Securities hereunder.

(b) Promptly after receipt by an indemnified party under this Section 6 of notice of the commencement of any Action, such indemnified party will, if a claim in respect thereof is to be made against the

indemnifying party under this Section 6, notify the indemnifying party promptly in writing of the commencement thereof; but the omission so to notify the indemnifying party will not relieve it from any liability which it may have to any indemnified party under this Section 6 except to the extent the indemnifying party is actually prejudiced by such omission. In case any such Action is brought against any indemnified party, and it notifies the indemnifying party of the commencement thereof, the indemnifying party will be entitled to participate therein, and to the extent that it may elect by written notice delivered to the indemnified party promptly after receiving the aforesaid notice from such indemnified party, to assume the defense thereof, with counsel satisfactory to such indemnified party; provided, however, if the defendants in any such Action include both the indemnified party and the indemnifying party and either (i) the indemnifying party or parties and the indemnified party or parties mutually agree or (ii) representation of both the indemnifying party or parties and the indemnified party or parties by the same counsel is inappropriate under applicable standards of professional conduct due to actual or potential differing interests between them, the indemnified party or parties shall have the right to select separate counsel to assume such legal defenses and to otherwise participate in the defense of such Action on behalf of such indemnified party or parties. Upon receipt of notice from the indemnifying party to such indemnified party of its election so to assume the defense of such Action and approval by the indemnified party of counsel, the indemnifying party will not be liable to such indemnified party under this Section 6 for any reasonable legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof unless (i) the indemnified party shall have employed counsel in connection with the assumption of legal defenses in accordance with the proviso to the next preceding sentence (it being understood, however, that the indemnifying party shall not be liable for the expenses of more than one separate counsel in such circumstance), (ii) the indemnifying party shall not have employed counsel satisfactory to the indemnified party to represent the indemnified party within a reasonable time after notice of commencement of the Action or (iii) the indemnifying party has authorized the employment of counsel for the indemnified party at the expense of the indemnifying party. No indemnifying party shall (i) without the prior written consent of the indemnified parties (which consent shall not be unreasonably withheld), settle or compromise or consent to the entry of any judgment with respect to any pending or threatened Action in respect of which indemnification or contribution may be sought hereunder (whether or not the indemnified parties are actual or potential parties to such Action) unless such settlement, compromise or consent requires only the payment of money damages by the indemnifying party, does not subject the indemnified party to any continuing obligation or require any admission of criminal or civil responsibility, and includes an unconditional release of each indemnified party from all liability arising out of such Action, or (ii) be liable for any settlement of any such Action effected without its written consent (which consent shall not be unreasonably withheld), but if settled with its written consent or if there be a final judgment of the plaintiff in any such Action, the indemnifying party agrees to indemnify and hold harmless any indemnified party from and against any loss or liability by reason of such settlement or judgment.

(c) The Purchaser acknowledges on behalf of itself and each Purchaser Indemnitee that, other than for actions seeking specific performance of the obligations under this Agreement, the sole and exclusive remedy of the Purchaser and the Purchaser Indemnitees with respect to any and all claims relating to this Agreement shall be pursuant to the indemnification provisions (including the limitations thereof) set forth in this Section 6.

7. Miscellaneous.

(a) Modification. This Agreement shall not be amended, modified or waived except by an instrument in writing signed by the Company and the Purchaser. Any such amendment, modification or waiver shall be binding upon the Purchaser and each transferee of the Securities, each future holder of all such Securities, and the Company.

(b) No Third-Party Beneficiaries. This Agreement is intended for the benefit of the parties hereto and their respective successors and permitted assigns and is not for the benefit of, nor may any provision hereof be enforced by, any other person.

(c) Notices. Any notice, consents, waivers or other communication required or permitted to be given hereunder shall be in writing and will be deemed to have been delivered: (i) upon receipt, when personally delivered; (ii) upon receipt when sent by certified mail, return receipt requested, postage prepaid; (iii) when sent, if by e-mail, (provided that such sent e-mail is kept on file (whether electronically or otherwise) by the sending party and the sending party does not receive an automatically generated message from the recipient's e-mail server that such e-mail could not be delivered to such recipient); or (iv) one (1) Business Day after deposit with a nationally recognized overnight courier service with next day delivery specified, in each case, properly addressed to the party to receive the same. The addresses and email addresses for such communications shall be:

if to the Company, at

Transphorm, Inc.
75 Castilian Drive
Goleta, CA 93117
Attn: Primit Parikh and Cameron McAulay
Email: pparikh@transphormusa.com and cmcaulay@transphormusa.com

with copies (which shall not constitute notice) to:
Wilson Sonsini Goodrich and Rosati P.C.
650 Page Mill Road
Palo Alto, CA 94304
Attn: Erika Muhl
Email: emuhl@wsgr.com

or

if to the Purchaser, at the addresses set forth on the signature page hereto

(or, in either case, to such other address as the party shall have furnished in writing in accordance with the provisions of this Section).

(d) Successors and Assigns. This Agreement, and any and all rights, duties and obligations hereunder, shall not be assigned, transferred, delegated or sublicensed by the Purchaser without the prior written consent of the Company. Any attempt by the Purchaser without such permission to assign, transfer, delegate or sublicense any rights, duties or obligations that arise under this Agreement shall be void. Subject to the foregoing and except as otherwise provided herein, the provisions of this Agreement shall inure to the benefit of, and be binding upon, the successors, assigns, heirs, executors and administrators of the parties hereto.

(e) Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of New York or any other jurisdictions) that would cause the application of the laws of any jurisdictions other than the State of New York.

(f) Venue. Any judicial proceeding brought against either of the parties to this Agreement or any dispute arising out of this Agreement or any matter related hereto shall be brought in the courts of the State of New York, New York County, or in the United States District Court for the Southern District of New York and, by its execution and delivery of this Agreement, each party to this Agreement accepts the jurisdiction of such courts. The foregoing consent to jurisdiction shall not be deemed to confer rights on any person other than the parties to this Agreement.

(g) Form D; Blue Sky Qualification. The Company agrees to timely file a Form D with respect to the Securities and to provide a copy thereof, promptly upon request of the Purchaser. The purchase of the Securities under this Agreement is expressly conditioned upon the exemption from qualification of the offer and sale of the Securities from applicable federal and state securities laws. The Company shall not be required to qualify this transaction under the securities laws of any jurisdiction and, should qualification be necessary, the Company shall be released from any and all obligations to maintain its offer, and may rescind any sale contracted, in the jurisdiction.

(h) Public Disclosure. The Purchaser shall not make or issue any press releases or otherwise make any public statements or make any disclosures to any third person or entity with respect to the transactions contemplated herein without the Company's express prior approval (which may not be unreasonably withheld) except to the extent such disclosure is required by law, request of the staff of the SEC or of any regulatory agency or principal trading market regulations. No later than four (4) Business Days after the date of this Agreement, the Company shall publicly disclose the material terms of this Agreement and the transactions contemplated hereby by issuing a press release and filing a Current Report on Form 8-K with the SEC.

(i) Entire Agreement. The Transaction Documents and any confidentiality agreement between the Purchaser and the Company, constitute the entire agreement between the Purchaser and the Company with respect to the subject matter hereof and supersede all prior oral or written agreements and understandings, if any, relating to the subject matter hereof.

(j) Share Certificates. If the Shares are certificated and any certificate or instrument evidencing any Shares is mutilated, lost, stolen or destroyed, the Company shall issue or cause to be issued in exchange and substitution for and upon cancellation thereof, or in lieu of and substitution therefor, a new certificate or instrument, but only upon receipt of evidence reasonably satisfactory to the Company and the Company's transfer agent of such loss, theft or destruction and the execution by the holder thereof of a customary lost certificate affidavit of that fact and an agreement to indemnify and hold harmless the Company and its transfer agent for any losses in connection therewith or, if required by such transfer agent, a bond in such form and amount as is required by the transfer agent. The applicants for a new certificate or instrument under such circumstances shall also pay any reasonable third-party costs associated with the issuance of such replacement Shares. If a replacement certificate or instrument evidencing any Shares is requested due to a mutilation thereof, the Company may require delivery of such mutilated certificate or instrument as a condition precedent to any issuance of a replacement.

(k) Expenses. Except as set forth in this section, each of the parties hereto shall pay its own fees and expenses (including the fees of any attorneys, accountants, appraisers or others engaged by such party) in connection with this Agreement and the transactions contemplated hereby, whether or not the transactions contemplated hereby are consummated. The Company shall pay all expenses and fees of its counsel, or other counsel reasonably acceptable to the Company, in connection with the issuance of an opinion to the Company's transfer agent for the removal of any legend on the Shares.

(l) Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. The exchange of copies of this Agreement and of signature pages that contain copies of an executed signature page such as in .pdf format shall constitute effective execution and delivery of this Agreement as to the parties and may be used in lieu of the original Agreement for all purposes.

(m) Severability. Each provision of this Agreement shall be considered separable and, if for any reason any provision or provisions hereof are determined to be invalid or contrary to applicable law, such invalid or contrary provision shall be replaced with a valid provision that as closely as possible reflects the parties' intent with respect thereto, and invalidity or illegality shall not impair the operation of or affect the remaining portions of this Agreement.

(n) Interpretation. Paragraph titles are for descriptive purposes only and shall not control or alter the meaning of this Agreement as set forth in the text. For the purposes of this Agreement, "Business Day" means a day, other than a Saturday or Sunday, on which banks in New York City are open for the general transaction of business. Wherever the words "include," "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation."

(o) Survival. The representations and warranties of the Company and the Purchaser contained in this Agreement shall survive the execution and delivery of this Agreement for a period of one (1) year from the date of the Closing and shall in no way be affected by any investigation or knowledge of the subject matter thereof made by or on behalf of the Purchaser or the Company.

[Signature pages follow.]

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto or by their respective duly authorized officers, all as of the date first above written.

TRANSPHORM, INC.

By:

Name: Mario Rivas

Title: Chief Executive Officer

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto or by their respective duly authorized officers, all as of the date first above written.

PURCHASER:

[●]

By: _____

Name:

Title:

Address of Executive Offices:

IRS Tax Identification Number:

Telephone Number:

Facsimile Number:

E-mail Address:

Additional copies of notices pursuant to the Agreement shall be delivered but not constitute notice, to:

Email:

Facsimile:

EXHIBIT A

Form of Warrant

EXHIBIT B

Form of Registration Rights Agreement

REGISTRATION RIGHTS AGREEMENT

This Registration Rights Agreement (this “**Agreement**”) is made and entered into effective as of December 7, 2021, by and between Transphorm, Inc., a Delaware corporation (the “**Company**”) and each “Purchaser” named in the Purchase Agreements (as defined below) (collectively, the “**Purchasers**”). Capitalized terms used herein shall have the meanings ascribed to them in Section 1 below or in the Purchase Agreements (as defined below).

RECITALS:

WHEREAS, this Agreement is made pursuant to those certain Securities Purchase Agreements, dated on or about the date hereof, between the Company and each Purchaser (the “**Purchase Agreements**”).

Now, Therefore, in consideration of the mutual promises, representations, warranties, covenants, and conditions set forth herein, the parties mutually agree as follows:

1. **Certain Definitions**. As used in this Agreement, the following terms shall have the following respective meanings:

“**Approved Market**” means any market operated by the OTC Markets Group (excluding the “pink sheets”), the Nasdaq Stock Market, the New York Stock Exchange or the NYSE American.

“**Blackout Period**” means, with respect to a registration, a period during which the Company, in the good faith judgment of its board of directors, determines (because of the existence of, or in anticipation of, any acquisition, financing activity, material corporate development or other material transaction involving the Company, or the unavailability for reasons beyond the Company’s control of any required financial statements, disclosure of material information which is in its best interest not to publicly disclose, or any other event or condition of similar material significance to the Company) that the registration of the Registrable Securities (as defined below) to be covered by such registration statement, if any, or the filing of an amendment to such registration statement in the circumstances described in Section 4(h) below, would be detrimental to the Company and its stockholders, in each case commencing on the day the Company notifies the Holders (such notice shall be made to such Holder’s email address set forth on the signature page hereto) that they are required, because of the determination described above, to suspend offers and sales of Registrable Securities and ending on the earlier of (1) the date upon which the material non-public information resulting in the Blackout Period is disclosed to the public or, in the good faith discretion of the Company, ceases to be material and (2) such time as the Company notifies the selling Holders (as defined below) that sales pursuant to such Registration Statement or a new or amended Registration Statement may resume; provided, however, that no Blackout Period shall extend for a period of more than thirty (30) consecutive Trading Days (as defined below) and aggregate Blackout Periods shall not exceed sixty (60) Trading Days in any twelve (12) month period.

“**Business Day**” means any day of the year, other than a Saturday, Sunday, or other day on which banks in the State of New York are required or authorized to close.

“**Commission**” means the U.S. Securities and Exchange Commission or any other federal agency at the time administering the Securities Act.

“**Common Stock**” means the common stock, par value \$0.0001 per share, of the Company and any and all shares of capital stock or other equity securities of: (i) the Company which are added to or exchanged or substituted for the Common Stock by reason of the declaration of any stock dividend or stock split, the issuance of any distribution or the reclassification, readjustment, recapitalization or other such modification of the capital structure of the Company; and (ii) any other corporation, now or hereafter organized under the laws of any state or other governmental authority, with which the Company is merged, which results from any consolidation or reorganization to which the Company is a party, or to which is sold all or substantially all of the shares or assets of the Company, if immediately after such merger, consolidation, reorganization or sale, the Company or the stockholders of the Company own equity securities having in the aggregate more than 50% of the total voting power of such other corporation.

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

“Family Member” means (a) with respect to any individual, such individual’s spouse, any descendants (whether natural or adopted), any trust all of the beneficial interests of which are owned by any of such individuals or by any of such individuals together with any organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, the estate of any such individual, and any corporation, association, partnership or limited liability company all of the equity interests of which are owned by those above described individuals, trusts or organizations and (b) with respect to any trust, the owners of the beneficial interests of such trust.

“Holder” means each Purchaser or any of such Purchaser’s respective successors and Permitted Assignees who acquire rights in accordance with this Agreement with respect to any Registrable Securities directly or indirectly from a Purchaser or from any Permitted Assignee.

“Majority Holders” means, at any time, Holders of a majority of the Registrable Securities then outstanding or then issuable upon exercise of outstanding Warrants.

“Permitted Assignee” means (a) with respect to a partnership, its partners, former partners or any affiliate, including employees of such partnership or affiliate, (b) with respect to a corporation, its stockholders in accordance with their interest in the corporation, (c) with respect to a limited liability company, its members or former members in accordance with their interest in the limited liability company, (d) with respect to an individual party, any Family Member of such party, (e) an entity or trust that is controlled by, controls, or is under common control with a transferor, or (f) a party to this Agreement.

The terms **“register,” “registered,”** and **“registration”** refer to a registration effected by preparing and filing a registration statement in compliance with the Securities Act, and the declaration or ordering of the effectiveness of such registration statement.

“Registrable Securities” means (a) the Shares and (b) the shares of Common Stock issued or issuable upon exercise of the outstanding Warrants. As to any particular Registrable Securities, such securities shall cease to be Registrable Securities when (i) such securities have been sold or otherwise transferred other than to a Permitted Assignee, (ii) a holder is able to sell such securities under the Securities Act without restriction, including manner of sale, current information requirements or volume limitations pursuant to Rule 144, or (iii) such securities shall have ceased to be outstanding.

“Registration Default Period” means the period during which any Registration Event occurs and is continuing.

“Registration Effectiveness Date” means the date that is sixty (60) calendar days after the Registration Statement is first filed with the Commission.

“Registration Event” means the occurrence of any of the following events:

- (a) the Company fails to file with the Commission the Registration Statement on or before the Filing Deadline (as defined below);
- (b) the Registration Statement is not declared effective by the Commission on or before the Registration Effectiveness Date;
- (c) after the SEC Effective Date, the Registration Statement ceases for any reason to remain continuously effective or the Holders are otherwise not permitted to utilize the prospectus therein to resell the Registrable Securities for a period of more than fifteen (15) consecutive Trading Days, except for Blackout Periods permitted herein and except for suspension of the use of the Registration Statement in connection with its post-effective amendment in connection with the filing of the Company’s Annual Report on Form 10-K for the time reasonably required to respond to any comments from the staff of the Commission (the **“Staff”**) on the Company’s Annual Report on Form 10-K, and as excused pursuant to Section 3(a) below; or
- (d) the Registrable Securities, if issued and outstanding, are not listed or included for quotation on an Approved Market, or trading of the Common Stock is suspended or halted on the Approved Market, which at the time constitutes the principal market for the Common Stock, for more than three (3) full, consecutive Trading Days; provided, however, a Registration Event shall not be deemed to occur if all

or substantially all trading in equity securities of all companies (including the Common Stock) is suspended or halted on the Approved Market for any length of time.

“**Registration Statement**” means any registration statement that the Company is required to file pursuant to Section 3(a) of this Agreement to register the Registrable Securities.

“**Rule 144**” means Rule 144 promulgated by the Commission under the Securities Act, as such rule may be amended or supplemented from time to time, or any similar successor rule that may be promulgated by the Commission.

“**Rule 145**” means Rule 145 promulgated by the Commission under the Securities Act, as such rule may be amended or supplemented from time to time, or any similar successor rule that may be promulgated by the Commission.

“**Rule 415**” means Rule 415 promulgated by the Commission under the Securities Act, as such rule may be amended or supplemented from time to time, or any similar successor rule that may be promulgated by the Commission.

“**Securities Act**” means the Securities Act of 1933, as amended, or any similar federal statute promulgated in replacement thereof, and the rules and regulations of the Commission thereunder, all as the same shall be in effect at the time.

“**SEC Effective Date**” means the date the Registration Statement is declared effective by the Commission.

“**Shares**” means the shares of Common Stock issued to the Purchasers pursuant to the Purchase Agreements and any shares of Common Stock issued or issuable with respect to such shares upon any stock split, dividend or other distribution, recapitalization or similar event with respect to the foregoing.

“**Trading Day**” means any day on which each Approved Market is open for general trading of securities.

“**Warrants**” shall mean the warrants to purchase shares of Common Stock issued to the Purchasers pursuant to the Purchase Agreements.

2. **Term.** This Agreement shall terminate with respect to each Holder on the earlier of: (i) the date that is three (3) years from the last to occur SEC Effective Date; (ii) the date on which all Registrable Securities held by such Holder have been transferred other than to a Permitted Assignee; or (iii) the date on which all Registrable Securities held by such Holder may be sold under Rule 144 without restriction (including, without limitation, volume restrictions) (the “**Term**”). Notwithstanding the foregoing, Section 3(b), Section 6, Section 8, Section 9 and Section 10 shall survive the termination of this Agreement.

3. **Registration.**

(a) **Registration Statements.** Promptly following the Closing Date but no later than thirty (30) days after the Closing Date (the “**Filing Deadline**”), the Company shall file with the Commission a Registration Statement on Form S-3 covering all of the Registrable Securities issued at the Closing (the “**Registrable Securities**”) (except if the Company is not then eligible to register for resale the Registrable Securities on Form S-3, in which case such registration shall be on another appropriate form); **provided, however,** that the Company shall not be required to file such Registration Statement during a Blackout Period. The Company shall (i) use its commercially reasonable efforts to cause such Registration Statement to be declared effective no later than the Registration Effectiveness Date and (ii) use its commercially reasonable efforts to keep such Registration Statement effective for a period of three (3) years after the SEC Effective Date or for such shorter period ending on the earlier to occur of: (x) the date on which all Registrable Securities have been transferred other than to a Permitted Assignee and (y) the date as of which all Holders may sell all of the Registrable Securities without restriction pursuant to Rule 144 (including, without limitation, volume restrictions) within a ninety (90) day period (the “**Effectiveness Period**”); **provided, however,** that the Company shall not be obligated to effect any such registration, qualification or compliance pursuant to this Section 3(a), or keep such registration effective pursuant to the terms hereunder, in any particular jurisdiction in which the Company would be required to qualify to do business as a foreign corporation or as a dealer in securities under the securities laws of such jurisdiction or to execute a general consent to service of process in effecting such registration, qualification or compliance, in each case where it has not already done so. The Company shall be entitled to suspend the effectiveness of a Registration Statement at any time prior to

the expiration of the Effectiveness Period during a Blackout Period for the reasons and time periods set forth in the definition thereof. Notwithstanding the foregoing, in the event that the Staff should limit the number of Registrable Securities that may be sold pursuant to such Registration Statement, the Company may remove from such Registration Statement such number of Registrable Securities as specified by the Commission (such Registrable Securities, the "**Reduction Securities**") on behalf of all of the holders of Registrable Securities first from the shares of Common Stock issued or issuable upon exercise of the outstanding Warrants, on a pro-rata basis among the holders thereof, and second from the other Registrable Securities on a pro-rata basis among the holders thereof. In such event, the Company shall give the applicable holders of Registrable Securities prompt notice of the number of Registrable Securities excluded from such Registration Statement. The Company shall, at the first opportunity that is permitted by the Commission, register for resale the Reduction Securities (pro rata among the Holders of such Reduction Securities) using one or more registration statements that it is then entitled to use; provided, however, that the Company shall not be required to register such Reduction Securities during a Blackout Period. The Company shall use its commercially reasonable efforts to cause each such registration statement to be declared effective under the Securities Act as soon as possible, and shall use its commercially reasonable efforts to keep such registration statement continuously effective under the Securities Act during the entire Effectiveness Period. No liquidated damages shall accrue or be payable to any Holder pursuant to Section 3(b) below with respect to any Registrable Securities that are excluded by reason of (i) the Staff limiting the number of Registrable Securities that may be sold pursuant to a registration statement (provided that the Company continues to use commercially reasonable efforts to register such Reduction Securities for resale by other available means) or (ii) such Holder failing to provide to the Company information concerning the Holder and the manner of distribution of the Holder's Registrable Securities that is required by SEC Rules to be disclosed in a registration statement utilized in connection with the registration of registrable securities. Notwithstanding anything herein to the contrary, if the Commission limits the Company's ability to file, or prohibits or delays the filing of a new registration statement, the Company's compliance with such limitation, prohibition or delay solely to the extent of such limitation, prohibition or delay shall not be deemed a failure by the Company to use commercially reasonable efforts as set forth above or elsewhere in this Agreement and shall not require the payment of any liquidated damages by the Company under this Agreement.

(b) Liquidated Damages. If a Registration Event occurs, then the Company will make payments to each Holder of Registrable Securities, as liquidated damages to such Holder by reason of the Registration Event, a cash sum calculated at a rate of twelve percent (12%) per annum of the aggregate purchase price paid by such Holder pursuant to the Purchase Agreements with respect to such Holder's Registrable Securities that are affected by such Registration Event, but only with respect to such Holder's Registrable Securities that are affected by such Registration Event and only for the period during which such Registration Event continues to affect such Registrable Securities. Notwithstanding the foregoing, the maximum amount of liquidated damages that may be paid by the Company to a Holder pursuant to this Section 3(b) shall be an amount equal to five percent (5%) of the aggregate purchase price paid by such Holder pursuant to the Purchase Agreements with respect to such Holder's Registrable Securities that are affected by all Registration Events. For clarity, and by way of example, if a Holder's aggregate purchase price is \$10,000,000, liquidated damages payable by the Company to such Holder by reason of a Registration Event affecting all Registrable Securities of such Holder would accrue at a rate of twelve percent (12%) per annum until such time that the liquidated damages payable to such Holder reached a cap of \$500,000. Each payment of liquidated damages pursuant to this Section 3(b) shall be due and payable in cash in arrears within five (5) days after the end of each full 30-day period of the Registration Default Period until the termination of the Registration Default Period and within five (5) days after such termination, including if the Registration Default Period is for less than 30 days. For clarity, and by way of example, if the Registration Default Period is fifteen (15) days, each payment of liquidated damages pursuant to this Section 3(b) shall be due and payable in cash in arrears within five (5) days after such Registration Default Period ends. Such payments shall constitute the Holder's exclusive remedy for any Registration Event. The Registration Default Period shall terminate upon the earlier of such time as the Registrable Securities that are affected by the Registration Event cease to be Registrable Securities or (i) the filing of a Registration Statement in the case of clause (a) of the definition of Registration Event, (ii) the SEC Effective Date in the case of clause (b) of the definition of Registration Event, (iii) the ability of the Holders to effect sales pursuant to a Registration Statement in the case of clause (c) of the definition of Registration Event, and (iv) the listing or inclusion and/or trading of the Common Stock on an Approved Market, as the case may be, in the case of clause (d) of the definition of Registration Event; provided, that in the event of a cure of one or more of the Registration Events described in clauses (i)-(iv) above when a separate Registration Event shall be continuing, the Registration Default Period shall continue until all such Registration Events have ceased. The amounts payable as liquidated damages pursuant to this Section 3(b) shall be payable in lawful money of the United States.

(c) Other Limitations. Notwithstanding the provisions of Section 3(b) above, if the Commission does not declare a Registration Statement effective on or before its Registration Effectiveness Date, and

the reason for the Commission's determination is that (i) the offering of any of the Registrable Securities constitutes a primary offering of securities by the Company, (ii) Rule 415 may not be relied upon for the registration of the resale of any or all of the Registrable Securities, and/or (iii) a Holder of any Registrable Securities must be named as an underwriter and such Holder does not consent to be so named in such Registration Statement, the Holders shall not be entitled to liquidated damages with respect to the Registrable Securities not registered; provided that the Company continues to use its commercially reasonable efforts at the first opportunity that is permitted by the Commission to register for resale all such Registrable Securities, using one or more registration statements that it is then entitled to use. The Company shall use its commercially reasonable efforts to cause each such registration statement to be declared effective under the Securities Act as soon as reasonably possible, and shall use its commercially reasonable efforts to keep such registration statement continuously effective under the Securities Act during the entire Effectiveness Period.

(d) Secondary Offering. If the Company receives a written notice from the Holders of at least 20% of the Registrable Securities then outstanding that they desire to distribute the Registrable Securities held by them (or a portion thereof) by means of an underwritten offering or a block trade, the Company shall use commercially reasonable efforts to promptly engage one or more underwriter(s) or investment bank(s) to conduct such an offering of the Registrable Securities (a "Secondary Offering"); provided, however, that the Company shall only be obligated to effect a Secondary Offering if such offering shall include securities with a total offering price (including piggyback securities and before deduction of underwriting discounts) reasonably expected to exceed, in the aggregate, \$5,000,000. The underwriter(s) or investment bank(s) will be selected by the Holders of a majority of the Registrable Securities held by all Holders providing such notice and reasonably acceptable to the Company. All Holders proposing to distribute their securities through such Secondary Offering shall enter into an underwriting agreement or other agreement(s), including any lock-up or market standoff agreements, in customary form with the underwriter(s) or investment bank(s) selected for such Secondary Offering as may be mutually agreed upon among the Company, the underwriter(s) or investment bank(s) and Holders of a majority of the Registrable Securities to be offered in such Secondary Offering. In connection with a Secondary Offering, the Company shall enter into and perform its obligations under an underwriting agreement or other agreement(s), in usual and customary form as may be mutually agreed upon among the Company, the underwriter(s) or investment bank(s) and the Holders of a majority of the Registrable Securities to be included in such Secondary Offering. Notwithstanding any other provision of this Section 3(d), if the underwriter(s) or investment bank(s) advise(s) such Holders that marketing factors require a limitation on the number of shares to be offered in the Secondary Offering, then the number of shares, including the Registrable Securities, that may be included in such Secondary Offering shall be allocated among such Holders of Registrable Securities, and any other holders of shares, as follows: (i) first to such Holders of Registrable Securities in proportion (as nearly as practicable) to the number of Registrable Securities owned by each such Holder or in such other proportion as shall mutually be agreed to by all such selling Holders; and (ii) second to all other holders of securities included in the Secondary Offering.

4. Registration Procedures. The Company will keep each Holder reasonably advised as to the filing and effectiveness of the Registration Statement. At its expense with respect to the Registration Statement, the Company will use its commercially reasonable efforts to:

(a) prepare and file with the Commission with respect to the Registrable Securities, a Registration Statement in accordance with Section 3(a) hereof, and use its commercially reasonable efforts to cause such Registration Statement to become effective and to remain effective for the Effectiveness Period;

(b) not name any Holder in the Registration Statement as an underwriter without that Holder's prior written consent;

(c) if the Registration Statement is subject to review by the Commission, promptly respond to all comments, diligently pursue resolution of any comments to the satisfaction of the Commission and file all amendments and supplements to such Registration Statement as may be required to respond to comments from the Commission and otherwise to enable such Registration Statement to be declared effective;

(d) prepare and file with the Commission such amendments and supplements to such Registration Statement and prospectus used in connection with such Registration Statement as may be necessary to effect a Secondary Offering, comply with the provisions of the Securities Act with respect to the disposition of all securities covered by such Registration Statement and keep such Registration Statement effective during the Effectiveness Period;

(e) not less than four (4) Trading Days prior to filing a Registration Statement or any related prospectus or any amendment or supplement thereto, the Company shall furnish to the Holders that hold at least 1,000,000 shares of Registrable Securities (appropriately adjusted for any stock split, dividend, combination or other recapitalization) copies of, or a link to, all such documents proposed to be filed (other than those incorporated by reference) and duly consider any comments received by the Holders;

(f) furnish, without charge, to each Holder of Registrable Securities covered by such Registration Statement (i) a reasonable number of copies of such Registration Statement (including any exhibits thereto other than exhibits incorporated by reference), each amendment and supplement thereto as such Holder may reasonably request, (ii) such number of copies of the prospectus included in such Registration Statement (including each preliminary prospectus and any other prospectus filed under Rule 424 of the Securities Act) as such Holders may reasonably request, in conformity with the requirements of the Securities Act, and (iii) such other documents as such Holder may reasonably require to consummate the disposition of the Registrable Securities owned by such Holder, but only during the Effectiveness Period; provided that the Company shall have no obligation to furnish any document pursuant to this clause that is available on the Electronic Data Gathering, Analysis, and Retrieval ("**EDGAR**") system;

(g) use its reasonable best efforts to register or qualify the securities covered by such Registration Statement under such other applicable securities laws of such jurisdictions within the United States, including Blue Sky laws, as any Holder of Registrable Securities covered by such Registration Statement reasonably requests and as may be reasonably necessary for the marketability of the Registrable Securities (such request to be made by the time the applicable Registration Statement is deemed effective by the Commission) and do any and all other acts and things reasonably necessary to enable such Holder to consummate the disposition in such jurisdictions of the Registrable Securities owned by such Holder; provided, that the Company shall not be required to (i) qualify generally to do business in any jurisdiction where it would not otherwise be required to qualify but for this paragraph or (ii) consent to general service of process in any such jurisdiction where it has not already done so;

(h) promptly as practicable after becoming aware of any event, notify each Holder of Registrable Securities at any time when a prospectus relating thereto is required to be delivered under the Securities Act, of the happening of any event that will, after the occurrence of such event, cause the prospectus included in such Registration Statement, if not amended or supplemented, to contain an untrue statement of a material fact or an omission 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 the Company shall promptly thereafter prepare and furnish to such Holder a supplement or amendment to such prospectus (or prepare and file appropriate reports under the Exchange Act) so that, as thereafter delivered to the purchasers of such Registrable Securities, such prospectus shall not contain an untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, unless suspension of the use of such prospectus otherwise is authorized herein or in the event of a Blackout Period, in which case no supplement or amendment need be furnished (or Exchange Act filing made) until the termination of such suspension or Blackout Period; provided that any and all information provided to the Holder pursuant to such notification shall remain confidential to each Holder until such information otherwise becomes public, unless disclosure by a Holder is required by law;

(i) comply, and continue to comply during the Effectiveness Period, in all material respects with the Securities Act and the Exchange Act and with all applicable rules and regulations of the Commission with respect to the disposition of all securities covered by such Registration Statement;

(j) as promptly as practicable after becoming aware of such event, notify each Holder of Registrable Securities being offered or sold pursuant to the Registration Statement of the issuance by the Commission or any other federal or state governmental authority of any stop order or other suspension of effectiveness of the Registration Statement or the initiation of any proceedings for that purpose;

(k) use its commercially reasonable efforts to furnish, or cause to be furnished, on the date that such Registrable Securities are delivered to the underwriters for sale, if such securities are being sold through underwriters, (i) an opinion, dated as of such date, of the counsel representing the Company for the purposes of such registration, in form and substance as is customarily given to underwriters in an underwritten public offering, addressed to the underwriters and (ii) a "comfort" letter dated as of such date, from the independent certified public accountants of the Company, in form and substance as is customarily given by independent certified public accountants to underwriters in an underwritten public offering, addressed to the underwriters;

(l) provide a transfer agent and registrar, which may be a single entity, for the shares of Common Stock at all times and cooperate with the Holders to facilitate the timely preparation and delivery of the Registrable Securities to be delivered to a transferee pursuant to the Registration Statement (whether electronically or in certificated form) which Registrable Securities shall be free, to the extent permitted by (and solely to the extent the Holders comply with the requirements of) the Purchase Agreements, of all restrictive legends, and to enable such Registrable Securities to be in such denominations and registered in such names as any such Holders may request;

(m) cooperate with the Holders of Registrable Securities being offered pursuant to the Registration Statement to issue and deliver, or cause its transfer agent to issue and deliver, certificates representing Registrable Securities to be offered pursuant to the Registration Statement within a reasonable time after the delivery of certificates representing the Registrable Securities to the transfer agent or the Company, as applicable, and enable such certificates to be in such denominations or amounts as the Holders may reasonably request and registered in such names as the Holders may request;

(n) notify the Holders and their counsel as promptly as reasonably possible: (i)(A) when a prospectus or any prospectus supplement or post-effective amendment to a Registration Statement is proposed to be filed; (B) when the Commission notifies the Company whether there will be a “no review,” “review” or a “completion of a review” of such Registration Statement and whenever the Commission comments in writing on such Registration Statement (in which case the Company shall provide true and complete copies thereof and all written responses thereto to each of the Holders that pertain to the Holders as a selling stockholder, but not information which the Company believes would constitute material and non-public information); and (C) with respect to each Registration Statement or any post-effective amendment, when the same has been declared effective, provided, however, that such notice under this clause (C) shall be delivered to each Holder; (ii) of any request by the Commission or any other federal or state governmental authority for amendments or supplements to a Registration Statement or prospectus or for additional information that pertains to the Holders as selling stockholders; and (iii) of the receipt by the Company of any notification with respect to the suspension of the qualification or exemption from qualification of any of the Registrable Securities for sale in any jurisdiction, or the initiation or threatening of any proceeding for such purpose;

(o) during the Effectiveness Period, refrain from bidding for or purchasing any Common Stock or any right to purchase Common Stock or attempting to induce any person to purchase any such security or right if such bid, purchase or attempt would in any way limit the right of the Holders to sell Registrable Securities by reason of the limitations set forth in Regulation M of the Exchange Act;

(p) use its commercially reasonable efforts to avoid the issuance of, or, if issued, obtain the withdrawal of (i) any order stopping or suspending the effectiveness of a Registration Statement, or (ii) any suspension of the qualification (or exemption from qualification) of any of the Registrable Securities for sale in any jurisdiction, at the earliest practicable moment;

(q) cooperate with any broker-dealer through which a Holder proposes to resell its Registrable Securities in effecting a filing with the FINRA Corporate Financing Department pursuant to FINRA Rule 5110, as requested by any such Holder, and the Company shall pay the filing fee required by such filing within two (2) Trading Days of the request therefor; and

(r) take all other commercially reasonable actions necessary to enable, expedite or facilitate the Holders to dispose of the Registrable Securities by means of the Registration Statement during the Term.

5. Obligations of the Holders.

(a) Each Holder agrees that, upon receipt of any notice from the Company of the happening of any event of the kind described in Section 4(h) hereof or of the commencement of a Blackout Period, such Holder shall discontinue the disposition of Registrable Securities included in such Registration Statement until such Holder's receipt of the copies of the supplemented or amended prospectus contemplated by Section 4(h) hereof or notice of the end of the Blackout Period.

(b) The Holders of the Registrable Securities shall provide such information as may reasonably be requested by the Company in connection with the preparation of any registration statement, including amendments and supplements thereto, in order to effect the registration of any Registrable Securities under the Securities Act pursuant to Section 3(a) of this Agreement and in connection with the Company's obligation to

comply with federal and applicable state securities laws, including a completed selling securityholder questionnaire or any update thereto not later than three (3) Business Days following a request therefore from the Company.

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

6. Registration Expenses. The Company shall pay all expenses in connection with any registration obligation provided herein, including, without limitation, all registration, filing, stock exchange fees, printing expenses, any FINRA filing fees, all fees and expenses of complying with applicable securities laws, and the fees and disbursements of counsel for the Company and of the Company's independent accountants, and reasonable fees and disbursements of a single counsel of the Holders selected by the Holders of at least a majority of the Registrable Securities and reasonably acceptable to the Company, in an amount not to exceed \$15,000; provided, however, that in connection with any and all Secondary Offerings and Piggy-Back Registrations contemplated herein, the Company shall also pay for the reasonable fees and disbursements of a single counsel of the Holders selected by the Holders of at least a majority of the Registrable Securities and reasonably acceptable to the Company, in an aggregate amount not to exceed \$50,000; provided, further, that, in any underwritten registration, the Company shall have no obligation to pay any underwriting discounts, selling commissions or transfer taxes attributable to the Registrable Securities being sold by the Holders thereof, which underwriting discounts, selling commissions and transfer taxes shall be borne by such Holders. Except as provided in Section 6 and Section 8 of this Agreement or otherwise agreed to by the Company, the Company shall not be responsible for the expenses of any attorney or other advisor employed by a Holder or for any other fees, disbursements and expenses incurred by Holders not specifically agreed to in this Agreement.

7. Assignment of Rights. No Holder may assign its rights under this Agreement to any party without the prior written consent of the Company; provided, however, that any Holder may assign its rights under this Agreement without such consent (a) to a Permitted Assignee as long as (i) such transfer or assignment is effected in accordance with applicable securities laws; (ii) such transferee or assignee agrees in writing to become bound by and subject to the terms of this Agreement; and (iii) such Holder notifies the Company in writing of such transfer or assignment, stating the name and address of the transferee or assignee and identifying the Registrable Securities with respect to which such rights are being transferred or assigned; or (b) as otherwise permitted under the Purchase Agreements. The Company may not assign this Agreement or any rights or obligations hereunder without the prior written consent of all of the Holders of the then outstanding Registrable Securities.

8. Indemnification.

(a) In the event of the offer and sale of Registrable Securities under the Securities Act, the Company shall, and hereby does, indemnify and hold harmless, to the fullest extent permitted by law, each Holder, its directors, officers, stockholders, members, partners, employees and agents and each other person, if any, who controls or is under common control with such Holder within the meaning of Section 15 of the Securities Act (collectively, the "**Holder Indemnified Parties**"), against any losses, claims, damages or liabilities, joint or several, and expenses to which the Holder Indemnified Parties may become subject under the Securities Act or otherwise, insofar as such losses, claims, damages, liabilities or expenses (or actions or proceedings, whether commenced or threatened, in respect thereof) arise out of or are based upon any untrue statement or alleged untrue statement of any material fact contained in any registration statement prepared and filed by the Company under which Registrable Securities were registered under the Securities Act, any preliminary prospectus, free writing prospectus as defined under Rule 433(d) of the Securities Act ("**Free Writing Prospectus**"), any "testing-the-water" communication that is a written communication within the meaning of Rule 405 under the Securities Act ("**Testing the Water Communication**"), any road show communication as defined in Rule 433(h) under the Securities Act ("**Road Show Communication**"), final prospectus or summary prospectus contained therein, or any amendment or supplement thereto, or arise out of or are based upon any omission or alleged omission to state therein a material fact required to be stated or necessary to make the statements therein in light of the circumstances in which they were made not misleading, and the Company shall reimburse the Holder Indemnified Parties for any legal or any other expenses reasonably incurred by them in connection with investigating, defending or settling any such loss, claim, damage, liability, action or proceeding; provided, however, that the Company shall not be liable in any such case (i) to the extent, but only to the extent, that any such loss, claim, damage, liability (or action or proceeding in respect thereof) or expense arises out of or is based upon (x) an untrue statement in or omission from such registration statement, any such preliminary prospectus, Free Writing Prospectus, Testing the Water Communication, Road Show Communication, final prospectus, summary prospectus, amendment or supplement in reliance upon and in

conformity with written information furnished by a Holder or its representative (acting on such Holder's behalf) to the Company expressly for use in the preparation thereof or (y) the failure of a Holder to comply with the covenants and agreements contained in Section 5 hereof respecting the sale of Registrable Securities. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of the Holder Indemnified Parties and shall survive the transfer of such shares by the Holder.

(b) As a condition to including Registrable Securities in any registration statement filed pursuant to this Agreement, each Holder agrees, severally and not jointly, to be bound by the terms of this Section 8 and to indemnify and hold harmless, to the fullest extent permitted by law, the Company, each of its directors, officers, partners, and each underwriter, if any, and each other person, if any, who controls the Company within the meaning of Section 15 of the Securities Act, against any losses, claims, damages or liabilities, joint or several, to which the Company or any such director or officer or controlling person may become subject under the Securities Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions or proceedings, whether commenced or threatened, in respect thereof) arise out of or are based upon any untrue statement of a material fact contained in any registration statement, any preliminary prospectus, Free Writing prospectus, Testing the Water Communication, Road Show Communication, final prospectus, summary prospectus, amendment or supplement thereto, or arise out of or are based upon the omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, to the extent, but only to the extent, that such untrue statement or omission is included or omitted in reliance upon and in conformity with written information furnished by the Holder or its representative (acting on such Holder's behalf) to the Company expressly for use in the preparation thereof, and such Holder shall reimburse the Company, and its directors, officers, partners, and any such controlling persons for any legal or other expenses reasonably incurred by them in connection with investigating, defending, or settling any such loss, claim, damage, liability, action, or proceeding; provided, however, that the indemnity obligation contained in this Section 8(b) shall in no event exceed the amount of the net proceeds received by such Holder as a result of the sale of such Holder's Registrable Securities pursuant to such registration statement. Such indemnity shall remain in full force and effect, regardless of any investigation made by or on behalf of the Company or any such director, officer or controlling person and shall survive the transfer by any Holder of such shares.

(c) Promptly after receipt by an indemnified party of notice of the commencement of any action or proceeding involving a claim referred to in this Section 8 (including any governmental action), such indemnified party shall, if a claim in respect thereof is to be made against an indemnifying party, give written notice to the indemnifying party of the commencement of such action; provided, however, that the failure of any indemnified party to give notice as provided herein shall not relieve the indemnifying party of its obligations under this Section 8, except to the extent that the indemnifying party is actually prejudiced by such failure to give notice in any material respect. In case any such action is brought against an indemnified party, unless in the reasonable judgment of counsel to such indemnified party a conflict of interest between such indemnified party and indemnifying parties may exist or the indemnified party may have defenses not available to the indemnifying party in respect of such claim, the indemnifying party shall be entitled to participate in and to assume the defense thereof, with counsel reasonably satisfactory to such indemnified party and, after notice from the indemnifying party to such indemnified party of its election so to assume the defense thereof, the indemnifying party shall not be liable to such indemnified party for any legal or other expenses subsequently incurred by the latter in connection with the defense thereof, unless in such indemnified party's reasonable judgment a conflict of interest between such indemnified and indemnifying parties arises in respect of such claim or the indemnified party may have defenses not available to the indemnifying party in respect of such claim after the assumption of the defenses thereof or the indemnifying party fails to defend such claim in a diligent manner, other than reasonable costs of investigation. Neither an indemnified party nor an indemnifying party shall be liable for any settlement of any action or proceeding effected without its consent (which shall not be unreasonably withheld or delayed). No indemnifying party shall, without the consent of the indemnified party, consent to entry of any judgment or enter into any settlement, which does not include as an unconditional term thereof the giving by the claimant or plaintiff to such indemnified party of a release from all liability in respect of such claim or litigation. Notwithstanding anything to the contrary set forth herein, and without limiting any of the rights set forth above, in any event any party shall have the right to retain, at its own expense, counsel with respect to the defense of a claim. Each indemnified party shall furnish such information regarding itself or the claim in question as an indemnifying party may reasonably request in writing and as shall be reasonably required in connection with defense of such claim and litigation resulting therefrom.

(d) If an indemnifying party does not or is not permitted to assume the defense of an action pursuant to Section 8(c) or in the case of the expense reimbursement obligation set forth in Sections 8(a) and 8(b), the indemnification required by Sections 8(a) and 8(b) shall be made by periodic payments of the amount thereof

during the course of the investigation or defense, as and when bills are received or expenses, losses, damages, or liabilities are incurred.

(e) If the indemnification provided for in Sections 8(a) and 8(b) is held by a court of competent jurisdiction to be unavailable to an indemnified party with respect to any loss, liability, claim, damage or expense referred to herein, the indemnifying party, in lieu of indemnifying such indemnified party hereunder, shall contribute to the amount paid or payable by such indemnified party as a result of such loss, liability, claim, damage or expense (i) in such proportion as is appropriate to reflect the proportionate relative fault of the indemnifying party on the one hand and the indemnified party on the other (determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or omission relates to information supplied by the indemnifying party or the indemnified party and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such untrue statement or omission), or (ii) if the allocation provided by clause (i) above is not permitted by applicable law or provides a lesser sum to the indemnified party than the amount hereinafter calculated, then in such proportion as is appropriate to reflect not only the proportionate relative fault of the indemnifying party and the indemnified party, but also the relative benefits received by the indemnifying party on the one hand and the indemnified party on the other, as well as any other relevant equitable considerations. Notwithstanding any other provision of this Section 8(e), no Holder shall be required to contribute any amount in excess of the amount by which the net proceeds received by such Holder from the sale of the Registrable Securities pursuant to the Registration Statement exceeds the amount of damages that such Holder has otherwise been required to pay by reason of such untrue or alleged untrue statement of a material fact or omission, except in the case of fraud or willful misconduct. No indemnified party guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any indemnifying party who was not guilty of such fraudulent misrepresentation.

(f) The indemnity and contribution agreements contained in this Section 8 are in addition to any liability that the indemnifying parties may have to the indemnified parties and are not in diminution or limitation of the indemnification provisions under the Purchase Agreements.

9. Rule 144. The Company shall timely file all reports required to be filed by the Company after the date hereof under the Exchange Act and the rules and regulations adopted by the Commission thereunder, and if the Company is not required to file reports pursuant to such sections, it will prepare and furnish to the Purchasers and make publicly available in accordance with Rule 144(c) such information as is required for the Purchasers to sell shares of Common Stock under Rule 144.

10. Miscellaneous.

(a) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the United States of America and the State of New York, both substantive and remedial, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of New York any other jurisdictions) that would cause the application of the laws of any jurisdictions other than the State of New York. Any judicial proceeding brought against either of the parties to this Agreement or any dispute arising out of this Agreement or any matter related hereto shall be brought in the state or federal courts located in the State of New York and, by its execution and delivery of this Agreement, each party to this Agreement accepts the jurisdiction of such courts. The foregoing consent to jurisdiction shall not be deemed to confer rights on any person other than the parties to this Agreement. Remedies. Except as otherwise specifically set forth herein with respect to a Registration Event, in the event of a breach by the Company or by a Holder of any of their respective obligations under this Agreement, each Holder or the Company, as the case may be, in addition to being entitled to exercise all rights granted by law and under this Agreement, including recovery of damages, shall be entitled to specific performance of its rights under this Agreement. Except as otherwise specifically set forth herein with respect to a Registration Event, the Company and each Holder agree that monetary damages would not provide adequate compensation for any losses incurred by reason of a breach by it of any of the provisions of this Agreement and hereby further agrees that, in the event of any action for specific performance in respect of such breach, it shall not assert or shall waive the defense that a remedy at law would be adequate.

(b) No Piggyback on Registrations; Prohibition on Filing Other Registration Statements. Except for the Registrable Securities, neither the Company nor any of its security holders (other than the Holders in such capacity pursuant hereto) are entitled to include securities of the Company in any of the Registration Statements. The Company shall not file any other registration statements, other than on Forms S-4 or S-8 or their then equivalents, until all Registrable Securities are registered pursuant to a Registration Statement that is declared effective by the Commission, provided that this Section 10(b) shall not prohibit the Company from (i) filing

amendments to registration statements filed prior to the date of this Agreement or (ii) filing a registration statement as may be required by other registration rights agreements that the Company is a party to as of the date of this Agreement.

(c) Piggy-Back Registrations. If, at any time during the Effectiveness Period, there is not an effective Registration Statement covering all of the Registrable Securities and the Company shall determine to prepare and file with the Commission a registration statement relating to an offering for its own account or the account of others under the Securities Act of any of its equity securities, other than on Form S-4 or Form S-8 (each as promulgated under the Securities Act) or their then equivalents relating to equity securities to be issued solely in connection with any acquisition of any entity or business or equity securities issuable in connection with the Company's stock option or other employee benefit plans (any such registration, a "Piggy-Back Registration"), then the Company shall deliver to each Holder a written notice of such determination and, if within fifteen days after the date of the delivery of such notice, any such Holder shall so request in writing, the Company shall include in such registration statement all or any part of such Registrable Securities such Holder requests to be registered (the "Piggy-Back Securities"); provided, however, that the Company shall not be required to register any Registrable Securities pursuant to this Section 10(c) after the Term or that are eligible for resale pursuant to Rule 144 (without volume restrictions or current public information requirements) promulgated by the Commission pursuant to the Securities Act or that are the subject of a then effective Registration Statement that is available for resales or other dispositions by such Holder or cease to be deemed "Registrable Securities." If the Piggy-Back Registration relates to an underwritten public offering and the managing underwriter of such proposed public offering advises the Company and the Holders in writing that, in its reasonable opinion, the number of Registrable Securities requested to be included in the Piggy-Back Registration in addition to the securities being registered by the Company or any other security holder would be greater than the total number of securities which can reasonably be sold in the offering without having a material adverse effect on the distribution of such securities or otherwise having a material adverse effect on the marketability thereof (the "Maximum Number of Securities"), then (i) in the event the Company initiated the Piggy-Back Registration, the Company shall include in such Piggy-Back Registration first, the securities the Company proposes to register, second, the Piggy-Back Securities, in an amount that together with the securities the Company proposes to register, shall not exceed the Maximum Number of Securities, such amount to be allocated among the Holders of the Piggy-Back Securities on a pro rata basis (based on the number of securities of the Company held by each such Holder), and third, the securities of all other selling security holders, in an amount that together with the securities the Company proposes to register and the Piggy-Back Securities, shall not exceed the Maximum Number of Securities, such amount to be allocated among such other selling security holders on a pro rata basis (based on the number of securities of the Company held by each such selling security holder); and (ii) in the event any holder of securities of the Company initiated the Piggy-Back Registration, the Company shall include in such Piggy-Back Registration first, the Piggy-Back Securities in an amount that shall not exceed the Maximum Number of Securities (with such amount to be allocated among the Holders of the Piggy-Back Securities on a pro rata basis based on the number of securities of the Company held by each such Holder), second, the securities such initiating security holder proposes to register, in an amount that together with the Piggy-Back Securities, shall not exceed the Maximum Number of Securities, third, the securities of any other selling security holders, in an amount that together with the Piggy-Back Securities and the securities the initiating security holder proposes to register, shall not exceed the Maximum Number of Securities, such amount to be allocated among such other selling security holders on a pro rata basis (based on the number of securities of the Company held by each such selling security holder), and fourth, any securities the Company proposes to register, in an amount that together with Piggy-Back Securities, the securities the initiating security holder and the other selling security holders propose to register, shall not exceed the Maximum Number of Securities.

(d) Subsequent Registration Rights. Except as contemplated by Section 10(l), until the Registration Statement with respect to the Registrable Securities is declared effective by the Commission, the Company shall not enter into any agreement granting any registration rights with respect to any of its securities to any Person without the written consent of the Majority Holders.

(e) Successors and Assigns. Except as otherwise provided herein, the provisions hereof shall inure to the benefit of, and be binding upon, the successors, Permitted Assignees, executors and administrators of the parties hereto.

(f) No Inconsistent Agreements. The Company has not entered, as of the date hereof, and shall not enter, on or after the date of this Agreement, into any agreement with respect to its securities that would have the effect of impairing the rights granted to the Holders in this Agreement or otherwise conflicts with the provisions hereof.

(g) Entire Agreement. This Agreement and the documents, instruments and other agreements specifically referred to herein or delivered pursuant hereto constitute the full and entire understanding and agreement between the parties with regard to the subjects hereof.

(h) Notices, etc. All notices, consents, waivers, and other communications which are required or permitted under this Agreement shall be in writing will be deemed given to a party (a) upon receipt, when personally delivered; (b) one (1) Business Day after deposit with a nationally recognized overnight courier service with next day delivery specified, costs prepaid on the date of delivery, if delivered to the appropriate address by hand or by nationally recognized overnight courier service (costs prepaid); (c) the date of transmission if sent by e-mail with confirmation of transmission by the transmitting equipment if such notice or communication is delivered prior to 5:00 P.M., New York City time, on a Trading Day, or the next Trading Day after the date of transmission, if such notice or communication is delivered on a day that is not a Trading Day or later than 5:00 P.M., New York City time, on any Trading Day, provided confirmation of email is kept on file, whether electronically or otherwise, by the sending party and the sending party does not receive an automatically generated message from the recipients email server that such e-mail could not be delivered to such recipient; (d) the date received or rejected by the addressee, if sent by certified mail, return receipt requested, postage prepaid; or (e) seven (7) days after the placement of the notice into the mails (first class postage prepaid), to the party at the address or e-mail address furnished by the such party,

If to the Company, to:
Transphorm, Inc.
75 Castilian Drive
Goleta, CA 93117
Attn: Primit Parikh and Cameron McAulay
Email: pparikh@transphormusa.com and cmcaulay@transphormusa.com

with copy to:
Wilson Sonsini Goodrich and Rosati P.C.
650 Page Mill Road
Palo Alto, CA 94304
Attn: Erika Muhl
Email: emuhl@wsgr.com

if to a Holder, to:

such Holder at the address set forth on the signature page hereto or in the Company's records;
or at such other address as any party shall have furnished to the other parties in writing in accordance with this Section 10(h).

(i) Delays or Omissions. No delay or omission to exercise any right, power or remedy accruing to any Holder, upon any breach or default of the Company under this Agreement, shall impair any such right, power or remedy of such Holder nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or of any similar breach or default thereunder occurring; nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. Any waiver, permit, consent or approval of any kind or character on the part of any Holder of any breach or default under this Agreement, or any waiver on the part of any Holder of any provisions or conditions of this Agreement, must be in writing and shall be effective only to the extent specifically set forth in such writing. All remedies, either under this Agreement, or by law or otherwise afforded to any holder, shall be cumulative and not alternative.

(j) Counterparts. This Agreement may be executed in any number of counterparts, , each of which shall be enforceable against the parties actually executing such counterparts, and all of which together shall constitute one instrument. In the event that any signature is delivered by an e-mail, which contains a copy of an executed signature page such as a portable document format (.pdf) file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such e-mail of an executed signature page such as a .pdf signature page were an original thereof.

(k) Severability. In the case any provision of this Agreement shall be invalid, illegal or unenforceable, such provision shall be replaced with a valid, legal and enforceable provision that as closely

as possible reflects the parties' intent with respect thereto, and the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

(l) Amendments. Except as otherwise provided herein, the provisions of this Agreement may be amended at any time and from time to time, and particular provisions of this Agreement may be waived, with and only with an agreement or consent in writing signed by the Company and the Majority Holders; provided, however, that (i) this Agreement may not be amended and the observance of any term hereof may not be waived with respect to any Holder without the written consent of such Holder if such amendment or waiver on its face materially and adversely affects the rights of such Holder under this Agreement in a manner that is different than the other Holders; and (ii) with respect to any Secondary Offering the provisions of this Agreement may be amended or waived with an agreement or consent in writing signed by the Company and the Holders of a majority of the Registrable Securities to be offered in such Secondary Offering. The Holders acknowledge that by the operation of this Section 10(l), the Majority Holders may have the right and power to diminish or eliminate all rights of the Holders under this Agreement.

(m) Independent Nature of Holders' Obligations and Rights. The obligations of each Holder hereunder are several and not joint with the obligations of any other Holder hereunder, and no Holder shall be responsible in any way for the performance of the obligations of any other Holder hereunder. Nothing contained herein or in any other agreement or document delivered at any closing, and no action taken by any Holder pursuant hereto or thereto, shall be deemed to constitute the Holders as a partnership, an association, a joint venture or any other kind of group or entity, or create a presumption that the Holders are in any way acting in concert or as a group or entity with respect to such obligations or the transactions contemplated by this Agreement or any other matters and the Company acknowledges that the Holders are not acting in concert or as a group, and the Company shall not assert any such claim, with respect to such obligations or transactions. Except as expressly provided herein, each Holder shall be entitled to protect and enforce its rights, including without limitation the rights arising out of this Agreement, and it shall not be necessary for any other Holder to be joined as an additional party in any proceeding for such purpose. The use of a single agreement with respect to the obligations of the Company contained herein was solely in the control of the Company, not the action or decision of any Holder, and was done solely for the convenience of the Company and not because it was required or requested to do so by any Holder. Except as expressly provided herein, it is expressly understood and agreed that each provision contained in this Agreement is between the Company and a Holder, solely, and not between the Company and the Holders collectively and not between and among Holders.

[signature pages follow]

This Registration Rights Agreement is hereby executed as of the date first above written.

THE COMPANY:

TRANSPHORM, INC.

By: _____

Name: Mario Rivas

Title: Chief Executive Officer

This Registration Rights Agreement is hereby executed as of the date first above written.

PURCHASER:

[●]

By: _____

Name:

Title:

Address of Executive Offices:

Telephone Number:

Facsimile Number:

E-mail Address:

Additional copies of notices pursuant to the Agreement shall be delivered but not constitute notice, to:

Email:

Facsimile:
