



EXCLUSIVE BUY SIDE BUSINESS ADVISORY AGREEMENT-C

THIS AGREEMENT ("Agreement") is made and entered into as of [Day] [Month], [Year], by and between [Company Name] ("Company"), having a place of business at [Business Address] and The Enginuity Group, LLC ("Advisor") having a place of business at 6204 Blue Nile Dr., Lawrence, KS 66049 (together with the Company, the "Parties").

WHEREAS Advisor expects to identify companies and opportunities in writing as possible acquisition candidates for Company.

WHEREAS Company desires to investigate the possible acquisition of candidates that might fit in to Company's business plans and meet Company's financial criteria for acquisitions as the same may be in effect from time to time.

THEREFORE, the following is hereby agreed to by and between Advisor and the Company:

Definitions. "Advisor" is defined as The Enginuity Group, LLC. "Company" refers to the shareholders of [Company Name], the company and any related affiliates. "Target" is any business that is contacted or expresses interest as a potential acquisition candidate for this particular search as outlined below, whether identified by Advisor or the Company during the term of this Agreement. "Transaction" shall encompass any (i) investment in the capital stock of Target; (ii) acquisition of all or substantially all of the assets of Target; or (iii) the merger of the Target into the Company; provided that the Transaction may be made by Company or by any partnership, corporation, or other entity in which Company has a controlling ownership interest. The Transaction may be completed in the form of an asset purchase, stock purchase, merger, or other form. "Agreement" refers to the relationship defined in this document.

Defined Target Criteria. *[this section is for the description of the target/s candidate criteria]*

Services. During the term of the engagement, Advisor will provide advice and assistance in connection with the Transaction (and each component thereof), which may include any or all of the following components, in each case as requested by the Company:

- a. Identify target and search criteria with client.
- b. Research and develop database and short list by phase (up to three) of targets with Company
- c. Contact and engaging targets by several means
- d. Coordinate and host introductory meeting with client (Zoom or other means)
- e. Provide regular updates and feedback on search and secure progress to Company
- f. Gather and package initial due diligence data/materials and organize in data room.
- g. Conduct Opinion of Market Valuation of engaged target
- h. Assist client in transaction structuring and negotiations
- i. Provide draft Letter of Intent for acquisition of target

- j. Set up and manage cloud based due diligence data room
- k. Coordinate upload of post LOI due diligence data with target
- l. Coordinate and negotiate terms of final closing documents
- m. Coordinate and work with accountants and attorneys for production of closing documents
- n. Coordinate the transaction closing process
- o. Provide additional services in support of a Transaction as the Company and Advisor may agree.

Term. This Agreement will have a term of twelve (12) months from the latest date that it is signed by a party hereto (the “**Term**”). The Term will automatically renew for subsequent one (1) month periods unless either party provides written notification to terminate this Agreement with one (1) month’s written notice.

Advisory Fees, Expenses. As compensation for Advisor’s services hereunder, the Company hereby agrees to pay Advisor the following fees and advances on fees:

- a. **Advisory Success Fee.** The Company will pay Advisor a Transaction Fee equal to the greater of (i) \$____,000 (minimum fee) and (ii) an amount of the of the total Purchase Price calculated as:
 - 10 percent (10%) of the first \$1,000,000 of the total purchase price, plus
 - 8 percent (8%) of the second \$1,000,000 of the total purchase price, plus
 - 6 percent (6%) of the third \$1,000,000 of the total purchase price, plus
 - 4 percent (4%) of the fourth \$1,000,000 of the total purchase price, plus
 - 3 percent (2%) of all fees over \$4,000,000.
- b. **Retainer Fee.** A nonrefundable retainer fee payable at the first of each month in the amount of [2%] of the minimum fee. If this document is executed on a day other than the first day of the month, the first monthly payment will be pro-rated and subsequent monthly Retainer Fees are due on the first day of each month for the Term of the Agreement. ***The two retainers are advances on the closing Fee, not additive.***

In addition to the fees payable to The Enginuity Group, the Company shall reimburse The Enginuity Group, upon request made from time to time, for its reasonable out-of-pocket expenses incurred in connection with The Enginuity Group’s engagement. Out-of-pocket expenses may include, but are not limited to, transportation, lodging, meals data, databases, mailing lists, postage and priority shipment fees and expenses of approved third parties. Aggregate out-of-pocket expenses exceeding \$_____ during the project must be approved in writing by client.

Payment Schedule. Fees are paid per the following schedule:

- Upon agreement execution, \$_____ [2% of minimum fee].
- At the first of each month, \$ _____ [2% of minimum fee].
- At closing, the advisory success fee less the monthly retainer fees paid in advance.

“Purchase Price.” For purposes of this Agreement, the term “Purchase Price” shall encompass the value of all consideration, whether cash, securities, and future monetary considerations (whether to be paid prior to or after the expiration of this agreement) including earn outs, buyer notes or other financing, royalty fees, and equity ownership, received by the Target and/or its shareholders as consideration

pursuant to the transaction (or in the case of a sale of assets, the consideration received for such assets), plus to the extent not included in the Purchase Price, the value of any long-term debt, long-term capital lease and preferred stock obligations of the business assumed by the Company. If the transaction involves a combination or series of transactions the purchase price shall be the sum of (i) Purchase Price at closing plus (ii) the Purchase Price at each subsequent event anticipated to be paid by Company. All of Advisor's fees are due upon closing as future performance and conditions are out of advisor's control.

Advisor shall be entitled to the fees set forth above in the event the Company closes a Transaction or enters into an agreement with Target (as defined above) during the term of this Agreement or at any time within twenty-four (24) months following the termination of this Agreement. No termination of the Agreement shall affect the Company's obligation to pay accrued fees and expenses to the extent provided for herein.

Termination. Either party may terminate this agreement upon 30 day written notice without cause. However, if such termination by Company is before five (5) months, Company will pay Advisor for five months of retainer minus that paid to date of termination. Company or Advisor may terminate this agreement at any time "for cause" **For Cause** means any of the following actions by Advisor that results in a material adverse effect on Company: (1) gross negligence or gross neglect; (2) the commission of a felony or gross misdemeanor involving moral turpitude, fraud, or dishonesty; (3) the willful violation of any law, rule, or regulation (other than a traffic violation or similar offense); (4) an intentional failure to perform stated duties; or (5) a breach of fiduciary duty involving personal profit. If a dispute arises as to whether termination was For Cause, such dispute shall be governed by the applicable statutes in the state of Delaware. In the event of termination by Company, any balance of advance fees or advances due through the effective date of termination will be paid to Advisor in addition to any outstanding invoices for out-of-pocket expenses. In such event, the provisions of paragraph 5, regarding the closing of any transaction within 24 months applies.

Conflicts. Advisor is an advisory firm engaged in a wide range of businesses. From time to time, in the ordinary course of its business, Advisor and its affiliates may have other relationship with companies which are or may become involved in the transactions contemplated by this Agreement and/or which may have interests which could potentially conflict with the interests of the Company. Such activities are conducted, of course, with strict informational barriers in place to protect the confidentiality of clients. Although the Advisor will do everything possible to preserve the Company's confidentiality, the Company will not hold Advisor liable for any actions by the Company or any other party which may violate the confidentiality.

Exclusivity. The parties agree that, during this engagement, unless otherwise terminated prior to the expiration date, Advisor will offer all Target candidates to Company on an exclusive basis prior to them being offered to others for acquisition. However, should Company decide to not engage with Target, or fail to reach agreement as to the terms of a mutually agreed upon LOI, Advisor has the right to work with Target including offering them any or all of Advisor's services. Likewise, Company agrees to grant Advisor the exclusive rights to search and secure this project exclusively and not shared by other advisors or company.

Applicable Law. Except to the extent governed by applicable federal law, this Agreement shall be interpreted, construed, and governed by the laws of the State of Delaware without regard to its conflict of law principles. Company and Advisor hereby consent to the exclusive personal jurisdiction and venue of courts located in Delaware.

Entire Agreement. This Agreement constitutes the complete and final expression of the agreement of the parties and it is intended as a complete and exclusive statement of the terms of this agreement and supersedes all prior and contemporaneous offers, promises, representations, negotiations, discussions, communications, and agreements which may have been made in connection with this subject matter.

Authority / Indemnity. The person(s) signing this Agreement has full legal authority to bind the Company to this Agreement. The Company shall indemnify, defend, and hold the Advisor harmless from any damages, claims or causes of action asserted by any party arising from such party's investment in or purchase of the Company, contracting with the Company or communications with the Advisor.

Acknowledgement. The Company and Advisor acknowledge that they have read this Agreement and received a copy and understand that this is a legally binding contract.

The Engenuity Group

[Company Name]

By:



Print Name: W. David Kimbrell

By:

Print Name: **[Signature Name]**