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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

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**FORM 8-K**

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**CURRENT REPORT**

**Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**

Date of Report (Date of earliest event reported): **January 1, 2022**

**SILVERSUN TECHNOLOGIES, INC.**

(Exact name of registrant as specified in its charter)

**Delaware**  
(State or other jurisdiction  
of incorporation)

**000-50302**  
(Commission File Number)

**16-1633636**  
(IRS Employer  
Identification No.)

**120 Eagle Rock Ave**  
**East Hanover, NJ 07936**  
(Address of Principal Executive Offices)

**(973) 396-1720**  
Registrant's telephone number, including area code

Check the appropriate box below if the 8-K filing is intended to simultaneously satisfy the filing obligations of the registrant under any of the following provisions:

- Written communication 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:

<u>Title of each class</u>	<u>Trading Symbol(s)</u>	<u>Name of each exchange on which registered</u>
Common Stock, par value \$0.00001 per share	SSNT	The NASDAQ Capital Market

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.

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### **Item 1.01 Entry into a Material Definitive Agreement.**

On January 1, 2022 (the “Effective Date”), SWK Technologies, Inc. (“SWK”), a wholly-owned subsidiary of SilverSun Technologies, Inc., entered into an Asset Purchase Agreement (the “Asset Purchase Agreement”) with Dynamic Tech Services, Inc., a Georgia corporation (“DTS”) pursuant to which SWK acquired from DTS certain assets (the “Acquired Assets”) related to the component of DTS’ business devoted to selling and supporting Acumatica Cloud Enterprise Resource Planning solutions.

The purchase price for the Acquired Assets was \$1,335,000, \$500,000 of which was paid in cash and \$835,000 of which was paid through the issuance by SWK to DTS of a four-year \$835,000 promissory note dated January 1, 2022 paying interest at the rate of 3.25% per annum (“the “Note”). The principal amount of the Note is subject to a downward adjustment in the event SWK loses any subscription renewal revenue during the one-year period immediately following the Effective Date from any persons that were customers of DTS immediately prior to the Effective Date (the “DTS Customers”). Any such downward adjustment will be determined by calculating the percentage of loss of Acumatica subscription renewals during the one-year period immediately following the Effective Date from DTS Customers. In the event that subscription renewal revenue received by SWK from DTS Customers during the one-year period immediately following the Effective Date is less than 95% of the subscription renewal revenue received by DTS from DTS Customers during the one-year period immediately preceding the Effective Date, the principal amount of the Note will be reduced. By way of example, if the annual subscription renewals of DTS Customers received by DTS during the one-year period preceding the Effective Date was \$1,000,000 and the annual subscription renewals of DTS Customers received by SWK during the one-year period following the Effective Date was \$900,000, this will represent a 10% loss of the renewal revenue conveyed to SWK. The reciprocal of this percentage loss, which would be 90%, would then be multiplied by the outstanding principal amount of the Note of \$835,000, and the new outstanding principal amount of the Buyer Note would be \$751,500, which is the amount which will be due and owing and paid in accordance with the terms of the Note. The measuring period for any downward adjustment will be as of the one-year anniversary of the Effective Date. Notwithstanding the foregoing, under no circumstances will the principal amount of the Note be reduced by reason of such downward adjustment by more than \$150,000 (*i.e.*, to a principal amount below \$685,000). The Note will be amortized as follows: The first payment of principal and interest due under the Note, which will be an annual payment, is due and payable on January 1, 2023, after the revised principal amount of the Buyer Note is determined and thereafter, payments will be made quarterly in twelve equal installments.

The Asset Purchase Agreement contains customary confidentiality and indemnification provisions and customary representations, warranties and covenants by the parties for transactions of this type. It also contains a four-year non-compete provision applicable to North America and the Caribbean and a five -year non-solicitation provision in favor of SWK.

In connection with the Asset Purchase Agreement, effective January 1, 2022, SWK entered into a one-year Consulting Agreement with DTS (the “Consultant”), whereby the Consultant, through its sole employee, Joseph Gress, will provide consulting services to SWK (the “Consulting Agreement”). The Consultant's duties will focus on the subscription renewals of Acumatica customers and the sale of Acumatica products and services offered by SWK and such other duties as SWK may reasonably request involving SWK’s Acumatica related business. Pursuant to the Consulting Agreement, Mr. Gress will devote all of his working time to the business and affairs of the Company. In consideration of the services to be rendered by the Consultant thereunder, the Company will pay the Consultant a base salary (“Base Salary”) in the amount of One Hundred Fifty Thousand Dollars (\$150,000) per annum, payable monthly in twelve equal installments commencing on January 31, 2022. The Consultant may also earn up to an additional \$51,000 based upon the amount of net new and add-on sales of Acumatica during the term of the Consulting Agreement. The Consulting Agreement can be terminated by SWK with or without cause and by the Consultant for good reason. If terminated by SWK without cause or by the Consultant for good reason, SWK is obligated to pay the Base Salary to the Consultant for the remainder of the term. The Consulting Agreement includes a Non-Disclosure/Non-Solicitation And Arbitration Agreement which includes confidentiality, non-compete and non-solicitation provisions.

### **Item 8.01 Other Events.**

On January 5, 2022, the Company issued a press release announcing the Asset Purchase Agreement and related matters. A copy of the press release is attached hereto as Exhibit 99.1 and is incorporated herein by reference.

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**Item 9.01 Financial Statements and Exhibits.**

(d) Exhibits

<b>Exhibit Number</b>	<b>Description</b>
10.1*	<a href="#">Asset Purchase Agreement, dated January 1, 2022 by and between SWK Technologies, Inc., and Dynamic Tech Services, Inc.</a>
10.2*	<a href="#">\$835,000 January 1, 2022 Promissory Note of SWK Technologies, Inc. issued to Dynamic Tech Services, Inc.</a>
10.3*	<a href="#">Consulting Agreement dated January 1, 2022 by and between SWK Technologies, Inc., and Dynamic Tech Services, Inc.</a>
99.1*	<a href="#">Press release dated January 5, 2022</a>
104	Cover Page Interactive Data File (formatted as Inline XBRL)

\*Filed herewith

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**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.

**SILVERSUN TECHNOLOGIES, INC.**

Date: January 5, 2022

By: /s/ Joseph P. Macaluso  
Joseph P. Macaluso  
Principal Financial Officer

## ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this “**Agreement**”), dated January 1, 2022 (the “**Closing Date**”), is entered into between Dynamic Tech Services, Inc., a Georgia corporation (“**Seller**”), and SWK Technologies, Inc., a Delaware corporation (“**Buyer**”).

## RECITALS

**WHEREAS**, Seller is engaged in, among other activities, the business of selling and supporting Acumatica Cloud Enterprise Resource Planning (“**ERP**”) solutions (the “**Business**”); and

**WHEREAS**, Seller wishes to sell and assign to Buyer, and Buyer wishes to purchase from Seller, certain specified assets (excluding certain Excluded Assets (as defined below)) related to the Business, subject to the terms and conditions set forth herein.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I  
Definitions

**Section 1.01 Defined Terms.** The following terms have the meanings specified or referred to below:

“**Action**” means any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena or investigation of any nature, civil, criminal, administrative, regulatory or otherwise, whether at law or in equity.

“**Affiliate**” of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person.

“**Agreement**” has the meaning set forth in the preamble.

“**Assignment and Assumption of Contracts Agreement**” means the Assignment and Assumption of Contracts Agreement in the form of Exhibit C hereto

“**Bill of Sale**” has the meaning set forth in Section 3.02(a)(i).

“**Books and Records**” has the meaning set forth in Section 2.01(f)

“**Business**” has the meaning set forth in the recitals.

“**Business Day**” means any day except Saturday, Sunday or any other day on which commercial banks located in New York, NY are authorized or required by Law to be closed for business.

“**Business Contractors**” means persons who are independent contractors or consultants who work for the Business as of the Closing Date.

“**Buyer**” has the meaning set forth in the preamble.

“**Buyer Note**” has the meaning set forth in **Section 2.05(b)**.

“**Buyer Indemnitees**” has the meaning set forth in **Section 7.02**.

“**Closing**” has the meaning set forth in **Section 3.01**.

“**Closing Date**” has the meaning set forth in **Section 3.01** and the preamble.

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

“**Contracts**” means all contracts, leases, deeds, mortgages, licenses, instruments, insertion orders, purchase orders, notes, commitments, undertakings, indentures, joint ventures and all other agreements, commitments and legally binding arrangements, whether or not written.

“**CRM**” means Customer Relationship Management.

“**Customers**” means the customers of the Business as defined in Section 2.01(a) below.

“**Direct Claim**” has the meaning set forth in **Section 7.04(c)**.

“**Disclosure Schedules**” means the Disclosure Schedules delivered by Seller to Buyer concurrently with the execution and delivery of this Agreement.

“**Encumbrance**” means any charge, order, judgment, decree, claim, community property interest, pledge, condition, equitable interest, lien (statutory or other), option, security interest, mortgage, easement, encroachment, right of way, right of first refusal, or restriction of any kind, including any restriction on use, voting, transfer, receipt of income or exercise of any other attribute of ownership.

“**ERP**” has the meaning set forth in the recitals.

“**Excluded Assets**” has the meaning set forth in Section 2.02.

“**Existing Contracts**” has the meaning set forth in Section 2.07.

“**Existing Customers**” means those Customers who are active Customers of the Business as of the Closing Date.

“**Fraud**” with respect to a party, an actual and intentional misrepresentation of a material existing fact with respect to the making of any representation or warranty in Article IV or Article V, made by such party, (a) with respect to a Seller, to Seller’s Knowledge or (b) with respect to Purchaser, to Purchaser’s actual knowledge, of its falsity and made for the purpose of inducing the other party to act, and upon which the other party justifiably relies with resulting Losses.

**“Governmental Authority”** means any federal, state, local or foreign government or political subdivision thereof, or any agency or instrumentality of such government or political subdivision, or any self-regulated organization or other non-governmental regulatory authority or quasi-governmental authority (to the extent that the rules, regulations or orders of such organization or authority have the force of Law), or any arbitrator, court or tribunal of competent jurisdiction.

**“Governmental Order”** means any order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Authority.

**“Gress Consulting Agreement”** means the one-year Consulting Agreement between Buyer and Dynamic Tech Services, Inc. in the form of Exhibit B hereto.

**“Indemnified Party”** has the meaning set forth in **Section 7.04**.

**“Indemnifying Party”** has the meaning set forth in **Section 7.04**.

**“Knowledge of Seller”** or **“Seller’s Knowledge”** means the actual or constructive knowledge, after reasonable inquiry, of Joseph Gress.

**“Law”** means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree, other requirement or rule of law of any Governmental Authority.

**“Liabilities”** means liabilities, obligations or commitments of any nature whatsoever, asserted or unasserted, known or unknown, absolute or contingent, accrued or unaccrued, matured or unmatured or otherwise.

**“Losses”** means any and all losses, Liabilities, claims, settlement payments, awards, Actions, judgments, deficiencies, fines, interest, penalties, damages, costs, expenses (including costs of investigation and defense and reasonable attorneys’ and other professional advisors’ fees), including the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers.

**“Material Adverse Effect”** means any event, occurrence, fact, condition or change that is, individually or in the aggregate, materially adverse to (a) the business, results of operations, condition (financial or otherwise), prospects or assets of the Business, taken as a whole, or (b) the ability of Seller to consummate the transactions contemplated hereby on a timely basis; *provided, however*, that “Material Adverse Effect” shall not include any event, occurrence, fact, condition or change, directly or indirectly, arising out of or attributable to: (i) general economic or political conditions; (ii) conditions generally affecting the industries in which the Business operates; (iii) any changes in financial, banking or securities markets in general, including any disruption thereof and any decline in the price of any security or any market index or any change in prevailing interest rates; (iv) acts of war (whether or not declared), armed hostilities or terrorism, or the escalation or worsening thereof; (v) any action required or permitted by this Agreement or any action taken (or omitted to be taken) with the written consent of or at the written request of Purchaser; (vi) any changes in applicable Laws or accounting rules; (vii) any natural or man-made disaster or acts of God; or (viii) any epidemics, pandemics, disease outbreaks, or other public health emergencies, or any governmental orders, closures or quarantines related thereto (including actions related to COVID-19 or any variant thereof).

**“Permits”** means all permits, licenses, franchises, approvals, authorizations, registrations, certificates, variances and similar rights obtained, or required to be obtained, from Governmental Authorities.

**“Person”** means an individual, corporation, partnership, joint venture, limited liability company, Governmental Authority, unincorporated organization, trust, association or other entity.

**“Post-Closing Period Liabilities”** has the meaning set forth in **Section 2.03**.

**“Post-Closing Tax Period”** means any tax period which begins after the Closing Date.

**“Pre-Closing Period Liabilities”** has the meaning set forth in **Section 2.04**.

**“Pre-Closing Tax Period”** means any tax period which ends on or before the Closing Date.

**“Prospect List”** has the meaning set for in **Section 4.05 (b)**.

**“Publisher”** means Acumatica, Inc.

**“Purchase Price”** has the meaning set forth in **Section 2.05**.

**“Purchased Assets”** has the meaning set forth in **Section 2.01**.

**“Replacement Contract”** has the meaning set forth in **Section 2.07**.

**“Representative”** means, with respect to any Person, any and all directors, officers, employees, consultants, financial advisors, counsel, accountants and other agents of such Person.

**“Restricted Period”** has the meaning set forth in **Section 6.03(a)**.

**“Securities Laws”** means all Laws under or relating to the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended

**“Seller”** has the meaning set forth in the preamble.

**“Seller Customers”** has the meaning set forth in **Section 2.05(b)(i)**.

**“Seller Indemnitees”** has the meaning set forth in **Section 7.03**.

“**Specified Representations**” means (a) with respect to Seller, the representations and warranties given or made by Seller in Section 4.01 “Organization and Qualification of Seller,” Section 4.02 “Authority of Seller,” Section 4.03 “No Conflicts; Consents,” Section 4.06 “Title to Purchased Assets,” Section 4.10 “Taxes” and Section 4.11 “Brokers,” and (b) with respect to Buyer, the representations and warranties given or made by Buyer in Section 5.01 “Organization of Buyer,” Section 5.02 “Authority of Buyer” and Section 5.03 “Brokers.”

“**Tax Return**” means any return, declaration, report, claim for refund, information return or statement or other document filed with respect to Taxes, including any schedule or attachment thereto, and including any amendment thereof.

“**Taxes**” means all federal, state, local, foreign and other income, gross receipts, sales, use, production, ad valorem, transfer, documentary, franchise, registration, profits, license, lease, service, service use, withholding, payroll, employment, unemployment, estimated, excise, severance, environmental, stamp, occupation, premium, property (real or personal), real property gains, windfall profits, customs, duties or other taxes, fees, assessments or charges of any kind whatsoever, together with any interest, additions or penalties with respect thereto and any interest in respect of such additions or penalties.

“**Territory**” means North America and the Caribbean.

“**Third-Party Claim**” has the meaning set forth in Section 7.04(a)(i).

“**Transaction Documents**” means this Agreement, the Bill of Sale, the Gress Consulting Agreement, the Assignment and Assumption of Contracts Agreement and the other agreements, instruments and documents required to be delivered at the Closing.

## **ARTICLE II Transactions**

**Section 2.01 Purchase and Sale of Assets.** Subject to the terms and conditions set forth herein, Seller hereby sells, assigns, transfers, conveys and delivers to Buyer, and Buyer hereby purchases from Seller, free and clear of any Encumbrances, all of Seller’s right, title and interest in, to and under each of the following assets, properties and rights of every kind and nature, whether real, personal or mixed, tangible or intangible (including goodwill), wherever located and whether now existing or hereafter acquired (other than the Excluded Assets), which relate to, or are used or held for use in connection with, the Business (collectively, the “**Purchased Assets**”):

- (a) all information relating to past, present and prospective customers of the Business (“**Customers**”), including Customer lists, purchasing histories, maintenance records, Customer complaints and inquiry files, lists of applications installed, list of licenses, and maintenance renewal amounts and dates, all of which shall be provided by means of a CRM database, the Publishers’ portal and any other relevant means of providing such information;

(b) all “Reseller of Record” designations and records for the Publisher including those in the Publisher’s portal, and including all of the foregoing in respect of leads, prospects and opportunities identified on the lead grid in the Publishers’ portal or in Seller’s CRM database;

(c) all rights under Contracts with Existing Customers, all other commitments made by Existing Customers (including signed proposals), and all rights under Contracts relating to the licensing, servicing and support of the Publishers’ products and services, in each case to the extent relating to the Business, all of which are set forth on Section 2.01(c) of the Disclosure Schedules (the “**Assigned Customer Contracts**”);

(d) all rights under Contracts with vendors and suppliers of the Business that are set forth on Section 2.01(d) of the Disclosure Schedules (the “**Assigned Vendor Contracts**”);

(e) all revenues associated with the renewal of annual maintenance or subscription Contracts with Customers with expiration dates on or after the Closing Date that are renewed on or after the Closing Date;

(f) all books and records related to the Business (“**Books and Records**”);

(g) all of Seller’s rights under warranties, indemnities and all similar rights against third parties and all agreements with third parties not to compete with the Business or solicit any of the employees, clients, Customers or suppliers of the Business, including the right to enforce Contracts with Business Contractors who have agreed not to compete with the Business or solicit any of the employees, clients, Customers or suppliers of the Business (and Seller shall enforce such rights as and when requested by Buyer at Buyer’s sole cost and expense);

(h) all rights to any Actions of any nature available to or being pursued by Seller to the extent related to the Business, the Purchased Assets, whether arising by way of counterclaim or otherwise; and

(i) all domain names, websites, domains, URLs and social media accounts set forth in Section 2.01(i) of the Disclosure Schedules.

**Section 2.02 Excluded Assets.** Notwithstanding the foregoing, other than the Purchased Assets described in Section 2.01, Buyer expressly understands and agrees that it is not purchasing or acquiring, and Seller is not selling or assigning, any other assets, properties or rights of Seller, and all such other assets, properties and rights, including all assets and properties used by Seller in connection with the so-called, “Microsoft Dynamic SL” business, which includes the sale or license of all third party products and services related to such business (collectively, the “**Excluded Assets**”), are excluded from the Purchased Assets and will be retained by Seller and remain the property of Seller following the Closing. For the sake of clarity, the Excluded Assets shall include the following:

(a) cash, checks, money orders, marketable securities, short-term instruments and other cash equivalents, funds in time and demand deposits or similar accounts, and any evidence of Indebtedness issued or guaranteed by any Governmental Authority;

(b) all rights to receive refunds, credits and credit carry forwards with respect to any Taxes in each case, to the extent attributable to a Pre-Closing Tax Period, including interest thereon;

(c) the books and records of Seller relating to the organization, maintenance, existence and good standing of Seller as a legal entity;

(d) any accounts receivable, trade receivable, notes receivable and other receivables of Seller (including with respect to the Assigned Customer Contract to the extent such receivable is earned prior to the Closing);

(e) any records that Seller is required by Law to retain in its possession (provided that copies of any such records will, to the extent permitted by Law, be provided to Buyer at or prior to the Closing);

(f) to the extent related solely to a Pre-Closing Period Liability, any rights of Seller against third parties related to or arising out of ownership of the Purchased Assets or operation of the Business prior to the Closing;

(g) all bank accounts of Seller; and

(h) all abandoned or unclaimed property reportable under any state or local unclaimed property, escheat or similar Law where the dormancy period elapsed prior to the Closing Date.

**Section 2.03 Purchaser's Obligation as to Post-Closing Period Liabilities.** Concurrent with the execution of this Agreement, the Purchaser will assume and agrees to pay, perform and discharge when due any and all Liabilities and obligations of the Business or the Purchased Assets relating to periods on or after the Closing, including all Liabilities and obligations arising under or relating to the Assigned Customer Contracts and Assigned Vendor Contracts (the "**Post-Closing Period Liabilities**"). No Liabilities and obligations of the Business or the Purchased Assets relating to periods on or before the Closing are being assumed by Purchaser hereunder.

**Section 2.04 Seller's Obligation as to Pre-Closing Period Liabilities.** Seller agrees to pay, perform and discharge when due any and all Liabilities and obligations of the Business or the Purchased Assets relating to periods prior to the Closing (the "**Pre-Closing Period Liabilities**")

**Section 2.05 Purchase Price.** The aggregate purchase price in consideration for the sale and assignment of the Purchased Assets shall be one million three hundred and thirty-five thousand dollars (\$1,335,000) (the "**Purchase Price**"), payable by Buyer as follows:

(a) \$500,000 in cash at Closing.

(b) Promissory Note of Buyer issuable at Closing, dated as of the Closing Date, in the principal amount of \$835,000 and in the form attached hereto as Exhibit D (the "**Buyer Note**"). The Buyer Note shall have a term of four (4) years and shall bear interest at the rate of 3.25% per annum.

( i ) Downward Adjustment of Buyer Note Principal. Subject to subsection (ii) below, the principal amount of the Buyer Note will be subject to a downward adjustment in the event Buyer loses any subscription renewal revenue during the one-year period immediately following the Closing Date from any Persons that were Customers of Seller immediately prior to the Closing Date (the “**Seller Customers**”). Any such downward adjustment will be determined by calculating the percentage of loss of Acumatica subscription renewals during the one-year period immediately following the Closing Date from Seller Customers as set forth below.

( ii ) Calculation of Downward Adjustment. In the event that subscription renewal revenue received by Buyer from Seller Customers during the one-year period immediately following the Closing Date is less than 95% of the subscription renewal revenue received by Seller from Seller Customers during the one-year period immediately preceding the Closing Date (as reflected in Section 2.05(b)(ii) of the Disclosure Schedules), the principal amount of the Buyer Note will be reduced. As an example, if the annual subscription renewals of Seller Customers received by Seller during the one-year period preceding the Closing Date was \$1,000,000 and the annual subscription renewals of Seller Customers received by Buyer during the one-year period following the Closing Date was \$900,000, this will represent a 10% loss of the renewal revenue conveyed to Buyer. The reciprocal of this percentage loss, which would be 90%, would then be multiplied by the outstanding principal amount of the Buyer Note of \$835,000, and the new outstanding principal amount of the Buyer Note would be \$751,500, which is the amount which will be due and owing and paid in accordance with the terms of the Buyer Note. The measuring period for any downward adjustment shall be as of the one-year anniversary of the Closing Date. Notwithstanding the foregoing, under no circumstances shall the principal amount of the Buyer Note be reduced by reason of such downward adjustment by more than \$150,000 (*i.e.*, to a principal amount below \$685,000).

( iii ) Amortization of Buyer Note. The Buyer Note will be amortized as follows: The first payment of principal and interest due under the Buyer Note, which shall be an annual payment, shall be due and payable on January 1, 2023, after the revised principal amount of the Buyer Note is determined in accordance with Section 2.05(ii)(b) above, and thereafter, payments shall be made quarterly in twelve (12) equal installments.

**Section 2.06 Allocation of Payments.** Seller and Buyer agree that the Purchase Price shall be allocated to goodwill for tax purposes.

**Section 2.07 Existing Contracts.** Section 2.07 of the Disclosure Schedules contains a list as of the date hereof of (a) all services engagements and work-in-progress for which Seller has received a deposit or prepayment in respect thereof and for which services are currently being performed for Customers (inclusive of projects in progress) and all other existing Contracts with any Customer for ongoing projects, maintenance or support (collectively, the “**Existing Contracts**”), (b) the amount of any deposit or prepayment received in respect thereof, and (c) a description of the services to be performed or support provided under each such Existing Contract. Except as otherwise set forth in Section 2.07 of the Disclosure Schedule, the Existing Contracts shall be terminated at or prior to Closing and new contracts (the “**Replacement Contracts**”), shall be entered into between Buyer and each Customer, as of the Closing. The Existing Contracts set forth in Section 2.07 of the Disclosure Schedule shall be assumed by Seller pursuant to the Assignment and Assumption of Contracts Agreement. At the request of Buyer, Seller shall provide Buyer with reasonable assistance in connection with obtaining the Replacement Contracts. Seller will transfer any prepayments or deposits provided by the applicable Customer to Seller for the projects, services or support to the extent not fully earned by Seller as of the Closing Date.

**Section 2.08 Post-Closing Expenses and Receivables.** In the event that Buyer receives on or after the Closing Date an invoice with respect to any Pre-Closing Period Liabilities, (a) if such invoice relates entirely to a Pre-Closing Liability, then Buyer shall promptly deliver such invoice to Seller and Seller shall settle the undisputed portion of such invoice in a timely manner and in any event prior to the date on which such invoice is due and payable, and (b) if such invoice relates in part to a Pre-Closing Period Liability and in part to a Post-Closing Period Liability, then Buyer shall (i) settle such invoice in a timely manner and (ii) notify Seller of the amount thereof that relates to a Pre-Closing Period Liability, and Seller shall remit funds to Buyer in respect of that undisputed portion of such invoice that relates to a Pre-Closing Period Liability within five (5) Business Days after receipt of notice thereof. If Seller or any of its Affiliates receives or collects on or after the Closing Date any funds relating to any Purchased Assets or to any services or products that will be provided on or after the Closing Date, unless such revenues are Excluded Assets, Seller or its Affiliate shall remit such funds to Buyer within five (5) Business Days after receipt thereof. If Buyer or any of its Affiliates receives or collects on or after the Closing Date any funds relating to any Excluded Assets, Buyer or its Affiliates shall remit such funds to Seller within five (5) Business Days after receipt thereof. Buyer will use commercially reasonable efforts to segregate (by book entry or otherwise) cash receipts from Customers in order to track accounts receivable that are Excluded Assets to be paid over to Seller.

**Section 2.09 Third-Party Consents.** To the extent that any Purchased Asset may not be assigned to Buyer without the consent of another Person which has not been obtained, this Agreement shall not constitute an agreement to assign the same if an attempted assignment would constitute a breach thereof or be unlawful, and Seller, at its expense, shall use its commercially reasonable efforts to obtain any such required consent(s) as promptly as possible. If any such consent shall not be obtained or if any attempted assignment would be ineffective or would impair Buyer's rights under the Purchased Asset in question so that Buyer would not in effect acquire the benefit of all such rights, Seller, to the maximum extent permitted by law and the Purchased Asset, shall act after the Closing as Buyer's agent in order to obtain for it the benefits thereunder and shall cooperate, to the maximum extent permitted by Law and the Purchased Asset, with Buyer in any other reasonable arrangement designed to provide such benefits to Buyer.

### **ARTICLE III Closing**

**Section 3.01 Closing.** Subject to the terms and conditions of this Agreement, the consummation of the transactions contemplated by this Agreement (the "Closing") shall take place remotely via the exchange of documents, signatures and other closing deliverables as of the date hereof. The date on which the Closing is to occur is herein referred to as the "Closing Date". For purposes of determining whether an act or event occurred on or prior to the Closing Date, the Closing shall be deemed to have occurred at 12:01 a.m. (prevailing Eastern time) on and as of the Closing Date.

**Section 3.02 Closing Deliverables.**

(a) At the Closing, Seller shall deliver to Buyer the items in **Section 3.02**, the following:

(i) a bill of sale in the form of Exhibit A hereto (the “**Bill of Sale**”) duly executed by Seller, transferring the Purchased Assets to Buyer;

(ii) all approvals, consents and waivers that are listed on **Section 4.03** of the Disclosure Schedules shall have been received, and executed counterparts thereof shall have been delivered to Buyer at or prior to the Closing;

(iii) a certificate of the Secretary or an Assistant Secretary (or equivalent officer) of Seller certifying (i) that attached thereto are true and complete copies of all resolutions adopted by the board of directors of Seller authorizing the execution, delivery and performance of this Agreement and the other Transaction Documents and the consummation of the transactions contemplated hereby and thereby, and that all such resolutions are in full force and effect and are all the resolutions adopted in connection with the transactions contemplated hereby and thereby; (ii) that attached thereto are true and complete copies of the certificate of incorporation and bylaws of Seller; and (iii) the names and signatures of the officers of Seller authorized to sign this Agreement, the other Transaction Documents and the other documents to be delivered hereunder and thereunder;

(iv) the Gress Consulting Agreement in the form of Exhibit B hereto duly executed by Joseph Gress on behalf of Seller;

(v) the Prospect List;

(vi) a letter of instruction to the Publisher, whereby all of Seller’s Customers are transferred to Buyer and Buyer is designated as “Reseller of Record” with respect thereto, which letter of instruction shall be in form and substance acceptable to Buyer and which shall be countersigned by the Publisher if applicable;

(vii) a current account statement from the Publisher stating that Seller is paid in full (other than for payments not yet due and payable) no later than January 31, 2022 in accordance with standard practice;

(viii) the Assignment and Assumption of Contracts Agreement in the form of Exhibit C hereto duly executed by Seller.

(b) At the Closing, Buyer shall deliver to Seller, against delivery of the items in **Section 3.02**, the following:

- (i) the cash portion of the Purchase Price;
- (ii) the Buyer Note;
- (iii) the Bill of Sale, duly executed by Buyer;

(iv) a certificate of the Secretary or an Assistant Secretary (or equivalent officer) of Buyer certifying (i) that attached thereto are true and complete copies of all resolutions adopted by the board of directors of Buyer authorizing the execution, delivery and performance of this Agreement and the other Transaction Documents and the consummation of the transactions contemplated hereby and thereby, and that all such resolutions are in full force and effect and are all the resolutions adopted in connection with the transactions contemplated hereby and thereby; (ii) that attached thereto are true and complete copies of the certificate of incorporation and bylaws of Buyer; and (iii) the names and signatures of the officers of Buyer authorized to sign this Agreement, the other Transaction Documents and the other documents to be delivered hereunder and thereunder;

- (v) the Gress Consulting Agreement in the form of Exhibit B hereto duly executed by Buyer; and
- (vi) the Assignment and Assumption of Contracts Agreement in the form of Exhibit C hereto duly executed by Seller.

#### **ARTICLE IV Representations and warranties of seller**

Except as expressly set forth in the Disclosure Schedules, Seller represents and warrants to Buyer that the statements contained in this ARTICLE IV are true and correct as of the date hereof and, except as otherwise indicated, as of the Closing Date.

**Section 4.01 Organization and Qualification of Seller.** Seller is a corporation duly organized, validly existing and in good standing under the Laws of the State of Georgia and has all necessary corporate power and authority to own, operate or lease the properties and assets now owned, operated or leased by it and to carry on the Business as currently conducted.

**Section 4.02 Authority of Seller.** Seller has all necessary corporate power and authority to enter into this Agreement and the other Transaction Documents to which Seller is a party, to carry out its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery by Seller of this Agreement and any other Transaction Document to which Seller is a party, the performance by Seller of its obligations hereunder and thereunder and the consummation by Seller of the transactions contemplated hereby and thereby have been duly authorized by all requisite corporate action on the part of Seller. This Agreement has been duly executed and delivered by Seller, and (assuming due authorization, execution and delivery by Buyer), this Agreement constitutes a legal, valid and binding obligation of Seller enforceable against Seller in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, fraudulent conveyance or transfer or similar Laws affecting the enforcement of creditors' rights generally or general principles of equity (whether considered in a proceeding at law or in equity). When each other Transaction Document to which Seller is or will be a party has been duly executed and delivered by Seller (assuming due authorization, execution and delivery by each other party thereto), such Transaction Document will constitute a legal and binding obligation of Seller enforceable against it in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, fraudulent conveyance or transfer or similar Laws affecting the enforcement of creditors' rights generally or general principles of equity (whether considered in a proceeding at law or in equity).

**Section 4.03 No Conflicts; Consents.** The execution, delivery and performance by Seller of this Agreement and the other Transaction Documents to which it is a party, and the consummation of the transactions contemplated hereby and thereby, do not and will not: (a) conflict with or result in a violation or breach of, or default under, any provision of the certificate of incorporation, by-laws or other organizational documents of Seller; (b) conflict with or result in a violation or breach of any provision of any Law or Governmental Order applicable to the Business or the Purchased Assets, except where such conflict or violation would not have a Material Adverse Effect on the Business or the Purchased Assets; (c) except as set forth on Section 4.03 of the Disclosure Schedules, require the consent, notice or other action by any Person under, conflict with, result in a violation or breach of, constitute a default or an event that, with or without notice or lapse of time or both, would constitute a default under, result in the acceleration of or create in any party the right to accelerate, terminate, modify or cancel any Contract or Permit to which Seller is a party or by which Seller or the Business is bound or to which any of the Purchased Assets are subject, or (d) result in the imposition or creation of any Encumbrance upon or with respect to any of the Purchased Assets. No consent, approval, Governmental Order, declaration or filing with, or notice to, any Governmental Authority is required by or with respect to Seller in connection with the execution and delivery of this Agreement or any of the other Transaction Documents and the consummation of the transactions contemplated hereby and thereby, other than any disclosure obligations promulgated under the Securities Laws or any listing agreement with or rules promulgated by a national securities exchange.

**Section 4.04 Absence of Certain Changes and Events.** Since December 31, 2020, there has not been a Material Adverse Effect, and no event has occurred or circumstance exists that may reasonably be expected to result in a Material Adverse Effect. Since December 31, 2020, Seller has conducted the Business in the ordinary course of business, consistent with past practice.

**Section 4.05 Customers and Vendors; Existing Contracts**

(a) The Customers set forth on Section 4.05(a) of the Disclosure Schedules represent all Existing Customers of the Business (whether for products and services or otherwise). Seller has not received notice of, and to the Knowledge of Seller, no Existing Customers have indicated that they intend to stop, or materially decrease the amount or rate of, buying products or services from Seller. Seller has no outstanding dispute with any Existing Customer.

(b) Section 4.05(b) of the Disclosure Schedules sets forth Seller's Prospect List (the "**Prospect List**").

(c) The Existing Contracts listed on Section 2.06 of the Disclosure Schedules reflect all Contracts with Existing Customers in relation to the Business for ongoing projects, maintenance, subscription, or support or pursuant to which Seller is required to provide any service. All of such Existing Contracts (i) are terminable at will upon thirty day notice, and (ii) require consent from the applicable Customer to be assigned pursuant to an Assignment and Assumption of Contracts Agreement in the form of Exhibit C hereto. It is intended that only those Existing Contracts listed in Section 2.07 of the Disclosure Schedule be assigned to and assumed by Buyer, with the balance of the Existing Contracts being terminated and replaced with the Replacement Contracts.

(d) There are no existing Contracts, options, commitments or rights with, to or in any Person to acquire any of the assets or properties used in the Business or rights or any interest therein, except for those contracts entered into in the ordinary course of business consistent with past practice for the sale of the products and services of the Business.

**Section 4.06 Title to Purchased Assets.** Seller has good and valid title to, or a valid leasehold interest in, to the extent applicable, all of the Purchased Assets. All such Purchased Assets (including leasehold interests) are free and clear of Encumbrances.

**Section 4.07 Legal Proceedings.** There are no Actions pending or, to Seller's Knowledge, threatened against or by Seller (a) relating to or affecting the Business or the Purchased Assets; or (b) that challenge or seek to prevent, enjoin or otherwise delay the transactions contemplated by this Agreement. To Seller's Knowledge, no event has occurred or circumstances exist that may give rise to, or serve as a basis for, any such Action. There are no outstanding Governmental Orders and no unsatisfied judgments, penalties or awards against, relating to or affecting the Business.

**Section 4.08 Compliance With Laws; Permits.** To Seller's Knowledge, Seller has complied and is currently in compliance with all Laws applicable to the conduct of the Business as currently conducted or the ownership and use of the Purchased Assets. All Permits required for Seller to conduct the Business as currently conducted or for the ownership and use of the Purchased Assets have been obtained by Seller and are valid and in full force and effect, and Seller is and has been in compliance therewith, except to the extent that any non-compliance would not result in a Material Adverse Effect. All fees and charges with respect to such Permits as of the Closing Date have been paid in full.

**Section 4.09 Employment Matters.**

(a) **Business Contractors.** Section 4.09(a) of the Disclosure Schedules contains a list of all Business Contractors and sets forth for each such individual the following: (i) name; (ii) title or position; (iii) contract date; (iv) compensation rate; and (v) commission, bonus or other incentive-based compensation. Seller is not a party to or bound by any collective bargaining or other agreement with a labor organization representing any of the Business Contractors. The only employee of Seller is the sole shareholder of the Seller, Joseph Gress.

(b) **No Complaints or Notices.** To the Knowledge of Seller, there are no pending or threatened notices or complaints from or on behalf of any of the Business Contractors as to any conduct or situation which, if established, could reasonably be expected to constitute a violation of federal, state or local law by Seller.

**Section 4.10 Taxes.** There is no dispute or claim concerning any Taxes of Seller with respect to the Business or the Purchased Assets. Seller has timely and properly withheld, in all material respects, (a) amounts required to be withheld from payments to the Business Contractors, and (b) sales, use, and value added Taxes in respect of the Purchased Assets and the Business, and to the extent required, Seller has remitted all such withheld Taxes to the proper Governmental Authority. Seller has no liability for Taxes of any person (other than Seller) as a transferee or successor by Contract or otherwise.

**Section 4.11 Brokers.** No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement or any other Transaction Document based upon arrangements made by or on behalf of Seller.

**Section 4.12 Full Disclosure.** No representation or warranty by Seller in this Agreement and no statement contained in the Disclosure Schedules to this Agreement or any certificate or other document furnished or to be furnished to Buyer pursuant to this Agreement contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained therein, in light of the circumstances in which they are made, not misleading.

**Section 4.13 No Further Representations.** NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, THE PARTIES AGREE THAT NEITHER SELLER NOR ANY OF ITS AFFILIATES OR REPRESENTATIVES HAS MADE OR IS MAKING ANY REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, WRITTEN OR ORAL, AT LAW OR IN EQUITY, AND ANY SUCH OTHER REPRESENTATIONS OR WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED, INCLUDING ANY IMPLIED REPRESENTATION OR WARRANTY AS TO THE CONDITION, MERCHANTABILITY, USAGE, SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE WITH RESPECT TO SELLER, THE BUSINESS OR THE PURCHASED ASSETS, EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES CONTAINED IN THIS ARTICLE IV. NOTWITHSTANDING ANYTHING TO THE CONTRARY, BUYER HEREBY ACKNOWLEDGES AND AGREES THAT IT HAS NOT RELIED, AND IT WILL NOT RELY, UPON (I) ANY REPRESENTATION OR WARRANTY EXCEPT AS EXPRESSLY CONTAINED IN THIS ARTICLE IV, OR (II) ANY OTHER INFORMATION OR DOCUMENTS (FINANCIAL OR OTHERWISE) MADE AVAILABLE TO BUYER OR ITS COUNSEL, ACCOUNTANTS OR ADVISORS WITH RESPECT TO THE BUSINESS

**ARTICLE V**  
**Representations and warranties of buyer**

Buyer represents and warrants to Seller that the statements contained in this **ARTICLE V** are true and correct as of the date hereof and, except as otherwise indicated, as of the Closing Date.

**Section 5.01 Organization of Buyer.** Buyer is a corporation duly organized, validly existing and in good standing under the Laws of the State of Delaware and has all necessary corporate power and authority to own, operate or lease the properties and assets now owned, operated or leased by it.

**Section 5.02 Authority of Buyer.** Buyer has all necessary corporate power and authority to enter into this Agreement and the other Transaction Documents to which Buyer is a party, to carry out its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery by Buyer of this Agreement and any other Transaction Document to which Buyer is a party, the performance by Buyer of its obligations hereunder and thereunder and the consummation by Buyer of the transactions contemplated hereby and thereby have been duly authorized by all requisite corporate action on the part of Buyer. This Agreement has been duly executed and delivered by Buyer, and (assuming due authorization, execution and delivery by Seller) this Agreement constitutes a legal, valid and binding obligation of Buyer enforceable against Buyer in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, fraudulent conveyance or transfer or similar Laws affecting the enforcement of creditors' rights generally or general principles of equity (whether considered in a proceeding at law or in equity). When each other Transaction Document to which Buyer is or will be a party has been duly executed and delivered by Buyer (assuming due authorization, execution and delivery by each other party thereto), such Transaction Document will constitute a legal and binding obligation of Buyer enforceable against it in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, fraudulent conveyance or transfer or similar Laws affecting the enforcement of creditors' rights generally or general principles of equity (whether considered in a proceeding at law or in equity).

**Section 5.03 Brokers.** No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement or any other Transaction Document based upon arrangements made by or on behalf of Buyer.

**Section 5.04 Sufficiency of Funds.** Buyer has sufficient cash on hand or other sources of immediately available funds to enable it to make payment of the Purchase Price and consummate the transactions contemplated by this Agreement.

**Section 5.05 Independent Investigation.** Buyer has conducted its own independent investigation, review and analysis of the Business and the Purchased Assets, and acknowledges that it has been provided adequate access to the personnel, properties, assets, premises, books and records, and other documents and data of Seller for such purpose. Buyer acknowledges and agrees that: (a) in making its decision to enter into this Agreement and to consummate the transactions contemplated hereby, Buyer has relied solely upon its own investigation and the express representations and warranties of Seller set forth in Article IV of this Agreement (including related portions of the Disclosure Schedules); and (b) neither Seller nor any other Person has made any representation or warranty as to Seller, the Business, the Purchased Assets or this Agreement, except as expressly set forth in Article IV of this Agreement (including the related portions of the Disclosure Schedules).

**ARTICLE VI**  
**Covenants**

**Section 6.01 Business Contractors**

(a) Buyer shall consider certain Business Contractors for employment and, at Buyer's sole discretion, may offer employment, on an "at will" basis, to any of such Business Contractors. Joseph Gress will be engaged through the Gress Consulting Agreement.

(b) Seller shall be solely responsible, and Buyer shall have no obligations whatsoever, for any compensation or other amounts payable to any current or former employee, officer, director, independent contractor or consultant of the Business, including hourly pay, commission, bonus, salary, accrued vacation, fringe, pension or profit sharing benefits or severance pay for any period relating to the service with Seller at any time on or prior to the Closing Date and Seller shall pay all such amounts to all entitled persons on or prior to the Closing Date. Buyer shall be liable for the wages and other compensation owing from and after Closing to the Business Contractors of Seller that are hired as employees of Buyer from and after the Closing.

(c) Seller shall remain solely responsible for the satisfaction of all claims for medical, dental, life insurance, health accident or disability benefits brought by or in respect of current or former employees, officers, directors, independent contractors or consultants of the Business or the spouses, dependents or beneficiaries thereof, which claims relate to events occurring on or prior to the Closing Date. Seller also shall remain solely responsible for all worker's compensation claims of any current or former employees, officers, directors, independent contractors or consultants of the Business which relate to events occurring on or prior to the Closing Date. Seller shall pay, or cause to be paid, all such amounts to the appropriate persons as and when due.

(d) This **Section 6.01** shall be binding upon and inure solely to the benefit of each of the parties to this Agreement, and nothing in this **Section 6.01**, express or implied, shall confer upon any other Person any rights or remedies of any nature whatsoever under or by reason of this **Section 6.01**. The parties hereto acknowledge and agree that the terms set forth in this **Section 6.01** shall not create any right in any Business Contractor or any other Person to any continued employment with Seller or Buyer or compensation or benefits of any nature or kind whatsoever.

**Section 6.02 Confidentiality.** From and after the Closing, Seller shall, and shall cause its Affiliates to, hold, and shall use its commercially reasonable efforts to cause its or their respective Representatives to hold, in confidence, and Seller shall not, and shall cause its Affiliates not to, and shall use its commercially reasonable efforts to cause its or their respective Representatives not to, use, any and all non-public, confidential and/or proprietary information, whether written or oral, concerning the Business (including any of the information described in **Section 2.01(a)** or **Section 2.01(b)**). If Seller or any of its Affiliates or its or their respective Representatives are compelled to disclose any information by judicial or administrative process or by other requirements of Law, Seller shall promptly notify Buyer in writing and shall disclose only that portion of such information which Seller is advised by its counsel in writing is legally required to be disclosed; *provided* that Seller shall use commercially reasonable efforts to obtain an appropriate protective order or other reasonable assurance that confidential treatment will be accorded such information.

**Section 6.03 Non-competition; Non-solicitation.**

(a) For a period of four (4) years commencing on the Closing Date (the **Restricted Period**), Seller shall not, and shall cause its Affiliates not to, directly or indirectly, in the Territory, (i) engage in or assist others in engaging in any business that sells, markets, distributes, services or supports Acumatica cloud ERP products and/or services, or (ii) have an interest in any Person that sells, markets, distributes, services or supports Acumatica cloud ERP products and/or services, in each case in any capacity, including as a partner, shareholder, member, employee, principal, agent, trustee or consultant.

(b) For a period of five (5) years commencing on the Closing Date, neither Seller nor any of its Affiliates may directly or indirectly hire or solicit any employee of Buyer directly or indirectly engaged in the Business, or encourage any such employee to leave such employment or hire any such employee who has left such employment within six (6) months of such termination date, except pursuant to a general solicitation which is not directed specifically to any such employees.

(c) For a period of five (5) years commencing on the Closing Date, neither Seller nor any of its Affiliates may cause, induce or encourage any client, customer, supplier or licensor of the Business (including any existing or former client, customer, supplier or licensor of Seller and any Person that becomes a client, customer, supplier or licensor of the Business after the Closing), or any other Person who has a business relationship with the Business, to terminate or modify any such relationship.

(d) Seller acknowledges that the restrictive covenants in this **Section 6.03** are reasonable and are necessary to protect and preserve the value of the Purchased Assets and to prevent any unfair advantage being conferred on Seller. If any of the restrictive covenants set forth herein are held to be unreasonable, arbitrary, or against public policy, the Restricted Period will be deemed to be the longest period permissible by law under the circumstances and the restrictive geographical area herein will be deemed to comprise the largest territory permissible by law under the circumstances. In the event of a breach of any covenant set forth herein, the Restricted Period will be extended by the period of the duration of such breach.

(e) Seller acknowledges that a material breach or threatened material breach of this **Section 6.03** would give rise to irreparable harm to Buyer, for which monetary damages would not be an adequate remedy, and hereby agrees that in the event of a material breach or a threatened material breach by Seller of any such obligations, Buyer shall, in addition to any and all other rights and remedies that may be available to it in respect of such material breach, be entitled to seek equitable relief, including a temporary restraining order, an injunction, specific performance and any other relief that may be available from a court of competent jurisdiction (without any requirement to post bond), and Seller shall not unreasonably object to Buyer's request for such equitable relief.

**Section 6.04 Books and Records.** In order to facilitate the resolution of any claims made by or against or incurred by Buyer after the Closing, or for any other reasonable purpose, for a period of three (3) years following the Closing, Seller shall retain the books and records (including personnel files) of Seller which relate to the Business and its operations for periods prior to the Closing and upon reasonable notice, afford Buyer's Representatives reasonable access (including the right to make photocopies), during normal business hours, to such books and records.

**Section 6.05 Public Announcements.** Unless required by (i) applicable law, including the disclosure obligations promulgated under the Securities Laws, (ii) any listing agreement with or rules promulgated by a national securities exchange or (iii) generally accepted accounting principles (in each of which cases under (i), (ii), and (iii)), Seller shall provide Buyer prior notice thereof and an opportunity to review such disclosure, but not approval rights thereof, neither Buyer nor Seller shall issue any public announcement or statement regarding this Agreement or the transactions contemplated hereby without the other party's prior consent or without using the mutually agreed upon wording of the press release that has been approved by the parties prior to their execution and delivery of this Agreement.

**Section 6.06 Bulk Sales Laws.** The parties hereby waive compliance with the provisions of any bulk sales, bulk transfer or similar Laws of any jurisdiction that may otherwise be applicable with respect to the sale of any or all of the Purchased Assets to Buyer.

**Section 6.07 Tax Matters.**

(a) Seller shall prepare and file any Tax Return in respect of the Purchased Assets and the Business for any period that includes a Pre-Closing Tax Period and shall have the sole right to control all proceedings with respect to such Tax Returns, and Seller shall be responsible for any Taxes relating to the Purchased Assets and the Business for any Pre-Closing Tax Period. Buyer shall prepare and file all Tax Returns in respect of the Purchased Assets and the Business for any Post-Closing Tax Period and shall have the sole right to control all proceedings with respect to such Tax Returns, and Buyer shall be responsible for any Taxes relating to the Purchased Assets and the Business for any Post-Closing Tax Period.

(b) All transfer, documentary, sales, use, stamp, registration, value added and other similar Taxes and fees (including any penalties and interest) incurred in connection with this Agreement and the other Transaction Documents (including any real property transfer Tax and any other similar Tax) shall be borne by Seller. Seller shall, at its own expense, timely file any Tax Return or other document with respect to such Taxes or fees (and Buyer shall cooperate with respect thereto as necessary).

**Section 6.08 Maintenance of Corporate Existence.** Seller shall, and Seller shall cause its owners to agree to, maintain the corporate existence of Seller for a period of at least five (5) years following the Closing Date. The foregoing shall not restrict Seller from engaging in a merger, sale or other business combination transaction so long as the entity resulting from or surviving such transaction does not terminate its existence within such five (5) year-period.

**Section 6.09 Cooperation.** Each party shall use its commercially reasonable efforts to consummate the transactions contemplated by this Agreement. Each party shall use its commercially reasonable efforts to secure all consents and approvals required to carry out the transactions contemplated by this Agreement and to satisfy all other conditions to the obligations of the parties hereunder. Following the Closing, each of the parties hereto shall, and shall cause their respective Affiliates to, execute and deliver such additional documents, instruments, conveyances and assurances and take such further actions as may be reasonably required to carry out the provisions hereof and give effect to the transactions contemplated by this Agreement and the other Transaction Documents.

**Section 6.10 Further Assurances.** Following the Closing, each of the parties hereto shall, and shall cause their respective Affiliates to, execute and deliver such additional documents, instruments, conveyances and assurances and take such further actions as may be reasonably required to carry out the provisions hereof and give effect to the transactions contemplated by this Agreement and the other Transaction Documents.

**Section 6.11 Disclosure Schedules.** All section headings in the Disclosure Schedules correspond to the sections of this Agreement, but information provided in any section of the Disclosure Schedules shall constitute disclosure for purposes of each section of this Agreement where such information is relevant. Unless the context otherwise requires, all capitalized terms used in the Disclosure Schedules shall have the respective meanings assigned to such terms in this Agreement. Certain information set forth in the Disclosure Schedules is included solely for informational purposes and may not be required to be disclosed pursuant to this Agreement. No reference to or disclosure of any item or other matter in the Disclosure Schedules shall be construed as an admission or indication that such item or other matter is required to be referred to or disclosed in the Disclosure Schedules. No disclosure in the Disclosure Schedules relating to any possible breach or violation of any agreement or Law shall be construed as an admission or indication that any such breach or violation exists or has actually occurred. The inclusion of any information in the Disclosure Schedules shall not be deemed to be an admission or acknowledgment by Seller that in and of itself, such information is material to or outside the ordinary course of the business or is required to be disclosed on the Disclosure Schedules. No disclosure in the Disclosure Schedules shall be deemed to create any rights in any third party.

## **ARTICLE VII Indemnification**

**Section 7.01 Survival.** Subject to the limitations and other provisions of this Agreement, the representations and warranties contained herein shall survive the Closing and shall remain in full force and effect until the date that is twenty-four (24) months after the Closing Date (other than as set forth in Section 7.08 and the Specified Representations, as to which the survival term is forty-eight (48) months). All covenants and agreements of the parties contained herein shall survive the Closing indefinitely or for the period explicitly specified therein. Notwithstanding the foregoing, any claims asserted in good faith with reasonable specificity (to the extent known at such time) and in writing by notice from the non-breaching party to the breaching party prior to the expiration date of the applicable survival period shall not thereafter be barred by the expiration of such survival period and such claims shall survive until finally resolved.

**Section 7.02 Indemnification by Seller.** Subject to the other terms and conditions of this **ARTICLE VII**, Seller shall indemnify and defend Buyer and its Representatives (collectively, the “**Buyer Indemnitees**”) against, and shall hold each of them harmless from and against, and shall pay and reimburse each of them for, any and all Losses incurred or sustained by, or imposed upon, the Buyer Indemnitees based upon, arising out of, with respect to or by reason of:

(a) any inaccuracy in or breach of any of the representations or warranties of Seller contained in this Agreement, the other Transaction Documents or in any other certificate or instrument delivered by or on behalf of Seller pursuant to this Agreement ;

(b) any breach or non-fulfillment of any covenant, agreement or obligation to be performed by Seller pursuant to this Agreement; or

(c) any Excluded Asset or any Pre-Closing Period Liability.

**Section 7.03 Indemnification by Buyer.** Subject to the other terms and conditions of this **ARTICLE VII**, Buyer shall indemnify and defend each of Seller and its Representatives (collectively, the “**Seller Indemnitees**”) against, and shall hold each of them harmless from and against, and shall pay and reimburse each of them for, any and all Losses incurred or sustained by, or imposed upon, the Seller Indemnitees based upon, arising out of, with respect to or by reason of:

(a) any inaccuracy in or breach of any of the representations or warranties of Buyer contained in this Agreement the other Transaction Documents or in any other certificate or instrument delivered by or on behalf of Buyer pursuant to this Agreement;

(b) any breach or non-fulfillment of any covenant, agreement or obligation to be performed by Buyer pursuant to this Agreement; or

(c) any Post-Closing Period Liability.

**Section 7.04 Indemnification Procedures.** The party making a claim under this **ARTICLE VII** is referred to as the “**Indemnified Party**”, and the party against whom such claims are asserted under this **ARTICLE VII** is referred to as the “**Indemnifying Party**”.

(a) **Third-Party Claims.**

(i) If any Indemnified Party receives notice of the assertion or commencement of any Action made or brought by any Person who is not a party to this Agreement or an Affiliate of a party to this Agreement or a Representative of the foregoing (a “**Third-Party Claim**”) against such Indemnified Party with respect to which the Indemnifying Party is obligated to provide indemnification under this Agreement, the Indemnified Party shall give the Indemnifying Party reasonably prompt written notice thereof. The failure to give such prompt written notice shall not, however, relieve the Indemnifying Party of its indemnification obligations, except to the extent that rights or defenses are forfeited by, or are unavailable to, the Indemnifying Party by reason of such failure. Such notice by the Indemnified Party shall describe the Third-Party Claim in reasonable detail, shall include copies of all material written evidence thereof and shall indicate the estimated amount, if reasonably practicable, of the Loss that has been or may be sustained by the Indemnified Party.

The Indemnifying Party shall have the right to participate in the defense of a Third-Party Claim, (unless the Indemnifying Party fails to provide reasonable assurance to the Indemnified Party of its financial capacity to defend such Third-Party Claim and provide indemnification with respect to such Third- Party Claim) by giving written notice to the Indemnified Party, to assume the defense of any Third- Party Claim at the Indemnifying Party's expense with counsel selected by the Indemnifying Party which is reasonably acceptable to the Indemnified Party, and the Indemnified Party shall cooperate in good faith in such defense.

(ii) In the event that the Indemnifying Party assumes the defense of any Third- Party Claim, subject to **Section 7.04(b)**, it shall have the right to take such action as it deems reasonably necessary to avoid, dispute, defend, appeal or make counterclaims pertaining to any such Third-Party Claim in the name and on behalf of the Indemnified Party. The Indemnified Party shall have the right to participate in the defense of any Third-Party Claim with counsel selected by it, subject to the Indemnifying Party's right to control the defense thereof. The fees and disbursements of such counsel shall be at the expense of the Indemnified Party; *provided*, that if in the reasonable opinion of counsel to the Indemnified Party, (A) there are legal defenses available to an Indemnified Party that are different from or additional to those available to the Indemnifying Party; or (B) there exists a conflict of interest between the Indemnifying Party and the Indemnified Party that cannot be waived, the Indemnifying Party shall be liable for the reasonable fees and expenses of counsel to the Indemnified Party in each jurisdiction for which the Indemnified Party determines counsel is required.

(iii) If the Indemnifying Party elects not to compromise or defend such Third- Party Claim or fails to reasonably promptly notify the Indemnified Party in writing of its election to defend as provided in this Agreement, or fails to diligently prosecute the defense of such Third- Party Claim, the Indemnified Party may, subject to **Section 7.04(b)**, pay, compromise, defend such Third-Party Claim and seek indemnification for any and all Losses based upon, arising from or relating to such Third-Party Claim. The Indemnified Party and the Indemnifying Party shall cooperate with each other in all reasonable respects in connection with the defense of any Third- Party Claim, including making available records relating to such Third-Party Claim and furnishing, without expense (other than reimbursement of actual out-of-pocket expenses) to the defending party, management employees of the non-defending party as may be reasonably necessary for the preparation of the defense of such Third-Party Claim.

(iv) Notwithstanding the foregoing, (x) the Indemnified Party may, at the sole cost and expense of the Indemnified Party, at any time prior to the Indemnifying Party's delivery of the notice referred to in the first sentence of **0**, file any motion, answer or other pleadings or take any other action that the Indemnified Party reasonably believes to be necessary or appropriate to protect its interests and (y) the Indemnified Party may take over the control of the defense or settlement of a Third-Party Claim at any time if it irrevocably waives its right to indemnity under this **ARTICLE VII** in all respects with respect to such claim.

(b) **Settlement of Third-Party Claims.** Notwithstanding any other provision of this Agreement, the Indemnifying Party shall not enter into settlement of any Third-Party Claim without the prior written consent of the Indemnified Party except as provided in this **Section 7.04(b)**. If a firm offer is made to settle a Third-Party Claim without leading to liability or the creation of a financial or other obligation on the part of the Indemnified Party and provides, in customary form, for the unconditional release of the Indemnified Party from all liabilities and obligations in connection with such Third-Party Claim and the Indemnifying Party desires to accept and agree to such offer, the Indemnifying Party shall give written notice to that effect to the Indemnified Party. If the Indemnified Party fails to consent to such firm offer within twenty (20) days after its receipt of such notice, the Indemnified Party may continue to contest or defend such Third-Party Claim and in such event the maximum liability of the Indemnifying Party as to such Third-Party Claim shall not exceed the amount of such settlement offer. If the Indemnified Party fails to consent to such firm offer and also fails to assume defense of such Third-Party Claim, the Indemnifying Party may settle the Third-Party Claim upon the terms set forth in such firm offer to settle such Third-Party Claim. If the Indemnified Party has assumed the defense pursuant to **Section 7.04(a)**, it shall not agree to any settlement without the prior written consent of the Indemnifying Party (which consent shall not be unreasonably withheld or delayed).

(c) **Direct Claims.** Any Action by an Indemnified Party on account of a Loss which does not result from a Third-Party Claim (a **Direct Claim**) shall be asserted by the Indemnified Party giving the Indemnifying Party reasonably prompt written notice thereof. The failure to give such prompt written notice shall not, however, relieve the Indemnifying Party of its indemnification obligations, except to the extent that rights or defenses are forfeited by, or are unavailable to, the Indemnifying Party by reason of such failure. Such notice by the Indemnified Party shall describe the Direct Claim in reasonable detail, shall include copies of all material written evidence thereof and shall indicate the estimated amount, if reasonably practicable, of the Loss that has been or may be sustained by the Indemnified Party. The Indemnifying Party shall have thirty (30) days after its receipt of such notice to respond in writing to such Direct Claim. The Indemnified Party shall allow the Indemnifying Party and its professional advisors to investigate the matter or circumstance alleged to give rise to the Direct Claim, and whether and to what extent any amount is payable in respect of the Direct Claim and the Indemnified Party shall assist the Indemnifying Party's investigation by giving such information and assistance (including access to the Indemnified Party's premises and personnel and the right to examine and copy any accounts, documents or records) as the Indemnifying Party or any of its professional advisors may reasonably request. If the Indemnifying Party does not so respond within such thirty (30) day period, the Indemnifying Party shall be deemed to have rejected such claim. If an Indemnifying Party delivers to the Indemnified Party a timely response notice, or if the Indemnifying Party is otherwise deemed to have rejected such claim, then the Indemnifying Party and the Indemnified Party shall meet as promptly as practicable to attempt to resolve the dispute. If the Indemnifying Party and the Indemnified Party are unable to resolve the dispute within twenty (20) days thereafter, then such parties may pursue all available legal remedies to enforce their rights under this **ARTICLE VII**.

#### **Section 7.05 Payments; Setoff**

(a) Once a Loss is agreed to by the Indemnifying Party or finally adjudicated to be payable pursuant to this **ARTICLE VII**, the Indemnifying Party shall satisfy its obligations within fifteen (15) Business Days of such final, non-appealable adjudication by wire transfer of immediately available funds. The parties hereto agree that should an Indemnifying Party not make full payment of any such obligations within such fifteen (15) Business Day period, any amount payable shall accrue interest from and including the date of agreement of the Indemnifying Party or final, non-appealable adjudication to and including the date such payment has been made at a rate per annum equal to 3.25%. Such interest shall be calculated daily on the basis of a 365 day year and the actual number of days elapsed.

(b) Notwithstanding the foregoing, if Buyer is the Indemnified Party and a Loss is agreed to by the Seller or finally adjudicated to be payable pursuant to this **ARTICLE VII**, Buyer may, at its sole option and upon written notice to Seller, offset any due and payable indemnification obligations of Seller pursuant to this **ARTICLE VII** against any amount owing to Seller under the Buyer Note.

**Section 7.06 Limitations.**

(a) For purposes of calculating the dollar amount of Losses to which an Indemnified Party is entitled under this **ARTICLE VII** in respect of the breach of any representation or warranty contained herein, the terms “material”, “materiality”, “Material Adverse Effect” and other similar qualifications contained in or otherwise applicable to such representation or warranty will be disregarded.

(b) No Buyer Indemnitee will be entitled to indemnification for any Buyer Losses pursuant to Section 7.02 unless the aggregate of all Buyer Losses exceeds on a cumulative basis an amount equal to \$5,000, in which case the Buyer Indemnitees will be entitled to indemnification pursuant to Section 7.02 for all Buyer Losses, including the initial \$5,000; provided, however, that the limitations set forth in this Section 7.06(b) will not apply to any claim arising out of or related to Fraud or willful misconduct.

(c) The maximum amount of indemnifiable Buyer Losses that may be recovered by the Buyer Indemnitees pursuant to Section 7.02 will be an aggregate amount equal to \$333,750, provided, however, that (i) Buyer Losses attributable to any breach of the Specified Representations will be limited to an amount equal to the Purchase Price, and (ii) no such limitations set forth in this Section 7.06(c) will apply to any claim arising out of or related to Fraud or willful misconduct.

(d) Payments by an Indemnifying Party pursuant to Section 7.02 or Section 7.03 in respect of any Loss shall be limited to the amount of any liability or damage that remains after deducting therefrom any insurance proceeds and any indemnity, contribution or other similar payment received by the Indemnified Party in respect of any such claim. The Indemnified Party shall use its commercially reasonable efforts to recover under insurance policies or indemnity, contribution or other similar agreements for any Losses prior to seeking indemnification under this Agreement.

(e) Each Indemnified Party shall take, and cause its Affiliates to take, all reasonable steps to mitigate any Loss upon becoming aware of any event or circumstance that would be reasonably expected to, or does, give rise thereto, including incurring costs only to the minimum extent necessary to remedy the breach that gives rise to such Loss.

**Section 7.07 Intentionally Omitted.**

**Section 7.08 Exclusive Remedy.** The parties agree that, excluding the actions grounded in Fraud, from and after the Closing Date, the indemnities provided in this **ARTICLE VII** will constitute the sole and exclusive remedy of any Indemnified Party for damages arising out of, resulting from or incurred in connection with any claims related to this Agreement or arising out of the transactions contemplated hereby; provided, however, that this exclusive remedy for damages does not preclude a party from bringing an action for specific performance or other equitable remedy to require a party to perform its obligations under this Agreement or any agreement entered into in connection herewith.

**Section 7.09 Other Actions.** Notwithstanding anything to the contrary in this **ARTICLE VII**, any liabilities arising from a willful and material breach or fraud shall survive the periods set forth in **Section 7.01**.

**ARTICLE VIII**  
**Miscellaneous**

**Section 8.01 Expenses.** Except as otherwise expressly provided herein, all costs and expenses, including fees and disbursements of counsel, financial advisors and accountants, incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the party incurring such costs and expenses.

**Section 8.02 Notices.** All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by e-mail of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this **Section 8.02**):

If to Buyer: SWK Technologies, Inc.,  
120 Eagle Rock Avenue  
East Hanover, NJ 07936  
E-mail: mark.meller@swktech.com  
Attention: Mark Meller, CEO

with a copy to: Lucosky Brookman LLP  
101 Wood Avenue South  
Woodbridge, NJ 08830  
E-mail: lmetelitsa@lucbro.com  
Attention: Lawrence Metelitsa

If to Buyer:

Dynamic Tech Services, Inc.  
4780 Ashford Dunwoody Road, Suite 540-358  
Atlanta, GA 30338  
E-mail: Joel.Gress@DynamicTSi.com  
Attention: Joseph Gress, CEO

with a copy to:

Amall Golden Gregory LLP  
171 17th Street, NW, Suite 2100  
Atlanta, Georgia 30363  
E-mail: andrew.schutt@agg.com  
Attention: Andrew Schutt

**Section 8.03 Interpretation.** For purposes of this Agreement, (a) the words “include,” “includes” and “including” shall be deemed to be followed by the words “without limitation”; (b) the word “or” is not exclusive; and (c) the words “herein,” “hereof,” “hereby,” “hereto” and “hereunder” refer to this Agreement as a whole. Unless the context otherwise requires, references herein: (x) to Articles, Sections, Disclosure Schedules and Exhibits mean the Articles and Sections of, and Disclosure Schedules and Exhibits attached to, this Agreement; (y) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The Disclosure Schedules and Exhibits referred to herein shall be construed with, and as an integral part of, this Agreement to the same extent as if they were set forth verbatim herein.

**Section 8.04 Headings.** The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

**Section 8.05 Severability.** If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

**Section 8.06 Entire Agreement.** This Agreement and the other Transaction Documents constitute the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein and therein, and supersede all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. In the event of any inconsistency between the statements in the body of this Agreement and those in the other Transaction Documents, the Exhibits and Disclosure Schedules (other than an exception expressly set forth as such in the Disclosure Schedules), the statements in the body of this Agreement will control.

**Section 8.07 Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns. Neither party may assign its rights or obligations hereunder without the prior written consent of the other party; *provided* that Buyer may, upon written notice to Seller, assign this Agreement in whole or in part to one or more of Affiliates of Buyer. No assignment shall relieve the assigning party of any of its obligations hereunder. Any assignment in contravention of this **Section 8.07** shall be null and void.

**Section 8.08 No Third-Party Beneficiaries.** Except as provided in **ARTICLE VII**, this Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other Person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

**Section 8.09 Amendment and Modification; Waiver.** This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each party hereto. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

**Section 8.10 Governing Law; Submission to Jurisdiction.**

(a) This Agreement shall be governed by and construed in accordance with the internal laws of the State of New Jersey, without giving effect to any choice or conflict of law provision or rule (whether of the State of New Jersey or any other jurisdiction) that would result in the application of the laws of any other jurisdiction.

(b) ANY LEGAL SUIT, ACTION OR PROCEEDING ARISING OUT OF OR BASED UPON THIS AGREEMENT, THE OTHER TRANSACTION DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY MAY BE INSTITUTED IN THE FEDERAL COURTS OF THE UNITED STATES OF AMERICA OR THE COURTS OF THE STATE OF NEW JERSEY, IN EACH CASE LOCATED IN THE COUNTY OF MIDDLESEX, AND EACH PARTY IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF SUCH COURTS IN ANY SUCH SUIT, ACTION OR PROCEEDING. SERVICE OF PROCESS, SUMMONS, NOTICE OR OTHER DOCUMENT BY MAIL TO SUCH PARTY'S ADDRESS SET FORTH HEREIN SHALL BE EFFECTIVE SERVICE OF PROCESS FOR ANY SUIT, ACTION OR OTHER PROCEEDING BROUGHT IN ANY SUCH COURT. THE PARTIES IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY OBJECTION TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR ANY PROCEEDING IN SUCH COURTS AND IRREVOCABLY WAIVE AND AGREE NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

(c) EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT OR THE OTHER TRANSACTION DOCUMENTS IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE OTHER TRANSACTION DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY TO THIS AGREEMENT CERTIFIES AND ACKNOWLEDGES THAT (I) NO REPRESENTATIVE OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF A LEGAL ACTION, (II) SUCH PARTY HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (III) SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (IV) SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS **SECTION 8.10(c)**.

**Section 8.11 Specific Performance.** The parties agree that irreparable damage would occur if any provision of this Agreement were not performed in accordance with the terms hereof and that the parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy to which they are entitled at law or in equity.

**Section 8.12 Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

**BUYER:**

**SWK TECHNOLOGIES, INC.**

By: /s/ Mark Meller  
Name: Mark Meller  
Title: President and Chief Executive Officer

**SELLER:**

**DYNAMIC TECH SERVICES, INC.**

By: /s/ Joseph Gress  
Name: Joseph Gress  
Title: CEO

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**Exhibit A**  
**Bill of Sale**

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**Exhibit B**  
**Gress Consulting Agreement**

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**Exhibit C**  
**Assignment and Assumption of Contracts**

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**Exhibit D**  
**Promissory Note**

**THIS PROMISSORY NOTE HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), NOR QUALIFIED UNDER ANY APPLICABLE STATE SECURITIES LAWS AND MAY NOT BE PLEDGED, SOLD, ASSIGNED OR TRANSFERRED UNLESS (I) A REGISTRATION STATEMENT WITH RESPECT THERETO IS EFFECTIVE UNDER THE SECURITIES ACT AND ANY APPLICABLE STATE SECURITIES LAW REQUIREMENTS HAVE BEEN MET OR (II) THE COMPANY RECEIVES AN OPINION OF COUNSEL REASONABLY ACCEPTABLE TO THE COMPANY THAT EXEMPTIONS FROM THE REGISTRATION REQUIREMENTS UNDER THE SECURITIES ACT AND THE REGISTRATION OR QUALIFICATION REQUIREMENTS OF APPLICABLE STATE SECURITIES LAWS ARE AVAILABLE.**

**PROMISSORY NOTE**

**SWK TECHNOLOGIES, INC.**

**3.25% Note**

**Due January 1, 2026**

**Issuance Date: January 1, 2022  
Initial Principal Amount: \$835,000 (subject  
to downward adjustment)**

This Promissory Note (this "Note") is issued by **SWK TECHNOLOGIES, INC.** (the "Company"), to **DYNAMIC TECH SERVICES, INC.** (the "Holder"), pursuant to exemptions from registration under the Securities Act of 1933, as amended.

**ARTICLE I.**

Section 1.01 **Principal and Interest.** For value received, on or before January 1, 2026 (the "Maturity Date"), the Company hereby promises to pay to the order of the Holder in lawful money of the United States of America and in immediately available funds the principal sum of Eight Hundred and Thirty-Five Thousand United States Dollars (\$835,000), together with interest on the unpaid principal of this Note at the rate of three and one-quarter percent (3.25%) per annum (computed on the basis of a 365-day year and the actual days elapsed) from the date of this Note until paid, subject to adjustment as provided herein.

Section 1.02 **Adjustment to Principal.** This Note is being executed in connection with that certain Asset Purchase Agreement dated the date hereof by and between the Company, as Buyer, and the Holder, as Seller (the "APA"). Capitalized terms not defined herein shall have the meanings set forth in the APA. The Company has purchased certain customer lists, agreements, contracts, and other Purchased Assets in connection with the APA. As set forth in Sections 2.05(b)(i) and 2.05(b)(ii) of the APA, the principal amount of this Note will be subject to a downward adjustment in the event the Company loses any subscription renewal revenue during the one-year period immediately following January 1, 2022 (the "Closing Date") from any Customers of Holder immediately prior to the Closing Date. Any downward adjustment will be determined by calculating the percentage of loss of Acumatica subscription renewals during the one-year period immediately following the Closing Date from Customers. In the event that subscription renewal revenue received by the Company from Seller Customers during the one-year period immediately following the Closing Date is less than 95% of the subscription renewal revenue received by Seller from Seller Customers during the one-year period immediately preceding the Closing Date (as reflected in Section 2.05(b)(ii) of the Disclosure Schedules), the principal amount of this Note will be reduced. As an example, if the annual subscription renewals of Seller Customers received by Seller during the one-year period preceding the Closing Date was \$1,000,000 and the annual subscription renewals of Seller Customers received by the Company during the one-year period following the Closing Date was \$900,000, this will represent a 10% loss of the renewal revenue conveyed to The Company. The reciprocal of this percentage loss, which would be 90%, would then be multiplied by the outstanding principal amount of this Note of \$835,000, and the new outstanding principal amount of this Note would be \$751,500, which is the amount which will be due and owing and paid in accordance with the terms of this Note. The measuring period for any downward adjustment shall be as of the one-year anniversary of the Closing Date. Notwithstanding the foregoing, under no circumstances shall the principal amount of this Note be reduced by reason of such downward adjustment by more than \$150,000 (*i.e.*, to a principal amount below \$685,000).

Section 1.03 **Principal and Interest Payments.** The principal and interest payable on this Note shall be paid in installments commencing with an initial payment on January 1, 2023, which shall reflect an annual payment, and quarterly payments thereafter on each of April 1, 2023, July 1, 2023, October 1, 2023, January 1, 2024, April 1, 2024, July 1, 2024, October 1, 2024, January 1, 2025, April 1, 2025, July 1, 2025, October 1, 2025 and January 1, 2026. By way of example, if the adjusted principal amount of this Note were to be \$720,000, the January 1, 2023 payment of principal and interest would be an aggregate of \$203,400 consisting of \$180,000 in principal (25% of \$720,000) and \$23,400 in interest (0.0325 multiplied by \$720,000), the April 1, 2023 payment of principal and interest would be an aggregate of \$49,387.50 consisting of \$45,000 in principal (25% of \$180,000) and \$4,387.50 in interest (0.0325 multiplied by \$540,00 (the remaining principal balance at the time of this calculation) and divided by 4), and the July 1, 2023 payment of principal and interest would be an aggregate of \$49,021.88 consisting of \$45,000 in principal (25% of \$180,000) and \$4,021.88 in interest (0.0325 multiplied by \$495,00 (the remaining principal balance at the time of this calculation) and divided by 4).The succeeding payments of principal and interest would each consist of a \$45,000 principal payment with the interest payment amount being determined consistent with the foregoing.

Section 1.04 **Events of Default.** Each of the following events, individually or in any combination thereof, shall constitute an “Event of Default”:

- a. any payment of principal and/or interest under this Note shall not be paid within five (5) Business Days of the date that such payment was due;
- b. a court shall enter a decree or order for relief in respect of the Company in an involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of the Company for any substantial part of the property of the Company or ordering the winding up or liquidation of the affairs of the Company, and such decree or order shall remain unstayed and in effect for a period of 60 consecutive days; and
- c. the Company shall commence a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or consent to the entry of an order for relief in an involuntary case under any such law, or consent to the appointment or taking possession by a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of the Company or for any substantial part of the property of the Company, or the Company shall make any general assignment for the benefit of creditors;
- d. failure by the Company for ten (10) days after notice to it to comply with any of its other agreements in the Note.

If an Event of Default shall occur, the unpaid principal and accrued interest hereunder shall become immediately due and payable without any declaration or other act on the part of the Holder. Additionally, immediately upon the occurrence of any Event of Default the Holder, without any notice to the Borrower, which notice is hereby expressly waived by the Borrower, may proceed to protect, enforce, exercise and pursue any and all rights and remedies available to the Holder under this Note and any and all rights and remedies available to the Holder at law and/or in equity.

**ARTICLE II.**

Section 2.01 **Notice.** Notices regarding this Note shall be sent to the parties at the following addresses, unless a party notifies the other parties, in writing, of a change of address:

To the Company:  
SWK Technologies, Inc.  
120 Eagle Rock Avenue  
East Hanover, NJ 07936  
Telephone: (973) 758-6108  
Attention: Mark Meller  
E-mail: mark.meller@swktech.com

with a copy to:

Lucosky Brookman LLP  
101 Wood Avenue South  
Woodbridge, NJ 08830  
E-mail: lmetelitsa@lucbro.com  
Attention: Lawrence Metelitsa

To the Holder:  
Dynamic Tech Services, Inc.  
4780 Ashford Dunwoody Road, Suite 540-358  
Atlanta, GA 30338  
Telephone:  
Attention: Joseph Gress, President  
Email: Joel.Gress@DynamicTSi.com

with a copy to:

E-mail: andrew.schutt@agg.com  
Attention: Andrew Schutt, Esq.

Section 2.02 **Governing Law.** This Note shall be deemed to be made under and shall be construed in accordance with the laws of the State of New Jersey without giving effect to the principals of conflict of laws thereof. Each of the parties consents to the jurisdiction of the U.S. District Court sitting in the District of the State of New Jersey or the state courts of the State of New Jersey sitting in Middlesex County, New Jersey in connection with any dispute arising under this Note and hereby waives, to the maximum extent permitted by law, any objection, including any objection based on forum non conveniens to the bringing of any such proceeding in such jurisdictions.

Section 2.03 **Severability.** The invalidity of any of the provisions of this Note shall not invalidate or otherwise affect any of the other provisions of this Note, which shall remain in full force and effect.

Section 2.04 **Entire Agreement and Amendments; Assignment.** This Note represents the entire agreement between the parties hereto with respect to the subject matter hereof and there are no representations, warranties or commitments, except as set forth herein. This Note may be amended only by an instrument in writing executed by the parties hereto.

Section 2.05 **Counterparts.** This Note may be executed in multiple counterparts, each of which shall be an original, but all of which shall be deemed to constitute an instrument.

Section 2.06 **Default Interest.** From and after an Event of Default under this Note, which default has not been cured within the applicable time period (if any) interest shall thereafter accrue on the then-outstanding principal balance of this Note at the rate of ten percent (10.0%) per annum or the highest rate allowed by law, whichever is lower.

Section 2.07 **Expenses.** The Company agrees to pay to the Holder all out-of-pocket expenses (including reasonable expenses for legal services of every kind) of, or incident to, the enforcement of any of the provisions of this Note.

Section 2.08 **Miscellaneous.** This Note shall be deemed to be a contract under the laws of the State of New Jersey, and for all purposes shall be construed in accordance with the laws of said state without regard to conflict of law principles. The parties hereto hereby waive presentment, demand, notice, protest and all other demands and notices in connection with the delivery, acceptance, performance and enforcement of or any default under this Promissory Note, except as specifically provided herein, and assent to extensions of the time of payment, or forbearance or other indulgence without notice. The Section headings herein are for convenience only and shall not affect the construction hereof. Any provision of this Note which is illegal, invalid, prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such illegality, invalidity, prohibition or unenforceability without invalidating or impairing the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction. This Note shall bind the Company and its successors and permitted assigns. The rights under and benefits of this Note shall inure to the Holder and its successors and assigns.

[signature page follows]

**IN WITNESS WHEREOF**, with the intent to be legally bound hereby, the Company as executed this Note as of the date first written above.

Date: January 1, 2022

SWK TECHNOLOGIES, INC.

By: /s/ Mark Meller  
Name: Mark Meller  
Title: Chief Executive Officer

CONSULTING AGREEMENT

This Consulting Agreement, (the "Agreement") is made on January 1, 2022 by and between SWK Technologies, INC., a Delaware corporation (hereinafter referred to as "SWK" or the "Company"), having its primary offices at 120 Eagle Rock, NJ 07039 and Dynamic Tech Services, Inc., a Georgia corporation located at 4780 Ashford Dunwoody Road, Suite 540-358, Dunwoody, GA 30338 (hereinafter referred to as the "Consultant" , "he" or "his").

## WITNESSETH:

WHEREAS, Consultant possesses certain knowledge and skills relating to the Company's business that the Company wishes to obtain for the development and success of the Company's business; and

WHEREAS, the Company desires to engage the services of the Consultant, and the Consultant desires to render such services.

NOW, THEREFORE, in consideration of the premises, the parties agree as follows:

1. Engagement. The Company hereby retains the Consultant, subject to the terms and conditions hereinafter set forth. The services to be performed by Consultant hereunder shall be performed exclusively by Joseph Gress, the sole employee of Consultant.
2. Term. The term of the consulting engagement hereunder shall commence on January 1, 2022 (the "Commencement Date") and shall continue to December 31, 2022 (the "Term") unless such Term is earlier terminated in accordance with the provisions of this Agreement.
3. Duties. The Consultant agrees that he will serve the Company on a full-time basis faithfully and to the best of his ability in the sales division of the Company, subject to the general supervision of Vice President of Sales. The Consultant's duties will focus on the subscription renewals of Acumatica customers and the sale of Acumatica products and services offered by the Company and such other duties as the Company may reasonably request involving the Company's Acumatica related business. The Consultant agrees that he will not, during the Term of this Agreement, engage in any other business activity which substantially or materially interferes with the performance of his obligations under this Agreement and Consultant will devote all of his working time to the business and affairs of the Company; provided, however, that the foregoing shall not be construed as precluding the Consultant from: (i) serving on the Board of Directors of any corporation or entity not directly competitive or competitive in any material respect with the Company; and (ii) investing or trading in securities or other forms of investments, in each case, so long as such activities do not materially with the performance of the Consultant's duties hereunder and such investments do not represent the ownership of five percent (5%) or more of the capital stock of publicly traded entities. Performance of Consultant's duties hereunder shall in no event require that Consultant relocate from his current residence.

4. Compensation.

(a) In consideration of the services to be rendered by the Consultant hereunder, the Company agrees to pay the Consultant, and the Consultant agrees to accept, a base salary ("Base Salary") in the amount of One Hundred Fifty Thousand Dollars (\$150,000) per annum, payable monthly in twelve equal installments commencing on January 31, 2022.

(b) Consultant will have an incentive compensation plan built around net new and add-on sales of Acumatica. The plan is attached hereto as Exhibit B.

(c) To the extent that the Consultant becomes mentally or physically disabled, as determined in accordance with Paragraph 10 of this Agreement, Consultant shall continue to receive his total compensation and other benefits hereunder until the termination of this Agreement pursuant to Paragraph 10 hereof.

5. Business Expenses.

Consultant is authorized to incur, and the Company shall pay and reimburse him, for all reasonable and necessary business expenses incurred in the performance of his duties hereunder, in accordance with guidelines established in the Company's Employee Handbook. The Company will pay and reimburse Consultant for all such reasonable expenses upon the presentation by Consultant, from time to time, of an itemized account of such reasonable expenditures and proper documentation as evidence that such expenses have been incurred. Expenses in excess of \$1,000 shall require prior written approval from the Company.

6. Termination by the Company for Cause. The Company has the right to terminate Consultant's engagement for cause. Termination by the Company of the Consultant's engagement for cause (hereinafter referred to as "Termination for Cause"), shall mean termination upon:

(i) the willful and continued failure by the Consultant to substantially perform the Consultant's material duties with the Company (other than any such failure resulting from the Consultant's incapacity due to physical or mental illness) after a written demand for substantial performance is delivered to the Consultant by management, which demand specifically identifies the material duties that they believe that the Consultant has not substantially performed after being provided the opportunity to cure such failure upon no less than twenty (20) day advance notice: or

- (ii) the willful engaging by the Consultant in conduct that is demonstrably and materially injurious to the Company; or
- (iii) the conviction of the Consultant of a felony, or that results in the Consultant being unable to substantially carry out his duties as set forth in this Agreement; or
- (iv) the commission of any act by the Consultant against the Company that constitutes the embezzlement, larceny, and/or grand larceny.

7. Termination by the Company Without Cause. If the Company terminates Consultant's engagement other than for Cause pursuant to Paragraph 6, or on account of death or disability pursuant to Paragraphs 9 or 10, the Company shall pay or provide the Consultant, within thirty (30) days of the date of termination, with: (i) any unpaid compensation earned under this Agreement prior to the date of termination; (ii) any unpaid expense reimbursement owed to him for periods through the date of termination; and (iii) except as otherwise provided in Sections 9 and 10 below, the Consultant's Base Salary for the remainder of the Term. Notwithstanding the foregoing, any payments of Base Salary pursuant to Section 7(iii) shall be due and payable in installments in the manner provided in Section 4(a).

8. Termination by the Consultant. The Consultant may terminate his engagement hereunder for "Good Reason" within ninety (90) days of the occurrence of any of the following events: (i) a significant and material breach of this Agreement by the Company; (ii) any failure to pay, within a reasonable amount of time, any part of the Consultant's compensation (including Base Salary and variable compensation); (iii) the assignment to Consultant of substantial duties that materially inconsistent with the duties described in this Agreement; or (iv) any directive issued by the Company that would require Consultant to violate any federal or state law, rule or regulation applicable to the business of the Company. The Consultant shall give the Company written notice of any proposed termination for Good Reason and the Company shall have thirty (30) days from receipt of such written notice to cure any ground of termination for Good Reason, as set forth in this Paragraph. In the event of Termination by Consultant for Good Reason, Company shall be obligated to pay to Consultant that compensation due as if Company had terminated Consultant Without Cause pursuant to Paragraph 7 of this Agreement.

9. Termination Due to Death. In the event of the Consultant's death during the Term of this Agreement, the Consultant's engagement hereunder shall immediately and automatically terminate, and the Company shall have no further obligation or duty to the Consultant or his estate or beneficiaries other than monies owed to Consultant under Paragraph 7(i), and (ii).

10. Termination Due to Disability. The Company may terminate the Consultant's engagement hereunder, upon written notice to the Consultant, in the event that the Consultant becomes disabled during the Term. The term "disabled" is defined as any condition of either a physical or psychological nature that, even with reasonable accommodation, renders the Consultant unable to perform the essential functions of the services contemplated hereunder for a period of one hundred eighty (180) days during any twelve (12) month period during the Term. Consultant represents that any period of disability beyond one hundred eighty (180) days would place an undue burden and hardship on the Company. Any such termination shall become effective upon mailing or hand delivery of such notice to the Consultant. The Company shall have no further obligation or duty to the Consultant following termination under this Paragraph, other than to pay Consultant all earned compensation and benefits through the date of termination, reduced by any disability payments received by Consultant, and other than as required by applicable law. For purposes of determining the existence or nonexistence of a disability, the Consultant and Company shall mutually agree to a physician. If the Consultant and Company are unable to agree on a physician, the physicians selected by each shall agree on a third physician, who shall make the disability determination.

11. Non-Disclosure of Confidential Information and Non-Competition. This provision shall be governed by the terms and conditions of that certain Non-Disclosure/Non-Solicitation and Arbitration Agreement, dated as of the date hereof and attached as Exhibit A hereto. For the avoidance of doubt, subject to a twenty -day cure period following the Company's receipt of written notice from Consultant, in the event that the Company fails to pay to Consultant any compensation or other amounts payable pursuant to this Agreement, the Non-Disclosure/Non-Solicitation and Arbitration Agreement shall be deemed null and void for all purposes whatsoever.

12. Successors; Binding Agreement. Neither this Agreement nor any right or interest hereunder shall be assignable by the Consultant nor shall it be subject to attachment, execution, pledge or hypothecation, provided, however, if Consultant shall die, this Agreement shall inure to the benefit of and be enforceable by the Consultant's personal or legal representative, executors, administrators, successors, heirs, distributees, devisees and legatees.

13. Miscellaneous. No provision of this Agreement may be modified waived or discharged unless such waiver, modification or discharge is agreed to in writing and signed by the Consultant, and such officer as may be specifically designated by the Company. No waiver by either party hereto of, or compliance with any condition or provision of this Agreement to be performed by such other party shall be deemed a waiver of similar or dissimilar provisions or conditions at the same or at any prior or subsequent time. No agreements or representations, oral or otherwise express or implied, with respect to the subject matter hereof have been made by either party that is not set forth in this Agreement. Any payments provided for hereunder shall be paid net of any applicable withholding required under federal, state or local law.

14. Severance and Validity. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect.

15. Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument.

16. Entire Agreement. This Agreement contains the entire understanding of the parties with respect to the subject matter hereof, supersedes any prior agreement between the parties, and may not be changed or terminated orally. No change, termination or attempted waiver of any of the provisions hereof shall be binding unless in writing and signed by the party to be bound.

17. Negotiated Agreement. This Agreement has been negotiated and shall not be construed against the party responsible for drafting all or parts of this Agreement.

18. Notices. For the purposes of this Agreement, notices and all other communications provided in this Agreement shall be in writing and shall be deemed to have been duly given when delivered personally or received by United States registered or certified mail, return receipt requested, postage prepaid, or by nationally recognized overnight delivery service providing for a signed return receipt, addressed to the Consultant at the Consultant's home address set forth in the Company's records and to the Company at the address set forth on the first page of this Agreement. or to such other address as either party may have furnished to the other in writing in accordance herewith, except that notice of change of address shall be effective only upon receipt.

19. Governing Law and Resolution of Disputes. All matters concerning the validity and interpretation of and performance under this Agreement shall be governed by the laws of the State of New Jersey. Any dispute or controversy arising under or in connection with this Agreement shall be settled exclusively by arbitration in Newark, New Jersey in accordance with the rules of the American Arbitration Association ("AAA") then in effect. Arbitration will take place before a single experienced employment arbitrator licensed to practice law in New Jersey and selected in accordance with the Employment Dispute Resolution Rules of the American Arbitration Association. The arbitrator may not modify or change this Agreement in any way. Any judgment rendered by the arbitrator as above provided shall be final and binding on the parties hereto for all purposes and may be entered in any court having jurisdiction. In any arbitration pursuant to this Paragraph 19, each party shall be responsible for the fees and expenses of its own attorney and witnesses, and the fees and expenses of the arbitrator shall be divided equally between the Company and the Consultant. Consultant agrees that the cost provisions of this Paragraph are fair and not unconscionable. Nothing in this Paragraph 19 shall be construed to limit the Company's ability to seek injunctive and other relief in connection with an actual or threatened violation of Paragraph 11 hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of January 1, 2022.

**SWK TECHNOLOGIES, INC.**

**By:** /s/ Mark Meller  
Mark Meller, Chief Executive Officer

**CONSULTANT:**

**DYNAMIC TECH SERVICES, INC.**

**By:** /s/ Joseph Gress  
Joseph Gress, Chief Executive Officer

**EXHIBIT A**

**NON-DISCLOSURE/NON-SOLICITATION AND ARBITRATION AGREEMENT**

In consideration of the engagement of Dynamic Tech Services, Inc. ("DTS") as a consultant by SWK Technologies, Inc. ("SWK" or the "Company") pursuant to a Consulting Agreement dated January 1, 2022 (the "Consulting Agreement") and the Company's payment of all Base Salary and other compensation amounts due to DTS pursuant to the Consulting Agreement, DTS, as of this 1st day of January, 2022, agrees as set forth below. For purposes of this agreement, where context requires, references to DTS shall also include reference to Joseph Gress, the sole employee of DTS.

Confidential Information. I acknowledge that my engagement by SWK will expose me to trade secrets and other information not generally or publicly known and proprietary to SWK, including but not limited to: information relating to customers of SWK and customer services, customer lists, prospect lists, source information, buying and selling processes and strategies, application techniques, pricing, price lists, costs, financial matters, marketing, marketing research, marketing and sales strategies, sales process and procedures, software, operational techniques, business plans and systems, quality control procedures and systems, special projects and technological research, including projects, research and reports for any entity, competitor, client or any project, research, report or the like concerning any of the above topics, new technology, employee compensation plans and any other information relating thereto, and any other records, files, drawings, inventions, discoveries, applications or processes of the Company which are not publicly known, all of which is and shall be deemed to be "Confidential Information" proprietary to SWK. I further acknowledge SWK's lawful right to protect the above-mentioned trade secrets and Confidential Information, including reasonable efforts under the circumstances to maintain their secrecy. Accordingly, I agree that both during my engagement and thereafter:

- (a) I will not reveal any trade secrets, customers, customer lists, prospect lists or Confidential Information to any entity or individual (including but not limited to competitors of SWK), directly or indirectly, except with the express written consent of SWK; and
- (b) I will not use any such trade secrets, customers, customer lists, prospect lists or Confidential Information for any purpose, other than with the express written consent of SWK; and
- (c) If I am contacted by any entity or individual for the purpose of discussing, disclosing or using trade secrets, customers, customer lists, prospect lists or Confidential Information, I will immediately report such contact and the relevant details thereof to the Chief Executive Officer of SWK.

2 . Company Property. I further acknowledge that all computer equipment, memoranda, notes, lists, keys, passwords, records, data, videotapes, databases, written or electronic documents, written or electronic spreadsheets or Power Points, Microsoft Outlook records, e-mails, and other documents in any media made, compiled or received, held, or used by me while engaged by SWK shall be SWK's sole and exclusive property and shall be delivered by me to the Director of Network Services and/or to the Chief Executive Officer upon the conclusion of my engagement by SWK, or at any earlier time at the request of SWK.

3. Conflict of Interest/Best Efforts. During my engagement by SWK, I will not, without the express written consent of SWK, engage at any time in any business or activity which competes directly or indirectly with the present or future business of SWK or which is in any other way destructive or harmful to any business interests of SWK. In addition, I agree that, during the term of my engagement with SWK, I will devote my full time and best efforts to SWK's business and will work solely for it and will not consult, work or perform services for any other person, firm, company, entity, or enterprise without the express written consent of SWK.

4. No Prior Agreements. I represent and warrant to the Company that the execution of this Agreement by me, and my engagement by the Company, will not violate any agreement between me and any other party, including any former employer or client. I agree to indemnify the Company for any claim, including, but not limited to, attorneys' fees and expenses of litigation, by any such third party that such third party may now have or may hereafter come to have against the Company based upon or arising out of any restrictive covenant agreement between me and such third party which was in existence as of the date of this Agreement, but unknown to the Company.

5 . Non-Solicitation. During my engagement with SWK, and for a period of five years thereafter, I will not, without the express written consent of SWK, directly or indirectly, by myself or through any other person, firm, partnership, corporation, entity or enterprise:

(a) solicit, hire, engage, entice, pay, divert, induce, or otherwise deal with any current SWK employee, any reseller who currently re-sells a product of SWK's, or any current customer of SWK;

(b) solicit, hire, engage, entice, pay, divert, induce, or otherwise deal with any employee, any reseller who has re-sold a product of SWK's, or any customer who has dealt with SWK during the eighteen (18) months prior to the conclusion of my engagement.

(c) solicit, hire, engage, entice, pay, divert, induce, or otherwise deal with any prospective customer whose name is on any SWK pipeline report at the date of termination of my engagement or was contained on any SWK pipeline report within twelve (12) months prior to the date of termination of my engagement ;

(d) Provisions (a) and (b) above are not intended to, and shall not be interpreted to, completely bar me from obtaining work in my chosen profession. Rather, the restraints are intended to reasonably limit me from engaging in conduct involving a substantial risk of the use of SWK's trade secrets or Confidential Information, and/or interference with SWK's relationships with its customers and re-sellers, to the detriment of SWK.

I understand and agree that compliance with the provisions of this Paragraph 5 is necessary to protect the business and good will of the Company, and that a breach of such provisions will cause the Company to suffer immediate, permanent and irreparable injury and that the remedy at law for any breach or threatened breach will likely be inadequate and that damages to the Company may be in an amount which may be impossible to ascertain. I further agree that the Company shall have the right to injunctive relief and/or specific performance of this Agreement in addition to any other rights or remedies available to it as a result of such breach without the necessity of posting of a bond. In the event that I breach any of the non-solicitation provisions of this Agreement and the Company obtains an order enforcing such provisions, that order may provide for the extension of the five (5) year non-solicitation period by the length of the period during which I was breaching that provision. I further agree to reimburse the Company for all costs and attorneys' fees incurred by the Company in conjunction with obtaining said relief.

6. Inventions. Any idea, concept, invention or improvement made or conceived by me during my engagement by SWK (whether during, before or after working hours) relating to any services of SWK or any such product in the process of development, or any similar or competitive products, or to the method of making any such products, or relating in any other manner to the business of SWK, shall be promptly disclosed in writing by me to SWK, and shall be the sole property of SWK. I acknowledge that during the term of engagement:

(a) all works capable of being copyrighted shall be deemed "works made for hire" and/or are hereby irrevocably assigned to SWK, and for all purposes shall be the sole property of SWK;

(b) all trademarks and service marks are created for the benefit of, and shall be the sole property of, SWK. Without limiting the generality of the foregoing, with respect to media and formats and technologies now known or to become known, SWK shall have the right to: (i) modify and duplicate the works produced by me pursuant to this Agreement, and make derivatives thereof for the purpose of incorporating the work or its derivative into a product or service; (ii) duplicate copies of the product or service incorporating the work or its derivatives; (iii) distribute copies of the product or service incorporating the work or its derivatives by sale, lease, license or lending; and (iv) transmit, download or otherwise transfer or distribute the work or its derivative as fixed in the product or service. I hereby agree to execute and deliver to SWK any and all assignments and other documents which SWK deems reasonably necessary to establish and enforce the rights of SWK.

7. Non-Disparagement. To the fullest extent permitted by law, I will not, during the period of my engagement with the Company, or at any time thereafter, take any action that interferes with or detracts from the good will of the Company. I agree not to in any way disparage or otherwise criticize to any third person whatsoever (including but not limited to any representative of the public media, any customer, any prospective customer, any reseller, or any employee of the Company), the Company or any past or present director, shareholder, officer, trustee, agent, employee, representative or advisor of the Company, including but not limited to, by making any comment (whether true, false or opinion) that reflects adversely on the Company's services, management, operations, customers, employees or employee relations.

8. Arbitration. I agree that all disputes relating to a breach of this Agreement, my engagement with SWK or the termination thereof, including but not limited to, all statutory employment, discrimination, harassment and retaliation claims, will be subject to final, binding Arbitration before a single arbitrator selected through American Arbitration Association ("AAA"), I understand and agree that I am waiving my right to a judge or jury trial voluntarily and knowingly and free from duress or coercion. I understand that I have a right to consult with a person of my choosing, including an attorney, before signing this agreement. I further agree that AAA is an adequate forum to address any claim I may have, and that AAA fees do not prohibit me from filing and prosecuting claims in the AAA forum. Notwithstanding this agreement to arbitrate, any claims for injunctive and/or equitable relief with regard to a breach of Paragraphs 1, 2, 5 and 7 of this Agreement may be brought in a state or federal court in Essex County, New Jersey, which shall have exclusive jurisdiction over any such claim. I agree that Essex County, New Jersey is a convenient forum for any such dispute.

9. Waiver. I acknowledge that a waiver of any breach or failure to enforce any term or condition of this Agreement on any particular occasion shall not be construed as a waiver of any right to enforce such term or condition.

10. Entire Agreement/Interpretation. I acknowledge that there are no other arrangements, agreements, or understandings between me and SWK, verbal or written, regarding the subject matter of this Agreement. This Agreement constitutes the entire Agreement between the parties regarding the subject matter herein, and supersedes any prior agreement of the parties concerning same. The language of all parts of this Agreement shall be construed according to its fair meaning and not for or against either of the parties.

11. Definitions. For the purposes of this Agreement, the terms "Company" or "SWK" shall mean and include any and all parents, subsidiaries, successors, assigns, and/or affiliated corporations of the Company.

12. Choice of Law. This Agreement shall be governed in accordance with the laws of the State of New Jersey.

13. Limited Termination Rights. This agreement does not alter my status as an independent consultant of SWK. I acknowledge and agree however, that I may only terminate my engagement by SWK for "Good Reason" as such term is defined in the Consulting Agreement.

14. Voluntariness/No Duress. I represent and acknowledge that I have read this Agreement in its entirety and fully understand my obligations under this Agreement. I understand that SWK has engaged or has continued to engage me in reliance on this representation and acknowledgement.

15. Severability/Blue Penciling. I agree that the nature and scope of each of the provisions set forth above are reasonable and necessary. If, for any reason, any aspect of these provisions is determined by an arbitrator or a court of competent jurisdiction to be unreasonable or unenforceable, the provisions shall only be modified to the minimum extent required to make the provisions reasonable and/or enforceable, as the case may be, and without impacting the remaining portions of the Agreement, which will remain in full force and effect.

16. Notification to New Employer. In the event that my engagement with the Company concludes, I agree to advise the Company of the identity of any new engagement, whether as an employee or consultant, and my new position. I also agree to provide my new employer or person for whom I will be providing consulting services with a copy of this Agreement prior to the commencement of my new engagement. I further consent to the Company notifying my new employer or person for whom I will be providing consulting services about my obligations under this Agreement.

17. Assignment. I acknowledge and agree that my services are of a unique character and cannot be assigned. I expressly grant to the Company and/or any subsidiary, successor or assignee of the Company, the right to enforce the provisions of this Agreement.

18. Counterparts. This Agreement may be executed by the Parties in one or more counterparts, each of which shall be deemed an original but all of which, taken together, shall constitute one and the same instrument.

19. Facsimile Signatures. A facsimile, PDF signature on this Agreement shall be deemed to be an original signature for all purposes. In the event that a dispute arises regarding this Agreement, the parties to the dispute shall not be required to produce a copy of this Agreement bearing original signatures of the Parties, other than facsimile, electronic or PDF signatures.

**Dynamic Tech Services, Inc.**

By: /s/ Joseph Gress  
Joseph Gress, Chief Executive Officer      Date: January 1, 2022

**EXHIBIT B**  
**INCENTIVE COMPENSATION PLAN**  
**Compensation Plan**

A)

Annual Qualified Revenue Subscription Gross Profit	Annual Variable Compensation
\$125,000	\$ 15,000.00
\$175,000	\$ 21,000.00
\$225,000	\$ 27,000.00
\$275,000	\$ 33,000.00
\$325,000	\$ 39,000.00
\$375,000	\$ 45,000.00
\$425,000	\$ 51,000.00

B) Buyer has requested that Seller help identify other Acumatica resellers it can acquire. In the event that Buyer ultimately acquires another reseller which has been introduced to it by Seller, Buyer shall pay Seller a fee of \$10,000. Such payment shall be paid on the date of actual closing of such acquisition.

## SilverSun Technologies Acquires Acumatica Division of Dynamic Tech Services, Inc.

EAST HANOVER, NJ, January 5, 2022 – SilverSun Technologies, Inc. (NASDAQ: SSNT), a national provider of transformational business software applications and managed IT services, announced today that its wholly-owned subsidiary, SWK Technologies, Inc., has acquired the Acumatica division of Dynamic Tech Services, Inc., a leading Atlanta-based reseller of Acumatica ERP software solutions.

Mark Meller, CEO of both SilverSun and SWK Technologies, stated, “This is a strategic transaction which bolsters our resources and our geographic reach, and further enhances our position as the leading Acumatica reseller in North America. SWK is laser-focused on enabling the digital transformation of our over 5000 customers, and the cloud-based Acumatica ERP solution is an important component of our product portfolio. As a result of our achievements and success, SWK was Acumatica’s Partner of the Year in 2018 and 2019, and Distribution Partner of the Year in 2020. The combination of SWK and Dynamic Tech will enable us to even further accelerate our growth and solidify our position as the leading business partner in the entire Acumatica ecosystem.”

Joel Gress, founder of Dynamic Tech Services, commented, “There are tremendous opportunities ahead, and the size and scale of the combined organizations will enable SWK to take full advantage of these opportunities. My team and I am very happy to be part of this dynamic and growing company. We are very excited about our prospects for 2022 and beyond.”

### **About SilverSun Technologies, Inc.**

We are a business application, technology and consulting company providing software and IT solutions to meet our clients’ information, technology and business management needs. Our services and technologies enable customers to manage, protect and monetize their enterprise assets whether on-premise, in the Cloud, or in a hybrid cloud environment. As a value-added reseller of business application software, we offer solutions for accounting and business management, financial reporting, Enterprise Resource Planning (“ERP”), Warehouse Management Systems (“WMS”), Customer Relationship Management (“CRM”), Business Intelligence (“BI”), Human Capital Management (“HCM”) and other business applications. Our value-added services focus on consulting and professional services, specialized programming, training, and technical support. We have a dedicated managed cloud and IT services practice that provides cybersecurity, application hosting, disaster recovery, business continuity, cloud, and other services. Our customers are nationwide, with concentrations in the New York/New Jersey metropolitan area, Chicago, Arizona, Southern California, North Carolina, Washington and Oregon.

### ***Forward-Looking Statements***

*This news release includes forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934, as amended, regarding, among other things our plans, strategies and prospects -- both business and financial. Although we believe that our plans, intentions and expectations reflected in or suggested by these forward-looking statements are reasonable, we cannot assure you that we will achieve or realize these plans, intentions or expectations. Forward-looking statements are inherently subject to risks, uncertainties and assumptions. Many of the forward-looking statements contained in this news release may be identified by the use of forward-looking words such as "believe," "expect," "anticipate," "should," "planned," "will," "may," "intend," "estimated," and "potential," among others. Important factors that could cause actual results to differ materially from the forward-looking statements we make in this news release include market conditions and those set forth in reports or documents that we file from time to time with the United States Securities and Exchange Commission. All forward-looking statements attributable to SilverSun Technologies, Inc. or a person acting on its behalf are expressly qualified in their entirety by this cautionary language.*

Contact:

#### **Corporate**

Mark Meller  
SilverSun Technologies, Inc.  
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