08-29-2002

102204435

U.S. DEPARTMENT OF COMMERCE

...OVER SHEET
...S ONLY

Patent and Trademark Office
Docket No. 163852402400

To the Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

Omron Corporation 8-23-02

☐ Individual(s) ☐ Association
☐ General Partnership ☐ Limited Partnership
☒ Corporation- Japan ☐ Other

Additional name(s) of conveying party(ies) attached? ☐Yes ☒No

2. Name and address of receiving party(ies):

Name: Terabeam Corporation
Internal Address:
Street Address: 12413 Willows Road NE
City: Kirkland State: Washington ZIP: 98034

☐ Individual(s) citizenship: _____
☐ Association: _____
☐ General Partnership: _____
☐ Limited Partnership: _____
☒ Corporation-Country: Washington
☐ Other: _____

Additional name(s) & address(es) attached? ☐ Yes ☒ No

3. Nature of conveyance:

☒ Assignment ☐ Merger
☐ Security Agreement ☐ Change of Name
☐ Other:

Execution Date: July 9, 2002

4. Application number(s) or registration number(s):

U.S. Application Serial No. 75/732,051

If this document is being filed together with a new application, the execution date of the application is: N/A

A. Trademark Application No.(s)

B. Registration No.(s)

Additional numbers attached? ☐ Yes ☒ No

5. Name and address of party to whom correspondence concerning document should be mailed:

Andrew N. Spivak
Attorney at Law
Morrison & Foerster LLP
2000 Pennsylvania Avenue, N.W.
Washington, D.C. 20006-1888

6. Total number of applications and trademark registrations involved: 1

7. Total fee (37 C.F.R. § 3.41): $40.00

☐ Enclosed

☒ Authorized to be charged to deposit account, referencing Attorney Docket No. 25883-24010.00

8. Deposit account number: **03-1952**

The Commissioner is hereby authorized to charge any fees under 37 C.F.R. § 1.21 which may be required by this paper, or to credit any overpayment to **Deposit Account No. 03-1952**.

DO NOT USE THIS SPACE

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Name: Andrew N. Spivak
Registration No: D.C. No. 464376

Andrew N. Spivak
Signature

8/23/02
Date

Total number of pages comprising cover sheet and document: 80

08/29/2002 TDIAZ1 00000029 031952 75732051
01 FC:481 40.00 CH

Mail documents to be recorded with required cover sheet information to:
Commissioner of Patents and Trademarks
Box Assignments
Washington, D.C. 20231

dc-326692

PRIVILEGED & CONFIDENTIAL

TERMINATION AGREEMENT

THIS AGREEMENT, made and entered into this 9th day of July 2002, by and between Harmonix Corporation, a corporation organized and existing under the laws of the Commonwealth of Massachusetts with its place of business at 1755 Osgood Street, North Andover, Massachusetts, USA (hereinafter referred to as "Harmonix") and OMRON Corporation, a corporation organized and existing under the laws of Japan with its place of business at Shiokoji Horikawa, Shimogyo-ku, Kyoto, 600-8530 Japan (hereinafter referred to as "Omron").

Omron has decided to cease commercializing the millimeter wave radio data communications technology ("MMR Data Communications") that is a subject of the Cross-License Agreement. The parties agree to terminate the existing Agreements and in order for Harmonix to continue pursuing the MMR Data Communications, it will require adequate rights in and to the intellectual property pertaining to MMR Data Communications.

To this end, Omron and Harmonix agree that: (i) Harmonix shall be the sole owner of certain intellectual property related to the Cross-License Agreement, (ii) all of Omron's rights in such intellectual property are terminated except as necessary for Omron to service its customers for Licensed Product and Omron Proprietary Product in Japan existing as of the date of this Agreement ("Omron Existing Customers") and to continue development and commercialization of Omron Proprietary Products, as defined in the Cross-License Agreement, (iii) Omron shall be reimbursed for costs associated with prosecuting and assigning patents and patent applications relating to such assigned intellectual property, and (iv) the Cross-License Agreement is terminated.

The parties hereto agree as follows:

1. Confirmation of the Existing Agreements

The parties executed and entered into the following agreements;

(1) The Product Purchase Agreement dated November 25, 1997 ("Purchase Agreement");
(2) SUPPLEMENTAL AGREEMENT dated November 25, 1997;
(3) CROSS-LICENSE AGREEMENT dated April 7, 2000, ("Cross License Agreement"); and
(4) The letter of "Re: HARMONIX CORPORATION and OMRON CORPORATION" dated April 6, 2000

(hereinafter collectively referred to as the "Existing Agreements").

All terms defined in the Cross License Agreement shall have the same meaning in this Agreement.

2. Termination

Subject to the terms and conditions hereinafter provided, the parties hereby agree to terminate the Existing Agreements effective upon Omron's receipt of all Outstanding Payments as provided in Section 6 hereof.

3. Survival Clauses of the Purchase Agreement

The rights and obligations under Sections 14, 15, 16, 17, 19, 20, 24, 28, 30 and 31 shall survive termination of the Purchase Agreement and bind the parties and their legal representatives, successors and permitted assigns; provided, however, that the parties agree that the scope of Harmonix's obligation to

maintain a reasonable supply of parts for sale to Omron under section 16 of the Purchase Agreement is limited to Harmonix making commercially reasonable efforts to supply such parts for a period of five (5) years from date hereof.

4. Survival Clauses of the Cross License Agreement

4.1 The rights granted to Harmonix under Sections 3.2 and 3.3 shall survive termination of the Cross License Agreement, provided that these Sections shall not restrict Omron from commercializing the Existing IP (as defined in the Cross License Agreement) for the purposes of Omron's of designing, making, having made, and commercializing transmitters and receivers for sensing, detecting and/or measuring purpose, including the function of communicating the information on objects or results of such sensing detecting and/or measuring.

4.2 The rights granted to Omron under Section 4.1 and Section 4.5 shall survive termination of the Cross License Agreement (but the rights granted under Section 4.1 will be limited to that required to permit Omron to service Omron Existing Customers). Section 4.3 shall not survive termination.

4.3 The rights and obligations under Section 1 (Definitions), Section 3.7 (Key Components), Sections 6.2 (provided that the parties agree that the scope of Harmonix's obligation to supply Key Components to Omron is defined as making commercially reasonable efforts to supply available Key Components for a period of five (5) years from the date of this Agreement to permit Omron to service Omron Existing Customers, and that the Distribution License and Reseller Agreement are terminated pursuant to the terms of the Cross-License Agreement) and 6.4 (Supply and Shipment), Sections 7.1 through 7.5 (Confidentiality), Section 8.2 (Warranty Disclaimer), Section 8.3 (Limitation of Liability), Section 8.4 and 8.5 (Indemnification), and Section 10 (General) shall also survive termination of the Cross License Agreement and bind the parties and their legal representatives, successors and permitted assigns.

5. Intellectual Properties

5.1 Harmonix shall be the sole owner of all IP Rights and Commercialization Rights in the Licensed Products and the Applicable Technology and Know How. Effective upon Omron's receipt of all Outstanding Payments as provided in Section 6 hereof, Omron assigns, transfers and conveys to Harmonix its intellectual properties set forth in Exhibit "A" (herein referred to as "Assigned IP"). Effective upon such assignment, transfer, and conveyance by Omron, Harmonix grants Omron a non-transferable, non-exclusive, worldwide, perpetual, royalty-free license to the Assigned IP for the sole purposes of Omron's of designing, making, having made, and commercializing transmitters and receivers for sensing, detecting and/or measuring purpose, including the function of communicating the information on objects or results of such sensing detecting and/or measuring. After assignment to Harmonix, if Omron wishes to enforce the Assigned IP against any third party, Omron shall first obtain a written acceptance by Harmonix. Subject to such written acceptance, Omron shall have the right to enforce Assigned IP against any third party at Omron's expense.

5.2 Omron agrees to provide reasonable assistance, at Harmonix's expense, to perfect Harmonix's rights in and to the Assigned IP, including without limitation the execution of documents. Harmonix shall pay all necessary or appropriate filing, assignment or other fees. Omron shall exercise its best efforts to furnish to Harmonix, upon request, all documents within Omron's control related to the Assigned IP, and further agrees not to disclose any information related to the Assigned IP that is not already in the public domain.

PRIVILEGED & CONFIDENTIAL

5.3 Omron represents and warrants that it has full power, right and authority to convey the Assigned IP to Harmonix as provided herein, and that it has not granted to any third party any rights in the Assigned IP, except for rights granted pursuant to sublicenses which shall be terminated pursuant to paragraph 2 above. Omron further represents and warrants that Exhibit A contains all patents and patent applications filed anywhere in the world concerning the Licensed Products and Applicable Technology and Know-how, together with all divisions, reissues, renewals and continuations of such patents and patent applications. Omron agrees that it will promptly assign to Harmonix under the terms of this Agreement any additional, later discovered, related patents or patent applications.

5.4 Each party hereby forever waives any and all claims it may have against the other party with respect to the Cross-License Agreement and releases the other party and its agents and employees with respect to such claims.

5.5 Harmonix shall reimburse Omron for all costs directly relating to prosecution of any patents and patent applications in process as of the date of this Agreement relating to the Assigned IP, as well as all necessary or appropriate filing, assignment or other fees that may become due after the date of this Agreement or are required to perfect Harmonix's ownership rights in the Assigned IP, up to (a) a maximum amount of US$ 12,000 for each patent or patent application; and (b) a cumulative amount of US$ 60,000 for all patents or patent applications.

6. Outstanding Payment

The parties confirm there are outstanding payments of US$ 410,436.65 to be made by Harmonix to Omron ("Outstanding Payments"). Harmonix shall pay Omron Outstanding Payments by August 10th, 2002 at the latest. Details of Outstanding Payments are specified in Exhibit "B".

Except as provided above, the parties acknowledge and confirm that, as of the date of this Agreement, there is no other outstanding claim or payment against the other party in relation to the Existing Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives on the day and year first above written.

Harmonix Corporation

By:
Name: Shigeaki Hakusui
Title: President & CEO

OMRON Corporation

By:
Name: AKIHIKO OTANI
Title: PRESIDENT OF SOCIAL SYSTEMS SOLUTIONS BUSINESS COMPANY

PRIVILEGED & CONFIDENTIAL

Exhibit "A"

Assigned IP

1. Patent and patent applications:

(i) US Patent 6,163,231 dated December 19, 2000, "MILLIMETER WAVE MODULATOR AND TRANSMITTER".

(ii) Japanese Laid-open Patent Application P2001-320309A.

(iii) Japanese Laid-open Patent Application Hei 11-261473.

(iv) Taiwanese Patent Publication 469687

2. Trademark

GIGALINK and United States application for registration thereof, namely, application serial number 75/732,051 filed June 18, 1999 for goods in International Class 9.

Exhibit "B"

Details of Outstanding Payment

July 5, 2002

OMRON Millimeter Wave Business Project

Invoice No.	Invoice Date	Amount(US$)	Descriptions	Payment Due Date	Payment Schedule	Amount		Overdue	Remarks
INV00-3	2/27/01	$85,608.00	PCB 18	3/E/01	10/E/01	$35,000.00	$35,000.00	No	10/22/01PAID
					11/E/01	$35,000.00	$35,000.00	Yes	
					12/E/01	$15,608.00	$35,000.00	Yes	
INV01-4	5/17/01	$1,054.00	Connector	6/E/01		$1,054.00		Yes	
INV01-5	6/25/01	$46,050.50	P.O.#0106-5.-27.-28 PLL…IF	7/E/01		$18,338.00		Yes	
					1/E/02	$27,712.50	$37,079.25	Yes	
INV01-6	6/28/01	$4,288.75	Various Materials	7/E/01		$4,288.75		Yes	
INV01-7	7/13/01	$340.00	Connector	8/E/01		$340.00		Yes	
INV01-8	8/6/01	$58.00	PIM Code:7507889-1A	9/E/01		$58.00		Yes	
INV01-9	10/11/01	$1,517.00	wire harness assy 50	11/E/01		$1,517.00		Yes	
INV01-10	10/29/01	$170,400.00	24units lot(high),12units lot(low)	11/E/01		$3,163.00		Yes	
					2/E/02	$43,000.00	$43,000.00	Yes	
					3/E/02	$43,000.00	$43,000.00	Yes	
					4/E/02	$43,000.00	$43,000.00	Yes	
					5/E/02	$38,237.00	$42,917.00	Yes	
INV01-11	11/5/01	$231.80	Limiting Amplifier	12/E/01		$231.80		Yes	
INV01-12	11/7/01	$115,200.00	20+12units lot(low)	12/E/01		$4,448.20		Yes	
						$110,751.80		Yes	
INV01-13	11/7/01	$936.00	Power Supply Unit 4	12/E/01		$936.00		Yes	
INV01-14	11/13/01	$208.00	20MHz Crystal 100	12/E/01		$208.00		Yes	

ACCOUNT RECEIVABLE	$390,892.05

+

Accumulated late charges from December 2001 to April 2002	$19,544.60

=

otal Account Receivable	**$410,436.65**

PRIVILEGED & CONFIDENTIAL

Execution Copy

AGREEMENT AND PLAN OF MERGER AND REORGANIZATION

among

TERABEAM CORPORATION,

HARMONIX CORPORATION

and

THE STOCKHOLDERS OF HARMONIX CORPORATION

Dated as of July 12, 2002

er Agreement

AGREEMENT AND PLAN OF MERGER AND REORGANIZATION

This Agreement and Plan of Merger and Reorganization (this "***Agreement***") is made and entered into as of July 12, 2002, by and among Terabeam Corporation, a Washington corporation ("***Terabeam***"); Harmonix Corporation, a Massachusetts corporation (the "***Company***"); and Shigeaki Hakusui; Robert A. Phaneuf Family Trust, a trust established under the laws of the State of Maine; Phaneuf Limited Partnership, a Massachusetts limited partnership; Softbank Networks, Inc., a Japanese corporation; Harmonix Investment LLC, a Delaware limited liability company; MMW Ventures, LLC, a Massachusetts limited liability company; eVentures II, LLC, a Delaware limited liability company; and Vermont Forum, LLC, a _____ limited liability company, who are the stockholders of the Company (the "***Stockholders***"), and Heath & Co., a Massachusetts corporation ("***Heath & Co.***").

RECITALS

A. The Company and Terabeam believe it advisable and in their respective best interests to effect a merger of the Company and Terabeam pursuant to this Agreement (the "***Merger***").

B. The Board of Directors and stockholders of the Company have approved this Agreement and the Merger as required by applicable law.

C. The Board of Directors of Terabeam has approved this Agreement and the Merger as required by applicable law.

D. It is intended that the Merger will qualify as a reorganization under Section 368(a) of the Internal Revenue Code of 1986, as amended (the "***Code***").

AGREEMENT

In consideration of the terms hereof, the parties hereto agree as follows:

ARTICLE I - THE MERGER

1.1 The Merger

Upon the terms and subject to the conditions hereof, (a) at the Effective Time (as defined in Section 1.3) the separate existence of the Company shall cease and the Company shall be merged with and into Terabeam (Terabeam as the surviving corporation after the Merger is sometimes referred to herein as the "***Surviving Corporation***") and (b) from and after the Effective Time, the Merger shall have all the effects of a merger under the laws of the State of Washington, the Commonwealth of Massachusetts and other applicable law.

1.2 The Closing

Subject to the terms and conditions of this Agreement, the closing of the Merger (the "***Closing***") shall take place concurrently with or immediately following the execution and delivery of this Agreement, at the offices of Terabeam, 12413 Willows Road NE, Kirkland, Washington, or such other date, time or location as Terabeam and the Company shall agree (the date on which the Closing actually occurs, "***Closing Date***").

1.3 Effective Date and Time.

On the Closing Date and subject to the terms and conditions hereof, articles of merger (the "***Articles of Merger***") and a plan of merger in the form of attached Exhibit 1.3 (the "***Plan of Merger***") complying with the applicable provisions of the Washington Business Corporation Act ("***Washington Law***") and the Massachusetts Business Corporation Law ("***Massachusetts Law***") and in such form and executed in such manner as required by Washington Law and Massachusetts Law, shall be delivered for filing with the Secretary of State of the state of Washington (the "***Washington Secretary***") and the Secretary of the Commonwealth of Massachusetts (the "***Massachusetts Secretary***"). The Merger shall become effective on the date (the "***Effective Date***") and at the time (the "***Effective Time***") of filing of the Articles of Merger and Plan of Merger or at such other time as may be specified in the Articles of Merger as filed. If the Washington Secretary or the Massachusetts Secretary requires any changes in the Articles of Merger or Plan of Merger as a condition to filing or issuing its certificate to the effect that the Merger is effective, Terabeam and the Company will execute any necessary revisions incorporating such changes, provided such changes are not inconsistent with, and do not result in any material change in, the terms of this Agreement.

1.4 Articles of Incorporation of the Surviving Corporation.

At the Effective Time, the Articles of Incorporation of Terabeam shall continue to be the Articles of Incorporation of the Surviving Corporation. Thereafter, the Articles of Incorporation of the Surviving Corporation may be amended in accordance with their terms and as provided by law.

1.5 Bylaws of the Surviving Corporation

At the Effective Time, the Bylaws of Terabeam as in effect immediately prior to the Effective Time shall continue to be the Bylaws of the Surviving Corporation. Thereafter, the Bylaws may be amended or repealed in accordance with their terms and the Articles of Incorporation of the Surviving Corporation and as provided by law.

1.6 Directors and Officers

At the Effective Time, the directors and officers of the Company shall resign and the directors and officers of Terabeam shall continue in office as the directors and officers of the

Surviving Corporation, and such directors and officers shall hold office in accordance with and subject to the Articles of Incorporation and Bylaws of the Surviving Corporation.

1.7 Merger Consideration

1.7.1 Conversion of Shares

As of the Effective Time, by virtue of the Merger and without any action on the part of the holders thereof:

(a) All shares of any class of capital stock of the Company held by the Company as treasury shares shall be canceled.

(b) Except as otherwise provided in Section 1.7.5, each issued and outstanding share of common stock, no par value, of the Company (the "***Company Common Stock***") shall be converted into the right to receive from Terabeam:

(i) an amount in cash equal to the quotient obtained by dividing (a) the Closing Cash (as defined below) by (b) the quotient of (x) the total number of Outstanding Shares (as defined in Section 2.3(b) below) divided by (y) 1.00 minus the Heath Adjustment Factor (as defined in Section 1.7.1(f) below) (the result of such quotient, the "***Adjusted Outstanding Shares***");

(ii) a number of shares of Terabeam's common stock, no par value (the "***Terabeam Common Stock***"), determined by dividing (a) 1,050,000 by (b) the total number of Adjusted Outstanding Shares;

(iii) a right to receive that amount determined by dividing (a) the difference between $2,500,000 (the "***Closing Indebtedness***") and the dollar value of finally determined claims for indemnification as provided in Article VII below, by (b) the total number of Adjusted Outstanding Shares (as adjusted herein), which right will be evidenced by a convertible promissory note of Terabeam to be issued on the second anniversary of the Closing Date (the "***Payment Date***"), substantially in the form set forth on Exhibit 1.7.1 hereto (each, a "***Purchase Note,***" and such notes together, the "***Purchase Notes***"), subject to the limitations set forth in Section 7.8 below; provided, that Terabeam shall not be required to issue more than one Purchase Note to each Stockholder; and

(iv) the right to receive quarterly payments equal to the amount of interest accrued on the then-existing aggregate Adjusted Closing Indebtedness (as defined in Section 7.6.1 below), at a rate of 6.75% per annum, simple interest ("***Interest Payments***"), subject to the limitations set forth in Section 7.9 below.

The quotient derived in Section 1.7.1(b)(i) shall be rounded to three decimal points and shall be referred to herein as the "***Cash Exchange Ratio,***" the quotient derived in Section 1.7.1(b)(ii) shall be rounded to three decimal points and shall be referred to herein as the

"***Stock Exchange Ratio***," and the quotient derived in Section 1.7.1(b)(iii) shall be rounded to three decimal points and shall be referred to herein as the "***Note Exchange Ratio***." "***Closing Cash***" shall mean $3,500,000 minus the sum of the: (i) Optionee Bonus, (ii) Aggregate Exercise Price and (iii) dollar value of any Excess Liabilities (each as defined below). The aggregate number of shares of Terabeam Common Stock so issued shall be referred to herein as the "***Closing Shares***," which, together with the Closing Cash, the right to the aggregate Closing Indebtedness (and the related Purchase Notes when issued) and the aggregate Interest Payments, shall be referred to as the "***Merger Consideration***." The amount of cash to be issued to each Stockholder under this Section 1.7.1(b) and Section 1.7.1(f) below shall be calculated by aggregating all shares of Company Common Stock held by each such Stockholder (which, in the case of Heath & Co., shall be equal to the number of Deemed Heath Shares (as defined below)), so that such amount of cash to be issued shall be equal to the number of shares of Company Common Stock held by such Stockholder multiplied by the Cash Exchange Ratio, rounded to the nearest $0.01, with $0.005 being rounded up. The number of shares of Terabeam Common Stock to be issued to each Stockholder under this Section 1.7.1(b) and Section 1.7.1(f) below shall be calculated by aggregating all shares of Company Common Stock held by each such Stockholder (which, in the case of Heath & Co., shall be equal to the number of Deemed Heath Shares), so that such number of shares of Terabeam Common Stock to be issued shall be equal to the number of shares of Company Common Stock held by such Stockholder multiplied by the Stock Exchange Ratio, with fractional shares rounded to the nearest whole number, with .5 being rounded up. The initial amount of Closing Indebtedness to which each Stockholder shall be entitled under this Section 1.7.1(b) and Section 1.7.1(f) below shall be equal to the number of shares of Company Common Stock held by such Stockholder at the Effective Time (which, in the case of Heath & Co., shall be equal to the number of Deemed Heath Shares) multiplied by the Note Exchange Ratio, rounded to the nearest $0.01, with $0.005 being rounded up. The amount of Interest Payments to which each Stockholder shall be entitled under this Section 1.7.1(b) and Section 1.7.1(f) below shall be calculated by reference to such Stockholder's total interest in the Adjusted Closing Indebtedness from time to time. For purposes of this Agreement, (x) the "***Total Proceeds***" shall be equal to the sum of (A) the aggregate cash paid at Closing ($3,500,000) minus Excess Liabilities, (B) the aggregate amount of Closing Indebtedness ($2,500,000), and (C) the agreed-upon value of the Closing Shares ($5,250,000 based on a price of $5.00 per share of Terabeam Common Stock) and (y) the "***Total Net Proceeds***" shall be equal to the result of the result of the (A) Total Proceeds minus (B) the Heath Fee (as defined below) ($475,000) plus (C) the amount to be paid pursuant to the Omron Redemption (as defined below) ($500,000).

(c) At the Effective Time, all Closing Indebtedness shall be subject to the provisions relating to adjustments to the Closing Indebtedness set forth in Article VII hereof. Until the Payment Date, Interest Payments shall be due and payable on the fifth day of the first month of each quarter. Interest will be computed on the basis of a 360-day year of twelve 30-day months.

(d) Pursuant to agreements (the "***Option Cancellation Agreements***") previously entered into by the Company and the several holders of its outstanding stock options, each outstanding option (each, an "***Option***") to purchase shares of Company Common Stock issued pursuant to the Company's 2000 Stock Incentive Plan (the "***Company Option Plan***"), whether or not vested or exercisable, shall be terminated with the consent of the holder of such Option (each, an "***Optionee***") as of the Effective Time. In consideration of such termination, and subject to the other provisions of this Agreement, immediately subsequent to the Effective Time, the Company shall pay to each Optionee a cash payment in the amount set forth with respect to each Optionee in Schedule 2.13.7 to the Company Disclosure Memorandum equal to the product of (i) the aggregate number of vested Options held by such holder immediately prior to the termination thereof, and (ii) the Per Share Option Consideration, less all applicable employee withholding or other taxes. For purposes of this Agreement, the calculation and payment of the Optionee Bonus pursuant to this Section 1.7.1(d) shall be deemed to have been effected prior to the Omron Redemption, and the "***Per Share Option Consideration***" shall be equal to the result of (A)(1) the Total Net Proceeds divided by (2) the Fully Diluted Number, minus (B) $0.08, rounded to the nearest $0.01, with $0.005 being rounded up. The aggregate amount payable to all Optionees pursuant to the Option Cancellation Agreements shall be referred to herein as the "***Optionee Bonus***." The aggregate exercise prices of the Options terminated pursuant to the Option Cancellation Agreements (i.e., the aggregate number of Options times $0.08) shall be referred to herein as the "***Aggregate Exercise Price***." The "***Fully Diluted Number***" shall mean the total number of Outstanding Shares (plus the number of shares of Company Common Stock held by Omron (as defined below) immediately prior to the Omron Redemption) and the total number of vested Options exercisable immediately prior to termination of the Options described above.

(e) The aggregate amount of Closing Cash paid to the Stockholders at the Closing shall be subject to adjustment as follows:

(i) The Company shall cause to be prepared and delivered to Terabeam, on the date immediately prior to the Closing Date, an unaudited balance sheet for the Company as of the Closing Date (the "***Closing Balance Sheet***"). The Closing Balance Sheet shall be prepared by the Company from the books and records of the Company in accordance with GAAP (as defined below), applied on a basis consistent with the policies employed in the preparation of the Company Balance Sheets (as defined in Section 2.6 hereto).

(ii) In the event that the Closing Balance Sheet reflects any liabilities, debts or obligations, contingent or otherwise, other than Company Liabilities (as defined below), the aggregate amount of cash paid to the Stockholders at the Closing shall be reduced by (among other things) the dollar amount of such excess liabilities, debts or obligations (such excess, the "***Excess Liabilities***"), all as provided in Section 1.7.1(b). Notwithstanding anything to the contrary contained herein, Excess Liabilities shall specifically include any (a) severance, bonus or similar payments payable by the Company on or prior to the Closing that, but for the Merger, would not otherwise be payable, including

without limitation, severance payments payable to Joe Faris as set forth on Schedule 2.13.7 to the Company Disclosure Memorandum (as defined below), (b) payments to bankers, brokers or other financial advisors by the Company or any of the Stockholders in connection with the Merger and related transactions, other than any payments to Heath & Co. in an aggregate amount equal to $475,000 (the "***Heath Fee***"), (c) outstanding indebtedness to Robert A. Phaneuf in the amount of $10,000, which amount was incurred in connection with the payment of fees to the Company's banker or financial advisor in anticipation of the Merger, (d) the payment to Omron Corporation ("***Omron***") of (x) $500,000 in connection with the Company's redemption of Omron's share ownership in the Company immediately prior to the Closing Date (the "***Omron Redemption***") and/or (y) any amounts in excess of $414,345.57, which amount is due and payable on the Closing Date in connection with the Cross-License Agreement (as defined below), and (e) fees and expenses for legal, accounting and similar fees in excess of $30,000 (as contemplated in Section 8.2 below).

(f) Notwithstanding the foregoing, at the Closing, in full and complete satisfaction of the amounts due to Heath & Co. in connection with the Merger, including without limitation amounts due under that certain engagement letter agreement between the Company and Heath & Co. dated as of April 15, 2002, the parties shall treat Heath & Co. as a "Stockholder" for all purposes of this Agreement (including under Article VII hereof), other than pursuant to Article IV and Sections 2.1, 2.3, 2.10.1, 2.25, 2A.3 and 5.7 hereof, and Heath and Co. shall be entitled to that portion of the Merger Consideration set opposite Heath & Co.'s name on the Merger Consideration Spreadsheet. All amounts payable to or received by Heath & Co. under this Agreement (other than Heath & Co.'s portion of the Closing Cash) shall be subject to adjustment as provided in Article VII herein. For purposes of this Agreement, the "***Heath Adjustment Factor***" shall be equal to 0.0505, which amount represents Heath & Co.'s deemed ownership of the Company immediately prior to the Closing, and the "***Deemed Heath Shares***" shall be equal to the difference between the Adjusted Outstanding Shares and the Outstanding Shares.

1.7.2 Exchange of Certificates; Payment of Closing Cash and Closing Indebtedness and Issuance of Terabeam Common Stock

Prior to or at the Closing, each Stockholder shall execute and deliver to Terabeam a Letter of Transmittal in the form set forth at Exhibit 1.7.2 hereto (the "***Letter of Transmittal***"), together with documents delivered as required therein and in this Agreement, including certificates representing shares of Company Common Stock for cancellation, all in accordance with the amounts set forth in the Merger Consideration Spreadsheet (as defined below). At the Closing, and subject to the Merger Consideration Spreadsheet, Terabeam shall deliver to each Stockholder: (i) a certificate representing the number of shares of Terabeam Common Stock that such Stockholder is entitled to receive pursuant to Section 1.7.1 hereof, and (ii) a check or wire transfer representing the portion of the Closing Cash that such Stockholder is entitled to receive pursuant to Section 1.7.1(b). In accordance with Sections 1.7.1 and 7.6 hereof, no Closing Indebtedness or Purchase Notes shall be issued at the Closing. In the event that any certificates representing shares of Company Common Stock

shall have been lost, stolen or destroyed, upon the making of an affidavit prior to Closing of that fact by the Stockholder claiming such certificate to be lost, stolen or destroyed, Terabeam shall issue in exchange for such lost, stolen or destroyed certificate the Merger Consideration that such Stockholder is entitled to receive pursuant to Section 1.7.1; provided, however, that Terabeam may in its discretion, and as a condition precedent to the issuance thereof, require such Stockholder to provide Terabeam with an indemnity agreement and/or bond against any claim that may be made against Terabeam with respect to the certificate alleged to have been lost, stolen or destroyed. No interest shall accrue on any portion of the Merger Consideration (other than Interest Payments and the interest accruing on the Purchase Notes in accordance with their respective terms). If the Merger Consideration (or any portion thereof) is to be delivered to any person other than the person in whose name the certificate or certificates representing shares of Company Common Stock surrendered in exchange therefor is registered, it shall be a condition to such exchange that the person requesting such exchange shall pay to Terabeam any transfer or other taxes required by reason of the payment of the Merger Consideration to a person other than the registered holder of the certificate or certificates so surrendered or shall establish to the satisfaction of Terabeam that such tax has been paid or is not applicable.

1.7.3 No Further Transfers

After the Effective Time, there shall be no transfers of any shares of Company Common Stock on the stock transfer books of the Surviving Corporation. If, after the Effective Time, certificates formerly representing shares of Company Common Stock are presented to the Surviving Corporation, they shall be canceled and exchanged in accordance with this Section 1.7.

1.7.4 Company Liabilities

For purposes of this Agreement, "***Company Liabilities***" shall collectively mean: (a) any of the Company's accounts payable and accrued expenses incurred in the ordinary course of business consistent with past practices after June 30, 2002, including but not limited to payroll expenses, related benefits and taxes based on an employee's then-current salary level, component inventory purchases for existing products, property taxes and rent expenses as set forth on the Closing Balance Sheet, (b) any outstanding indebtedness to Terabeam, (c) outstanding indebtedness to Stoneham Savings Bank ("***Stoneham***") in an amount equal to $232,860, as of July 9, 2002 (the "***Stoneham Debt***"), (d) outstanding indebtedness to Shigeaki Hakusui in an aggregate amount not exceeding $250,000, (e) accounts payable in an aggregate amount of up to $559,525 and accrued expenses in the amount of up to $375,457, all as set forth in the Company Balance Sheet, and (f) with respect to each of the items in clauses (a), (b), (c), (d) and (e) above, accrued interest in the ordinary course of business, but shall not in any event include any of the items described in the second sentence of Section 1.7.1(e)(ii). By operation of law, as of the Effective Date, Terabeam shall assume all liabilities of the Company, including the Company Liabilities.

1.7.5 Allocation of Merger Consideration

Attached as Schedule 1.7.5 is a spreadsheet (the "***Merger Consideration Spreadsheet***"), prepared by the Company, detailing (a) the number of shares of Company Common Stock held by each Stockholder (or deemed to have been held in the case of Heath & Co.), and (b) the amount of Terabeam Common Stock, Closing Cash, and Closing Indebtedness to which each Stockholder will be entitled at the Effective Time. Notwithstanding anything to the contrary contained herein, the Merger Consideration (other than the Interest Payments, which shall be allocated to the Stockholders pursuant to the penultimate sentence of Section 1.7.1(b) hereof) shall be allocated to the Stockholders in the amounts and forms set forth on the Merger Consideration Spreadsheet.

ARTICLE II - REPRESENTATIONS AND WARRANTIES OF THE COMPANY

In order to induce Terabeam to enter into and perform this Agreement, and the other agreements, certificates and questionnaires that are required to be completed and executed pursuant to this Agreement, including the Letter of Transmittal (collectively, the "***Operative Documents***"), the Company represents and warrants to Terabeam as follows in this Article II:

2.1 Organization; Power and Authority

The Company is a corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Massachusetts. The Company has all requisite corporate power and authority to execute, deliver and perform its obligations under this Agreement and the Operative Documents to which it is a party, and to consummate the transactions contemplated hereby and thereby. The Company is duly qualified and licensed as a foreign corporation to do business and is in good standing in each jurisdiction in which the character of the Company's properties occupied, owned or held under lease or the nature of the business conducted by the Company makes such qualification or licensing necessary. This Agreement and consummation of the Merger have been approved by the unanimous written consent of the Stockholders.

2.2 Enforceability

All corporate action on the part of the Company and its officers, directors and stockholders necessary for the authorization, execution, delivery and performance of this Agreement and the Operative Documents to which it is a party, the consummation of the Merger, and the performance of all the Company's obligations under this Agreement and the Operative Documents to which it is a party has been taken. This Agreement and each of the Operative Documents to which the Company is a party has been duly executed and delivered by the Company, and this Agreement and each of the Operative Documents to which the Company is a party is a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with their terms. The allocation of the Merger Consideration in accordance with, and in the form and manner provided in, the Merger

Consideration Spreadsheet complies in all respects with the applicable provisions of Massachusetts Law.

2.3 Capitalization

(a) The authorized capital stock of the Company consists of 20,000,000 shares of Company Common Stock, no par value, and 5,000,000 shares of preferred stock, no par value.

(b) The issued and outstanding capital stock of the Company consists solely of 12,250,000 shares of Company Common Stock, of which 3,500,000 shares currently held by Omron will be redeemed immediately prior to the Effective Time (the remaining balance of 8,750,000 shares that will be outstanding after such redemption, the "***Outstanding Shares***"), which are held of record, and to the knowledge of the Company, beneficially, by the Stockholders in the amounts described on Schedule 2.3(b) to the Company Disclosure Memorandum attached as Exhibit 2 (the "***Company Disclosure Memorandum***"). The Outstanding Shares are, and immediately prior to the Closing will be, duly authorized and validly issued, fully paid and nonassessable, and issued in compliance with all applicable federal and state securities laws. To the knowledge of the Company, no Person (as defined in Section 2.5 hereof) other than the Stockholders holds any interest in any of the Outstanding Shares. True and correct copies of the stock records of the Company, showing all issuances and transfer of shares of capital stock of the Company since inception, have been delivered to Terabeam or its counsel.

(c) Except as described in Schedule 2.3(c) to the Company Disclosure Memorandum, as of the date of this Agreement, other than options to purchase up to 1,435,000 shares of Company Common Stock that have been granted under the Company Option Plan, there are no outstanding rights of first refusal or offer, preemptive rights, options, warrants, conversion rights or other rights or agreements, either directly or indirectly, for the purchase or acquisition from the Company or any Stockholder of any shares of Company Common Stock or any securities convertible into or exchangeable for shares of Company Common Stock, nor have any claims therefor been made by any party to the Company or, to the knowledge of the Company, to any Stockholder, nor is there any legitimate basis for any such claim by any party. Set forth on Schedule 2.3(c) to the Company Disclosure Memorandum is a spreadsheet accurately reflecting the number of options, warrants and other rights to purchase shares of Company Common Stock, the grant or issue dates, vesting schedules and exercise or conversion prices thereof and, in each case, the identifies of the holders, an indication of their relationships to the Company (if any exist other than as a security holder) and the number of options, warrants and other rights to purchase shares of Company Common Stock that will be vested on the Closing Date. The Company has delivered to Terabeam true and correct copies of the Company Option Plan, all stock option agreements and exercise documentation relating to options granted thereunder, and all Option Cancellation Agreements entered into by the Company and the holders of all of its outstanding stock options. Schedule 2.3(c) to the Company Disclosure Memorandum also

identifies all options, warrants or other rights to purchase shares of Company Common Stock that have been offered in connection with any employee, consulting or other agreement (oral or written) but that, as of the date hereof, have not been issued or granted. As of the Closing, all outstanding stock options, warrants and other rights to purchase Company Common Stock shall terminate, and shall have no force or effect subsequent to the Closing (other than the Optionees' rights to receive the cash payments called for by the Option Cancellation Agreements).

(d) Except as set forth in Schedule 2.3(d) to the Company Disclosure Memorandum, the Company is not a party or subject to any agreement or understanding and, to the knowledge of the Company, there is no agreement or understanding between or among any Stockholders and/or any other Persons that affects or relates to the voting or giving of written consents with respect to any securities of the Company or the voting by any director of the Company. Except as set forth on Schedule 2.3(d) to the Company Disclosure Memorandum, no Stockholder or any "affiliate," as such term is defined in Rule 405 under the Securities Act of 1933, as amended (an "***Affiliate***"), thereof is indebted to the Company, and the Company is not indebted to any Stockholder or any Affiliate thereof (other than for normal employment compensation and business expenses incurred in the ordinary course of business and reflected in the books and records of the Company). Except as set forth on Schedule 2.3(d) to the Company Disclosure Memorandum, the Company is not under any contractual or other obligation to register any of its presently outstanding securities or any of its securities that may hereafter be issued.

(e) All rights of refusal and co-sale rights granted by the Company with respect to the Company Common Stock or Stock Purchase Rights of the Company are described on Schedule 2.3(e) to the Company Disclosure Memorandum.

(f) All options, Stock Purchase Rights and shares of Company Common Stock have been granted or issued at fair market value, as determined by the Company's Board of Directors at the date of grant or issuance.

For purposes of Article II of this Agreement, the term "***knowledge of the Company***" and similar expressions shall mean the actual knowledge of any of the directors and officers of the Company in their capacities as directors and officers of the Company or otherwise, after reasonable inquiry, except that the phrase "***actual knowledge of the Company***" and similar expressions shall mean the actual knowledge of any of the directors and officers of the company in their capacities as directors and officers of the Company or otherwise, without investigation.

2.4 Subsidiaries and Affiliates

The Company does not own, directly or indirectly, any ownership, equity, or voting interest in, any corporation, partnership, joint venture or other entity, and has no agreement or commitment to purchase any such interest.

2.5 No Approvals; No Conflicts

The execution, delivery and performance of this Agreement and the Operative Documents by the Company and the consummation by the Company of the transactions contemplated hereby and thereby will not:

(a) constitute a violation (with or without the giving of notice or lapse of time, or both) of any provision of law or any judgment, decree, order, regulation or rule of any court or other governmental authority applicable to the Company;

(b) require any consent, approval or authorization of, or declaration, filing or registration with, any person, corporation, partnership, joint venture, association, organization, other entity or governmental or regulatory authority (a "***Person***"), except for such as already have been obtained and except for the filing of the Articles of Merger and the Plan of Merger and the filing of any documents necessary to withdraw the Company from any jurisdiction in which it has qualified to do business as a foreign corporation;

(c) result in a default under (with or without the giving of notice or lapse of time, or both), or acceleration or termination of, or the creation in any party of the right to accelerate, terminate, modify or cancel, any agreement, lease, note or other restriction, encumbrance, obligation or liability to which the Company is a party or by which it is bound or to which its assets are subject;

(d) result in the creation of any liens, mortgages, pledges, deeds of trust, security interests, charges, encumbrances or other adverse claims of interest of any kind (each, an "***Encumbrance***") upon any assets of the Company or the Outstanding Shares;

(e) conflict with or result in a breach of or constitute a default under any provision of the Company's Articles of Organization or Bylaws, or

(f) except as set forth on Schedule 2.5(f) to the Company Disclosure Memorandum, invalidate or adversely affect any permit, license or authorization or status used in the conduct of the Company's business.

2.6 Financial Statements

The Company has delivered to Terabeam (a) balance sheets and statements of operations, shareholders' equity and cash flows of the Company at and for the fiscal years ended December 31, 1998 and December 31, 1999, and accompanying notes, audited by Arthur Andersen LLP, independent auditors and certified public accountants, and (b) unaudited balance sheets and unaudited statements of operations, shareholders' equity and cash flows of the Company at and for the following periods: the fiscal years ended December 31, 2000 and December 31, 2001, and the six months ended June 30, 2002. All the foregoing financial statements are herein referred to as the "***Financial Statements***." The balance sheet of the Company at June 30, 2002 and the Closing Balance Sheet are herein referred to as the

"***Company Balance Sheets***." The Financial Statements have been prepared in conformity with generally accepted accounting principles in the United States ("***GAAP***") on a basis consistent with prior accounting periods and fairly present the financial position, results of operations and changes in financial position of the Company as of the dates and for the periods indicated, subject, in the case of interim financial statements, to the absence of footnotes and to normal end-of-year adjustment, the effect of which adjustments would not be material. As of the respective dates of the Company Balance Sheets, the Company had no liabilities or obligations of any nature (absolute, contingent or otherwise) that, if known or quantified, would be required under GAAP to be reflected or reserved and that are not fully reflected or reserved against in the Company Balance Sheets, except liabilities or obligations incurred since the date of that balance sheet in the ordinary course of business and consistent with past practice. The Company is not a guarantor, indemnitor, surety or other obligor of any indebtedness of any other person or entity.

2.7 Absence of Certain Changes or Events

Except for transactions with Terabeam and transactions specifically contemplated in this Agreement (including the Company's entering into the Option Cancellation Agreements), and except as disclosed in Schedule 2.7 to the attached Company Disclosure Memorandum, since June 30, 2002, neither the Company nor any of its officers or directors in their representative capacities on behalf of the Company has:

(a) taken any action or entered into or agreed to enter into any transaction, agreement or commitment other than in the ordinary course of business;

(b) forgiven or canceled any indebtedness or waived any claims or rights of material value (including, without limitation, any indebtedness owing by any stockholder, officer, director, employee or Affiliate of the Company);

(c) granted any increase, or otherwise made any modifications, directly or indirectly, in the compensation of directors, officers, employees or consultants;

(d) suffered any change having a material adverse effect on the Company's business operations, assets, liabilities (absolute, accrued, contingent or otherwise), condition (financial or otherwise) or prospects;

(e) borrowed or agreed to borrow any funds, incurred or become subject to, whether directly or by way of assumption or guarantee or otherwise, any obligations or liabilities (absolute, accrued, contingent or otherwise) in excess of $25,000 in the aggregate, except liabilities and obligations that are incurred in the ordinary course of business and consistent with past practice, or increased, or experienced any change in any assumptions underlying or methods of calculating any bad debt, contingency or other reserves;

(f) paid, discharged or satisfied any material claims, liabilities or obligations (absolute, accrued, contingent or otherwise) other than the payment, discharge or satisfaction

in the ordinary course of business and consistent with past practice of claims, liabilities and obligations reflected or reserved against in the Company Balance Sheet dated June 30, 2002 or incurred in the ordinary course of business and consistent with past practice since June 30, 2002, or prepaid any obligation having a fixed maturity of more than 90 days from the date such obligation was issued or incurred;

(g) knowingly permitted or allowed any of its property or assets (real, personal or mixed, tangible or intangible) to be subjected to any Encumbrance;

(h) purchased or sold, transferred, licensed or otherwise disposed of any of its material properties or assets (real, personal or mixed, tangible or intangible);

(i) disposed of or permitted to lapse any rights to the use of any trademark, trade name, patent or copyright, or disposed of or disclosed to any Person without obtaining an appropriate confidentiality agreement from any such Person any trade secret, formula, process or know-how not theretofore a matter of public knowledge;

(j) made aggregate capital expenditures in excess of $25,000 for additions to property, plant, equipment or intangible capital assets;

(k) made any change in accounting methods or practices or any internal control procedures;

(l) issued any capital stock or other securities, or declared, paid or set aside for payment any dividend or other distribution in respect of its capital stock, or redeemed, purchased or otherwise acquired, directly or indirectly, any shares of capital stock or other securities of the Company, or otherwise permitted the withdrawal by any of the holders of Company Common Stock of any cash or other assets (real, personal or mixed, tangible or intangible), in compensation, indebtedness or otherwise, other than payments of compensation in the ordinary course of business and consistent with past practice;

(m)paid, loaned or advanced any amount to, or sold, transferred or leased any properties or assets (real, personal or mixed, tangible or intangible) to any of the Company's stockholders, officers, directors or employees or any Affiliate of the Company's stockholders, officers, directors or employees, except compensation paid to officers and employees at rates not exceeding the rates of compensation paid during the fiscal year last ended and except for advances for travel and other business-related expenses;

(n) prematurely terminated, or indicated in writing its intent to prematurely terminate or not renew, or received from any Person a written notice of termination or other indication in writing of such Person's intent to prematurely terminate or not renew, any material contract, license, commitment or other material agreement to which the Company is a party; or

(o) agreed, whether in writing or otherwise, to take any action described in this Section 2.7.

2.8 Taxes

(a) (i) All Tax Returns (as defined below) required to be filed by or on behalf of the Company have been timely filed and all such Tax Returns were (at the time they were filed) and are true, correct and complete in all respects; (ii) all Taxes (as defined below) of the Company (whether or not reflected on any Tax Return) required to have been paid by the Company have been fully and timely paid; (iii) no waivers or extensions of statutes of limitation for extending the period for the assessment or collection of any Tax have been given or requested with respect to the Company; (iv) the Company has duly and timely withheld and paid over to the appropriate governmental authority all Taxes required to be so withheld and paid over for all periods under all applicable laws, and complied with all information reporting and backup withholding requirements with respect thereto, including maintenance of required records with respect thereto, in connection with amounts paid or owing to any employee, creditor, independent contractor, or other third party; (v) there are no liens with respect to Taxes on any of the Company's property or assets other than liens for current Taxes not yet payable; (vi) there are no Tax rulings, requests for rulings, or closing agreements relating to the Company that would be binding on the Company; and (vii) except as set forth on Schedule 2.8 of the Company Disclosure Memorandum, the Company has not requested or been granted an extension of time for filing any Tax Return to a date on or after the date hereof.

(b) Neither the Company nor any other Person on behalf of the Company (i) has filed a consent pursuant to Section 341(f) of the Code or agreed to have Section 341(f)(2) of the Code apply to any disposition of a subsection (f) asset (as such term is defined in Section 341(f)(4) of the Code) owned by the Company; (ii) has executed or entered into a closing agreement pursuant to Section 7121 of the Code or any predecessor provision thereof that could affect any full or partial Tax period after the Closing Date; or (iii) has agreed to or is required to make any adjustments that would affect periods after the Effective Time pursuant to Section 481 of the Code or any similar provision of state, local or foreign law by reason of a change in accounting method initiated by the Company or has notice that a governmental authority has proposed any such adjustment or change in accounting method.

(c) There is no Tax deficiency or adjustment outstanding or assessed or proposed against the Company that is not reflected as a liability on the Closing Balance Sheet. There are no outstanding refund claims outstanding with respect to any Tax or Tax Return of the Company. There is no outstanding dispute or claim concerning any Tax liability of the Company, nor to the knowledge of the Company is any such claim or dispute pending or threatened against the Company. Schedule 2.8 to the Company Disclosure Memorandum lists all income Tax Returns filed with respect to the Company for taxable periods ended on or after the Company's inception or the inception of any predecessor that have been audited, and indicates those Tax Returns that currently are the subject of audit. The Company has

delivered or made available to Terabeam correct and complete copies of all Tax Returns (including relevant documents and information with respect thereto, such as workpapers, records, supporting documentation therefor, e.g., substantiation for deductions), examination reports and statements of deficiencies assessed against or agreed to by the Company since the Company's inception.

(d) Except as set forth on Schedule 2.8(d) to the Company Disclosure Memorandum, the Company has not made any payments, is not obligated to make any payments and is not a party to any agreement, including this Agreement, that could under certain circumstances give rise to the payment of any amount or obligate it to pay any amount that would not be deductible pursuant to Sections 280G or 162(m) of the Code or that would give rise to an excise tax under Section 4999 of the Code.

(e) The Company has not been at any time a United States real property holding corporation within the meaning of Section 897(c)(2) of the Code. The Company has filed all reports and has created and/or retained all records required under Section 6038A of the Code with respect to its ownership by and transaction with related parties.

(f) The Company is not a party to or bound by any Tax allocation or sharing agreement or similar agreement with any Person, and has not assumed to pay any Tax obligations of, or with respect to any transaction relating to, any other Person or agreed to indemnify any other person with respect to any Tax. The Company has never been a member of an affiliated group of corporations (as defined in Section 1504(a) of the Code) filing a consolidated income tax return or filed or been included in a combined, consolidated, or unity Tax Return, and does not have any liability for Taxes of any Person under Treasury Regulations Section 1.1502-6 (or any similar provision of state, local or foreign law) as a transferee or successor by contract or otherwise.

(g) The unpaid Taxes of the Company (i) did not, as of June 30, 2002, exceed the reserve for Tax liability set forth on the face (rather than the notes) of the Company Balance Sheet dated as of June 30, 2002, and (ii) will not, as of the Closing Date, exceed that reserve as adjusted for the passage of time and operations in the ordinary course of business through the Closing Date; provided, that notwithstanding the foregoing or any other provision of this Agreement or any of the Operative Documents, the Company makes no representation or warranty with respect to Taxes arising solely as a result of or in connection with the Merger, including without limitation Taxes resulting from the failure of the Merger to qualify as a "reorganization" within the meaning of Section 368(a) of the Code.

(h) [Intentionally omitted.]

(i) [Intentionally omitted.]

(j) [Intentionally omitted.]

(k) The Company has never been either a "distributing corporation" or a "controlled corporation" in connection with a distribution of stock qualifying for tax-free treatment, in whole or in party, pursuant to Section 355 of the Code.

(l) The Company is not a "partner" in any "partnership" as those terms are defined in the Code.

(m)The Company is not a party to any safe harbor lease within the meaning of Section 168(f)(8) of the Code, as in effect prior to amendment by the Tax Equity and Fiscal Responsibility Act of 1982.

As used in this Agreement, the following terms shall have the following meanings:

"***Taxes***" means any and all foreign, federal, state, county or local taxes, charges, fees, levies, imposts, duties and other assessments, including, but not limited to, any income, alternative minimum or add-on, estimated, gross income, gross receipts, sales, use, transfer, transactions, intangibles, ad valorem, value-added, franchise, registration, title, license, capital, paid-up capital, profits, withholding, payroll, employment, excise, severance, stamp, occupation, premium, real property, recording, personal property, federal highway use, commercial rent, environmental (including, but not limited to, taxes under Section 59A of the Code) or windfall profit tax, custom, duty or other tax, governmental fee or other like assessment or charge of any kind whatsoever, together with any interest, penalties or additions to tax; and "***Tax***" means any of the foregoing Taxes.

"***Tax Returns***" means any return, declaration, report, claim or refund, information return, statement or other similar document relating to Taxes, including any schedule or attachment thereto, and including any amendment thereof.

2.9 Property

(a) The Company owns no real property other than the leasehold interests described on Schedule 2.9(a) to the Company Disclosure Memorandum (the "***Real Property***"). The Company has delivered to Terabeam or its counsel true and complete copies of all written leases, subleases, rental agreements, contracts of sale, tenancies or licenses relating to the Real Property and written summaries of the terms of any oral leases, subleases, rental agreements, contracts of sale, tenancies or licenses to which the Real Property is subject.

(b) Schedule 2.9(b) to the Company Disclosure Memorandum contains a complete and accurate list of each item of tangible personal property having a value in excess of $5,000 that is owned, leased, rented or used by the Company, other than the Company Technology and the Intellectual Property Rights (as defined in Section 2.14.1) (subject to such exclusions, the "***Personal Property***"). The Company has delivered to Terabeam or its counsel true and complete copies of all leases, subleases, rental agreements, contracts of sale, tenancies or licenses to which the Personal Property is subject.

(c) The Real Property and the Personal Property include all the properties and assets (whether real, personal or mixed, tangible or intangible) (other than, in the case of the Personal Property, property rights with an individual value of less than $5,000 and the Company Technology and Intellectual Property Rights) reflected in the Company Balance Sheets. The Real Property and the Personal Property include all material property used in the business of the Company, other than the Company Technology and Intellectual Property Rights. The Personal Property is in good operating condition and repair, normal wear and tear excepted, is adequate for the uses to which it is being put, and complies in all material respects with applicable safety and other laws and regulations.

(d) The Company's leasehold interest in each parcel of the Real Property is free and clear of all Encumbrances other than security interests of Stoneham (which will be released in connection with the Closing upon payment of the Stoneham Debt in accordance with Section 4.7 hereof) and Terabeam, respectively. Each lease of Real Property is valid, binding and enforceable against the Company, and to the Company's actual knowledge, against the other party or parties thereto, in accordance with its terms, the Company has performed in all material respects all obligations imposed on it thereunder, and neither the Company nor, to the knowledge of the Company, any other party thereto is in default thereunder, nor is there any event that with notice or lapse of time, or both, would constitute a default thereunder by the Company or, to the knowledge of the Company, by any other party. The Company has not granted any lease, sublease, tenancy or license of, or entered into any rental agreement or contract of sale with respect to, any portion of the Real Property.

(e) Except for security interests in favor of Stoneham and Terabeam, respectively, the Personal Property is free and clear of all Encumbrances, and, other than leased Personal Property that is so noted on Schedule 2.9(b) to the Company Disclosures Schedule, the Company owns such Personal Property. Each lease, license, rental agreement, contract of sale or other agreement to which the Personal Property is subject is valid, binding and enforceable against the Company, and to the Company's actual knowledge, the other party or parties thereto, in accordance with its terms, the Company has performed in all material respects all obligations imposed on it thereunder, and neither the Company nor, to the knowledge of the Company, any other party thereto is in default thereunder, nor is there any event that with notice or lapse of time, or both, would constitute a default by the Company or, to the knowledge of the Company, any other party thereunder. The Company has not granted any lease, sublease, tenancy or license of any portion of the Personal Property, except in the ordinary course of business.

2.10 Contracts

2.10.1 Material Contracts

Schedule 2.10.1 to the Company Disclosure Memorandum contains a complete and accurate list of all contracts, agreements and understandings, oral or written, to which the Company is currently a party or by which the Company is currently bound providing for potential payments by or to the Company in excess of $10,000 (the "***Material Contracts***"),

including, without limitation, security agreements, license agreements, software development agreements, distribution agreements, joint venture agreements, reseller agreements, credit agreements and instruments relating to the borrowing of money. All Material Contracts are valid, binding and enforceable against the Company, and to the Company's actual knowledge, the other party or parties thereto, the Company has performed in all material respects all obligations imposed on it thereunder, and neither the Company nor, to the knowledge of the Company, any other party thereto is in default thereunder, nor to the knowledge of the Company is there any event that with notice or lapse of time, or both, would constitute a default by the Company or, to the knowledge of the Company, any other party thereunder. True and complete copies of each such written contract (or written summaries of the terms of any such oral contract) have been delivered to Terabeam or its counsel by the Company. Except as set forth on Schedule 2.10.1 to the Company Disclosure Memorandum, the Company has no:

(a) contracts with directors, officers, Stockholders, employees, agents, consultants, advisors, salespeople, sales representatives, distributors or dealers that cannot be canceled by the Company within 30 days' notice without liability, penalty or premium, any agreement or arrangement providing for the payment of any bonus or commission based on sales or earnings, or any compensation agreement or arrangement affecting or relating to former employees of the Company;

(b) employment agreement, whether express or implied, or any other agreement for services that contains severance or termination pay liabilities or obligations;

(c) noncompetition agreement or other arrangement that would prevent the Company from carrying on its business anywhere in the world;

(d) notice that any party to any Material Contract intends to cancel, terminate or refuse to renew such contract (if such contract is renewable);

(e) material dispute with any of its suppliers, customers, distributors, OEM resellers, licensors or licensees;

(f) product distribution agreement, development agreement or license agreement as licensor or licensee (except for standard nonexclusive software licenses granted to end-user customers in the ordinary course of business, the form of which has been provided to Terabeam, or standard licenses purchased by the Company for off-the-shelf software);

(g) joint venture contract or arrangement or any other agreement that involves a sharing of profits with other persons;

(h) instrument evidencing indebtedness for borrowed money by way of a direct loan, sale of debt securities, purchase money obligation, conditional sale or guarantee, or otherwise, except for trade indebtedness incurred in the ordinary course of business, and except as disclosed in the Company Financial Statements; or

(i) agreements or commitments to provide indemnification.

(j) Except as set forth on Schedule 2.10.1, to the knowledge of the Company, no event has occurred, and no circumstance or condition exists, that (with or without the giving of notice or lapse of time, or both) will or would reasonably be expected to (A) give any Person the right to receive or require a rebate, chargeback, penalty or change in delivery schedule under any Material Contract or otherwise, (B) give any Person the right to accelerate the maturity or performance of any Material Contract, or (C) give any Person the right to cancel, terminate or modify any Material Contract, except in each such case for defaults, acceleration rights, termination rights and other rights that have not had and would not reasonably be expected to have a material adverse effect on the Company. Except as set forth on Schedule 2.10.1, the Company's cost to complete any Material Contract does not exceed the remaining amounts payable to the Company under such contract.

2.10.2 Required Consents and Waivers

The execution and delivery of this Agreement and the performance of the obligations of the Company hereunder will not constitute a default under any contracts or agreements to which the Company is currently a party or by which the Company currently is bound and do not require the consent or waiver of any other party to any such contract or agreement, except for those consents and/or waivers listed on Schedule 2.10.2 to the Company Disclosure Memorandum, all of which have been obtained and copies of which have been provided to Terabeam or its counsel.

2.11 Claims and Legal Proceedings

Except as set forth on Schedule 2.11 and Schedule 2.14 to the Company Disclosure Memorandum, there are no claims, actions, suits, arbitrations, investigations or proceedings pending or involving or, to the knowledge of the Company, threatened against the Company before or by any court or governmental or nongovernmental department, commission, board, bureau, agency or instrumentality, or any other Person. Except as set forth on Schedule 2.11 to the Company Disclosure Memorandum, to the actual knowledge of the Company, there is no valid basis for any claim, action, suit, arbitration, proceeding or investigation before or by any Person. There are no outstanding or unsatisfied judgments, orders, decrees or stipulations to which the Company is a party. Schedule 2.11 to the Company Disclosure Memorandum sets forth a description of any material disputes that have been settled or resolved by litigation or arbitration since the Company's inception.

2.12 Labor and Employment Matters

There are no material labor disputes, unfair labor practice complaints, employee grievances or disciplinary actions pending or, to the knowledge of the Company, threatened against or involving the Company or any of its present or former employees. The Company is not engaged in any unfair labor practice or in material violation of any applicable laws relating to employment and employment practices, terms and conditions of employment, wages and

hours. There is no labor strike, dispute, slowdown or stoppage pending or, to the knowledge of the Company, threatened against or affecting the Company, and the Company has not experienced any work stoppage or other labor difficulty since its incorporation. No collective bargaining agreement is or ever has been binding on the Company. To the knowledge of the Company, there are no organizational efforts presently being made or threatened by or on behalf of any labor union with respect to employees of the Company. Each employee, officer and consultant of the Company has executed an employment agreement in the form provided to Terabeam. To the knowledge of the Company, no employee, officer or consultant of the Company is in violation of any such agreement or any employment agreement, noncompetition agreement, patent disclosure agreement, invention assignment agreement, proprietary information agreement or other contract or agreement relating to the relationship of such employee with the Company or, to the Company's actual knowledge, any other party.

Schedule 2.12 to the Company Disclosure Memorandum lists: (a) the names and current compensation amounts of all directors of the Company; (b) the names, salaries or wage rates, other compensation, dates of employment, and positions of all officer and non-officer employees of the Company; (c) all group insurance programs in effect for employees of the Company; and (d) the names, current compensation packages and dates of engagement of all independent contractors and consultants of the Company. The Company is not in default with respect to any of its obligations referred to in clause (a)-(d) above and has no, and will not incur any, material obligation or liability for severance or back pay owed through or by virtue of the Merger, except as disclosed on Schedule 2.12 to the Company Disclosure Memorandum. Except as disclosed on Schedule 2.12 to the Company Disclosure Memorandum: (a) all employees of the Company are employed on an "at will" basis and there are no agreements or understandings between the Company and any of its employees that his or her employment will be for any specified period of time, for any particular position or for any specified compensation; (b) all employees of the Company are eligible to work and are lawfully employed by the Company in the United States; and (c) there are no oral agreements to which the Company is a party or by which it is bound calling for the future payment by the Company of salaries, bonuses or other compensation.

2.13 Employee Benefit Plans

2.13.1 Employee Benefit Plan Listing

Schedule 2.13.1 to the Company Disclosure Memorandum contains a true, accurate and complete list and description of each Employee Benefit Plan (as defined below). The Company does not have any commitment to create any additional Employee Benefit Plan or to modify any existing Employee Benefit Plan that would materially increase the expense of maintaining the Employee Benefit Plans above the level of expense incurred with respect thereto for the most recent fiscal year included in the Company Financial Statements. None of the Employee Benefit Plans promises or provides retiree medical or other retiree welfare benefits to any person, other than as required by Part 6, Title I of ERISA or applicable state insurance laws. The terms of each Employee Benefit Plan permit the Company to amend or

terminate such Employee Benefit Plan at any time and for any reason without penalty or material expense.

2.13.2 Documents Provided

The Company has furnished to Terabeam true and complete copies of all material documents relating to each Employee Benefit Plan, including (without limitation) plan documents, trust documents, the most recent determination or opinion letter, group annuity contracts, plan amendments, insurance policies or contracts, employee booklets, administrative service agreements, summary plan descriptions, compliance and nondiscrimination tests for the last three plan years, Form 5500 reports filed for the last three plan years, standard COBRA forms and notices, all registration statements and prospectuses, and any material employee communications relating to any Employee Benefit Plan.

2.13.3 Compliance

Each Employee Benefit Plan has been administered in material compliance with its terms and in material compliance with the requirements prescribed by any and all applicable statutes, rules and regulations (including ERISA and the Code) and the Company and each ERISA Affiliate have performed all material obligations required to be performed by them under, are not in default under or violation of and have no knowledge of any material default or violation by any other party to, any of the Employee Benefit Plan. Any Employee Benefit Plan intended to be qualified under Section 401(a) of the Code has obtained from the IRS a favorable determination letter or opinion letter as to its qualified status under the Code and, to the Company's knowledge, nothing has occurred since the issuance of each such letter which could reasonably be expected to cause the loss of the tax-qualified status of any Employee Benefit Plan subject to Code Section 401(a). The Company and each of its subsidiaries have complied in all material respects with, and have no material unsatisfied obligations to any individual under, the health care continuation and notice provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985 ("***COBRA***"), or any applicable state continuation coverage requirements, the Family and Medical Leave Act of 1993, the Health Insurance Portability and Accountability Act and the Cancer Rights Act of 1998.

2.13.4 Pension Plans

None of the Employee Benefit Plans is, and the Company nor any ERISA Affiliate has never maintained or contributed to (or been obligated to contribute to), any pension plan which is subject to Title IV of ERISA or Section 412 of the Code or any "multiemployer plan" as defined in Section 3(37) of ERISA.

2.13.5 Parachute Payments

[Intentionally omitted.]

2.13.6 Suits, Claims and Investigations

There are no actions, suits or claims (other than routine claims for benefits) pending or, to the knowledge of the Company, threatened with respect to (or against the assets of) any Employee Benefit Plan. No Employee Benefit Plan is currently under investigation, audit or review by the IRS, the DOL or any other governmental entity or agency, and, to the knowledge of the Company, no such action is contemplated or under consideration by the IRS, the DOL or any other governmental entity or agency.

2.13.7 Payments Resulting from Transactions

Except as set forth on Schedule 2.13.7 to the Company Disclosure Memorandum, neither the execution and delivery of this Agreement and the Operative Documents nor the consummation of the transactions contemplated by this Agreement and the Operative Documents (either alone or together with any other transaction or event) will (i) entitle any current or former officer, employee, agent, director or independent contractor of the Company to any bonus, retirement, severance, unemployment or other benefit, or otherwise increase the amount of compensation due to any such individual, (ii) result in any benefit or right becoming established or increased, or accelerate the time of payment or vesting of any benefit, under any Employee Benefit Plan or otherwise, or (iii) require the Company to transfer or set aside any assets to fund or otherwise provide for any benefits for any Person. Any amount set forth on Schedule 2.13.7 to the Company Disclosure Memorandum (other than the aggregate Optionee Bonuses) shall be deemed to be an Excess Liability in accordance with Section 1.7.1(e)(ii) above.

2.13.8 Definitions

As used in this Agreement, the following terms shall have the following meanings:

(a) "***DOL***" means the United States Department of Labor.

(b) "***IRS***" means the United States Internal Revenue Service.

(c) "***Employee Benefit Plan***" means each plan, program, policy or other arrangement providing for severance, relocation, termination pay, deferred compensation, sabbatical, performance awards, bonus, stock or stock-related awards, fringe benefit, cafeteria benefit, dependent care, including without limitation, each "employee benefit plan" as defined in Section 3(3) of ERISA which is maintained, contributed to, or required to be contributed by the Company or any ERISA Affiliate or with respect to which the Company or any ERISA Affiliate has or may have any liability or obligation.

(d) "***ERISA***" means the Employee Retirement Income Security Act of 1974, as amended.

(e) "**ERISA Affiliate**" means any subsidiary of the Company and any trade or business (whether or not incorporated) which is treated as a single employer with Company within the meaning of Section 414(b), (c), (m) or (o) of the Code.

2.14 Intellectual Property

2.14.1 General

For purposes of this Agreement: (a) "***Technology***" means software tools, computer programs (in source or object code form), user interfaces, specifications, techniques, algorithms, methods, processes, procedures, formulae, drawings, designs, improvements, discoveries, inventions (whether or not patentable or copyrightable and whether or not reduced to practice), know-how, and other intangible property, (b) "***Company Technology***" means all Technology owned by the Company, and (c) "***Intellectual Property Rights***" means all patents, patent rights, copyrights, trade secret rights, trademark rights and all other intellectual property rights of any nature whatsoever under the laws of all jurisdictions.

2.14.2 Products, Tools and Technology

Schedule 2.14.2 to the Company Disclosure Memorandum sets forth a list of all products and software tools developed, produced, used, marketed or sold by the Company, other than standard licenses purchased by the Company for off-the-shelf software (collectively, the "***Products***"). Except for the Third Party Technologies (as defined in Section 2.14.3 hereof), all Technology and Intellectual Property Rights related to the Products are owned by the Company, free and clear of all Encumbrances other than the security interests of Stoneham and Terabeam, respectively. The Company owns or has the right to use all Technology necessary for its business as currently conducted and as proposed to be conducted. The Company reasonably believes that the development and production of the Company's proposed GigE and Pegasus products can be completed in a commercially reasonable timeframe and cost.

2.14.3 Third Party Technology

Schedule 2.14.3 to the Company Disclosure Memorandum sets forth a list of all Technology used in the Company's business for which the Company does not own all right, title and interest (collectively, the "***Third Party Technologies***"), and all license agreements or other contracts pursuant to which the Company has the right to use the Third Party Technologies (the "***Third Party Licenses***"), indicating, with respect to each of the Third Party Technologies listed therein, the licensor thereof and the Third Party License applicable thereto. All Third Party Licenses are valid, binding and in full force and effect against the Company, and to the Company's actual knowledge, the other party or parties thereto; the Company and, to the knowledge of the Company, each other party thereto has performed in all material respects his, her or its obligations thereunder; and neither the Company nor, to the knowledge of the Company, any other party thereto is in default thereunder, nor to the knowledge of the Company has there occurred any event or circumstance that with notice or

lapse of time or both would constitute a default or event of default on the part of the Company or, to the knowledge of the Company, any other party thereto or give to any other party thereto the right to terminate or modify any Third Party License. The Company has not received notice that any party to any Third Party License intends to cancel, terminate or refuse to renew such Third Party License or to exercise or decline to exercise any option or right thereunder.

2.14.4 Trademarks

Schedule 2.14.4 to the Company Disclosure Memorandum sets forth a list of all trademarks, trade names, brand names, service marks, logos used by the Company as identifiers for the Products or otherwise (the "***Marks***"). The Company has full legal and beneficial ownership, free and clear of any Encumbrances other than the security interests of Stoneham and Terabeam, respectively, of the Marks and all rights conferred by use of the Marks in connection with the Products or otherwise in the Company's business and, as to those Marks that have been registered with a governmental authority, by registration of the Marks.

2.14.5 Intellectual Property Registrations

Schedule 2.14.5 to the Company Disclosure Memorandum sets forth all U.S. and foreign patents, patent applications, copyright registrations (and applications therefor) and trademark registrations (and applications therefor) (collectively, the "***IP Registrations***") associated with the Company Technology and the Marks. The Company owns all right, title and interest, free and clear of any Encumbrances other than the security interests of Stoneham (which will be released in connection with the Closing upon payment of the Stoneham Debt in accordance with Section 4.7 hereof) and Terabeam, respectively, in and to the IP Registrations.

2.14.6 Maintenance of Rights

Except as set forth on Schedule 2.14.6 to the Company Disclosure Memorandum, the Company has not conducted its business, and has not used or enforced (or, to the knowledge of the Company, failed to use or enforce) the Company Technology or associated Intellectual Property Rights, in a manner that would result in the abandonment, cancellation or unenforceability of any of such Intellectual Property Rights or IP Registrations, and the Company has not taken (or, to the knowledge of the Company, failed to take) any action that would result in the forfeiture or relinquishment of any such Intellectual Property Rights or IP Registrations; in each case, excluding any Intellectual Property Rights or IP Registrations that the Company has reasonably concluded are not material to its business or are obsolete or otherwise not worth maintaining. Except as set forth in Schedule 2.14.6 to the Company Disclosure Memorandum, the Company has not granted to any third party any rights or permissions to use any of the Company Technology or associated Intellectual Property Rights.

2.14.7 Third Party Claims

Except as set forth on Schedule 2.14.7 to the Company Disclosure Memorandum, (a) the Company has not received any notice or claim (whether written, oral or otherwise), and the Company does not otherwise actually know of any claim, (i) challenging the Company's ownership or rights in the Company Technology or associated Intellectual Property Rights or claiming that any other person or entity has any legal or beneficial ownership with respect thereto, or (ii) challenging the company's rights to use any Third Party Technologies or (to the Company's actual knowledge) challenging the Intellectual Property Rights of the licensor under any of the Third Party Licenses; (b) all the Intellectual Property Rights owned by the Company are legally valid and enforceable without any material qualification, limitation or restriction on their use, and the Company has not received any notice or claim (whether written, oral or otherwise) challenging the validity or enforceability of any of such Intellectual Property Rights; (c) to the actual knowledge of the Company, no other person or entity is infringing or misappropriating any part of such Intellectual Property Rights or otherwise making any unauthorized use of the Company Technology; and (d) except as set forth on Schedule 2.14.7 to the Company Disclosure Memorandum, the use of any of the Company Technology and the Third Party Technologies in the Company's business does not and will not infringe, violate or interfere with or constitute an appropriation of any Intellectual Property Right of any other person or entity, and there have been no claims made with respect thereto nor is there any valid basis for any such claim.

2.14.8 Confidentiality

Except as set forth on Schedule 2.14.8 to the Company Disclosure Memorandum, (a) the Company has not disclosed any material confidential information regarding the Company Technology to any person or entity other than pursuant to written nondisclosure agreements; (b) the Company has at all times maintained and diligently enforced commercially reasonable procedures to protect all confidential information relating to the Company Technology; (c) neither the Company nor any escrow agent is under any contractual or other obligation to disclose the source code or any other proprietary information included in or relating to the Company Technology; and (d) the Company has not deposited any source code or any other proprietary information relating to the Company Technology into any source code escrows or similar arrangements. If, as disclosed on Schedule 2.14.8 to the Company Disclosure Memorandum, the Company has deposited any source code or any other proprietary information relating to the Company Technology into source code escrows or similar arrangements, no event has occurred that has or could reasonably form the basis for a release of such source code or any other proprietary information from such escrows or arrangements.

2.14.9 Warranty Against Defects

Except as set forth in Schedule 2.14.9 to the Company Disclosure Memorandum, the Products and the Company Technology are free from known material defects and substantially conform to any applicable specifications, documentation and samples. Schedule 2.14.9 to the

Company Disclosure Memorandum contains a complete list of all refunds ever given by the Company with respect to a Product, all warranty claims ever made against the Company with respect to a Product and all instances in which a Product was returned to the Company.

2.14.10 Domain Names

Schedule 2.14.10 of the Company Disclosure Memorandum sets forth a list of all Internet domain names used by the Company in its business (collectively, the "***Domain Names***"). The Company has, and after the Effective Time the Surviving Corporation will have, a valid registration and all material rights (free of any material restriction) in and to the Domain Names, including, without limitation, all rights necessary to continue to conduct the Company's business as it is currently conducted.

2.14.11 Participating Developers

All Persons that have, at any time and in any way, participated in or contributed to the development of any of the Company Technology or Products have fully assigned all of their inventions or other interests in the Company Technology or Products to the Company.

2.15 Corporate Books and Records

The Company has furnished to Terabeam or its representatives for their examination true and complete copies of (a) the Articles of Organization and Bylaws of the Company as currently in effect, including all amendments thereto, (b) the minute books of the Company, and (c) the stock transfer books of the Company. Such minutes reflect all meetings of the Company's stockholders, Board of Directors and any committees thereof since the Company's inception, and such minutes accurately reflect in all material respects the events of and actions taken at such meetings. Such stock transfer books accurately reflect all issuances and transfers of shares of capital stock of the Company since its inception.

2.16 Licenses, Permits, Authorizations, etc.

Except as identified on Schedule 2.16 to the Company Disclosure Memorandum, the Company has received all currently required governmental approvals, authorizations, consents, licenses, orders, registrations and permits of all agencies, whether federal, state, local or foreign (the "***Permits***"). The Company is in compliance in all material respects with the terms of all Permits, and all the Permits are valid and in full force and effect, and no proceeding is pending, or to the knowledge of the Company, threatened, the object of which is to revoke, limit or otherwise affect any of the Permits. The Company has not received any notifications of any asserted present failure by it to have obtained any Permit, or any past and unremedied failure to obtain such items.

2.17 Compliance With Laws

Except as described on Schedule 2.17 to the Company Disclosure Memorandum, the Company is in compliance in all material respects with all federal, state, local and foreign laws, rules, regulations, ordinances, decrees and orders applicable to it, to its employees or to the Real Property and the Personal Property, including, without limitation, all such laws, rules, regulations, ordinances, decrees and orders relating to intellectual property protection, antitrust matters, consumer protection, currency exchange, environmental protection, equal employment opportunity, health and occupational safety, pension and employee benefit matters, securities and investor protection matters, labor and employment matters and trading-with-the-enemy matters. The Company has not received any notification of any asserted present or past unremedied failure by the Company to comply with any of such laws, rules, regulations, ordinances, decrees or orders.

2.18 Insurance

The Company maintains commercially reasonable levels of (a) insurance on its property (including leased premises) that insures against loss or damage by fire or other casualty and (b) insurance against liabilities, claims and risks of a nature and in such amounts as are normal and customary in the Company's industry for companies of similar size and financial condition. All insurance policies of the Company are in full force and effect, all premiums with respect thereto covering all periods up to and including the date this representation is made have been paid, and no notice of cancellation or termination has been received with respect to any such policy or binder. Such policies or binders are sufficient for compliance with all requirements of law currently applicable to the Company and of all agreements to which the Company is a party. As set forth on Schedule 2.18 to the Company Disclosure Memorandum, all of such policies and binders will terminate as of the Effective Time. The Company has not been refused any insurance with respect to its assets or operations, nor has its coverage been limited, by any insurance carrier to which it has applied for any such insurance or with which it has carried insurance.

2.19 Brokers or Finders

Except as set forth on Schedule 2.19 to the Company Disclosure Memorandum, the Company has not incurred, and will not incur, directly or indirectly, as a result of any action taken by or on behalf of the Company, any liability for brokerage or finders' fees or agents' commissions or any similar charges in connection with the Merger, this Agreement or any transaction contemplated hereby. Any amount set forth on Schedule 2.19 to the Company Disclosure Memorandum shall be deemed to be an Excess Liability in accordance with Section 1.7.1(e)(ii) above.

2.20 Absence of Unlawful Payments

Neither the Company nor any director, officer, agent, employee or other Person acting on behalf of the Company has used any Company funds for unlawful contributions, payments,

gifts or entertainment, or made any unlawful expenditures relating to political activity to domestic or foreign government officials or others. The Company has reasonable financial controls to prevent such unlawful contributions, payments, gifts, entertainment or expenditures. Neither the Company nor any current director, officer, agent, employee or other Person acting on behalf of the Company has accepted or received any unlawful contributions, payments, gifts or expenditures. The Company has at all times complied, and is in compliance, in all respects with the Foreign Corrupt Practices Act and all foreign laws and regulations relating to prevention of corrupt practices and similar matters.

2.21 Bank Accounts

Schedule 2.21 to the Company Disclosure Memorandum sets forth the names and locations of all banks, trust companies, savings and loan associations and other financial institutions at which the Company maintains safe deposit boxes or accounts of any nature and the names of all Persons authorized to draw thereon, make withdrawals therefrom or have access to such safe deposit boxes or accounts.

2.22 Customers and Suppliers

Schedule 2.22 to the Company Disclosure Memorandum sets forth (a) a complete and accurate list of all the customers of the Company during the fiscal year last ended and the six months ended June 30, 2002, showing the approximate total revenues from each such customer during the fiscal year last ended and the six months ended June 30, 2002 and (b) a complete and accurate list of all the suppliers of the Company from whom the Company has purchased goods or services in the fiscal year last ended and the six months ended June 30, 2002. The Company has not received any notice from its customers or suppliers that would cause it, in its reasonable judgment, to expect any material modification to its relationship with any customer or supplier named on such Schedule 2.22 to the Company Disclosure Memorandum.

2.23 Accounts Receivable

All accounts receivable of the Company reflected in the Closing Balance Sheet ("***Accounts***"), or existing at the Effective Time, represent sales actually made in the ordinary course of business and were recorded in the Company's books consistent with the presentation applied in the Company Financial Statements for the year ended December 31, 2001. Except as described on Schedule 2.23 to the Company Disclosure Memorandum, the bad debt reserves and sales return allowances reflected in the Closing Balance Sheet are adequate. Set forth on Schedule 2.23 to the Company Disclosure Memorandum are a full and complete list and aging study of all Accounts. Subject to the bad debt reserves and sales return allowances reflected in the Closing Balance Sheet, to the Company's knowledge, all Accounts existing and remaining unpaid at the Effective Time will be collectible by Terabeam in the ordinary course of business, consistent with past practice.

2.24 Creditors' List; Purchase Orders

Schedule 2.24(a) to the Company Disclosure Memorandum sets forth a full, complete and accurate list of all creditors of the Company, with the amount payable to each such creditor as of the date hereof. Schedule 2.24(b) to the Company Disclosure Memorandum sets forth a full, complete and accurate list of all outstanding purchase orders of the Company, with the amount payable to each such vendor or other third party as of the date hereof.

2.25 Insider Interests

Except as set forth on Schedule 2.25 to the Company Disclosure Memorandum, no Stockholder or officer or director of the Company has any interest (other than as a stockholder of the Company) (a) in any Real Property, Personal Property, Company Technology or Intellectual Property Rights used in or directly pertaining to the business of the Company, including, without limitation, inventions, patents, trademarks or trade names, or (b) in any agreement, contract, arrangement or obligation relating to the Company, its present or prospective business or its operations. Except as set forth on Schedule 2.25 to the Company Disclosure Memorandum, there are no agreements, understandings or proposed transactions between the Company and any of its officers, directors, stockholders, Affiliates or any Affiliate thereof. The Company and its officers and directors have no interest, either directly or indirectly, in any entity, including, without limitation, any corporation, partnership, joint venture, proprietorship, firm, licensee, business or association (whether as an employee, officer, director, stockholder, agent, independent contractor, security holder, creditor, consultant or otherwise), other than ownership of capital stock comprising less than 1% of any publicly held company, that presently (i) provides any services, produces and/or sells any products or product lines, or engages in any activity that is the same, similar to or competitive with any activity or business in which the Company is now engaged or proposes to engage, (ii) is a supplier, customer or creditor, or (iii) has any direct or indirect interest in any asset or property (real or personal, tangible or intangible) of the Company or any property (real or personal, tangible or intangible) that is necessary or desirable for the present or currently anticipated future conduct of the Company's business.

2.26 Compliance With Environmental Laws

Neither the Company nor, to the actual knowledge of the Company, any other Person (including, without limitation, any previous owner, lessee or sublessee) has treated, stored or disposed of any material amounts of petroleum products, hazardous waste, hazardous substances, pollutants or contaminants on the Real Property, or any real property previously owned, leased, subleased or used by the Company in the operation of its business, in violation of any applicable foreign, federal, state or local statutes, regulations or ordinances, or common law, in each case as in existence at or prior to the Closing. To the knowledge of the Company, there have been no releases of any material amounts of petroleum, petroleum products, hazardous waste, hazardous substances, pollutants or contaminants on, at or from any assets or properties, including, without limitation, the Real Property, owned, leased, subleased or used by the Company in the operation of its business during the time such assets or properties

were owned, leased, subleased or used by the Company (or, to the actual knowledge of the Company or any Stockholder, prior to such time), including, without limitation, any releases of any material amounts of petroleum, petroleum products, hazardous waste, hazardous substances, pollutants or contaminants in violation of any law.

2.27 Government Contracts

Schedule 2.27 to the Company Disclosure Memorandum contains a complete and accurate list of all contracts, grants, cooperative agreements, or other agreements or supply relationships between the Company and any agency of the United States government or any state, local or foreign government or municipality, and each contract, grant, cooperative agreement or other agreement or supply relationship between the Company as a subcontractor at any tier and any other Person who, directly or indirectly through another Person (including as a subcontractor of such other Person), is a party to any contract, grant, cooperative agreement or other agreement or supply relationship with a governmental authority (each, a "***Government Contract***"). The Company, and any of its officers, directors, employees, agents, consultants or any other person acting on behalf of the Company, have never been, nor as a result of the consummation of the transactions contemplated by this Agreement will they be, suspended or debarred from bidding on contracts or subcontracts for any agency of the United States government or any state, local or foreign government or municipality, nor has such suspension or debarment been threatened or action for suspension or debarment been commenced.

The Company, and any of its officers, directors, employees, agents, consultants or any other person acting on behalf of Company, have not been nor are they currently being audited, except in the ordinary course of business or as is customary in the industry or as provided by the Federal Acquisition Regulations or, to the knowledge of the Company, investigated by the United States Government Accounting Office, the United States Department of Justice, the United States Department of Defense or any of its agencies, the Defense Contract Administrative Service, the Department of Labor, the Environmental Protection Agency, the Defense Contract Audit Agency or the inspector general or auditor general or similar functionary of any agency for the United States Government or any similar functionary of any state, local government or municipality, nor, has such audit or investigation been threatened. There is no valid basis for the Company's suspension or debarment from bidding on contracts or subcontracts for any agency of the United States government or any state, local or foreign government or municipality and there is no valid basis for a claim pursuant to an audit or investigation by the United States Government Accounting Office, the United States Department of Justice, the United States Department of Defense or any of its agencies, the Defense Contract Administrative Service, the Department of Labor, the Environmental Protection Agency, the Defense Contract Audit Agency or other authorities of any agency of the United States government or any state, local or foreign government or municipality, or any prime contractor with any such governmental body.

Neither the Company nor any of its officers, directors or employees, agents, consultants or any other person acting on behalf of the Company, has made any material irregularities, misstatements or omissions relating to any government contract or bid that has led to or has a reasonable prospect of leading to: (i) any civil, criminal or other investigations, legal proceeding or indictment involving the Company or any of its employees, officers, directors, agents or consultants; (ii) the recoupment of any payments previously made to the Company; (iii) a finding of claim of fraud, defective pricing, mischarging or improper payments on the part of the Company or any of its employees, officers, directors, agents or consultants; or (iv) the assessment of any penalties or damages of any kind against the Company.

The Company has not had a contract or subcontract terminated for default by the United States government or any state, local, or foreign government or municipality, nor has the Company been determined to be nonresponsible by any agency of the United States government or any state, local, or foreign government or municipality.

There is no current dispute (whether or not certified in accordance with the Contract Disputes Act of 1978) pending before a contracting office of, or a current claim pending against, any agency of the United States Government or any similar functionary of any state, local government or municipality, relating to any Government Contract.

Neither the Company nor any of its officers, directors or employees, agents, consultants or any other person acting on behalf of the Company, has had any determination of noncompliance, entered into any consent order or been the subject or focus of any internal investigations relating directly or indirectly to any Government Contract or government bid.

The Company has fully complied with the Truth in Negotiations Act (10 U.S.C. 2306a, 41 U.S.C. 254(d)) and submitted the required cost or pricing data which were accurate, complete and current at the time of submission. There is not and shall not be any liability attributable to cost and pricing data submitted by the Company to any agency of the United States Government as to any Government Contract.

There is no current Government Contract or government bid which contain "Key Personnel" clauses or clauses which permit termination in the event of an ownership change or management change.

The Company has complied in all respects with the so-called procurement integrity provisions of 41 U.S.C. Section 423 and its implementing regulations and has secured from each of its covered employees appropriate certifications concerning compliance with such provisions, during any period when contractually required. No officer, director, employee, agent, consultant, representative, or Affiliate of the Company is in receipt or possession of any competitor or government proprietary or procurement sensitive information as defined under such provisions, nor does the Company know of any violation or potential violation of the aforementioned provisions.

Neither the Company nor any director, officer, agent, employee, consultant or other person acting on behalf of the Company has used any of the Company's funds for unlawful contributions, payment, gifts, or entertainment, or made any unlawful expenditures relating to political activity to governmental officials or others. The Company has adequate financial controls to prevent the making of such unlawful contributions, payments, gifts, entertainment, or expenditures. The Company does not have any outstanding agreements, contracts or commitments that require it to obtain or maintain a government security clearance.

2.28 Japanese Business Obligations

The Company has no obligations with respect to any of its business activities, including with respect to its network services business and/or microBLEC business, in Japan or to any Person in Japan other than an obligation to provide five free links of its products in Japan and other than ordinary course of business obligations related to the Company's products previously sold in Japan, including without limitation, warranty and inventory obligations.

ARTICLE II A - REPRESENTATIONS AND WARRANTIES OF THE STOCKHOLDERS

Each of the Stockholders, severally, hereby represents and warrants to Terabeam, with respect to himself, herself, or itself only, as follows:

2A.1 Power and Authority

Such Stockholder has the power, authority, and capacity to execute, deliver, and perform his, her, or its obligations under this Agreement and the Operative Documents to which he, she, or it is a party, and to consummate the transactions contemplated hereby or thereby. In the case of any Stockholder that is not a natural person, such Stockholder is duly organized or formed and validly existing under the laws of the jurisdiction of its incorporation or formation and has the corporate or other organizational power and authority under such laws to enter into this Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereby.

2A.2 Enforceability

This Agreement and each of the Operative Documents to which such Stockholder is a party has been duly executed and delivered by such Stockholder, and this Agreement and each of the Operative Documents to which such Stockholder is a party is a legal, valid and binding obligation of such Stockholder, enforceable against such Stockholder in accordance with their terms.

2A.3 Ownership

The Stockholder is the lawful and record and beneficial owner of, and has good and valid title to, the Outstanding Shares indicated in Schedule 2.3(b) to the attached Company

Disclosure Memorandum, free and clear of any Encumbrance, preemptive right, right of first offer or refusal, or other prior claim other than those restrictions imposed (1) under applicable securities laws by reason of the issuance of such shares without registration or qualification under such laws, and (2) pursuant to the Stockholders' Agreement referred to in Section 5.7, which agreement will be terminated as of the Effective Time. Delivery by the Stockholder of the certificates representing such shares will transfer to Terabeam good and valid title to such shares and Terabeam will acquire record and beneficial ownership of such shares, free and clear of any Encumbrance, preemptive right, right of first offer or refusal, or other prior claim, other than those restrictions imposed under applicable securities laws by reason of the issuance of such shares without registration or qualification under such laws.

2A.4 Claims Against the Company

The Stockholder does not have any past, present or contemplated claims against the Company or its officers or directors.

2A.5 Brokers or Agents

The Stockholder has not employed any broker or agent in connection with the transactions contemplated by the Agreement and agrees to indemnify Terabeam against all losses, damages or expenses relating to or arising out of claims for fees or commission of any broker or agent employed by the Stockholder.

2A.6 Securities Law Representations and Warranties

The Stockholder acknowledges that none of the Terabeam Common Stock issued in the Merger, the Purchase Notes to be issued on the Payment Date, or the shares of Terabeam Common Stock issuable upon conversion of the Purchase Notes (collectively the "***Securities***") is being registered under the Securities Act of 1933, as amended (the "***Act***"), or applicable state securities laws, but is being offered and sold pursuant to exemptions from such laws, and that Terabeam's reliance upon such exemptions is predicated in part on the Stockholder's representations contained herein. The Stockholder acknowledges that Terabeam is relying in part upon the Stockholder's representations and warranties contained herein for the purpose of qualifying the offer and sale of the Securities for applicable exemptions from registration or qualification pursuant to federal or state securities laws, rules and regulations.

2A.7 Purchase Entirely for Own Account

The Securities will be acquired for investment for the Stockholder's own account, not as a nominee or agent, and not with a view to distributing all or any part thereof; the Stockholder has no present intention of selling, granting any participation in or otherwise distributing any of the Securities in a manner contrary to the Act or any applicable state securities law, and the Stockholder does not have any contract, undertaking, agreement or arrangement with any person to sell, transfer or grant participations to such person or to any third person with respect to any of the Securities.

2A.8 Due Diligence

The Stockholder has been solely responsible for its own due diligence investigation of Terabeam and its business, and its analysis of the merits and risks of the investment made in the Securities through the Agreement, and is not relying on anyone else's analysis or investigation of Terabeam, its business or the merits and risks of the Securities other than professional advisors employed specifically by the Stockholder to assist the Stockholder.

2A.9 Access to Information

The Stockholder believes it has been given access to full and complete information regarding Terabeam, including, in particular, its current financial condition and the risks associated with an investment in the Securities, and has utilized such access to his, her or its satisfaction for the purpose of obtaining information about Terabeam; particularly, the Stockholder has either had access to or been given reasonable opportunity to access information concerning Terabeam and its business operations, and to attend or participate in a meeting or teleconference with senior executives of Terabeam for the purpose of asking questions of, and receiving answers from, such persons concerning Terabeam and to obtain any additional information, to the extent reasonably available, necessary to verify the accuracy of information provided to the Stockholder about Terabeam.

2A.10 Sophistication

The Stockholder, either alone or with the assistance of its professional advisor, is a sophisticated investor, is able to fend for itself in the transactions contemplated by the Agreement, and has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of the prospective investment in the Securities.

2A.11 Accreditation

The Stockholder is familiar with the term "accredited investor" and its use in connection with private placements of securities under applicable federal and state laws. Accordingly, the Stockholder represents and warrants that it is an accredited investor as such term is defined in Rule 501(a) under the Act and as defined pursuant to the provisions of state securities laws applicable to the undersigned providing for an exemption from registration or qualification of the offer and sale of the Securities. Specifically, the Stockholder represents that it an accredited investor and has checked the appropriate box on the signature page to this Agreement indicating such status.

2A.12 Suitability

An investment in the Securities is suitable for the Stockholder based upon its investment objectives and financial needs, and the Stockholder has adequate net worth and means for providing for its current financial needs and contingencies and has no need for

liquidity of an investment with respect to the Securities. The Stockholder's overall commitment to investments that are illiquid or not readily marketable is not disproportionate to its net worth, and investment in the Securities will not cause such overall commitment to become excessive.

2A.13 Professional Advice

The Stockholder has obtained, to the extent it deems necessary, its own professional advice with respect to the risks inherent in the investment in the Securities, the condition of Terabeam and the suitability of the investment in the Securities in light of the Stockholder's financial condition and investment needs.

2A.14 Ability to Bear Risk

The Stockholder is in a financial position to acquire and hold the Securities and is able to bear the economic risk and withstand a complete loss of its investment in the Securities.

2A.15 High Degree of Risk

THE STOCKHOLDER RECOGNIZES THAT AN INVESTMENT IN THE SECURITIES IS AN INVESTMENT INVOLVING A HIGH DEGREE OF RISK. The Stockholder is aware that Terabeam is an enterprise with a limited operating history in a highly competitive market. The undersigned has received and reviewed a copy of the risk factors, dated June 2002, in the form of attached Exhibit 2A.15, discussing certain significant factors that make the acquisition of the Securities speculative or risky.

2A.16 Restricted Securities

The Stockholder realizes that (a) the Securities have not been registered under the Act, are characterized under the Act as "***restricted securities***" and, therefore, cannot be sold or transferred unless they are subsequently registered under the Act or an exemption from such registration is available and (b) there is presently no public market for the Securities and the Stockholder would most likely not be able to liquidate its investment in the event of an emergency or to pledge the Securities as collateral security for loans. The Stockholder's financial condition is such that it is unlikely that the Stockholder would need to dispose of any of the Securities in the foreseeable future. In this connection, the Stockholder represents that it is familiar with Rule 144 under the Act, as presently in effect ("***Rule 144***"), and understands the resale limitations imposed thereby and by the Act.

2A.17 Further Limitations on Disposition

Without in any way limiting the representations set forth above, the Stockholder further agrees not to make any disposition of all or any portion of the Securities except to the extent permitted pursuant to the terms of the Agreement, and, if so permitted, not otherwise unless and until:

(a) There is then in effect a registration statement under the Act covering such proposed disposition and such disposition is made in accordance with such registration statement;

(b) (i) The Stockholder has notified Terabeam of the proposed disposition and has furnished Terabeam with a detailed statement of the circumstances surrounding the proposed disposition and (ii) if reasonably requested by Terabeam, the Stockholder has furnished Terabeam with an opinion of counsel, reasonably satisfactory to Terabeam, that such disposition will not require registration of such shares under the Act; or

(c) Terabeam is satisfied that such proposed disposition complies in all respects with Rule 144 or any successor rule providing a safe harbor for such dispositions without registration.

2A.18 Residency

For purposes of the application of state securities laws, the Stockholder represents that it is a bona fide resident of, and/or is domiciled in, the state identified in the address set forth on the signature page hereto.

2A.19 Legends

It is understood that the certificates evidencing the Securities may bear one or more legends, including a legend substantially as follows:

> The securities evidenced by this certificate have not been registered under the Securities Act of 1933, as amended (the "Act"), or applicable state law, and no interest therein may be sold, distributed, assigned, offered, pledged or otherwise transferred unless (a) there is an effective registration statement under the Act and applicable state securities laws covering any such transaction involving said securities, (b) the Company receives an opinion of legal counsel for the holder of these securities satisfactory to the Company stating that such transaction is exempt from registration or (c) the Company otherwise satisfies itself that such transaction is exempt from registration.

ARTICLE III - REPRESENTATIONS AND WARRANTIES OF TERABEAM

In order to induce the Company to enter into and perform this Agreement and the Operative Documents, Terabeam represents and warrants to the Company as follows in this Article III:

3.1 Organization; Power and Authority

Terabeam is a corporation duly organized and validly existing under the laws of the State of Washington. Terabeam has all requisite corporate power and authority to execute, deliver and perform its obligations under this Agreement and the Operative Documents to which it is a party and to consummate the transactions contemplated hereby and thereby.

3.2 Enforceability

All corporate action on the part of Terabeam and its officers, directors and shareholders necessary for the authorization, execution, delivery and performance of this Agreement and the Operative Documents, the consummation of the Merger, and the performance of all their respective obligations under this Agreement and the Operative Documents has been taken. This Agreement and each of the Operative Documents has been duly executed and delivered by Terabeam, and this Agreement and each of the Operative Documents is a legal, valid and binding obligation of Terabeam, enforceable against it in accordance with its terms.

3.3 Capitalization

The authorized capital stock of Terabeam consists of 280,000,000 shares of Terabeam Common Stock, of which 133,109,743 shares were issued and outstanding as of June 30, 2002, and 120,000,000 shares of preferred stock, no par value, none of which is issued or outstanding. Such issued and outstanding shares of Terabeam Common Stock are validly issued, fully paid and nonassessable. As of June 30, 2002, there were (i) outstanding options to purchase a total of 57,591,260 shares of Terabeam Common Stock and (ii) outstanding warrants to purchase a total of 4,376,784 shares of Terabeam Common Stock. All of the outstanding shares of Terabeam's capital stock are duly authorized and validly issued, fully paid and non-assessable, and all of such shares and all other securities issued by Terabeam were issued in compliance with all applicable federal and state securities laws.

3.4 Financial Statements

Terabeam has delivered to the Company's representatives (a) balance sheets and statements of operations, shareholders' equity and cash flows of the Company at and for the fiscal years ended December 31, 1998, December 31, 1999, December 31, 2000, and accompanying notes, audited by Arthur Andersen LLP, independent auditors and certified public accountants, and (b) unaudited balance sheets and unaudited statements of operations and cash flows of the Company at and for the following periods: December 31, 2001; and May 31, 2002. All the foregoing financial statements are herein referred to as the "***Terabeam Financial Statements***." The balance sheet of the Company as of May 31, 2002 is herein referred to as the "***Terabeam Balance Sheet***." The Terabeam Financial Statements have been prepared in conformity with GAAP on a basis consistent with prior accounting periods and fairly present the financial position, results of operations and changes in financial position of Terabeam as of the dates and for the periods indicated, subject, in the case of interim financial

statements, to the absence of footnotes and to normal end-of-year adjustment, including stock compensation and other similar non-cash charges, the effect of which adjustments is not expected to be material. Terabeam has no liabilities or obligations of any nature (absolute, contingent or otherwise) that are not fully reflected or reserved against in the Terabeam Balance Sheet and that would be required under GAAP to be reflected or reserved, except liabilities or obligations incurred since the date of the Terabeam Balance Sheet in the ordinary course of business and consistent with past practice. Except (i) as and to the extent reflected or reserved against in the Terabeam Balance Sheet and (ii) for liabilities and obligations incurred in the ordinary course of business since the Terabeam Balance Sheet, which are not material in amount, there are no liabilities or obligations of any nature relating to Terabeam, due or to become due, known or unknown, accrued, absolute, contingent or otherwise, that would be required to be included in a balance sheet prepared in accordance with GAAP.

3.5 Closing Shares and Purchase Notes

The Closing Shares to be issued pursuant to this Agreement have been duly authorized for issuance, and such Closing Shares, when issued and delivered to the Stockholders pursuant to this Agreement, shall be validly issued, fully paid and nonassessable.

The Purchase Notes to be issued pursuant to this Agreement have been duly authorized for issuance. Any shares of Terabeam Common Stock issued upon conversion of the Purchase Notes, when issued in compliance with the provisions of the Purchase Notes, will be validly issued, fully paid and nonassessable.

3.6 No Approvals or Notices Required; No Conflicts With Instruments

The execution, delivery and performance of this Agreement and the Operative Documents by Terabeam and the consummation by it of the transactions contemplated hereby and thereby will not:

(a) constitute a violation (with or without the giving of notice or lapse of time, or both) of any provision of law or any judgment, decree, order, regulation or rule of any court or other governmental authority applicable to Terabeam;

(b) require any consent, approval or authorization of, or declaration, filing or registration with, any Person, except (i) compliance with applicable securities laws and (ii) the filing of all documents necessary to consummate the Merger with the Washington Secretary and the Massachusetts Secretary; or

(c) conflict with or result in a breach of or constitute a default under any provision of the Articles of Incorporation or Bylaws of Terabeam.

3.7 Tax Matters

(a) Terabeam currently (i) intends to use $5.00 per share as the fair market value of Terabeam Common Stock for its 2001 Tax Return and (ii) uses $5.00 per share as the fair market value of Terabeam Common Stock for financial accounting purposes related to its 2001 fiscal year audit; and Terabeam has not filed any Tax Return or taken any Tax or accounting position, and it is the present intention of Terabeam not to file any Tax Return or to take any Tax or accounting position, that is inconsistent with the preceding sentence. Notwithstanding the foregoing or any other provision of this Agreement or any of the Operative Documents, Terabeam makes no representation or warranty to any Stockholder with respect to, and expressly disclaims any responsibility for, any tax consequences to the Company or Stockholders arising out of the structure or terms of this Agreement, including without limitation whether the Merger qualifies as a "reorganization" within the meaning of Section 368(a) of the Code.

(b) It is the present intention of Terabeam to continue the historic business of the Company or to use a significant portion of the Company's historic business assets in a business, in each case within the meaning of Treas. Reg. § 1.368-1(d).

ARTICLE IV - CLOSING DELIVERIES

At or by the Closing:

4.1 Legal Opinions

The Company shall deliver to Terabeam (i) the opinion letter of Bingham McCutchen LLP, special counsel to the Company, addressed to Terabeam, dated the Closing Date, and in the form attached hereto as Exhibit 4.1(A); and (ii) the opinion letter of Cushing and Dolan, P.C., counsel to the Company, addressed to Terabeam, dated the Closing Date, and in the form attached hereto as Exhibit 4.1(B). Terabeam shall deliver to the Stockholders the opinion letter of Scott Morris, General Counsel of Terabeam, addressed to the Stockholders, dated the Closing Date, and in the form attached hereto as Exhibit 4.1(C).

4.2 Approvals and Consents

All transfers of permits or licenses and all approvals of or notices to public agencies, federal, state, local or foreign, the granting or delivery of which is necessary for the consummation of the transactions contemplated hereby, or for the continued operation of the Company, including in connection with the transfer of the Intellectual Property Rights, shall have been obtained and all waiting periods specified by law shall have passed. Schedule 2.10.2 to the Company Disclosure Memorandum lists certain agreements, leases, notes or other documents identified in the Schedules to the Company Disclosure Memorandum that, by their terms require consent or waiver to consummate the Merger. Unless otherwise set forth in Schedule 2.10.2 to the Company Disclosure Memorandum, the Company shall have received and shall have delivered to Terabeam or its counsel written

consents to the Merger or waivers, as applicable, from each of the parties (other than the Company) to such agreements, leases, notes or other documents, which consents or waivers, as the case may be, shall be reasonably satisfactory in all respects to Terabeam.

4.3 Secretary's Certificates

The Company shall deliver to Terabeam a certificate of the Clerk of the Company, in form and substance reasonably satisfactory to Terabeam, as to the authenticity and effectiveness of the actions of the Board of Directors of the Company and the Stockholders and the authorization of the Merger and the transactions contemplated by this Agreement and the Operative Documents. Copies of (i) the Company's Articles of Organization, certified by the Massachusetts Secretary, (ii) the Company's Bylaws, certified by the Clerk of the Company, and (iii) the resolutions of the Board of Directors of the Company and the Stockholders relating to the transactions contemplated by this Agreement and the Operative Documents shall be attached to such certificate.

Terabeam shall deliver to the Stockholders a certificate of the Secretary of Terabeam, in form and substance reasonably satisfactory to the Stockholders, as to the authenticity and effectiveness of the actions of the Board of Directors of Terabeam and the authorization of the Merger and the transactions contemplated by this Agreement and the Operative Documents. Copies of (i) Terabeam's Articles of Incorporation, certified by the Washington Secretary, (ii) Terabeam's Bylaws, certified by the Secretary of Terabeam, and (iii) the resolutions of the Board of Directors of Terabeam relating to the transactions contemplated by this Agreement and the Operative Documents shall be attached to such certificate.

4.4 Nonforeign Affidavit

The Company shall deliver to Terabeam pursuant to Section 1445 of the Code, a Foreign Investment in Real Property Tax Act Affidavit in the form attached hereto as Exhibit 4.4.

4.5 Employment Agreements

Terabeam and each of the current employees of the Company (other than Shigeaki Hakusui, Robert Phaneuf, and Joseph Faris) shall have entered into an employment agreement ("***Employment Agreement***") in the form attached hereto as Exhibit 4.5.

4.6 Consulting Agreements

Terabeam and each of Shigeaki Hakusui, Robert Phaneuf, and Joseph Faris shall have executed and delivered their respective consulting agreements (the "***Consulting Agreement***") in the form attached hereto as Exhibit 4.6.

4.7 Payoff and Termination of Stoneham Debt.

Terabeam shall pay off, or cause to be paid off, the Stoneham Debt, and that certain promissory note of the Company in favor of Stoneham and related documents representing the Stoneham Debt shall be terminated and cancelled and the security interest in favor of Stoneham shall be terminated and Stoneham shall deliver for cancellation the original version of the note representing the Stoneham Debt.

4.8 Stock Certificates

Each Stockholder shall have delivered to Terabeam certificates representing all of his, her or its Company Common Stock and an executed Letter of Transmittal.

4.9 Resignations

Each of the directors, officers and employees of the Company shall deliver to Terabeam a written resignation, effective as of the Effective Time.

4.10 Option Cancellation Agreements

The Company shall have delivered an executed Option Cancellation Agreement from each Optionee.

4.11 Tax Clearance Certificates

The Company shall use its reasonable best efforts to provide to Terabeam tax clearance certificates from those states, including but not limited to Massachusetts, in which the Company has qualified to do business.

4.12 Releases of Liens

The Company shall have obtained the release of any and all Encumbrances with respect to any of the Company's assets except for the security interests of Stoneham (which will be terminated pursuant to Section 4.7 hereof) and Terabeam, respectively, and except for such Encumbrances that are incurred in the ordinary course of the Company's business and are not material.

4.13 Omron License Agreement

The Company and Omron shall enter into an agreement, in a form satisfactory to Terabeam, pursuant to which as of the Effective Time that certain Cross-License Agreement between the Company and Omron, dated April 7, 2000 (the "***Cross-License Agreement***"), shall be terminated, and, among other things, Omron shall fully assign and transfer to the Company all right, title and interest in and to the IP Rights and Commercialization Rights in the Licensed Products and the Applicable Technology and Know-how (each, as defined in the Cross-License Agreement), including an assignment by Omron of that certain US Patent

6,163,231 dated December 19, 2000 (the "***Patent***"), and all related patents pending throughout the world.

4.14 Company's 401(k) Plan

The Company shall deliver to Terabeam evidence, satisfactory to Terabeam, that the Company's 401(k) Plan has been terminated prior to the Closing.

ARTICLE V - COVENANTS

The parties covenant and agree as set forth in this Article V.

5.1 Further Action; Commercially Reasonable Efforts

In case at any time after the Effective Time any further action is necessary or desirable to carry out the purposes of this Agreement or any of the Operative Documents, each party to this Agreement or such Operative Document, as the case may be, shall use commercially reasonable efforts to promptly take all such action. After the Closing, each party hereto, at the request of and without any further cost or expense to the other parties, will take any further actions reasonably necessary or desirable to carry out the purposes of this Agreement or any Operative Document to which such party is a party, to vest in the Surviving Corporation full title to all properties, assets and rights of the Company, and to effect the issuance of the Merger Consideration to the Stockholders pursuant to the terms and conditions hereof.

5.2 Option Grants

Immediately subsequent to the Effective Time, Terabeam will act to grant nonqualified stock options (the "***New Options***") under its 2000 Nonqualified Stock Option Plan, or such other plan having substantially similar terms as Terabeam shall determine in its sole discretion, to acquire an aggregate of up to 450,000 shares of Terabeam Common Stock to employees of the Company immediately prior to the Effective Time who have been offered and have accepted employment with Terabeam and commence employment with Terabeam after the Effective Time. The number of New Options actually granted to any such employee, and the aggregate number of New Options granted, pursuant to this Section 5.2, shall be in the sole discretion of the Board of Directors of Terabeam.

5.3 Publicity

Following the Effective Time, no Stockholder shall issue any press release, and for a period of thirty (30) days following the Effective Time no Stockholder shall otherwise make any statements to any third party, in each case with respect to this Agreement or the transactions contemplated hereby, without the prior written consent of Terabeam.

5.4 Releases

(a) **By the Stockholders.** If the Merger is consummated, then effective as of the Effective Time, each of the Stockholders generally, irrevocably, unconditionally and completely releases and forever discharges Terabeam and the Company, and the successors and past, present and future assigns, directors, officers, employees, agents, attorneys and representatives of Terabeam and the Company (collectively, the "***Terabeam Releasees***"), from, and hereby irrevocably, unconditionally and completely waives and relinquishes, all disputes, claims (including unknown, unsuspected or undisclosed claims), controversies, demands, rights, obligations, liabilities, actions and causes of action of every kind and nature or right (in the case of any of the foregoing) that may be asserted or exercised by the Stockholder, in their respective capacities as stockholders of the Company (and not in their capacity as directors, officers, employees or agents of the Company) (including any claim, right or cause of action based upon any breach of any express, implied, oral or written contract or agreement) or otherwise, against the Terabeam Releasees that has arisen or arises directly or indirectly out of, or relates directly or indirectly to, any circumstance, agreement, activity, action, omission, event or matter occurring or existing on or prior to the Effective Time, other than (i) any claims under or specifically relating to this Agreement, the other Operative Documents, and/or the Option Cancellation Agreements, and the transactions contemplated hereby and thereby, (ii) any claims arising from or relating to a Terabeam Releasee's willful misconduct, bad faith or gross negligence and (iii) in the case of any Stockholder who is or was an officer, director, or employee of the Company, any claims for indemnification by the Company pursuant to the Company's Articles of Organization or By-Laws and any claims for wages, unreimbursed business expenses, and other employment compensation reflected on the Closing Balance Sheet. This specifically includes, but is not limited to, claims under Sections 86 through 98 of Chapter 156B of the General Laws of Massachusetts relating to rights of appraisal, claims for or in connection with any breach of contract, wrongful termination, defamation, and employment discrimination arising under state, federal or local laws, and all claims for attorneys' fees, costs and expenses.

(b) **By the Company and Terabeam.** If the Merger is consummated, then effective as of the Effective Time, each of the Company and Terabeam generally, irrevocably, unconditionally and completely releases and forever discharges each of the Stockholders, and their respective successors and their respective past, present and future assigns, directors, officers, employees, agents, attorneys and representatives (collectively, the "***Stockholder Releasees***"), from, and hereby irrevocably, unconditionally and completely waives and relinquishes, all disputes, claims (including unknown, unsuspected or undisclosed claims), controversies, demands, rights, obligations, liabilities, actions and causes of action of every kind and nature or right (in the case of any of the foregoing) that may be asserted or exercised by each of the Company and Terabeam against the Stockholder Releasees, solely in such Stockholder Releasees' capacities as stockholders of the Company (and not in their capacity as directors, officers, employees or agents of the Company) (including any claim, right or cause of action based upon any breach of any express, implied, oral or written contract or agreement), and has arisen or arises directly or indirectly out of, or relates directly or

indirectly to, any circumstance, agreement, activity, action, omission, event or matter occurring or existing on or prior to the Effective Time, other than (i) any claims under or specifically relating to this Agreement, the other Operative Documents, and/or the Option Cancellation Agreements, and the transactions contemplated hereby and thereby, and (ii) any claims arising from or relating to a Stockholder Releasee's willful misconduct, bad faith or gross negligence. This specifically includes, but is not limited to, claims for or in connection with any breach of contract and defamation, and all claims for attorneys' fees, costs and expenses.

5.5 Indemnification of Harmonix Personnel

From and after the Effective Time, the Surviving Corporation shall fulfill and honor the obligations of the Company to indemnify and hold harmless the Company's present and former directors, officers, employees, and agents and their heirs, executors and assigns (collectively, the "***Indemnified Personnel***"), to the extent such parties were entitled to indemnification from the Company prior to the Effective Time, other than relating to willful misconduct or bad faith in connection with the Merger or this Agreement.

5.6 Lock-up Agreement

(a) Each Stockholder agrees not to transfer any shares of Terabeam Common Stock held by such Stockholder for a period of one year following the Closing Date.

(b) Each Stockholder, if so requested in writing by Terabeam or any representative of the underwriters in connection with any registration of the offering of any securities of Terabeam under the Act, shall not sell or otherwise transfer any shares of Terabeam Common Stock owned by the Stockholder during the 180-day period following the effective date of a registration statement of Terabeam filed under the Act; provided, however, that such restrictions shall not apply with respect to any Stockholder if any other shareholders of Terabeam holding similar numbers of shares as those held by such Stockholder are not required to agree to such restrictions. Terabeam may impose stop-transfer instructions with respect to securities subject to the foregoing restriction until the end of such 180-day period.

5.7 Termination of Stockholders Agreement

Effective as of the Effective Time, that certain Stockholders Agreement, dated as of April 17, 2000, among the Company and the Stockholders (the "***Stockholders Agreement***") is hereby terminated in its entirety, and each Stockholder agrees that neither it nor the Company has any further rights or obligations under the Stockholders Agreement after such date, including without limitation in respect of any breach or alleged breach of the Stockholders Agreement prior to its termination.

ARTICLE VI - TERMINATION

This Agreement may be terminated by mutual written consent of the Company, Terabeam, and the Stockholders.

ARTICLE VII - SURVIVAL AND INDEMNIFICATION

7.1 Survival

All representations and warranties contained in this Agreement or in the Operative Documents or in any certificate delivered pursuant hereto or thereto shall survive until the second anniversary of the Effective Time (the "***Survival Period***"), and shall not be deemed waived or otherwise affected by any investigation made or any knowledge acquired with respect thereto; provided, however, that (i) the representations and warranties of the Company contained in Section 2.8 (Taxes) and Section 2.13 (Employee Benefit Plans) and the representations and warranties of Terabeam contained in Section 3.7 (Tax Matters) shall survive the Effective Time until the expiration of the applicable statute of limitations, plus thirty days, for the matter addressed in each such representation and warranty; and (ii) the representations and warranties of the Company contained in Sections 2.3 (Capitalization) and 2.14 (Intellectual Property) and the representations and warranties of Terabeam contained in Section 3.3 (Capitalization) shall survive the Effective Time until the five-year anniversary of the Effective Time. The covenants and agreements contained in this Agreement shall survive and continue until all obligations with respect thereto shall have been performed or satisfied or shall have been terminated in accordance with their terms. Any claim relating to fraud shall survive the Effective Time indefinitely.

An Indemnifying Party (as defined below) shall not be obligated to defend and hold harmless an Indemnified Party (as defined below) with respect to any claims made by the Indemnified Party with respect to the representations and warranties of this Agreement after the expiration of the Survival Period or other applicable time limitation described in Section 7.1, except that indemnity may be sought after the expiration of the Survival Period or other applicable time limitation if a Claim Notice with respect to that claim shall have been delivered to the Stockholder Representative or the Stockholders, as provided in Section 7.5 below, prior to the expiration of such time.

7.2 Indemnification by the Stockholders

Subject to the limitations set forth in Sections 7.1 and 7.4, (a) if the Merger is not consummated, the Company shall, or (b) if the Merger is consummated, the Stockholders severally shall, indemnify and hold harmless Terabeam and its officers, directors and affiliates (the "***Terabeam Indemnified Parties***") from and against, and shall reimburse the Terabeam Indemnified Parties for, any and all loss, obligation, deficiency, damage, claim, liability, cost and expense (including, without limitation, the amount of any settlement entered into pursuant hereto, and all reasonable legal fees and other expenses) ("***Losses***") arising out of or in connection with (i) any inaccuracy or misrepresentation in, or breach of, any representation or

warranty made by the Company in this Agreement or in any Operative Document or in any certificate delivered pursuant hereto or thereto; (ii) any failure by the Company before the Effective Time to perform or comply, in whole or in part, with any covenant or agreement in this Agreement or in any Operative Document; (iii) the Company's termination of the letter agreement with Ken Monro and Crescendo Wireless; and (iv) fraud by the Company or the Stockholders in connection with this Agreement and the transactions contemplated hereby; *provided*, notwithstanding the foregoing or any other provision hereof, that in the case of indemnification by the Stockholders, each Stockholder's liability hereunder shall be limited to such Stockholder's Pro Rata Share (as defined below) of the Losses indemnifiable by the Stockholders under the preceding provisions of this Section 7.2. In addition, each Stockholder shall severally indemnify and hold harmless the Terabeam Indemnified Parties for any Losses arising out of any breach by such Stockholder of his, her or its representations and warranties set forth in Article IIA hereof. Notwithstanding anything contained herein, all Losses shall be reduced and offset by any insurance proceeds actually received by any Indemnified Party relating to such Loss.

For purposes of this Agreement, the term "***Pro Rata Share***" means, with respect to a Stockholder, the percentage indicated opposite such Stockholder's name below:

Name	Pro Rata Share
Shigeaki Hakusui	44.2196%
Robert A. Phaneuf Family Trust	17.1615%
Phaneuf Limited Partnership	7.3247%
Softbank Networks, Inc.	18.9900%
Harmonix Investment LLC	2.6423%
MMW Ventures, LLC	1.0851%
eVentures II, LLC	2.7129%
Vermont Forum, LLC	0.8139%
Heath & Co.	5.0500%
Total:	100%

7.3 Indemnification by Terabeam

Subject to the limitations set forth in Sections 7.1 and 7.4, Terabeam shall indemnify and hold the Stockholders, the Company and the Company's officers, directors and affiliates (the "***Company Indemnified Parties***") harmless from and against, and shall reimburse the Company Indemnified Parties for, any and all Losses arising out of or in connection with (a) any inaccuracy or misrepresentation in, or breach of, any representation or warranty made by Terabeam in this Agreement or in any Operative Document or in any certificate delivered pursuant hereto or thereto, (b) any failure by Terabeam to perform or comply, in whole or in part, with any covenant or agreement in this Agreement or in any Operative Document, and (c) fraud by Terabeam in connection with this Agreement and the transactions contemplated hereby; provided, that all Losses shall be reduced and offset by any insurance proceeds actually received by any Indemnified Party relating to such Loss.

7.4 Limitations on Indemnification

(a) Neither the Company Indemnified Parties nor the Terabeam Indemnified Parties shall be entitled to receive any indemnification payment with respect to any claims for indemnification under this Article VII ("***Claims***") until the aggregate Losses for which such Indemnified Parties would be otherwise entitled to receive indemnification exceed $50,000 (the "***Threshold***"), provided, however, that once the aggregate losses exceed the Threshold, such Indemnified Parties shall be entitled to indemnification for the aggregate amount of all Losses without regard to the Threshold; provided, further, that Claims for the payment of Merger Consideration shall not be subject to the Threshold.

(b) Except for Losses based on fraud, the total liability of any Stockholder pursuant to this Article VII shall be limited to the sum of (i) the dollar value of such Stockholder's total interest in the initial Closing Indebtedness at the Closing and (ii) the dollar value of the Closing Shares issued to such Stockholder at the Closing, based on $5.00 per share for purposes of this Article VII. Notwithstanding anything to the contrary contained herein, the ability of Terabeam to seek indemnification from any Stockholder for Losses based on fraud shall not be limited as set forth in this Section 7.4(b) but instead shall be limited to the amount of Merger Consideration to which such Stockholder is entitled to pursuant to this Agreement.

(c) Except for Losses based on fraud or on the failure of Terabeam to pay the Total Proceeds and the Interest Payments to the extent provided for herein, the total liability of Terabeam pursuant to this Article VII shall be limited to the sum of (i) the aggregate dollar value of the initial Closing Indebtedness at the Closing and (ii) the aggregate dollar value of the Closing Shares issued to the Stockholders at the Closing, based on $5.00 per share for purposes of this Article VII. Notwithstanding anything to the contrary contained herein, the ability of any Stockholder to seek indemnification from Terabeam for Losses based on fraud or on the failure of Terabeam to pay the Total Proceeds and the Interest Payments called for hereby shall not be limited as set forth in this Section 7.4(c) but instead shall be limited to an amount equal to the aggregate dollar value of the Total Proceeds and the Interest Payments to the extent provided for herein.

(d) Any liability of the Stockholders for indemnification under this Article VII for Losses (other than Losses based on fraud) shall be satisfied by application of Section 7.6 below. Any liability of Terabeam for indemnification under this Article VII for Losses shall be satisfied by application of Section 7.7 below.

(e) Notwithstanding the foregoing, Losses arising out of or with respect to (i) any inaccuracy or misrepresentation in, or breach of, any representation or warranty contained in Section 2.3 (Capitalization), Section 2.8 (Taxes), Section 2A.3 (Ownership), Section 2A.4 (Claims against the Company) or Section 3.3 (Capitalization), (ii) the Company's termination of the letter agreement with Ken Monro and Crescendo Wireless, and (iii) the Company's network services business, including its MicroBLEC services, shall not be subject to the

Threshold set forth in Section 7.4(a), but shall instead be indemnifiable from the first dollar incurred.

(e) To the extent permitted by applicable law, the provisions of this Agreement shall be the sole and exclusive basis for the assertion of claims against, or the imposition of liability on, any party in connection with this Agreement and/or the Merger and the other transactions contemplated hereby, whether based on contract, tort (including strict liability), statute, or otherwise, except that the provisions of the Employment Agreements referred to in Section 4.5 hereof and the Consulting Agreement referred to in Section 4.6 hereof shall be the sole and exclusive basis for the assertion of claims against, or the imposition of liability on, any party to those agreements based on any breach or alleged breach of any of those agreements.

7.5 Procedure for Indemnification Claim

(a) Subject to Section 7.1, a party seeking indemnification hereunder (the "***Indemnified Party***," which term as used in this Agreement includes all such parties, if more than one) shall give written notice (the "***Claim Notice***") of any Claim to the party or parties from whom indemnification is sought (the "***Indemnifying Party***," which term as used in this Agreement includes all such parties, if more than one), as promptly as practicable, but in any event: (i) if such Claim relates to the assertion against an Indemnified Party of any claim by a third party (a "***Third Party Claim***"), within 30 days after the assertion of such Third Party Claim, or (ii) if such Claim is not in respect of a Third Party Claim, within 30 days after the discovery of facts upon which the Indemnified Party intends to base a Claim for indemnification pursuant to Article VII hereof; provided, however, that the failure or delay to so notify the Indemnifying Party shall not relieve the Indemnifying Party of any obligation or liability that the Indemnifying Party may have to the Indemnified Party except to the extent that the Indemnifying Party demonstrates that the Indemnifying Party's ability to defend or resolve such Claim is adversely affected thereby. Any such Claim Notice shall describe the facts and circumstances on which the asserted Claim for indemnification is based, the amount thereof if then ascertainable and, if not then ascertainable, the estimated maximum amount thereof, and the provisions in this Agreement on which the Claim is based.

(b) (i) Subject to the rights of or duties to any insurer or other third party having potential liability therefor, the Indemnifying Party may assume the defense or handling of a Third Party Claim, at the Indemnifying Party's sole expense, after providing written notice to the Indemnified Party of such election within 30 days after receipt of the notice from the Indemnified Party of any Third Party Claim and upon Indemnified Party's written approval thereof, which approval may not be unreasonably withheld, in which case the provisions of Section 7.5(b)(ii) hereof shall govern.

(ii) The Indemnifying Party shall select counsel reasonably acceptable to the Indemnified Party in connection with conducting the defense or handling of such Third Party Claim, and the Indemnifying Party shall defend or handle the same in consultation with the Indemnified Party and shall keep the Indemnified Party timely apprised

of the status of such Third Party Claim, provided, that the Indemnified Party may participate in such defense at such party's expense (unless the Indemnified Party has reasonably concluded that there may be a conflict of interest between the Indemnifying Party and the Indemnified Party in such action, in which case the reasonable fees and expenses of counsel for the Indemnified Party shall be at the expense of the Indemnifying Party). The Indemnifying Party shall not, without the prior written consent of the Indemnified Party, agree to a settlement of any Third Party Claim, unless the settlement provides an unconditional release and discharge of the Indemnified Party and the Indemnified Party is reasonably satisfied with such discharge and release.

(c) (i) If the Indemnifying Party does not give written notice to the Indemnified Party within 30 days after receipt of the notice from the Indemnified Party of any Third Party Claim of the Indemnifying Party's election to assume the defense or handling of such Third Party Claim or if the Indemnified Party does not give its approval to such election, the provisions of Section 7.5(c)(ii) hereof shall govern.

(ii) The Indemnified Party may, at the Indemnifying Party's reasonable expense (which shall be paid from time to time by the Indemnifying Party as such expenses are incurred by the Indemnified Party), select counsel in connection with conducting the defense or handling of such Third Party Claim and defend or handle such Third Party Claim in such manner as it may deem appropriate; provided, however, that the Indemnified Party shall keep the Indemnifying Party timely apprised of the status of such Third Party Claim and shall not settle such Third Party Claim without the prior written consent of the Indemnifying Party, which consent shall not be unreasonably withheld. If the Indemnified Party defends or handles such Third Party Claim, the Indemnifying Party shall cooperate with the Indemnified Party and shall be entitled to participate in the defense or handling of such Third Party Claim with its own counsel and at its own expense.

7.6 Satisfaction of Claims by Terabeam

7.6.1 Procedure for Indemnification

(a) From time to time as Terabeam determines that it or another Terabeam Indemnified Party is entitled to indemnification from an Indemnifying Party for a Claim under Section 7.2, Terabeam shall give a Claim Notice in accordance with Section 7.5 to (i) the Stockholder Representative, with respect to Claims subject to Sections 7.6.1(b) and (c) below, or (ii) an Indemnifying Party, with respect to Claims subject to Section 7.6.1(d) below.

(b) In the event that a Claim, including a finally-determined Third Party Claim (a "***Final Third Party Claim***"), is made by Terabeam on behalf of itself or a Terabeam Indemnified Party prior to the Payment Date and the dollar value of such Claim is equal to or less than (i) the Closing Indebtedness minus (ii) the dollar value of any (x) Claim subject to a pending Claim Notice for which the Response Period (as defined below) has not yet expired at the time of such Claim Notice, (y) Closing Indebtedness that has been previously offset by Terabeam through the date of such Claim Notice in satisfaction of a Claim made prior to the

Payment Date and (z) the Claim Reserve Amount (as defined below) existing at the time of such Claim Notice (such result is deemed the "***Adjusted Closing Indebtedness***"), the satisfaction of such Claim shall be as set forth in Section 7.6.2 below.

(c) In the event that a Claim, including a Final Third Party Claim, is made by Terabeam on behalf of itself or a Terabeam Indemnified Party on or after the Payment Date and the dollar value of such Claim is equal to or less than the then-current aggregate principal amount outstanding under the Purchase Notes minus the dollar value of any (x) Claim subject to a pending Claim Notice for which the Response Period has not yet expired at the time of such Claim Notice, (y) aggregate principal outstanding under the Purchase Notes that was offset by Terabeam through the date of such Claim Notice in satisfaction of a Claim made after the Payment Date and (z) the Note Claim Reserve Amount (as defined below) existing at the time of such Claim Notice (such result is deemed the "***Adjusted Purchase Note Principal***"), the satisfaction of such Claim shall be as set forth in Section 7.6.3 below.

(d) Notwithstanding the foregoing, in the event that the aggregate dollar value of a Claim (including a Final Third Party Claim) made by Terabeam on behalf of itself or a Terabeam Indemnified Party is greater than the then-current Adjusted Closing Indebtedness or the then-current aggregate principal outstanding under the Purchase Notes (an "***Excess Claim***"), the satisfaction of such Excess Claim shall be as set forth in Section 7.6.4 below.

7.6.2 Satisfaction of Claims from Closing Indebtedness

(a) With respect to any Claim described in Section 7.6.1(b), if, after satisfaction of the procedures set forth in Section 7.5, Terabeam has not received from the Stockholder Representative a written objection to the Claim stating the facts and circumstances on which the objection is based within 30 days after notice of such Claim is deemed delivered to the Stockholder Representative pursuant to Section 8.3 hereof (the "***Response Period***"), the Claim stated in such Claim Notice shall be conclusively deemed to be approved by the Stockholders and Terabeam shall promptly offset against the Closing Indebtedness (or the then-current Adjusted Closing Indebtedness) an amount equal to the dollar value of such Claim.

(b) If, within the Response Period, Terabeam shall have received from the Stockholder Representative a written objection to the Claim specifying the nature of and grounds for such objection, then such Claim shall be deemed to be a "***Terabeam Open Claim***," and Terabeam shall reserve within the aggregate Adjusted Closing Indebtedness an amount equal in value (on a dollar-by-dollar basis) to the amount of such Terabeam Open Claim (which amount designated for each Terabeam Open Claim is referred to herein as the "***Claim Reserve Amount***"). Upon (and only upon) either (i) a written agreement between Terabeam and the Stockholder Representative or (ii) a final, non-appealable court order of a court of competent jurisdiction (to the extent that such agreement or court order resolves a Terabeam Open Claim in favor of Terabeam, a "***Final Claim***"), Terabeam shall promptly offset that portion of the Claim Reserve Amount equal to the dollar value of the Final Claim,

with any excess portion of such Claim Reserve Amount being reinstated to the aggregate Adjusted Closing Indebtedness.

7.6.3 Satisfaction of Claims from Purchase Notes

(a) With respect to any Claim described in Section 7.6.1(c), if, after satisfaction of the procedures set forth in Section 7.5, Terabeam has not received from the Stockholder Representative a written objection to the Claim stating the facts and circumstances on which the objection is based within the Response Period, the Claim stated in such Claim Notice shall be conclusively deemed to be approved by the Stockholders and Terabeam shall promptly satisfy such Claim by reducing and offsetting amounts owing under the Purchase Notes (or the then-current Adjusted Purchase Note Principal) on a dollar-for-dollar basis with respect to each such Claim, subject to the provisions of Section 7.8 below.

(b) If, within the Response Period, Terabeam shall have received from the Stockholder Representative a written objection to the Claim specifying the nature of and grounds for such objection, then such Claim shall be deemed to be a Terabeam Open Claim. In such event, Terabeam shall reserve from the Adjusted Purchase Note Principal an amount equal in value (on a dollar-by-dollar basis) to the amount of such Terabeam Open Claim (which amount designated for each Terabeam Open Claim is referred to herein as the "***Note Claim Reserve Amount***"), which reserved amount shall not be due and payable upon maturity of the Purchase Notes until the value of such Terabeam Open Claim has been finally determined as set forth in the next sentence. Upon (and only upon) a Final Claim, Terabeam shall promptly offset that portion of the Note Claim Reserve Amount equal to the dollar value of the Final Claim, with any excess portion of the Note Claim Reserve Amount being reinstated to the Adjusted Purchase Note Principal.

7.6.4 Satisfaction of Claims from Closing Shares

(a) With respect to any Claim described in Section 7.6.1(d), if, after satisfaction of the procedures set forth in Section 7.5, any Stockholder agrees with Terabeam's Claim Notice, it shall so notify Terabeam in writing within 30 days of receiving the Claim Notice (failure to provide such notice shall be deemed a rejection of such Claim Notice by such Stockholder). In such event, (i) Terabeam shall offset against the then-current Adjusted Closing Indebtedness (if any) or aggregate principal of the Purchase Notes (if any) owing to such Stockholder the dollar value of the portion of the Excess Claim for which such Stockholder is liable for indemnification hereunder, and (ii) with respect to amounts of the Excess Claim for which such Stockholder is liable for indemnification hereunder and which exceed the Adjusted Closing Indebtedness or aggregate principal of the Purchase Notes, as the case may be, owing to such Stockholder, such Stockholder shall promptly surrender to Terabeam (1) a number of shares of Terabeam Common Stock received by such Stockholder in the Merger equal to (x) the aggregate dollar amount of such Stockholder's liability for indemnification hereunder in respect of such excess, by (y) $5.00, together with such documentation of ownership and stock powers as may reasonably be requested by Terabeam,

or (at such Stockholder's election) (2) cash equal to the aggregate dollar amount of such Stockholder's liability for indemnification hereunder in respect of such excess.

(b) With respect to any Claim described in Section 7.6.1(d), if, after satisfaction of the procedures set forth in Section 7.5, a Stockholder does not agree with Terabeam's Claim Notice, within 30 days of receiving the Claim Notice, it shall send Terabeam a written objection to the Excess Claim, specifying the nature of and grounds for such objection, and such Excess Claim shall be deemed to be a Terabeam Open Claim. If such Excess Claim is made prior to the Payment Date, Terabeam shall establish a Claim Reserve Amount for such Terabeam Open Claim equal to the then-existing Adjusted Closing Indebtedness. If such Excess Claim is made after the Payment Date, Terabeam shall establish a Note Claim Reserve Amount for such Terabeam Open Claim equal to the then-existing aggregate principal due under the Purchase Notes. Upon (and only upon) either (i) a written agreement between Terabeam and the Indemnifying Party or (ii) a final, non-appealable court order of a court of competent jurisdiction (to the extent that such agreement or court order resolves a Terabeam Open Claim in favor of Terabeam, a "***Final Stockholder Claim***"), (1) Terabeam shall promptly offset that portion of such Claim Reserve Amount or Note Claim Reserve Amount, as the case may be, that is equal to the dollar value of the Final Stockholder Claim, and (2) with respect to amounts of the Final Stockholder Claim exceeding such Claim Reserve Amount or Note Claim Reserve Amount, as the case may be, the Stockholder subject to such Terabeam Open Claim shall promptly surrender to Terabeam (A) a number of shares of Terabeam Common Stock received by such Stockholder in the Merger equal to (x) the aggregate dollar amount of such Stockholder's liability for indemnification hereunder in respect of such excess, divided by (y) $5.00, together with such documentation of ownership and stock powers as may reasonably be requested by Terabeam, or (at such Stockholder's election) (B) cash equal to the aggregate dollar amount of such Stockholder's liability for indemnification hereunder in respect of such excess.

7.7 Satisfaction of Claims by Company Indemnified Parties

(a) From time to time as a Company Indemnified Party determines that it is entitled to an indemnification payment from an Indemnifying Party for a Claim, including any Final Third Party Claim, under Section 7.3, such Company Indemnified Party shall give a Claim Notice to Terabeam in accordance with Section 7.5.

(b) If Terabeam agrees with such Company Indemnified Party's Claim Notice, it shall so notify such Indemnified Party in writing within 30 days of receiving the Claim Notice (failure to provide such notice shall be deemed a rejection of such Claim Notice by Terabeam). In such event, Terabeam shall promptly pay the amount of such finally determined Claim to such Indemnified Party.

(c) If Terabeam does not agree with such Company Indemnified Party's Claim Notice, within 30 days of receiving the Claim Notice, it shall send such Company Indemnified Party a written objection to the Claim, specifying the nature of and grounds for such objection, and such Claim shall be deemed to be a "***Stockholder Open Claim***." Upon (and only upon)

either (i) a written agreement between Terabeam and the Indemnified Party or (ii) a final, non-appealable court order of a court of competent jurisdiction, if the Company Indemnified Party prevails, Terabeam shall promptly pay the amount of such Stockholder Open Claim finally determined in accordance with clauses (i) or (ii) above to such Indemnified Party.

7.8 Purchase Notes

7.8.1 Issuance of Purchase Notes

(a) On the Payment Date, the aggregate principal amount of the Purchase Notes issuable at that time shall be equal to the Adjusted Closing Indebtedness outstanding as of the Payment Date.

(b) After the Payment Date, when a final determination has been made with respect to any Terabeam Open Claim incurred prior to the Payment Date in accordance with Sections 7.6.2(b) above, if such Terabeam Open Claim has been resolved in Terabeam's favor, the amount of Closing Indebtedness that is held in such Claim Reserve Amount shall be offset by Terabeam to the extent of the Final Claim (on a dollar-for-dollar basis). Thereafter, Purchase Notes representing the Closing Indebtedness remaining in such Claim Reserve Amount (after such offsetting), if any, shall be issued to the Stockholders in accordance with their interests therein.

7.8.2 Limitations on Purchase Notes

(a) Notwithstanding anything to the contrary contained herein, in the event that a Stockholder has converted its Purchase Notes into Terabeam Common Stock, such Stockholder may satisfy Claims otherwise intended under this Agreement to be settled by a partial or total offset of such Stockholder's portion of the aggregate Adjusted Purchase Note Principal by surrendering to Terabeam (i) a number of shares of Terabeam Common Stock held by such Stockholder equal to (x) the aggregate dollar amount of such Stockholder's liability for indemnification hereunder in respect of such Claim divided by (y) $6.00 (the conversion price per share under the Purchase Note), together with documentation of ownership and stock powers as may reasonably be requested by Terabeam, or (at such Stockholder's election) (ii) cash equal to the aggregate dollar amount of such Stockholder's liability for indemnification hereunder in respect of such Claim; provided, however, that if a Stockholder elects to surrender shares of Terabeam Common Stock pursuant to this Section 7.8.2(a), the number of shares so surrendered shall not be greater than the number of shares of Terabeam Common Stock received by such Stockholder upon such conversion of its Purchase Notes.

(b) No right to Closing Indebtedness may be converted into shares of Terabeam Common Stock prior to the Payment Date, and no Purchase Notes shall be convertible until after the issuance of the Purchase Notes.

(c) In the event Terabeam establishes a Note Claim Reserve Amount, until such Terabeam Open Claim has been finally determined, (i) Terabeam shall not be required to repay the amount so reserved and (ii) no Stockholder may convert that portion of principal subject to such Note Claim Reserve Amount.

7.9 Limitations on Interest Payments

(a) No Stockholder may transfer any right or interest in an Interest Payment prior to the Payment Date.

(b) In the event that an Interest Payment is scheduled to be made when a Terabeam Open Claim exists, the Interest Payment relating to the applicable Claim Reserve Amount (measured from the date of the applicable Claim Notice) shall not be paid by Terabeam at such time. Upon (and only upon) a Final Claim, Terabeam shall, on the next payment date of an Interest Payment, pay each Stockholder a lump sum in an amount equal to its accrued amount of the Interest Payment that relates to the excess portion of the Claim Reserve Amount being reinstated to the aggregate Adjusted Closing Indebtedness as provided in Section 7.6.2(b) above, if any.

(c) Notwithstanding anything to the contrary contained herein, if a Final Claim with respect to a Claim Reserve Amount is resolved in Terabeam's favor, Terabeam shall be entitled to offset against future Interest Payments (and future interest payments due under the Purchase Notes) an amount equal to the amount of Interest Payments (or interest payments due under the Purchase Notes) paid between the Closing Date and the applicable Claim Notice date with respect to that portion of the Adjusted Closing Indebtedness or Adjusted Purchase Note Principal represented by the Final Claim amount.

7.10 Ownership; Disposition

No interest in the Closing Indebtedness or the Purchase Notes may be sold or transferred to any third party prior to the Payment Date.

7.11 Specific Performance

Each of the parties acknowledges and agrees that the other parties hereto would be damaged irreparably in the event any of the provisions of this Agreement are not performed in accordance with their specific terms or otherwise are breached. Accordingly, each of the parties hereto agrees that the other parties hereto shall be entitled to an injunction to prevent breaches of the provisions of this Agreement and to enforce specifically this Agreement and the terms and provisions hereof (including the indemnification provisions hereof) in any competent court having jurisdiction over the parties, in addition to any other remedy to which they may be entitled at law or in equity.

7.12 Indemnity Payments as Adjustments to Purchase Price

Any adjustment to Merger Consideration made under this Article VII will be treated by the parties for all purposes as an adjustment to the aggregate consideration paid by Terabeam under this Agreement. The parties further agree that at no time will any Stockholder surrender, and Terabeam will not require the Stockholders to so surrender, a number of Closing Shares that would prevent the transactions contemplated hereby from qualifying as a reorganization within the meaning of Section 368(a) of the Code. In such event, and to the extent (and only to the extent) necessary to avoid preventing the transactions contemplated hereby from qualifying as a reorganization within the meaning of Section 368(a) of the Code, each of the Stockholders liable for indemnification hereunder shall satisfy their indemnification obligations hereunder through the payment to Terabeam of cash equal to the amount of such Stockholder's liability for indemnification hereunder in respect of such Claim; but notwithstanding the foregoing or any other provision hereof, in no event shall any Stockholder's right to satisfy its indemnification obligations hereunder by returning Closing Shares to Terabeam be limited so as to require such Stockholder, in lieu of returning Closing Shares, to pay to the Terabeam Indemnified Parties an amount in cash exceeding the amount of Closing Cash actually received by such Stockholder and not previously paid to Terabeam Indemnified Parties as indemnification.

7.13 Stockholder Representative

(a) By executing this Agreement, except as specifically set forth herein, each Stockholder shall irrevocably authorize and appoint Robert A. Phaneuf (the "***Stockholder Representative***"), with full power of substitution and resubstitution, as his, her or its representative and true and lawful attorney-in-fact and agent to act in his, her or its name, place and stead and to take all action required or permitted under Sections 7.6.1(a)(i), (b), or (c) (but not Sections 7.6.1(a)(ii) or 7.6.1(d)), 7.6.2 and 7.6.3 hereof and receiving of all directions, notices and consents and the execution and delivery of all documents in the name and on behalf of such Stockholder in connection therewith.

(b) The Stockholder Representative may resign at any time. Upon such resignation, the Stockholders (acting by written consent of Stockholders who held of record at least a majority of the shares of Company Common Stock outstanding immediately prior to the Effective Time and after the redemption of shares of Company Common Stock held by Omron, as referred to in Section 2.3(b) hereof) shall promptly appoint a new Stockholder Representative to replace such resigning Stockholder Representative with the same powers and duties as such resigning Stockholder Representative, provided that such newly appointed Stockholder Representative shall have been a Stockholder immediately prior to the Effective Time.

(c) If the Stockholder Representative or any successor shall die, or become unable to act as the Stockholder Representative, a replacement shall promptly be appointed by a writing signed by Stockholders who held of record at least a majority of the shares of Company Common Stock outstanding immediately prior to the Effective Time (and after the

redemption of shares of Company Common Stock held by Omron, as referred to in Section 2.3(b) hereof).

(d) The Stockholder Representative shall not be liable for, and shall be indemnified by the Stockholders against, any good faith error of judgment on his part or any other act done or omitted by him in good faith in connection with his duties as Stockholder Representative, except to the extent of any gross negligence or willful misconduct. The Stockholder Representative shall not be responsible for the genuineness or validity of any document and shall have no liability for acting in accordance with any written instructions given to him and believed by him to be signed by the proper parties.

(e) If the Stockholders should fail to appoint a new Stockholder Representative as provided in this Section 7.13 within 30 days following the resignation, death or inability to act of the current Stockholder Representation or its successor, the parties agree that the U.S.-based Stockholder with the largest Pro Rata Share as provided in Section 7.2 (other than the Stockholder that was the Stockholder Representative being replaced thereof) shall be deemed to be the Stockholder Representative for purposes of this Agreement until such Stockholder Representative resigns, dies or is unable to act.

7.14 Adjustment of Share Price

All share prices of Terabeam Common Stock set forth in this Article VII shall be appropriately adjusted for stock splits, stock dividends, recapitalizations and similar events.

ARTICLE VIII - GENERAL

8.1 Reorganization Intended

For federal income tax purposes, the transaction entered into pursuant to this Agreement is intended to constitute a reorganization within the meaning of Section 368 of the Code. The parties to this Agreement hereby adopt this Agreement as a "plan of reorganization" within the meaning of Sections 1.368-2(g) and 1.368-3(a) of the United States Treasury Regulations. Except as permitted under Section 7.12 hereof, except as required by applicable law, the parties will not take or cause any action to be taken after the Effective Time that would prevent the transactions contemplated hereby from qualifying as a reorganization within the meaning of Section 368(a) of the Code, and the parties hereto shall treat the Merger as a reorganization under Section 368(a)(1)(A) of the Code and the underlying Treasury Regulations for all Tax reporting purposes; provided, however, that Terabeam makes no representation or warranty with respect to, and expressly disclaims any responsibility for, any tax consequences to the Company or Stockholders arising out of the structure or terms of this Agreement.

8.2 Expenses

Each party shall pay its own costs and expenses (including any banker, broker or finder's fees) incurred in connection with the proposed transaction and in preparing for the execution of this Agreement and the Operative Documents, including expenses of its Representatives; provided, however, that up to $30,000 of the Company's legal, accounting or similar fees incurred in connection with this proposed transaction shall be considered Company Liabilities, while any such fees in excess of this amount shall be considered Excess Liabilities. Notwithstanding the foregoing, except as specifically set forth herein, any broker's or finder's fees incurred in connection with the execution of this Agreement or with the consummation of the transactions contemplated hereby shall remain the sole responsibility of the Company and the Stockholders.

8.3 Notices

Any notice, request or demand desired or required to be given hereunder shall be in writing given by personal delivery, confirmed facsimile transmission or overnight courier service, in each case addressed as respectively set forth below or to such other address as any party shall have previously designated by such a notice. The effective date of any notice, request or demand shall be the date of personal delivery, the date on which successful facsimile transmission is confirmed or the date actually delivered by a reputable overnight courier service, as the case may be, in each case properly addressed as provided herein (or to such other address(es) as any party may have provided to the others pursuant to this section) and with all charges prepaid.

TO TERABEAM:

Terabeam Corporation
12413 Willows Road NE
Kirkland, WA 98034
Fax: (425) 460-6503
Attention: General Counsel

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

Gray Cary Ware & Freidenrich LLP
701 Fifth Avenue, Suite 7000
Seattle, WA 98104-7044
Attention: John M. Steel

Fax No. (206) 839-4801

TO ANY STOCKHOLDER:

At such address as such Stockholder may have provided to Terabeam in the Letter of Transmittal, or subsequently in writing pursuant to this section;

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

Bingham McCutchen LLP
150 Federal Street
Boston, MA 02110
Attention: Brian Keeler

Fax: 617-951-8736

8.4 Severability

If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law, or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner adverse to any party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, 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 fullest extent possible.

8.5 Entire Agreement

This Agreement, the Operative Documents and the NDA constitute the entire agreement among the parties with respect to the subject matter hereof and thereof and supersede all prior agreements and undertakings, both written and oral, among the parties, or any of them, with respect to the subject matter hereof and thereof (including, without limitation, the Letter of Intent, dated as of June 5, 2002, among certain of the parties).

8.6 Assignment

This Agreement shall not be assigned by operation of law or otherwise, and any attempt to do so shall be void.

8.7 Parties in Interest

This Agreement shall be binding upon and inure solely to the benefit of the parties hereto and their respective successors heirs, legal representatives and permitted assigns, and nothing in this Agreement, express or implied, is intended to or shall confer upon any other Person any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

8.8 Amendment

This Agreement may not be amended except by an agreement in writing signed by Terabeam, the Company and the Stockholders.

8.9 Waiver

At any time prior to the Effective Time, any party hereto may (a) extend the time for the performance of any obligation or other act of any other party hereto, to the extent that such performance is owed to the waiving party, (b) waive any inaccuracy in the representations and warranties contained herein or in any document delivered pursuant hereto, to the extent such representations and warranties are made to and for the benefit of the waiving party, or (c) waive compliance with any agreement or condition contained herein, to the extent such agreement or condition is for the benefit of the waiving party. Any such extension or waiver shall be valid only if set forth in an instrument in writing signed by the party or parties to be bound thereby.

8.10 Governing Law; Venue

This Agreement shall be governed by, and construed in accordance with, the laws of the State of Washington applicable to contracts executed in and to be performed in that state. The parties irrevocably consent to the jurisdiction and venue of the state and federal courts located in King County, Washington in connection with any action relating to this Agreement. In the event of any litigation seeking to enforce this Agreement, the prevailing party or parties in such litigation will be entitled to reimbursement from the non-prevailing party or parties of the prevailing party's or parties' reasonable costs and expenses (including attorneys' fees and expenses) incurred in connection with the litigation.

8.11 Headings

The descriptive headings contained in this Agreement are included for convenience of reference only and shall not affect in any way the meaning or interpretation of this Agreement.

8.12 Counterparts

This Agreement may be executed and delivered (including by facsimile transmission) in one or more counterparts, and by the different parties hereto in separate counterparts, each of which when executed and delivered shall be deemed to be an original but all of which taken together shall constitute one and the same agreement.

8.13 Waiver of Jury Trial

Each of Terabeam, the Company, and each Stockholder hereby irrevocably waives all right to trial by jury in any action, proceeding or counterclaim (whether based on contract, tort or otherwise) arising out of or relating to this Agreement, the transactions contemplated

hereby or the actions of such parties in the negotiation, administration, performance and enforcement hereof.

8.14 Conflict Waiver

Each of the parties to this Agreement hereby agrees that both before and after the Closing, the law firms of Bingham McCutchen LLP and Cushing and Dolan, P.C., respectively, and their respective partners, shareholders, employees, and other personnel may provide legal counsel and representation to the Stockholders or any of them in connection with any matter, including without limitation any claims for indemnification under this Agreement and any related litigation or other proceedings (regardless of whether the Surviving Corporation is an adverse party), and hereby irrevocably waives, relinquishes, and agrees not to assert any rights to object to or to prevent either such law firm or any of their respective personnel from doing so.

AGE 08

N WITNESS WHEREOF, the parties hereto have entered into and signed this
ent and Plan of Merger and Reorganization as of the date and year first above written.

TERABEAM CORPORATION

By MC Schwartz
Name Michael Schwartz
Its Chief Development Officer and Acting CFO

HARMONIX CORPORATION

By _____
Name _____
Its _____

STOCKHOLDERS

Shigeaki Hakusui

Address

41 Washington Street

Boxford, MA 01921

Pursuant to Section 2A.11 of the Agreement, the Stockholder represents and warrants to the Company that it is an accredited investor, as follows:

____ (a) A natural person whose individual income exceeded $200,000 in each of the past two years, or whose joint income with spouse exceeded $300,000 in each of those years, and who reasonably expects to receive at least the same level of income in the current year;

✓ (b) A natural person whose individual net worth, or joint net worth with his or her spouse, exceeds $1,000,000 as of the date hereof; or

____ (c) An organization or entity consisting solely of natural persons who meet the requirements specified in (a) or (b) above.

EUF FAMILY TRUST

Trustee

LANE

ME 04040

presents and warrants to the

exceeded $200,000 in each
d $300,000 in each of those
vel of income in the current

h, or joint net worth with his

of natural persons who meet

rganization (under Section
or Massachusetts or similar
g the securities of Terabeam
00,000.

PLAN OF MERGER AND REORGANIZATION
SIGNATURE PAGE

PHANEUF LIMITED PARTNERSHIP

By R A Phaneuf
Robert A. Phaneuf, General Partner

Address

25 HUMMINGBIRD LANE
P.O. Box 417
HARRISON ME 04040

Pursuant to Section 2A.11 of the Agreement, the Stockholder represents and warrants to the Company that it is an accredited investor, as follows:

____ (a) A natural person whose individual income exceeded $200,000 in each of the past two years, or whose joint income with spouse exceeded $300,000 in each of those years, and who reasonably expects to receive at least the same level of income in the current year;

✓ (b) A natural person whose individual net worth, or joint net worth with his or her spouse, exceeds $1,000,000 as of the date hereof; or

____ (c) An organization or entity consisting solely of natural persons who meet the requirements specified in (a) or (b) above.

____ (d) A corporation, partnership, tax-exempt organization (under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended) or Massachusetts or similar business trust (i) not formed for the specific purpose of acquiring the securities of Terabeam offered in the Merger and (ii) having total assets in excess of $5,000,000.

SOFTBANK NETWORKS INC.

By _____
Name Yutaka Shinto
Its President and CEO

Address

Oak Minami Azabu Building

3-19-23 Minami Azabu, Minato-ku,

Tokyo 106-0047 JAPAN

Pursuant to Section 2A.11 of the Agreement, the Stockholder represents and warrants to the Company that it is an accredited investor, as follows:

_____ (a) A natural person whose individual income exceeded $200,000 in each of the past two years, or whose joint income with spouse exceeded $300,000 in each of those years, and who reasonably expects to receive at least the same level of income in the current year;

_____ (b) A natural person whose individual net worth, or joint net worth with his or her spouse, exceeds $1,000,000 as of the date hereof; or

_____ (c) An organization or entity consisting solely of natural persons who meet the requirements specified in (a) or (b) above.

✓ (d) A corporation, partnership, tax-exempt organization (under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended) or Massachusetts or similar business trust (i) not formed for the specific purpose of acquiring the securities of Terabeam offered in the Merger and (ii) having total assets in excess of $5,000,000.

HARMONIX INVESTMENT LLC

By _____
Justin P. Morreale, Manager

By _____
Brian Keeler, Manager

Address

c/o Brian Keeler
Bingham McCutchen LLP
150 Federal Street
Boston, MA 02110

Pursuant to Section 2A.11 of the Agreement, the Stockholder represents and warrants to the Company that it is an accredited investor, as follows:

____ (a) A natural person whose individual income exceeded $200,000 in each of the past two years, or whose joint income with spouse exceeded $300,000 in each of those years, and who reasonably expects to receive at least the same level of income in the current year;

____ (b) A natural person whose individual net worth, or joint net worth with his or her spouse, exceeds $1,000,000 as of the date hereof; or

__X__ (c) An organization or entity consisting solely of natural persons who meet the requirements specified in (a) or (b) above.

____ (d) A corporation, partnership, tax-exempt organization (under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended) or Massachusetts or similar business trust (i) not formed for the specific purpose of acquiring the securities of Terabeam offered in the Merger and (ii) having total assets in excess of $5,000,000.

EVENTURES II, LLC

By _____
Leo J. Cushing, Manager)

Address

_____

_____

_____

Pursuant to Section 2A.11 of the Agreement, the Stockholder represents and warrants to the Company that it is an accredited investor, as follows:

_____ (a) A natural person whose individual income exceeded $200,000 in each of the past two years, or whose joint income with spouse exceeded $300,000 in each of those years, and who reasonably expects to receive at least the same level of income in the current year;

_____ (b) A natural person whose individual net worth, or joint net worth with his or her spouse, exceeds $1,000,000 as of the date hereof; or

✓ (c) An organization or entity consisting solely of natural persons who meet the requirements specified in (a) or (b) above.

_____ (d) A corporation, partnership, tax-exempt organization (under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended) or Massachusetts or similar business trust (i) not formed for the specific purpose of acquiring the securities of Terabeam offered in the Merger and (ii) having total assets in excess of $5,000,000.

VERMONT FORUM, LLC

By _____
Samuel E. Bain, Manager

Address c/o Bain'00
38 Newbury St.
Boston, MA 02116

Pursuant to Section 2A.11 of the Agreement, the Stockholder represents and warrants to the Company that it is an accredited investor, as follows:

_____ (a) A natural person whose individual income exceeded $200,000 in each of the past two years, or whose joint income with spouse exceeded $300,000 in each of those years, and who reasonably expects to receive at least the same level of income in the current year;

_____ (b) A natural person whose individual net worth, or joint net worth with his or her spouse, exceeds $1,000,000 as of the date hereof; or

_____ (c) An organization or entity consisting solely of natural persons who meet the requirements specified in (a) or (b) above.

_____ (d) A corporation, partnership, tax-exempt organization (under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended) or Massachusetts or similar business trust (i) not formed for the specific purpose of acquiring the securities of Terabeam offered in the Merger and (ii) having total assets in excess of $5,000,000.

HEATH & CO.

By _____
Name _____
Its _____

Address

_____

_____

_____

Pursuant to Section 2A.11 of the Agreement, the Stockholder represents and warrants to the Company that it is an accredited investor, as follows:

_____ (a) A natural person whose individual income exceeded $200,000 in each of the past two years, or whose joint income with spouse exceeded $300,000 in each of those years, and who reasonably expects to receive at least the same level of income in the current year;

_____ (b) A natural person whose individual net worth, or joint net worth with his or her spouse, exceeds $1,000,000 as of the date hereof; or

_____ (c) An organization or entity consisting solely of natural persons who meet the requirements specified in (a) or (b) above.

_____ (d) A corporation, partnership, tax-exempt organization (under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended) or Massachusetts or similar business trust (i) not formed for the specific purpose of acquiring the securities of Terabeam offered in the Merger and (ii) having total assets in excess of $5,000,000.

TABLE OF CONTENTS

Page

Page

TABLE OF CONTENTS
(continued)

Page

EXHIBITS