

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

ETAS ID: TM696064

SUBMISSION TYPE:	CORRECTIVE ASSIGNMENT		
NATURE OF CONVEYANCE:	Corrective Assignment to correct the Receiving Party Data previously recorded on Reel 006505 Frame 0768. Assignor(s) hereby confirms the MERGER did not convey trademarks to Echo 360, Inc.; Owner and Registrant remained Astute Technology, LLC, a Virginia LLC.		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
ECHO 360, INC.		10/28/2016	Corporation: DELAWARE
RECEIVING PARTY DATA			
Name:	ASTUTE TECHNOLOGY, LLC		
Street Address:	11955 Freedom Drive, Ste. 700		
City:	Reston		
State/Country:	VIRGINIA		
Postal Code:	20190		
Entity Type:	Limited Liability Company: VIRGINIA		
PROPERTY NUMBERS Total: 2			
Property Type	Number	Word Mark	
Registration Number:	2688931	NET.SCORE	
Registration Number:	2669543	NET.SCORE	
CORRESPONDENCE DATA			
Fax Number:	2028427899		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>			
Phone:	2028427800		
Email:	mobleysg@cooley.com		
Correspondent Name:	Susan P. Christoff, Cooley LLP		
Address Line 1:	1299 Pennsylvania Avenue, NW, Suite 700		
Address Line 4:	Washington, D.C. 20004-2400		
ATTORNEY DOCKET NUMBER:	309709-119		
NAME OF SUBMITTER:	Susan Mobley		
SIGNATURE:	/Susan Mobley/		
DATE SIGNED:	12/20/2021		
Total Attachments: 22			
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AGREEMENT AND PLAN OF MERGER AND REORGANIZATION

BY AND AMONG

ECHO 360 HOLDINGS, INC.,

ECHO360, INC.,

ASTUTE MERGER SUB, INC.,

ECHO 360 MERGER SUB, INC.,

AND

ASTUTE TECHNOLOGY, LLC

Dated as of October 28, 2016

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Exhibits

Exhibit A	Form of Members' Consent
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Exhibit C	Accounting Principles
Exhibit D	Payout Spreadsheet Trial Run
Exhibit E	Sample Working Capital Calculation
Exhibit F	Form of Employment Agreement
Exhibit G	Form of Target Stockholder Agreement
Exhibit H	Form of Echo Officers' Certificate
Exhibit I	Form of Echo Secretary's Certificate
Exhibit J	Form of Company Officers' Certificate
Exhibit K	Form of Company Secretary's Certificate
Exhibit L	Form of FIRPTA Certificate
Exhibit M	Cash Consideration Shares of Company Members

AGREEMENT AND PLAN OF MERGER AND REORGANIZATION

THIS AGREEMENT AND PLAN OF MERGER AND REORGANIZATION is made and entered into as of October 28, 2016, by and among Echo 360, Inc., a Delaware corporation (“**Echo**”), Echo 360 Holdings, Inc., a Delaware corporation and wholly-owned subsidiary of Echo (“**Parent**”), Astute Merger Sub, Inc., a Delaware corporation and wholly owned subsidiary of Parent (“**Astute Merger Sub**”), Echo 360 Merger Sub, Inc., a Delaware corporation and wholly owned subsidiary of Parent (“**Echo Merger Sub**”), and Astute Technology, LLC, a Virginia limited liability company (the “**Company**”). Capitalized terms used and not otherwise defined herein have the meanings set forth in Article 1 or Section 2.4(a), as applicable.

RECITALS:

A. The Boards of Directors of each of Parent, Echo, Echo Merger Sub, Astute Merger Sub and the Company Members of the Company have approved this Agreement, and deem it advisable, fair and in the best interests of their respective stockholders or members, as applicable, to effect the mergers provided for herein (the “**Mergers**”) and, in furtherance thereof, have approved the Mergers, this Agreement and the transactions contemplated hereby.

B. The Mergers are intended to be part of an integrated set of transactions pursuant to the terms of this Agreement.

C. Parent and Echo hereby adopt this Agreement as a “plan of reorganization” within the meaning of Treasury Regulations Section 1.368-2(g) with respect to the Echo Merger pursuant to which the Echo Merger will be treated as a reorganization under Section 368(a)(1) of the Code.

D. Parent, Echo and the Company intend that the Mergers constitute a Section 351 exchange under the Code..

E. As a condition and inducement to Echo’s and Parent’s willingness to enter into this Agreement and concurrently with the execution of this Agreement by the Company, the Company Members (as defined below) holding 100% of the Company Interests will (x) sign and deliver a consent to the applicable Merger in the form attached hereto as Exhibit A (the “**Members’ Consent**”) to be effective as of immediately following the execution of the Merger Agreement and (y) sign and deliver Joinder Agreements (as defined below).

NOW, THEREFORE, in consideration of the covenants, promises, representations and warranties set forth herein, and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by the parties), intending to be legally bound hereby, the parties agree as follows:

ARTICLE 1

CERTAIN DEFINITIONS

Definitions. As used in this Agreement, the following defined terms shall have the meanings indicated below:

“Accounting Firm” means BDO USA, LLP.

“Actions or Proceedings” means any action, suit, complaint, petition, investigation, proceeding, arbitration, litigation or Governmental or Regulatory Authority investigation, audit or other proceeding, whether civil or criminal, in law or in equity, or before any arbitrator or Governmental or Regulatory Authority.

“Affiliate” means, as applied to any Person, (a) any other Person directly or indirectly controlling, controlled by or under common control with, that Person, (b) any other Person that owns or controls (i) ten percent (10%) or more of any class of equity securities of that Person or any of its Affiliates or (ii) ten percent (10%) or more of any class of equity securities (including any equity securities issuable upon the exercise of any Option or convertible security) of that Person or any of its Affiliates, or (c) as to a corporation, each director and officer thereof, and as to a partnership, each general partner thereof, and as to a limited liability company, each managing member or similarly authorized person thereof (including officers), and as to any other entity, each Person exercising similar authority to those of a director or officer of a corporation. For the purposes of this definition, “control” (including with correlative meanings, the terms “controlling,” “controlled by,” and “under common control with”) as applied to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of that Person, whether through ownership of voting securities or by Contract or otherwise.

“Agreed Amount” has the meaning ascribed to it in Section 9.4(b).

“Agreement” means this Agreement and Plan of Merger and Reorganization, including (unless the context otherwise requires) the Exhibits and the Company Disclosure Schedule and the Parent Disclosure Schedule and the certificates and instruments delivered in connection herewith, or incorporated by reference, as the same may be amended or supplemented from time to time in accordance with the terms hereof.

“Ancillary Agreements” has the meaning ascribed to it in Section 3.2.

“Approval” means any approval, authorization, consent, permit, qualification or registration, or any waiver of any of the foregoing, required to be obtained from or made with, or any notice, statement or other communication required to be filed with or delivered to, any Governmental or Regulatory Authority or any other Person.

“Assets and Properties” of any Person means all assets and properties of every kind, nature, character and description (whether real, personal or mixed, whether tangible or intangible, whether absolute, accrued, contingent, fixed or otherwise and wherever situated),

including the goodwill related thereto, operated, owned, licensed or leased by such Person, including cash, cash equivalents, investment assets, accounts and notes receivable, chattel paper, documents, instruments, general intangibles, real estate, equipment, inventory, goods and Intellectual Property.

“**Associate**” means, with respect to any Person, any corporation or other business organization of which such Person is an executive officer or partner or is the beneficial owner, directly or indirectly, of ten percent (10%) or more of any class of equity securities, any trust or estate in which such Person has a substantial beneficial interest or as to which such Person serves as a trustee or in a similar capacity and any relative or spouse of such Person, or any relative of such spouse, who has the same home as such Person.

“**Astute Merger Effective Time**” has the meaning ascribed to it in Section 2.3(b).

“**Astute Merger Sub Common Stock**” means the common stock, par value \$0.001 per share, of Astute Merger Sub.

“**Astute Surviving Company**” has the meaning ascribed to it in Section 2.3(a).

“**Basket Amount**” has the meaning ascribed to it in Section 9.10(a).

“**Board of Directors**” means the board of directors, board of managers, controlling members or similar managing body of an entity.

“**Books and Records**” means all files, documents, instruments, papers, books and records relating to the business or condition of a Person, including financial statements, internal reports, Tax Returns and related work papers and letters from accountants, budgets, pricing guidelines, ledgers, journals, deeds, title policies, minute books, stock certificates and books, stock transfer ledgers, Contracts, Licenses, customer lists, computer files and programs (including data processing files and records), retrieval programs, operating data and plans and environmental and other studies and plans.

“**Business Day**” means a day other than Saturday, Sunday or any day on which federally chartered banks located in New York, New York are authorized or obligated to close.

“**Cash Consideration Share**” means, as to each Company Member, the portion of the Cash Merger Consideration payable to such Company Member as of the Closing, the Second Cash Payment Date, the Third Cash Payment Date, the Fourth Cash Payment Date and the Fifth Cash Payment Date, in each case as set forth on Exhibit M.

“**Certificates of Merger**” means, individually or collectively, as the context requires, the Echo Merger Certificate of Merger, the Astute Merger Articles of Merger and the Astute Merger Certificate of Merger.

“**Change of Control Event**” means, with respect to Parent, Echo Surviving Company or Astute Surviving Company (each, a “**Relevant Entity**”):

(i) a merger or consolidation in which (A) a Relevant Entity is a constituent party or (B) a subsidiary of a Relevant Entity is a constituent party and a Relevant Entity issues shares of its capital stock or other equity interests pursuant to such merger or consolidation, except in each case any such merger or consolidation involving a Relevant Entity or a subsidiary of a Relevant Entity in which the shares of capital stock or other equity interests of such Relevant Entity outstanding immediately prior to such merger or consolidation continue to represent, or are converted into or exchanged for shares of capital stock or other equity interests that represent, immediately following such merger or consolidation, at least a majority, by voting power, of the capital stock or other equity interests of (1) the surviving or resulting entity; or (2) if the surviving or resulting entity is a wholly owned subsidiary of another entity immediately following such merger or consolidation, the parent entity of such surviving or resulting entity; or

(ii) the sale, lease, transfer, exclusive license or other disposition, in a single transaction or series of related transactions, by a Relevant Entity or any subsidiary of a Relevant Entity of all or substantially all the assets of a Relevant Entity and its subsidiaries taken as a whole, or the sale or disposition (whether by merger, consolidation or otherwise) of one or more subsidiaries of a Relevant Entity if substantially all of the assets of such Relevant Entity and its subsidiaries taken as a whole are held by such subsidiary or subsidiaries, except where such sale, lease, transfer, exclusive license or other disposition is to a wholly owned subsidiary of a Relevant Entity.

“*Claim Notice*” has the meaning ascribed to it in Section 9.4(a).

“*Claimed Amount*” has the meaning ascribed to it in Section 9.4(a).

“*Closing*” means the closing of the Mergers contemplated by this Agreement.

“*Closing Date*” means the date on which the Closing actually occurs.

“*Code*” means the United States Internal Revenue Code of 1986, as amended, and the rules and regulations promulgated thereunder.

“*Company*” means Astute Technology, LLC, a Virginia limited liability company, and all of its Subsidiaries (unless the context requires otherwise).

“*Company Disclosure Schedule*” has the meaning ascribed to it in Article 3.

“*Company Financials*” means the balance sheets of the Company for the fiscal years ended December 31, 2013, December 31, 2014 and December 31, 2015, and the related income statements and statements of cash flows for the fiscal years then ended, including the notes thereto together with the notes thereto and the unqualified report of the Company’s independent accountants with respect thereto, and the unaudited balance sheet of the Company as of July 31, 2016, and the related unaudited income statements and statements of cash flows for the seven-months period ended July 31, 2016 (collectively, the “*Company Interim Financials*”).

“Company Indemnitee” means the (a) Company Members; (b) current and future affiliates of the Company Members; (c) the respective Representatives of the Persons referred to in clauses “(a)” and “(b)” above; and (d) the respective successors and assigns of the Persons referred to in clauses “(a)”, “(b)” and “(c)” above.

“Company Intellectual Property” means any Intellectual Property that (a) is owned by; (b) is licensed to; (c) was developed or created by or for the Company or any of its subsidiaries and affiliates or (d) is used in or necessary for the conduct of the business of the Company as presently or heretofore conducted or as proposed to be conducted, including any Intellectual Property created by any of the Company’s founders, employees, independent contractors or consultants for or on behalf of the Company.

“Company Interests” means the entire membership interest owned by each member of the Company.

“Company Lease” means that certain Lease Agreement by and between the Company and Bowman House Associates, LLC, dated May 1, 2003.

“Company Members” means all holders of Company Interests immediately prior to the Closing.

“Company Operating Agreement” means the Company’s Amended and Restated Operating Agreement, dated January 1, 2008, as amended by August 1, 2016.

“Company Registered Intellectual Property” means all Registered Intellectual Property owned by, filed in the name of, assigned to or applied for by, the Company.

“Confidentiality Agreement” has the meaning ascribed to it in Section 6.1.

“Contract” means any legally binding agreement, lease, evidence of Indebtedness, mortgage, indenture, security agreement or other contract or business arrangement (whether written or oral).

“Controlled Group” has the meaning ascribed to it under the term “Plan” in this Section.

“Decided Amount” has the meaning ascribed to it in Section 9.4(d).

“Delaware Code” means the General Corporation Law of the state of Delaware and all amendments thereto.

“Director” means a director, manager or similar member of a Board of Directors.

“Disputed Amounts” has the meaning ascribed to it in Section 2.5(c)(iv).

“Echo Capital Stock” means shares of capital stock of Echo.

“Echo Common Stock” means shares of common stock, \$0.005 par value per share, of Echo.

and regulations promulgated by the SEC thereunder (the “*Securities Act*”) by reason of Section 4(2) of the Securities Act or Regulation D as promulgated under the Securities Act.

2.9 No Further Ownership Rights. The Merger Consideration issued upon the surrender for exchange of the Company Interests in accordance with the terms hereof shall be deemed to have been issued in full satisfaction of all rights pertaining to all ownership interests in the Company, and there shall be no further registration of transfers on the records of the Company of any ownership interests which were outstanding immediately prior to the Closing. If, after the Closing, certificates or other claims representing any ownership interests in the Company are presented for any reason, they shall be canceled without consideration.

2.10 Taking of Necessary Action; Further Action. If, at any time after the Closing, any further action is necessary or desirable to carry out the purposes of this Agreement or to vest the Surviving Entities with full right, title and possession to all assets, property, rights, privileges, powers and franchises of any Merger Subsidiary, or to effect the assignment to the Surviving Entities of any and all Company Intellectual Property created by a founder, employee or consultant of the Company, or to complete and prosecute all domestic and foreign patent filings related to such Company Intellectual Property, the officers and directors of the Surviving Entities are fully authorized to take, and shall take, all such lawful and necessary action.

2.11 Withholding. Each of the Astute Surviving Company and Parent shall be entitled to deduct and withhold from the consideration otherwise payable to any Person pursuant to this Article 2 such amounts as it is required to deduct and withhold with respect to the making of such payment under any provision of federal, state, local or foreign tax Law; provided, however, that Astute Surviving Company and Parent shall provide written notice to such Person prior to such deduction or withholding pursuant to this Section 2.11. To the extent that amounts are so withheld by the Astute Surviving Company or Parent, as the case may be, such withheld amounts shall be treated for all purposes of this Agreement as having been paid to the holder of the ownership interests in respect of which such deduction and withholding was made by the Astute Surviving Company or Parent, as the case may be.

2.12 Reservation of Shares. Parent shall reserve sufficient shares of Parent Common Stock for issuance pursuant to this Article 2.

ARTICLE 3

REPRESENTATIONS AND WARRANTIES OF THE COMPANY

Subject to the exceptions set forth in the disclosure schedule (each of which exceptions, in order to be effective, shall clearly indicate the Section and, if applicable, the Subsection of this Article 3 to which it relates, delivered herewith and dated as of the date hereof; provided, however, that any information disclosed in a Section or Subsection shall be deemed to be disclosed in such other Sections or Subsections to which the relevance of such matters is reasonably apparent on its face) (the “*Company Disclosure Schedule*”), the Company hereby represents and warrants to Parent and Merger Subsidiaries as follows:

3.1 Organization and Qualification.

(a) The Company is a limited liability company duly organized, validly existing and in good standing under the Laws of the Commonwealth of Virginia, and has full limited liability power and authority to conduct its business as now conducted and as currently proposed to be conducted and to own, use, license and lease its Assets and Properties.

(b) The Company is duly qualified, licensed or admitted to do business and is in good standing as a foreign company in each jurisdiction in which the ownership, use, licensing or leasing of its Assets and Properties, or the conduct or nature of its business, makes such qualification, licensing or admission necessary. Section 3.1(b) of the Company Disclosure Schedule sets forth each jurisdiction where the Company is so qualified, licensed or admitted to do business and separately lists each other jurisdiction in which the Company owns, uses, licenses or leases its Assets and Properties, or conducts business or has employees or engages independent contractors.

(c) Except as set forth in Section 3.1(c) of the Company Disclosure Schedule, the Company does not presently own or control, directly or indirectly, any interest in any other corporation, association, or other business entity nor has the Company ever held any such interest. The Company has not undertaken to or committed itself to acquire any such interest in the future or is negotiating to acquire any such equity interest. The Company is not a participant in any joint venture, partnership, or similar arrangement nor has the Company ever been a participant in any such arrangement.

3.2 Authority Relative to this Agreement. Subject only to the effectiveness of the Members' Consent, the Company has full limited liability company power and authority to execute and deliver this Agreement and the other agreements which are attached (or forms of which are attached) as exhibits hereto (the "**Ancillary Agreements**") to which the Company is a party, to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The Company Members have approved this Agreement. The execution and delivery by the Company of this Agreement and the Ancillary Agreements to which the Company is a party and the consummation by the Company of the transactions contemplated hereby and thereby, and the performance by the Company of its obligations hereunder and thereunder, have been duly and validly authorized by all necessary action by the Company Members, and no other action on the part of such Company Members is required to authorize the execution, delivery and performance of this Agreement and the Ancillary Agreements to which the Company is a party and the consummation by the Company of the transactions contemplated hereby and thereby. The only votes or consents required to approve this Agreement by the members of the Company is the Members' Consent. Subject to the receipt of the approval of the Company Members as contemplated in the Recitals, this Agreement and the Ancillary Agreements to which the Company is a party have been or will be, as applicable, duly and validly executed and delivered by the Company and, assuming the due authorization, execution and delivery hereof (and, in the case of the Ancillary Agreements to which Parent or a Merger Subsidiary is a party, thereof) by Parent and/or Merger Subsidiary, each constitutes or will constitute, as applicable, a legal, valid and binding obligation of the Company enforceable against the Company in accordance with their respective terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, fraudulent conveyance,

reorganization, moratorium or other similar Laws relating to the enforcement of creditors' rights generally and by general principles of equity.

3.3 Equity Interests.

(a) Section 3.3(a) of the Company Disclosure Schedule fully and accurately details as of the date hereof the holders' name, address (being the residential or principal place of business as provided to the Company by Company Members), the equity interest held by such holder which has been reflected on the register of members of the Company and the Stock Consideration Share to be assigned to such Company Member. The Company Interests held by the Company Members are the only issued and outstanding equity interests in the Company. There are no Options or other rights to subscribe for or to purchase any equity interests in the Company, or securities convertible into or exchangeable therefor, and the Company has not committed to issue any such Options or other right.

(b) Except as set forth on Schedule 3.3(b), all issued Company Interests are validly issued and fully paid and not subject to repurchase or any rights of preemption, right of first refusal, co-sale right, right of participation, right of first offer, Option or other restriction on transfer applicable to any Company Interest. All outstanding securities of the Company have been issued in compliance with applicable laws and regulations, including all applicable securities laws.

(c) The Company is not a party to or subject to any agreement or understanding, and there is no voting trust, proxy, or other agreement or understanding between or among any persons that affects or relates to the voting or giving of written consent with respect to any outstanding security of the Company, the appointment of officers or managers or other actions of the management of the Company.

(d) No resolutions have been made regarding the issuance of new membership interests, shares, Options or other convertible instruments to issue or purchase membership interests, shares, debt instruments with a right to subscribe for new shares or any other equivalent instruments.

3.4 Non-Contravention. Except as set forth on Schedule 3.4 of the Company Disclosure Schedule, the execution, delivery and performance of this Agreement and the transactions contemplated hereby (a) will not result in any violation of, conflict with, constitute a breach, violation or default (with or without notice or lapse of time, or both) under, give rise to a right of termination, cancellation, forfeiture or acceleration of any obligation or loss of any benefit under, or result in the creation or encumbrance on any of the properties or assets of the Company pursuant to (i) any provision of the Company's Governing Documents, or (ii) any agreement, Contract, understanding, note, mortgage, indenture, lease, franchise, license, permit or other instrument to which the Company is a party or by which the properties or assets of the Company is bound, or (b) conflict with or result in any breach or violation of or require any consent, approval or action of, or require the Company, or any member, to make any filing with or under any statute, judgment, decree, Order, rule or governmental regulation applicable to the Company, or its properties or assets or any Governmental or Regulatory Authority.

3.5 Company Financial Statements.

(a) Except as set forth on Section 3.5(a) of the Company Disclosure Schedule, the Company Financials, which statements are attached hereto as Section 3.5(a) of the Company Disclosure Schedule, have been prepared in accordance with GAAP applied on a basis consistent throughout the periods indicated and consistent with each other, subject to, in the case of the Company Interim Financials, normal recurring year-end adjustments set forth on Section 3.5(a) of the Company Disclosure Schedule, which will not be material individually or in the aggregate. The Company Financials present fairly and accurately, in all material respects, the financial condition and operating results of the Company as of the dates and during the periods indicated therein. No independent auditor's report in respect of the Company Financials, as applicable, contains any reservation or supplementary information and such auditor's report(s) certify, and will certify, as applicable such accounts unconditionally and without qualifications.

(b) As of December 31, 2015 and as of the Closing Date, except as set forth on Section 3.5(b) of the Company Disclosure Schedule, the Company has had no and will have no Liabilities or obligations, secured or unsecured (whether accrued, absolute, contingent or otherwise and whether or not required to be reflected on the Company Financials under GAAP) not reflected in the Company Financials, respectively, other than Liabilities and obligations that have arisen in the ordinary course of business since December 31, 2015 and have not resulted in a Material Adverse Effect on the Company and other than Liabilities and obligations incurred in connection with the negotiation and execution of this Agreement and the consummation of the transactions contemplated hereby.

(c) Since December 31, 2015, neither the Company nor, to the Knowledge of the Company, any officer, member, manager, employee, auditor, accountant or representative of the Company, has received or otherwise obtained knowledge of any complaint, allegation, assertion or claim regarding the accounting or auditing practices, procedures, methodologies or methods of the Company or its internal accounting controls.

3.6 Books and Records; Organizational Documents. The equity record books and other similar records of the Company have been provided to Parent or its counsel prior to the execution of this Agreement, are complete and correct in all respects and have been maintained in accordance with sound business practices. Such records contain a true and complete record of all actions taken at all meetings and by all written consents in lieu of meetings of the members, managers and committees of the Company from the date of its organization through the date hereof. The Company has prior to the execution of this Agreement delivered to Parent true and complete copies of the Governing Documents of the Company, in each case as amended through the date hereof. The Company is not in violation of any provisions of its Governing Documents.

3.7 No Undisclosed Liabilities. Except for Liabilities identified as such in the "liabilities" column of the most recent balance sheet included in the Company Financials or as disclosed in Section 3.7 of the Company Disclosure Schedule, there are no Liabilities of, relating to or affecting the Company or any of its Assets and Properties, other than Liabilities incurred in the ordinary course of business consistent with past practice since the Financial

Statement Date and in accordance with the provisions of this Agreement which, individually and in the aggregate, are not material to the business or condition of the Company, and are not for tort or for breach of contract.

3.8 Ordinary Course and No Material Adverse Change.

(a) Except as set forth in Section 3.8(a) of the Company Disclosure Schedule, since December 31, 2015, the Company's business has been conducted only in the ordinary course of business, consistent with past practice; and during such period no dividend or distribution has been declared or made by the Company; and during such period there has not occurred or arisen any Material Adverse Change, extraordinary event or extraordinary loss in relation to the Company or its business and the Company has not agreed to or arranged to do any of the foregoing.

(b) Since December 31, 2015, the Company has not:

(i) incurred or committed to incur any:

(1) capital expenditures in excess of \$50,000 in the aggregate;

(2) Indebtedness in excess of \$50,000; or

(3) Liability in excess of \$50,000, except for full value or in the ordinary course of business;

(ii) acquired or agreed to acquire:

(1) any asset for a consideration higher than its market value at the time of acquisition or otherwise than in the ordinary course of business; or

(2) any business or substantial part of it or any share or shares in a body corporate;

(iii) disposed of or agreed to dispose of any of their assets or licensed any of their Intellectual Property, except in the ordinary course of business consistent with past practice and for full value;

(iv) repaid wholly or in part any loan except upon the due date or dates for repayment;

(v) failed to pay or otherwise satisfy any material Liabilities presently due and payable;

(vi) except as set forth in Section 3.8(b)(iv) of the Company Disclosure Schedule, issued any equity interests in the Company, admitted any new member, purchased or redeemed any membership interests, reduced or re-organized its share capital or agreed to do so.

(c) The Company has made available to Parent all documents relating to Indebtedness, loan and other financial facilities available to the Company, and the Company has not received any notice that the continuance of any of those facilities might be materially adversely affected or prejudiced.

(d) The Company is not in default under, or in breach of, any of the material terms of any loan capital, borrowing, debenture or financial facility of the Company.

(e) The Company is not, nor has it agreed to become, bound by any guarantee, indemnity, surety or similar commitment which has not been reflected in the Company Financials.

(f) The Company has not received any grants, allowances, loans or financial aid of any kind from any government departmental or other board, body, agency or authority which may become liable to be refunded or repaid in whole or in part.

(g) The Company has not engaged in financing of a type which is not required to be, or has not been, shown or reflected in the Company Financials.

3.9 Insurance Coverage. The Company has made available to Parent true, correct and complete copies of all policies of insurance issued at the request or for the benefit of the Company. Such policies are and will be outstanding and duly in force on the Closing Date and after the Closing. To the Knowledge of the Company, there are no circumstances that will (i) lead to a claim against such insurance or (ii) lead to any such insurance being revoked, violated or not renewed in the ordinary course.

3.10 Title; Real Property.

(a) The Company has good and valid title to, or a valid leasehold interest in, all of its respective assets, including but not limited to all assets reflected in the Company Financials, free and clear of all Encumbrances, other than Permitted Encumbrances.

(b) The Company does not own (and has never owned) any real property and is not registered (and has never been registered) as owner of any real property.

(c) The Company is not a party to any real property lease agreement other than as listed in Section 3.10(c) of the Company Disclosure Schedule, true and complete copies of which have been delivered to Parent. The offices leased by the Company are adequate for use in the business operated by the Company. The Company is not in breach of any terms of any lease agreement to which it is a party, including the lease agreement for its offices.

(d) The Assets and Properties of the Company at Closing will include all of the assets necessary or useful for the conduct of the business of the Company.

3.11 Intellectual Property.

(a) Section 3.11(a) of the Company Disclosure Schedule lists all Company Registered Intellectual Property (including all trademarks and service marks that the Company

has used with the intent of creating or benefiting from any common law rights relating to such marks) and lists any proceedings or actions pending as of the date hereof before any court or tribunal (including the PTO or equivalent authority anywhere in the world) related to any of the Company Registered Intellectual Property.

(b) The Company has all requisite right, title and interest in or valid and enforceable rights under Contracts or Licenses to use all Company Intellectual Property necessary to the conduct of its business as currently conducted.

(i) Except as set forth in Section 3.11(b)(i) of the Company Disclosure Schedule, each item of Company Intellectual Property, including all Company Registered Intellectual Property listed in Section 3.11(a) of the Company Disclosure Schedule, is owned exclusively by the Company (excluding Intellectual Property licensed to the Company under any License disclosed under Section 3.11(f) of the Company Disclosure Schedule) and is free and clear of any Encumbrances. Without limiting the generality of the foregoing, the Company owns exclusively all trademarks, service marks and trade names used by the Company in connection with the operation or conduct of the business of the Company as currently conducted, including the sale of any products or technology or the provision of any services by the Company; *provided, however*, that the Company may use trademarks, service marks and trade names of third parties which are licensed to the Company, as disclosed under Section 3.11(f) of the Company Disclosure Schedule, or are in the public domain.

(ii) Without limiting the generality of the foregoing, the Company owns exclusively, and has good title to, each copyrighted work that is a Company product and each other work of authorship that the Company otherwise purports to own or is used by the Company in connection with the operation or conduct of its business as currently conducted or provision of services by the Company, other than works disclosed under Section 3.11(f) of the Company Disclosure Schedule.

(c) To the extent that any Company Intellectual Property has been developed or created by any Person other than the Company, the Company has a written agreement with such Person with respect thereto and the Company has either (i) obtained ownership of, and is the exclusive owner of, all such Intellectual Property by operation of Law or by valid assignment of any such rights or (ii) has obtained a License under or to such Intellectual Property as disclosed under Section 3.11(f) of the Company Disclosure Schedule.

(d) Except pursuant to agreements described in Section 3.11(d) of the Company Disclosure Schedule, the Company has not transferred ownership of any Intellectual Property, that is or was Company Intellectual Property, to any other Person.

(e) Except as set forth in Section 3.11(e) of the Company Disclosure Schedule, the Company Intellectual Property constitutes all the Intellectual Property used in and/or necessary to the conduct of the Company's business as currently conducted, including the design, development, distribution, marketing, manufacture, use, import, license, and sale of the products, technology and services of the Company (including products, technology, or services currently under development).

IN WITNESS WHEREOF, Parent, Echo, Merger Subsidiaries and the Company have caused this Agreement to be signed by their duly authorized representatives, all as of the date first written above.

ASTUTE TECHNOLOGY, LLC

ECHO 360 HOLDINGS, INC.

By 

By _____

Name Jonathan McNeil

Name _____

Title CEO

Title _____

ECHO 360, INC.

By _____

Name _____

Title _____

ECHO 360 MERGER SUB, INC.

By _____

Name _____

Title _____

ASTUTE MERGER SUB, INC.

By _____

Name _____

Title _____

[Counterpart Signature Page to Agreement and Plan of Merger and Reorganization]

IN WITNESS WHEREOF, Parent, Echo, Merger Subsidiaries and the Company have caused this Agreement to be signed by their duly authorized representatives, all as of the date first written above.

ASTUTE TECHNOLOGY, LLC

ECHO 360 HOLDINGS, INC.

By _____

By Anthony Abate

Name _____

Name Anthony Abate

Title _____

Title COO

ECHO 360, INC.

By Anthony Abate

Name Anthony Abate

Title COO

ECHO 360 MERGER SUB, INC.

By Anthony Abate

Name Anthony Abate

Title COO

ASTUTE MERGER SUB, INC.

By Anthony Abate

Name Anthony Abate

Title COO