

## **PLAN ADMINISTRATOR AGREEMENT**

This Plan Administrator Agreement (“Agreement”) is made on this <sup>10</sup> \_\_\_ day of June, 2021 (the “Effective Date”), by and between SITO Mobile, Ltd. (“SITO Limited”), the debtor and debtor-in-possession (collectively, with SITO Mobile Solutions, Inc., (“SITO Solutions”) and SITO Mobile R&D IP, LLC. (“SITO R&D”), the “Debtors”) and Daniel M. Stolz (the “Plan Administrator”) (collectively “the Parties”).<sup>1</sup>

### **RECITALS:**

A. On October 8, 2020 (the “Petition Date”), the Debtors filed a voluntary petition for relief pursuant to chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the District of New Jersey (the “Bankruptcy Court”).<sup>2</sup>

B. Since the Petition Date, the Debtors have continued to manage their affairs as debtors-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

C. On November 3, 2020, the Office of the United States Trustee appointed a statutory committee in the Bankruptcy Case (the “Committee”).

D. On June \_\_, 2021, the Debtors filed the Joint Plan of Reorganization with the Bankruptcy Court (the “Plan”). The Plan appoints a Plan Administrator who, as of the Effective Date, has the powers and duties set forth in the Plan, this Agreement and the order confirming the Plan (the “Confirmation Order”). The Parties hereto acknowledge that the Plan Administrator shall, not individually but on behalf of the Estate, succeed to the rights and obligations of the Debtors as set forth in the Plan, the Confirmation Order, and this Agreement.

NOW, THEREFORE, in consideration of the foregoing and the covenants and agreements set forth herein, the Parties hereto agree as follows:

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<sup>1</sup> Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Debtors’ *Plan of Reorganization*, as may be amended, supplemented, or modified from time to time.

<sup>2</sup> The Debtors’ jointly administered cases are captioned In re SITO Mobile Solutions, Inc., Case No. 20-21436-SLM.

## ARTICLE I

### ACCEPTANCE OF POSITION

#### **1.1 Acceptance.**

By signing this Agreement, Daniel M. Stolz accepts his appointment as the Plan Administrator and agrees to observe and perform all duties and obligations imposed upon the Plan Administrator under the Plan, this Agreement, the Confirmation Order and any other applicable orders of the Bankruptcy Court, and applicable law.

## ARTICLE II

### THE PLAN ADMINISTRATOR

#### **2.1 General Powers, Rights and Responsibilities.**

On the Effective Date, the Plan Administrator shall become the exclusive representative of the Estate. The powers and duties of the Plan Administrator shall include, without limitation or further order of the Bankruptcy Court, the following:

(a) to invest Cash in accordance with Section 345 of the Bankruptcy Code, and withdraw and make distributions of Cash to Holders of Allowed Claims and pay taxes and other obligations owed by the Debtors or incurred by the Plan Administrator in connection with the wind-down of the Estate in accordance with the Plan;

(b) to receive, manage, invest, supervise, and protect the Assets, including paying taxes or other obligations incurred in connection with administering the Assets;

(c) to engage attorneys, consultants, agents, employees and all professional persons, to assist the Plan Administrator with respect to the Plan Administrator's responsibilities;

(d) to pay the fees and expenses for the attorneys, consultants, agents, employees and professional persons engaged by the Plan Administrator and to pay all other expenses in connection with administering the Plan and for winding down the affairs of the Debtors in accordance with the Plan;

(e) to execute and deliver all documents, and take all actions, necessary to consummate the Plan and liquidate the Estate's Assets;

(f) to dispose of, and deliver title to others of, or otherwise realize the value of, all the remaining Assets;

(g) to coordinate the storage and maintenance of the Estate's books and records;

(h) to oversee compliance with the Estate's accounting, finance and reporting obligations;

(i) to prepare any and all required reports and financial statements, including required U.S. Trustee reports, until such time as a final decree has been entered;

(j) to oversee the filing of final tax returns, audits and other dissolution documents, if required;

(k) to perform any additional actions as necessary to carry out the wind-down and administration of the Estate;

(l) except as otherwise provided herein or in the Plan, to object to Claims against the Estate;

(m) except as otherwise provided herein or in the Plan, to compromise and settle Claims against the Estate;

(n) except as otherwise provided herein or in the Plan, to act on behalf of the Estate in all adversary proceedings and contested matters (including, without limitation, any Causes of Action), pending as of the Effective Date or that can be commenced in the Bankruptcy Court and in all actions and proceedings pending or commenced elsewhere, and to settle, retain, enforce, or dispute any adversary proceedings or contested matters (including, without limitation, any Causes of Action) and otherwise pursue actions involving Assets of the Estate that could arise or be asserted at any time under the Bankruptcy Code or otherwise, unless otherwise specifically waived or relinquished in the Plan;

(o) to implement and/or enforce all provisions of the Plan; and

(p) to use such other powers as may be vested in or assumed by the Plan Administrator pursuant to the Plan or order of the Bankruptcy Court or as may be necessary and proper to carry out the provisions of the Plan.

**2.2 Assumption of Control and Maintenance of Accounts, Reserves, and Escrows.**

On the Effective Date (or as soon thereafter as practicable), the Plan Administrator shall assume control, maintain and continue to fund as is necessary the Reserves in accordance with Section 4.11 of the Plan:

(a) Professional Fee Claim Reserve. On the Effective Date or as soon thereafter as is practicable, the Plan Administrator shall assume control of the Professional Fee Claim Reserve in accordance with Section 2.01(A) of the Plan. If the Plan Administrator determines, within his sole discretion, that additional funding of the Professional Fee Claim Reserve is required following the Effective Date, such funding shall be made from the Net Estate Assets.

(b) Disputed Claims Reserve. On the Effective Date or as soon thereafter as is practicable, the Plan Administrator shall assume control of the Disputed Claims Reserve in accordance with Section 4.08 of the Plan. If the Plan Administrator determines, within his sole discretion, that additional funding of the Disputed Claims Reserves is required following the Effective Date, such funding shall be made from the Net Estate Assets.

**2.3 Authority to Object to Claims and Equity Interests and to Settle Disputed Claims.**

From and after the Effective Date, the Plan Administrator, on behalf of the Estate, shall be solely authorized, with respect to those Claims or Interests which are not Allowed hereunder or by Court order, to object to any Claims or Equity Interests filed against any of the Estate and to compromise and settle Disputed Claims against the Estate.

**2.4 Distributions.**

Following the Effective Date, Distributions shall be made by the Plan Administrator in accordance with Article III and Section 4.07 of the Plan, which terms are expressly incorporated herein.

**2.5 Transactions with Related Persons.**

Notwithstanding any other provisions of this Agreement, the Plan Administrator shall not knowingly, directly or indirectly, sell or otherwise transfer all or any part of the Assets to, or contract with, (a) any relative, employer, or agent (acting in their individual capacities) of the

Plan Administrator or (b) any person of which any employer or agent of the Plan Administrator is an affiliate by reason of being a trustee, managing director, officer, partner, principal, or direct or indirect beneficial owner of five percent (5%) or more of the outstanding capital stock, shares, or other equity interest of such persons unless, in each such case, after full disclosure of such interest or affiliation, such transaction is approved by the Bankruptcy Court and determined that such transaction is fair and reasonable and no less favorable than terms available for a comparable transaction with unrelated persons; provided, however, that the Plan Administrator is not prohibited from retaining his employer as a professional in connection with the Plan Administrator's fulfillment of his duties hereunder and under the Plan.

## **2.6 Investment of Cash.**

The Plan Administrator shall invest any Cash held in any Reserve in (A) direct obligations of the United States of America or obligations of any agency or instrumentality thereof which are guaranteed by the full faith and credit of the United States of America; (B) money market deposit accounts, checking accounts, savings accounts or certificates of deposit, or other time deposit accounts that are issued by a commercial bank or savings institution organized under the laws of the United States of America or any state thereof; or (C) any other investments that may be permissible under (i) Section 345 of the Bankruptcy Code or (ii) any order of the Bankruptcy Court. Such investments shall mature in such amounts and at such times as the Plan Administrator, in the Plan Administrator's discretion, shall deem appropriate to provide funds when needed to transfer funds or make payments in accordance with the Plan and this Agreement. The interest or other income earned on the investments of the Cash in any given Reserve established pursuant to this Agreement, the Plan, or any order of the Bankruptcy Court

shall constitute a part of such Reserve, unless and until transferred or distributed pursuant to the terms of the Plan, this Agreement, or order of the Bankruptcy Court.

**2.7 Control and Maintenance of Assets, Reserves, and Cash.**

Notwithstanding anything in this Agreement to the contrary, the Plan Administrator is authorized in his sole discretion to (i) move or transfer any Asset, Reserve, or Cash among various permitted investments at any time in order to comply with the rules of independence applicable to the accounting profession and (ii) refrain from making any investment or engaging in any other activity which may be in violation of such rules. The Plan Administrator shall not be liable for any action or omission which the Plan Administrator reasonably believes to be required for compliance with the preceding sentence.

**2.8 Compliance with Tax Withholding and Reporting Requirements.**

With respect to all payments and distributions made under the Plan, the Plan Administrator shall cause the Estate to comply with all withholding and reporting requirements of any federal, state, local or foreign taxing authority and, in the event the Plan Administrator retains accountants or other professionals, shall have the right to rely on the advice of such in connection with all tax matters.

**2.9 Tax Requirements for Income Generated by Disputed Claims Reserves.**

The Plan Administrator shall cause to be paid, out of the funds held in the Disputed Claims Reserve, any tax imposed by any federal, state, or local taxing authority on the income generated by the funds or property held in the Disputed Claims Reserve. The Plan Administrator shall cause to be filed, any tax or information return related to the Disputed Claims Reserve that is required by any federal, state, or local taxing authority.

**2.10 Books, Records, and Tax Returns.**

The Reorganized Debtor shall preserve for the benefit of the Estate all documents and files of the Estate, including electronic data hosted on remote servers, that are necessary for the prosecution of the Causes of Action and Claims resolution process. After the Effective Date, the Plan Administrator shall be permitted, in his sole discretion, to abandon, destroy, or otherwise dispose of those books and records in compliance with applicable non-bankruptcy law, provided, however, that, in the Plan Administrator's discretion, these books and records may be destroyed or disposed of beginning two (2) years after the Effective Date, notwithstanding any applicable laws, rules, or regulations that would have required the Debtor to retain such books and records. Further, the Plan Administrator shall preserve and maintain all documents, data and information responsive to any subpoena, litigation hold, or discovery request to which the Debtor is subject on or after the Effective Date, provided that the Plan Administrator was served with a subpoena or discovery request before the time period to destroy records. The Plan Administrator shall file notices with the Bankruptcy Court reflecting any abandonment of books and records prior to the two years from the Effective Date.

**2.11 Post-Confirmation Reports and Fees.**

Following the Effective Date and until the Bankruptcy Case is closed, converted or dismissed, not less than once every ninety (90) days, the Plan Administrator shall be responsible for the filing of all post-Effective Date reports required during such periods with the U.S. Trustee when due and payment from the Estate of all post-Effective Date fees when due, charged or assessed against the Estate under 28 U.S.C. § 1930 during such periods, together with applicable interest pursuant to 31 U.S.C. § 3717.

**2.12 Reliance by Plan Administrator.**

The Plan Administrator may rely, and shall be fully protected in acting or refraining from acting if he relies, upon any resolution, statement, certificate, instrument, opinion, report, notice, request, consent, order, or other instrument or document that he reasonably believes to be genuine and to have been signed or presented by the proper party or parties or to have been sent by the proper party or parties, and the Plan Administrator may conclusively rely as to the truth of the statements and correctness of the opinions expressed therein and shall be fully protected personally in acting thereon. The Plan Administrator may consult with and retain counsel and other professionals with respect to matters in their area of knowledge and/or experience. Any opinion of counsel shall be full and complete authorization and protection in respect of any action taken or not taken by the Plan Administrator. Further, the Plan Administrator shall be entitled to rely upon the advice of professionals in acting or failing to act and shall not be liable for any act taken or not taken in reliance thereon; provided, however, that this limitation of liability shall not release or absolve any professional for willful misconduct, fraud or gross negligence that may give rise to a claim against the Plan Administrator. The Plan Administrator shall have the right at any time to seek and rely upon instructions from the Bankruptcy Court concerning this Agreement, the Plan, or any other document executed in connection therewith, and the Plan Administrator shall be entitled to rely upon such instructions in acting or failing to act and shall not be liable for any act taken or not taken in reliance thereon.

**2.13 Reliance by Persons Dealing with the Plan Administrator.**

In the absence of actual knowledge to the contrary, any person dealing with the Debtor and the Liquidating Estate shall be entitled to rely on the authority of the Plan Administrator to act on behalf of the Liquidating Estate and the Debtor and shall have no obligation to inquire into the existence of such authority.



**2.14 Compensation.**

(a) The Plan Administrator shall be compensated from the Administrative Reserves. The Plan Administrator's compensation shall be \$650.00 per hour, payable on the first day of each month. The Plan Administrator shall also be entitled to reimbursement of all reasonable out-of-pocket expenses incurred in carrying out the terms of the Plan and this Agreement, including telephone, travel, facsimile, courier, postage, and other similar out-of-pocket expenses.

(b) The fees and expenses of professionals retained by the Plan Administrator on and after the Effective Date, shall be paid by the Plan Administrator within thirty (30) days of receipt or presentment of monthly, detailed invoices in respect of their services and expenses, or on such other terms as the Plan Administrator and the applicable professional may agree to, without the need for further Bankruptcy Court approval. Such post-Effective Date professionals shall provide the Plan Administrator with monthly, detailed invoices in respect of their services and expenses. Notwithstanding the foregoing, if the Plan Administrator objects in writing to the payment of any compensation, such disputed amount shall not be paid prior to the earlier of the resolution of such dispute or a ruling by the Bankruptcy Court. The Plan Administrator shall file notices with the Bankruptcy Court every three (3) months reflecting payments to professionals.

**2.15 Conflicts.**

Should the Plan Administrator perceive or any party in interest assert that the Plan Administrator holds a conflict of interest with regard to the performance of any aspect of his duties under the Plan Administrator Agreement, the issue shall first be brought to the attention of the United States Trustee and thereafter brought before the Bankruptcy Court for resolution.

**2.16 Windup and Closing Case.**

Once (a) the Plan has been fully administered, (b) all Disputed Claims have been resolved, (c) all Causes of Action have been resolved, and (d) all Assets have been reduced to Cash or abandoned, the Plan Administrator shall effect a final distribution of all Net Estate Assets (after reserving sufficient Cash to pay all unpaid expenses of administration of the Plan and all expenses reasonably expected to be incurred in connection with the final distribution) to Holders of Allowed Claims in accordance with the Plan.

After the Debtor's Estate has been fully administered, the Plan Administrator shall file the final account and report with the Bankruptcy Court. At such time, the Plan Administrator shall move for the Bankruptcy Court to enter a Final Decree closing the Bankruptcy Case pursuant to Section 350 of the Bankruptcy Code and Bankruptcy Rule 3022.

**2.17 No Agency Relationship.**

The Plan Administrator shall not be deemed to be the agent for any of the Holders of Claims in connection with the funds held or distributed pursuant to the Plan. The Plan Administrator shall not be liable for any mistake of fact or law or error of judgment or any act or omission of any kind unless it constitutes gross negligence, willful misconduct or fraud. The Plan Administrator shall be indemnified and held harmless, including the cost of defending such claims and attorneys' fees in seeking indemnification, by the Estate against any and all claims arising out of his or her duties under the Plan, except to the extent his or her actions constitute gross negligence, willful misconduct or fraud. The Plan Administrator may conclusively rely, and shall be fully protected personally in acting upon any statement, instrument, opinion, report, notice, request, consent, order, or other instrument or document which he or she believes to be genuine and to have been signed or presented by the proper party or parties. The Plan

Administrator may rely upon information previously generated by the Debtors and such additional information provided to him or her by former employees of the Debtors.

### **ARTICLE III**

#### **RELEASES AND INDEMNIFICATION; INSURANCE**

##### **3.1 Releases; Indemnification.**

The Plan Administrator, each of his respective designees, employees or professionals or any duly designated agent or representative of the Plan Administrator shall not be liable for any act or omission taken or omitted to be taken in their respective functions as outlined in the Plan, this Agreement and the order confirming the Plan other than for acts or omissions resulting from willful misconduct, gross negligence, or intentional fraud as determined by Final Order of the Bankruptcy Court. The Plan Administrator may, in connection with the performance of his respective functions, and in his sole and absolute discretion, consult with attorneys, accountants, financial advisors and agents, and shall not be liable for any act taken, omitted to be taken, or suffered to be done in accordance with advice or opinions rendered by such attorneys or other professionals. Notwithstanding such authority, the Plan Administrator shall not be under any obligation to consult with attorneys, accountants, financial advisors or agents, and his determination not to do so shall not result in the imposition of liability, unless such determination is based on willful misconduct, gross negligence or intentional fraud as determined by Final Order of the Bankruptcy Court. The Estate shall indemnify and hold harmless the Plan Administrator and his designees and professionals and all duly designated agents and representatives thereof (in their capacity as such) from and against all liabilities, losses, damages, claims, costs and expenses, including, but not limited to attorneys' fees and costs arising out of or due to such actions or omissions, or consequences of their actions or omissions with respect or

related to the performance of their duties or the implementation or administration of the Plan, the order confirming the Plan and this Agreement; provided, however, that no such indemnification will be made to such Persons for such actions or omissions as a result of willful misconduct, gross negligence or intentional fraud.

**3.2 Insurance.**

The Plan Administrator shall be authorized to obtain and pay for out of the Administrative Reserve all reasonably necessary insurance coverage for himself, his agents, representatives, professionals, or other independent contractors, the Debtor, including, but not limited to, coverage with respect to (i) any property that is or may in the future become the property of the Debtor or the Liquidating Estate and (ii) the liabilities, duties, and obligations of the Plan Administrator, and his agents, representatives, professionals, or other independent contractors under this Agreement, and any other indemnified parties, in the form of an errors and omissions policy or otherwise, the latter of which insurance coverage may, at the sole option of the Plan Administrator, remain in effect for a reasonable period (not to exceed seven (7) years) after the termination of this Agreement.

**ARTICLE IV**

**TERMINATION AND RESIGNATION**

**4.1 Term of Service.**

The Plan Administrator shall serve until the earliest of (a) the completion of all the Plan Administrator's duties, responsibilities and obligations under the Plan and this Agreement, (b) dissolution of the Estate in accordance with the Plan, and (c) the Plan Administrator's death, incapacitation, resignation, or removal for cause.

**4.2 Resignation.**

The Plan Administrator may resign as such by written notice to the Bankruptcy Court and

the notice parties included in Section 10.11 of the Plan. In the event of his resignation, the Plan Administrator shall give at least thirty (30) days' notice of such resignation to the Bankruptcy Court and the notice parties included in Section 10.11 of the Plan. Such resignation will not be effective until expiration of that thirty-day notice period; provided, however, that the Plan Administrator shall continue to serve as Plan Administrator after resignation until such resignation is effective under this paragraph or appointment of a successor Plan Administrator by the Bankruptcy Court, whichever occurs earlier. Notwithstanding the foregoing, the Plan Administrator may resign and terminate the performance of his services as the Plan Administrator at any time upon written notice to the Bankruptcy Court and the notice parties included in Section 10.11 of the Plan if the Plan Administrator determines in his sole discretion that the performance of any part of this Agreement would be in conflict with law or independence or professional rules.

#### **4.3 Removal of the Plan Administrator for Good Cause.**

Any creditor may seek to remove the Plan Administrator only for good cause by filing the appropriate motion with the Bankruptcy Court upon at least thirty (30) days' prior notice. For purposes of both this provision, good cause means:

(a) theft, dishonesty, fraud or willful misconduct, including intentional falsification of any employment or other records;

(b) gross negligence or material failure in the performance of any material duties under the Plan, which is (i) repeated or continued after written notice of, and a reasonable opportunity to cure, such gross negligence or material failure, and (ii) injurious to the Estate; or

(c) the arrest, indictment or conviction (including any plea of guilty or no contest) for any felony or other crime involving dishonesty or moral turpitude.

If there is a dispute between the Plan Administrator and a creditor regarding whether good cause exists for removal, and such dispute is not consensually resolved within thirty (30) days thereafter, such dispute will be resolved by the Bankruptcy Court. For the avoidance of doubt, during the pendency of any dispute before the Bankruptcy Court regarding removal of the Plan Administrator and any appeals therefrom, the Plan Administrator shall continue to discharge the rights, obligations, and duties of the Plan Administrator set forth in the Plan and this Agreement.

**4.4 Continuity; Appointment of Successor Plan Administrator.**

(a) The death, incapacity, resignation, or removal of the Plan Administrator for good cause shall not operate to terminate any agency or employment created by this Agreement or invalidate any action theretofore taken by the Plan Administrator. In the event of a vacancy by reason of death, incapacity or removal of the Plan Administrator for good cause or prospective vacancy by reason of resignation or removal for good cause, the Committee's counsel shall appoint a successor Plan Administrator, subject to approval of the Bankruptcy Court. If no successor Plan Administrator shall have been appointed within 30 days of the occurrence or effectiveness, as applicable, of the prior Plan Administrator's resignation, death, incapacity, or removal, then counsel to the Plan Administrator or the Bankruptcy Court, upon the motion of any party-in-interest shall appoint a successor Plan Administrator.

(b) The successor Plan Administrator, without any further act, shall become vested with all the rights, powers, and duties of the Plan Administrator; provided, however, that no Plan Administrator shall be liable for the acts or omissions of any prior or later Plan Administrator. Every successor Plan Administrator appointed hereunder shall execute, acknowledge, and deliver to the Notice Parties listed in Section 10.11 of the Plan an instrument accepting such

appointment subject to the terms and provisions hereof.

## ARTICLE V

### MISCELLANEOUS PROVISIONS

#### **5.1 Descriptive Headings.**

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

#### **5.2 Governing Law.**

This Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey without regard to the rules of conflict of laws of the State of New Jersey or any other jurisdiction.

#### **5.3 Counterparts; Effectiveness.**

This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original but all of which shall constitute one and the same agreement. This Agreement shall become effective when each party hereto shall have received counterparts thereof signed by all the other parties hereto.

#### **5.4 Severability; Validity.**

If any provision of this Agreement or the application thereof to any person or circumstance is held invalid or unenforceable, the remainder of this Agreement, and the application of such provision to other persons or circumstances, shall not be affected thereby, and to such end, the provisions of this Agreement are agreed to be severable.

#### **5.5 Notices.**

Any notice or other communication hereunder shall be in writing and shall be deemed given upon (a) confirmation of receipt of a facsimile transmission, (b) confirmed delivery by a

standard overnight carrier or when delivered by hand, or (c) the expiration of five (5) Business Days after the day when mailed by registered or certified mail (postage prepaid, return receipt requested), addressed to the respective parties listed in Section 10.11 of the Plan.

**5.6 Relationship to Plan.**

The principal purpose of this Agreement is to aid in the implementation of the Plan and the Confirmation Order and, therefore, this Agreement incorporates and is subject to the provisions of the Plan and the Confirmation Order. To that end, the Plan Administrator shall have full power and authority to take any action consistent with the purposes and provisions of the Plan and the Confirmation Order. In the event that the provisions of this Agreement are found to be inconsistent with the provisions of the Plan and/or the Confirmation Order, the provisions of the Plan and Confirmation Order shall control.

**5.7 Amendments.**

This Agreement may be amended or modified by the Plan Administrator as necessary to implement the provisions of the Plan and to facilitate the administration of the Estate consistent with the Plan and to maximize the recovery thereof; provided that any material amendments shall be subject to the approval of the Bankruptcy Court.

**5.7 No Agency.**

Nothing in this Agreement shall constitute or be deemed to constitute an agency, partnership, or joint venture between the Parties hereto or constitute or be deemed to constitute any Party the agent or employee of the other Party for any purpose whatsoever, and neither Party shall have authority or power to bind the other Party or to contract in the name of, or create a liability against, the other Party in any way or for any purpose.

**5.8 Retention of Jurisdiction.**



As provided in Article IX of the Plan, the Bankruptcy Court shall retain jurisdiction over the Estate to the fullest extent permitted by law, including, but not limited to, for the purposes of interpreting and implementing the provisions of this Agreement.

**5.9 No Assignment.**

Neither Party hereto may assign any of its rights or obligations hereunder to any other person, without the prior written consent of both Parties, and approval by the Bankruptcy Court.

**5.10 Commencement Date.**

This Agreement shall become effective on the Effective Date of the Plan.

**IN WITNESS WHEREOF**, the Parties have either executed and acknowledged this Agreement or caused it to be executed and acknowledged on their behalf by their duly authorized officers at of the date first above written.

By:

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Daniel M. Stolz  
*Plan Administrator of the Estates of SITO  
MOBILE SOLUTIONS, INC., SITO MOBILE,  
LTD., and SITO MOBILE R&D IP, LLC*

By:

*Thomas Candelaria*

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Thomas Candelaria  
President  
*SITO MOBILE SOLUTIONS, INC.,  
SITO MOBILE, LTD., and SITO  
MOBILE R&D IP, LLC*